

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Jasper County

Honorable J. Derham Cole, Circuit Court Judge

JONATHAN NIEVES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000057

APPENDIX

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE EXHIBIT #1 (AERIAL MAP); STATE EXHIBITS #2-10, #12-16
(PHOTOS); STATE EXHIBITS #43-45 (STILL SHOTS); AND
STATE EXHIBITS #50, #51, #53, #54 (PHOTOS).**

STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
COUNTY OF JASPER FOR THE 14TH JUDICIAL CIRCUIT
2016-GS-27-00007, -09

State of South Carolina,

vs.

TRANSCRIPT OF JURY TRIAL
VOLUME I

Jonathan Nieves,

(Pages 1 - 154)

October 11, 2021
Ridgeland, South Carolina

B E F O R E:

The Honorable Carmen T. Mullen, Judge Presiding

Kymberlee M. Williams, CSR/RPR
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PROCEEDINGS

* * *

(The following proceedings were heard in open court. The defendant was present along with his attorney as well as the attorney for the State of South Carolina.)

JURY SELECTION

THE COURT: It is a pleasure to see you all. I am one of two resident circuit court judges here in the 14th circuit. That includes Jasper, Beaufort, Colleton, Hampton, and Allendale.

Ladies and gentlemen, let me tell you briefly about the case being tried. This is an alleged murder case, as well as after that, burglary in the first degree.

My intention is to pull the first jury now. I hope that case will continue and go to possibly Wednesday. If there is time, I will have to pull a second jury on Wednesday afternoon or Thursday morning.

I have to ask you a series of questions to decide if you are appropriate to sit on this jury.

To begin with, ladies and gentlemen, is any

1 member of the jury panel not a citizen of the
2 United States? If so, please stand.

3 Is any member of the jury have less than a
4 sixth-grade education?

5 Does anyone have a concern about this trial
6 that they do not feel they can render efficient
7 jury service and reach a verdict?

8 You are going to have to sit in the jury
9 box for roughly an hour at a time. We take
10 breaks. We stand up. We strength. We will
11 send you back to your jury room, for coffee.

12 THE COURT: Yes, ma'am, do you know --

13 JUROR 135: I'm supposed to stand up. My
14 mother is having surgery tomorrow.

15 THE COURT: Uh-huh.

16 JUROR 135: And I am like her caretaker,
17 and I need to be with her at Beaufort Memorial
18 Hospital tomorrow at 7 o'clock, and I would like
19 to know if I could be excused.

20 THE COURT: Well, what I'm going to have
21 you do is this, sit down for a minute, let me go
22 through all my questions for qualifications --

23 JUROR 135: Okay.

24 THE COURT: -- and if I have enough people,
25 then I will go ahead and release you --

1 JUROR 135: Okay.

2 THE COURT: -- but not until I know I have
3 enough people, all right?

4 JUROR 135: Yes, ma'am.

5 THE COURT: All right, Ladies and
6 Gentlemen, is there any member of the jury panel
7 that is a Clerk or Deputy Clerk of Court,
8 Constable, Sheriff, or other commissioned Law
9 Enforcement Officer, Probate Judge, County
10 Commissioner, Magistrate, or other County
11 Officer employed within the folds of any
12 Courthouse? If so, please stand. Yes?

13 JUROR 56: Does having a Constable position
14 with SLED work qualify, or no?

15 THE COURT: What do you for SLED, or you
16 just have a commission?

17 JUROR 56: No, I'm a SLED Guard.

18 THE COURT: Where do you work?

19 JUROR 56: Coastal Security Services and
20 Investigative, Inc.

21 THE COURT: All right. Sir, that does not
22 excuse you, but I appreciate you letting us
23 know. Give me your number if you would?

24 MADAM CLERK: Number 56. He's over here on
25 the last page.

1 THE COURT: Sorry. Juror 56, all right,
2 very good. Thank you, sir.

3 Ladies and Gentlemen, do I have anyone here
4 who has previously served on jury duty up here
5 in Circuit Court, which is not City Court, not
6 Magistrate Court, or Federal Court, during the
7 last calendar year? If so, please stand.

8 Has any member here served as a member of
9 the Jasper County Grand Jury during the past
10 several years? If so, please stand.

11 We now move to what are called jury
12 exemptions. State law provides for several
13 exemptions to jury service. Now, it may be,
14 Ladies and Gentlemen, that you are qualified,
15 obviously, but you may choose not to serve if
16 you would like to.

17 Do I have anyone here who is 65 years of
18 age, or older, who does not wish to serve with
19 me this week? If so, please stand. And that
20 exemption concerns prior jury service. No
21 person is required to serve as a juror more
22 often than once every three calendar years up
23 here in Circuit Court.

24 Do I have anyone who has served during the
25 last two years, who does not wish to serve this

1 week? If so, please stand. Ladies and
2 Gentlemen, those of you that have served as
3 Grand jurors in the last five calendar years
4 here in Jasper County may also be exempted. Do
5 I have anyone who's served on our Grand Jury,
6 who does not wish to serve this week?

7 The next exemption deals with those of you
8 that have legal custody of young children, all
9 of which must apply to be able to claim this
10 exemption. You may be exempted from jury
11 service, if you have a small child under the age
12 of seven, for which you have the legal custody
13 of that child, and the primary care, custody and
14 control of that child, and, lastly, you were
15 unable to make arrangements for the adequate
16 care of that child or children, while you're
17 performing jury duty.

18 Ladies and Gentlemen, this is for stay-at-
19 home parents, or maybe a husband and wife who
20 work opposite shifts. If you take your children
21 to school, or you take them to daycare, it is
22 assumed you're going to do the exact same thing,
23 while you're here in Court. The most important
24 thing I would need to know though is what time
25 you have to leave here to pick up your children,

1 all right?

2 So do I have anyone here who has children
3 under the age of seven that they do not have
4 care for, if they get chosen on any of these
5 jurors? Yes, ma'am, give me your number.

6 JUROR 186: 186.

7 THE COURT: 186?

8 JUROR 186: Yes, ma'am.

9 THE COURT: How old are your children?

10 JUROR 186: I have a six-year-old, and a
11 15-year-old.

12 THE COURT: Okay, and is your six-year-old
13 in school?

14 JUROR 186: Yes, ma'am.

15 THE COURT: So what time does that child go
16 to school?

17 JUROR 186: I drop her off around 7:15, and
18 I pick her up around 2:00.

19 THE COURT: Do you have anyone else that
20 can pick her up in the afternoons?

21 JUROR 186: No, ma'am.

22 THE COURT: Okay, well, then, ma'am, I'm
23 gonna go ahead and excuse you. I can tell you
24 though, as of next year, when that child turns
25 seven, I can't excuse you, so at that point

1 you're gonna need to make sure you've got
2 someone to be able to take care of your child,
3 if you get chosen again, okay, but I appreciate,
4 ma'am, you're excused.

5 All right, Ladies and Gentlemen, do I have
6 anyone who is the primary caretaker of either an
7 elderly person, or a special needs person, where
8 it's very difficult for you to find coverage, if
9 you are chosen to perform jury duty here?
10 Again, I don't want anyone left unattended. I
11 know I have my one lady back here, Number 135,
12 she takes care of her mother.

13 Other than that, do I have anyone else that
14 is going to leave someone unattended at home, if
15 they are chosen for jury duty, in that
16 situation? If so, please stand. Very good.
17 The next exception involves those of you who may
18 be attending school at this time or working in
19 some capacity with a school.

20 Now, if this exemption applies to you, I
21 can transfer your jury service to a term of
22 Court that doesn't conflict with your school
23 responsibilities.

24 Therefore, do I have anyone here who is a
25 full-time student, schoolteacher, school

1 crossing guard, school bus driver, or who serves
2 in any other school-related function, who's
3 unable to serve on jury duty here this week, as
4 a result of your school involvement? If so,
5 please stand.

6 Do I have anyone here who is employed with
7 the Department of Corrections at a penitentiary?
8 If so, please stand.

9 Is there any juror who performs services
10 for a business, commercial, or agricultural
11 enterprise, which solely the operation of that
12 business, or enterprise, that your requirement
13 to perform jury duty that business or enterprise
14 would have to close its doors or shut down?
15 Ladies and Gentlemen, general inconvenience is
16 not enough, I have to have jurors willing to
17 serve for me to be able to try the cases that
18 are before us this week.

19 Does anyone have a pressing problem, much
20 like the woman back there, whose mother is going
21 into surgery tomorrow, and she needs to take
22 care of her, but anyone in that situation? If
23 so, please stand.

24 Ladies and Gentlemen, that concludes the
25 statutory list of qualifications and exemptions

1 for jury service. Now, it may be that you are
2 qualified to serve, and no exemption applies to
3 you, however, service this week would constitute
4 a severe hardship. Please understand I cannot
5 permanent excuse a qualified juror, but I can
6 entertain a transfer, if it's appropriate, and
7 you have not re-transferred before.

8 Therefore, do I have anyone who needs to
9 ask me, or talk to me at this time about
10 service? Because after this, Ladies and
11 Gentlemen, I'm going to find this panel
12 qualified, and I'm going to ask you questions
13 specifically about this first jury I'm going to
14 pull. So do I have anyone -- yes, ma'am, you
15 need to stand.

16 JUROR 157: I --

17 THE COURT: Give me your number.

18 JUROR 157: I'm -- 157.

19 THE COURT: Yes, ma'am.

20 JUROR 157: I used to reside in
21 Hardeeville, but now I live in Savannah.

22 THE COURT: Uh-huh.

23 JUROR 157: And my work is -- well, my
24 employment is -- we're doing mandatory overtime.

25 THE COURT: Uh-huh.

1 JUROR 157: So I was gonna try to ask that
2 -- if I be excused.

3 THE COURT: So first off, if you have moved
4 to Savannah permanently, you need to change your
5 driver's license.

6 JUROR 157: I just recently moved.

7 THE COURT: You -- pardon?

8 JUROR 157: I just recently moved.

9 THE COURT: Okay. Well, you can do one of
10 two things then.

11 JUROR 157: Uh-huh.

12 THE COURT: You have until Friday to change
13 your driver's license --

14 JUROR 157: Uh-huh.

15 THE COURT: -- or you can stay with us,
16 which would you prefer?

17 JUROR 157: I could take it Friday.

18 THE COURT: Okay.

19 JUROR 157: Yeah.

20 THE COURT: All right, I will go ahead and
21 excuse 157, but you need to change it by Friday,
22 okay?

23 JUROR 157: Okay, thank you, ma'am.

24 THE COURT: Thank you. Anyone else? Yes?
25 Give me your number, if you would.

1 JUROR 205: 205.

2 THE COURT: 205, give me one second. Yes,
3 ma'am?

4 JUROR 205: Okay, I'm 205, but my daughter
5 she works for the National Guard Armory in
6 Garden City --

7 THE COURT: Uh-huh.

8 JUROR 205: -- and her son, my grandson,
9 was born with a sickle cell disease --

10 THE COURT: Uh-huh.

11 JUROR 205: -- so now he wears oxygen.

12 THE COURT: Uh-huh.

13 JUROR 205: And when they're training, I'm
14 the only one that -- besides her that can take
15 care of his problem. So on a daily basis, she
16 works, I take care of him.

17 THE COURT: Is he in school, or --

18 JUROR 205: No, school, no.

19 THE COURT: How old's that child now?

20 JUROR 205: Four.

21 THE COURT: Let me just hold onto you for a
22 minute and let me see what I can do. I really
23 doesn't claim and fall under a perfect
24 exemption, but, of course, I wouldn't want
25 anything to happen, so sit tight with me, if you

1 would --

2 JUROR 205: Okay.

3 THE COURT: -- if that's all right with
4 you, until the end, and let's just see what I
5 can do, okay?

6 JUROR 205: Thank you.

7 THE COURT: Absolutely. Anyone else?
8 Ladies and Gentlemen, at this time I'm gonna
9 find this panel qualified. I would like to go
10 straight in, and ask questions directly about
11 this first case, unless anyone has any problems
12 or objections, I suggest that's what I'm going
13 to do right now.

14 MR. THORNTON: Your Honor, may we approach
15 briefly?

16 THE COURT: Oh yes.

17 THE COURT: And I apologize, you're exactly
18 right. Do I have Juror number 220 here? Juror
19 number 220?

20 MADAM CLERK: Shannon.

21 JUROR 220: Yes, ma'am.

22 THE COURT: Hold on a second, sir. Can you
23 give me your birthday?

24 JUROR 220: [REDACTED].

25 THE COURT: Okay. Sir, did you have a

1 little trouble way back in 1988? Does that
2 sound familiar at all?

3 JUROR 220: Yes, ma'am, now that you
4 brought it up, yes, ma'am.

5 THE COURT: Okay, and I understand, that
6 was a long time ago.

7 JUROR 220: Yes, ma'am.

8 THE COURT: Sir, I'm going to go ahead and
9 excuse you from service, but I appreciate your
10 willingness to serve, all right?

11 JUROR 220: Yes, ma'am.

12 THE COURT: Thank you.

13 JUROR 220: Thank you. So that was 220.
14 And, Solicitor, I'm not gonna ask this next one
15 here.

16 MR. THORNTON: That's fine, Your Honor, it
17 was an innocent question, Your Honor.

18 THE COURT: I saw that, yes, okay. I'm not
19 going to ask it. Okay. All right, Ladies and
20 Gentlemen, I'm going to ask the Solicitor to
21 call his case, and I'm going to introduce
22 himself and his table with him. And I'm going
23 to ask Mr. KOGER to go ahead and introduce his
24 client and himself, as well, so --

25 MR. THORNTON: Thank you, Your Honor. At

1 this time, the State calls the State v. Jonathan
2 Nieves, it's 2016-GS-27-0007, 0008 and 0009,
3 charging him with two counts of murder, one
4 count of possession of a weapon during the
5 commission of a violent crime. Ladies and
6 Gentlemen, my name is Sean Thornton, I'm the
7 Deputy Solicitor here with the 14th Circuit in
8 Jasper County. It's, obviously, one of the
9 counties in the 14th Circuit. Seated with me at
10 counsel table is Lieutenant Matt Brown with the
11 South Carolina Law Enforcement Division, also
12 known as SLED.

13 THE COURT: Thank you. Mr. KOGER?

14 MR. KOGER: My name is Joshua KOGER, Jr., I
15 practice law in Columbia, South Carolina. This
16 is my client, Jonathan Nieves.

17 THE COURT: Okay. Thank you.

18 Ladies and Gentlemen, as you have heard, we
19 are about to begin the trial of the case
20 entitled the State of South Carolina v. Jonathan
21 Nieves, who is charged by indictments by the
22 Grand Jury of Jasper County with the events as
23 two counts of murder, and one count of
24 possession of a weapon during the commission of
25 a violent crime. Ladies and Gentlemen, it is

1 alleged in this case that back on October 3rd of
2 2015, a double murder occurred, where bodies
3 were found burned in a car near Perrysburg Road
4 in Hardeeville.

5 Ladies and Gentlemen, the alleged victims
6 in this case are Bruce Specks, and Shantay
7 Jenkins. Ladies and Gentlemen, there are a
8 number of questions I am required to ask you, in
9 regard to this case.

10 Again, under the oath you took, you need to
11 respond to anything that is appropriate, all
12 right? So, Ladies and Gentlemen, to begin with,
13 is anyone here related by blood, or connected by
14 marriage with the Defendant in this case, Mr.
15 Jonathan -- is it Nieves or Nieves? I
16 apologize.

17 MR. NIEVES: It's fine, Nieves.

18 THE COURT: Nieves?

19 MR. NIEVES: Nieves.

20 THE COURT: Thank you, Nieves, thank you.
21 Again, is anyone related by blood, or connected
22 by marriage with the Defendant in this case? If
23 so, please stand. Also, is anyone a friend,
24 either -- or a business acquaintance, or a close
25 personal friend in any way with the Defendant in

1 this case, or know him? If so, please stand.
2 Ladies and Gentlemen, you've been introduced to
3 the attorneys that are trying this case, and
4 this is going to be a very combined question,
5 and I apologize, but I'm just trying to get it
6 out there as quickly as I can. Is anyone
7 related by blood, connected by marriage, have a
8 close personal relationship, a special
9 friendship, ever been prosecuted by, represented
10 by, or employed with either of their offices?
11 If so, please stand.

12 Ladies and Gentlemen, the following is a
13 list of potential witnesses in this case.
14 Ladies and Gentlemen, all these people will not
15 be called, but they are names that may be
16 mentioned, or maybe people who testify in this
17 case.

18 And my question is whether or not you are
19 related by blood, connected by marriage, have a
20 close personal relationship with any of these
21 people? And the real kind of gist of what we're
22 trying to get to is, I want to make sure that
23 just because you know them, or know of them
24 possibly, that you are not going to give their
25 testimony any undue weight, because of that

1 relationship? And if any of these people are
2 here, I'm going to ask them to stand and face
3 the jury panel.

4 Ladies and Gentlemen, I don't expect very
5 many of them to be here at this time though.
6 The first one is Megan Fletcher with SLED, James
7 Green with SLED, Matt Brown with SLED. Thank
8 you, Mr. Brown, I appreciate it.

9 Shaun Harley with SLED, Jennifer Clayton
10 with SLED, Andina Harrison with SLED, Verona
11 Herrera with SLED, Dr. Angelina Phillips from
12 MUSC, Martin Sauls from the Coroner's Office,
13 Jeff Crosby from the Jasper County Sheriff's
14 Office, Craig Collier from SLED, Scott Hardee
15 from SLED, Kirk Tyner from SLED, Laura Bayne,
16 Kayla Garrett, Mariela Purdu, Robin Vanhoffen,
17 Cynthia Howard, Emisa Swinton, Patricia Jenkins,
18 David Owens from SLED, Charlene Choyce, Dylan
19 Hightower.

20 Just keep standing, you're fine. Vida
21 Smalls, Diane Echols, Vanessa Boyles, Tyquasia
22 Lee, Paulette Lee, Rebecca Ellwood, Michael
23 Toomer, and Richard Brownlee. Now, I'm going to
24 start with you, sir, with the red mask, if you
25 could give me your number, please?

1 MR. THORNTON: Your Honor, those are
2 potential witnesses.

3 THE COURT: Oh, I apologize, the witnesses
4 in the case, thank you. I'm so sorry.

5 Thank you for standing, I appreciate that.
6 Yes, ma'am.

7 JUROR 135: Yes, I'm 135, and I know of the
8 case, and I'm a friend of the mother.

9 THE COURT: Of whom?

10 JUROR 135: Of Ruth -- Ruth stay down the
11 street from me.

12 THE COURT: Yes, ma'am, okay. What I'm
13 gonna do is this, you're a close friend of the
14 mother; is that correct?

15 JUROR 135: Yes.

16 THE COURT: Of one of the victims --
17 alleged victims in this case?

18 JUROR 135: Yes.

19 THE COURT: All right, ma'am, I'm going to
20 go ahead and excuse you. Give me your number
21 one more time, if you would?

22 JUROR 135: 135.

23 THE COURT: 135. Give me one second. All
24 right, ma'am, I'm going to go ahead and excuse
25 you. Thank you.

1 JUROR 135: Thank you.

2 THE COURT: Yes, sir.

3 JUROR 56: One of the alleged victims is
4 also my cousin.

5 THE COURT: Okay, which one is that?

6 JUROR 56: That would be Shantay Jenkins.

7 THE COURT: All right, sir, give me your
8 number again.

9 JUROR 56: 56.

10 THE COURT: You're 56?

11 MADAM CLERK: He's on the last page.

12 THE COURT: Yes, got it. All right, sir,
13 I'm going to excuse you as well. Thank you.
14 Ladies and Gentlemen, I'm gonna go ahead and ask
15 this question now. I told you about the
16 allegations in this case. This happened quite a
17 long time ago, it was some six years ago, but I
18 want to make sure if anyone has any independent
19 knowledge about this case? Also, I want to know
20 whether or not you ever read about it in the
21 newspaper, or heard about it anyway on TV, or
22 anything along those lines. Again, this was six
23 years ago now, so it was a good amount of time,
24 but does anyone remember seeing it in the
25 newspaper, or have any other independent

1 knowledge about this case?

2 Sir, if you would, I think I can see you,
3 if you don't mind standing Yes, sir. Give me
4 your number.

5 JUROR 102: It's 102.

6 THE COURT: All right, was it in your
7 capacity in your work?

8 JUROR 102: My Battalion Chief was Deputy
9 Garner.

10 THE COURT: Okay, your Battalion Chief --
11 so did you discuss this case with anyone?

12 JUROR 102: No, just the newspapers and --
13 and that's it, Your Honor.

14 THE COURT: All right, sir, what I need to
15 know from you is this, can you put aside
16 anything you maybe had read in the newspaper
17 about this many years ago, and decide this case
18 based on the facts and the evidence as presented
19 in the courtroom?

20 JUROR 102: Yes, ma'am.

21 THE COURT: All right, sir, thank you, I
22 appreciate it, and you may be seated. Yes,
23 ma'am, give me your number if you would.

24 JUROR 22: 22, I believe.

25 THE COURT: 22? Let me just look really

1 quickly. Yes, ma'am.

2 JUROR 22: Yes, close friends with Shantay
3 and a friend of the family.

4 THE COURT: Okay. Ma'am, I am going to go
5 ahead and excuse you, although before you -- I
6 don't want you to go yet.

7 JUROR 22: Okay.

8 THE COURT: I'm going to excuse you from
9 the trial of this case, but what I do need you
10 to do for me though is to call back in tomorrow
11 night, which is Tuesday night, and there will be
12 a message. It may say for you to come back on
13 Wednesday to be possibly pulled for another
14 jury.

15 JUROR 22: Yes.

16 THE COURT: It may say call back the next
17 night. I will tell you that there won't be a
18 message placed on it before 6:00 p.m., so,
19 again, just make sure you call afterwards, and
20 just follow whatever the rules are that it says
21 what to do, okay?

22 JUROR 22: Okay.

23 THE COURT: I appreciate it.

24 JUROR 22: Yeah, thank you.

25 THE COURT: Thank you, ma'am. Yes, ma'am,

1 give me your number.

2 JUROR 221: 221.

3 THE COURT: Yes?

4 JUROR 221: Simply just remember hearing it
5 on the news.

6 THE COURT: Okay. Ma'am, again, just as I
7 asked the other gentleman, I just want to make
8 sure that you can put aside anything that you
9 maybe have read in the newspaper, or heard on
10 the news, it's not factual. And you will hear
11 me tell whoever is chosen as jurors, that you
12 are to decide this case based on the evidence
13 that's produced here in this courtroom,
14 uninfluenced by any outside source.

15 Do you believe you can do that?

16 JUROR 221: Yes.

17 THE COURT: Thank you, I appreciate it, you
18 may be seated. Okay, yes? I'm going to start
19 with you, give me your number, please.

20 JUROR 130: I think it's 130.

21 THE COURT: Number 130?

22 JUROR 130: Yes.

23 MADAM CLERK: Melissa King.

24 THE COURT: Yes.

25 JUROR 130: I'm a friend of the family. I

1 know Shantay and I graduated with her brother.

2 THE COURT: Okay, and you don't feel you
3 can be fair and impartial? Is that no? You're
4 shaking your head no, Ms. King.

5 JUROR 130: No.

6 THE COURT: All right, I'm going to go
7 ahead and excuse you.

8 JUROR 130: All right.

9 THE COURT: And - yes?

10 JUROR 245: 245.

11 THE COURT: That was 130, excuse me.

12 JUROR 130: Sure.

13 THE COURT: Ma'am, you need to call back in
14 on Tuesday night, tomorrow night after 6:00
15 p.m., okay?

16 JUROR 130: Okay.

17 THE COURT: Thank you. Ladies and
18 Gentlemen, if anyone doesn't do or follow
19 whatever it says to do, I'm going to have to
20 send the Sheriff out for you, and I absolutely
21 hate doing that, okay? So, yes, ma'am, give me
22 your number, again?

23 JUROR 245: 245.

24 THE COURT: 245. Yes, ma'am.

25 JUROR 245: Yeah, Shantay was my cousin,

1 and I knew her growing up in the same
2 neighborhood.

3 THE COURT: Okay. Ma'am, I'm going to go
4 ahead and excuse you from the trial in this
5 case, as well. Please call back tomorrow after
6 6:00 p.m., okay?

7 JUROR 245: Thank you.

8 THE COURT: Thank you. Ladies and
9 Gentlemen, do I have anyone else here who is a
10 close personal friend of either of the victims'
11 families, or related to them in any way?

12 Again, the alleged victims were Bruce
13 Specks and Shantay Jenkins. I want to know if
14 anyone else has any connection to these alleged
15 victims in this case, if so, please stand. Very
16 good.

17 Ladies and Gentlemen, this is for
18 informational purposes, it's for the lawyers to
19 get an idea of your backgrounds.

20 So my first question, Ladies and Gentlemen,
21 is this, is there any member of the jury panel
22 that is related by blood, or connected by
23 marriage, or have a very close personal friend
24 who is a member of any law enforcement agency?
25 If so, please stand.

1 All right, I'm gonna start back here with
2 you. Can you give me your number?

3 JUROR 235: 235.

4 THE COURT: 235. Give me a moment.

5 MADAM CLERK: Neil White?

6 THE COURT: Yes. Mr. White, who do you
7 know in law enforcement?

8 JUROR 235: My father-in-law is a retired
9 Sheriff from San Jose, California.

10 THE COURT: Thank you, sir. All right, you
11 may be seated. Thank you so much. Yes, sir?

12 JUROR 189: I believe it's 189, and I know
13 most of law enforcement. I've been around a
14 long time.

15 THE COURT: Okay. Sir, I need to know from
16 you that you can be fair and impartial in the
17 trial of this case, can you?

18 JUROR 189: Yes, ma'am.

19 THE COURT: Thank you, sir, you may be
20 seated. Yes, ma'am?

21 JUROR 205: I'm 205.

22 THE COURT: Yes, ma'am, who do you know?

23 JUROR 205: Michael Ellis, my brother-in-
24 law.

25 THE COURT: Who is he with?

1 He's with the Sheriff's Office? Is this
2 the Sheriff's Office case, or just SLED, or
3 both?

4 MR. THORNTON: Mainly SLED, but a little
5 bit of both, Your Honor, they were called in.

6 THE COURT: Okay. I'm going to go ahead
7 and excuse you, because I also want you to take
8 care of your grandchild, all right?

9 JUROR 205: Thank you, ma'am.

10 THE COURT: So you're good to go. Please
11 just call back after Tuesday night, if that's
12 okay --

13 JUROR 205: I will.

14 THE COURT: -- at 6:00 p.m., all right?

15 JUROR 205: I know what I've got to do.

16 THE COURT: Thank you, ma'am.

17 JUROR 205: Thank you.

18 THE COURT: And yes?

19 JUROR 8: My husband was employed by the
20 Jasper County Sheriff's Department and was a
21 Deputy until last year, when he left.

22 THE COURT: Okay, what's your husband's
23 name?

24 JUROR 8: Warren Smith.

25 THE COURT: Mr. Smith.

1 MADAM CLERK: Is that Juror 8, Melissa
2 Smith?

3 JUROR 8: Yes, ma'am.

4 THE COURT: Ma'am, my question is, can you
5 be fair and impartial?

6 JUROR 8: Yes.

7 THE COURT: Are you sure?

8 JUROR 8: No. If I'm being completely
9 honest with you, no.

10 THE COURT: And I appreciate that because
11 that's what I expect.

12 JUROR 8: I know a lot of --

13 THE COURT: I'm --

14 JUROR 8: -- SLED Officers and Jasper
15 County Sheriff's Department.

16 THE COURT: Okay, I'm going to go ahead and
17 excuse you --

18 JUROR 8: Okay.

19 THE COURT: -- for the trial of this case.
20 You can call back on Tuesday night after 6:00,
21 okay?

22 JUROR 8: Thank you.

23 THE COURT: Thank you. Yes.

24 JUROR 228: I don't know my number, but my
25 last name is Bene.

1 THE COURT: Yes.

2 JUROR 228: My husband was Deputy in Jasper
3 County, but he started after the date of this
4 trial. I just wanted to let you know that.

5 THE COURT: And I appreciate you letting me
6 know that. Thank you, again, thank you. Did
7 you get her number?

8 MADAM CLERK: Number 228.

9 THE COURT: Very good. All right. Is
10 there any member of the jury panel, who is
11 related by blood, or marriage, or employed by
12 any state or federal prosecution office? If so,
13 please stand.

14 Is there any member of this panel that's
15 ever been employed by any civilian or military
16 law enforcement agency? If so, please stand.
17 Is any member of this jury panel, or any member
18 of your immediate family ever been a victim of a
19 violent crime, such as an assault and battery, a
20 murder, a burglary, anything along those lines?
21 If so, please stand.

22 All right, I'm gonna start over here, which
23 is only one of you. Give me your number, if you
24 would, ma'am, yes.

25 JUROR 179: I can't remember my number.

1 THE COURT: So tell me who has been a
2 victim of a crime?

3 JUROR 179: My first cousin, he was
4 murdered about a year and a half ago in
5 Oklahoma.

6 THE COURT: Okay, ma'am, but I need to make
7 sure you understand that that is a completely
8 separate case in this, and I want to make sure
9 you know that, and you can separate the two; is
10 that correct?

11 JUROR 179: Yes, ma'am, I can.

12 THE COURT: Thank you, I appreciate it, you
13 may be seated.

14 MADAM CLERK: 179.

15 THE COURT: That's number 179. Sir, give
16 me your number, if you would.

17 JUROR 125: 125.

18 THE COURT: All right, sir.

19 MADAM CLERK: Mr. Jones.

20 THE COURT: Mr. Jones?

21 JUROR 125: Yes, I had a cousin that was
22 murdered seven years ago.

23 THE COURT: Where was that?

24 JUROR 125: That was in Hardeeville across
25 the railroad tracks.

1 THE COURT: Okay. Sir, my question for you
2 is, can you separate that from anything you may
3 hear here, understanding that those are two
4 completely different things?

5 JUROR 125: To be honest with you, Your
6 Honor, no, I can't.

7 THE COURT: All right, Mr. Jones, I'm going
8 to excuse you from the trial of this case, but
9 call back tomorrow night after 6 o'clock, okay?

10 JUROR 125: All right.

11 THE COURT: Thank you. All right, yes,
12 ma'am?

13 JUROR 42: Christian, and my uncle was
14 murdered.

15 THE COURT: Where was that?

16 JUROR 42: On Hilton Head.

17 THE COURT: How long ago was that?

18 JUROR 42: Probably about 12 years ago.

19 THE COURT: Ma'am can you be fair and
20 impartial in the trial of this case?

21 JUROR 42: Yes.

22 THE COURT: Are you sure?

23 JUROR 42: I'll try my best, yes, ma'am.

24 THE COURT: I'll need more than you trying
25 your best.

1 JUROR 42: I will try --

2 THE COURT: Okay.

3 JUROR 42: All I can say, I'll try.

4 THE COURT: But I just want to make sure
5 that you understand though it is, obviously, one
6 is completely different from the other.

7 JUROR 42: Yeah.

8 THE COURT: And you understand that; is
9 that correct?

10 JUROR 42: Yes.

11 THE COURT: Very good. Give me your
12 number, again?

13 JUROR 42: I don't have my number.

14 MADAM CLERK: 42.

15 THE COURT: 42, okay. Thank you. Is there
16 any member of the jury panel who is a member of
17 or contributor to any group, which has its
18 primary concern with promotion of law
19 enforcement or victim's rights? That would be
20 associations such as CAVE, Citizens Against
21 Violence, Citizens Opposed to Domestic Abuse, or
22 MADD, Mothers Against Drunk Driving, or SADD,
23 Students Against Drunk Driving, or any of those
24 other similar types of groups? Again, is there
25 anybody here who's a member of, or contributes

1 to or is employed by any of those groups?

2 If so, please stand. Ladies and Gentlemen,
3 is there any member of this jury panel that has
4 attended, in the last six or seven years, a
5 vigil or program for the victims in this case,
6 or in any other case? If so, please stand.

7 And, Ladies and Gentlemen, my understanding
8 is, is there have been some vigils or programs
9 opposing gun violence up here in Richland, but
10 anyone who's attended any of those types of
11 vigils or programs?

12 If so, please stand. Has any member of the
13 jury panel ever been a witness in a criminal
14 trial? If so, please stand.

15 Ladies and Gentlemen, I have told you the
16 nature of this case, it's an alleged double
17 murder, and the charge of possession of a weapon
18 during the commission of a violent crime.

19 Is there anyone here, just based on the
20 nature of the charge, that feels that they
21 cannot sit and be fair to both the State of
22 South Carolina and the Defendant, Mr. Nieves, in
23 this case, for any reason whatsoever?
24 If so, please stand.

25 Is anyone conscious of any bias, any

1 prejudice for or against the State, or the
2 Defendant in this case? If so, please stand.
3 All right, are there any further questions
4 required of this panel from the State?

5 MR. THORNTON: Nothing from the State, Your
6 Honor.

7 THE COURT: From the defense?

8 MR. KOGER: Nothing from the defense, Your
9 Honor.

10 THE COURT: All right, Ladies and
11 Gentlemen, what is gonna happen now is, those of
12 you that have been qualified as jurors, your
13 names are being placed into a computer. It is
14 going to draft a random list.

15 What is going to happen is when your number
16 or name is called, you're going to simply stand
17 in place. You don't do or say anything. Both
18 sides have an opportunity to accept you or
19 excuse you as a juror in the trial of this case.
20 If both sides accept you, you're gonna come take
21 a seat up here in the jury box. If one side
22 excuses you, then you're just gonna sit back
23 down in your seat, but I need you to stay with
24 me and remain, until I've called all of my
25 jurors, all right?

1 So, Margaret, the strikes are five and ten,
2 and we'll just see when it comes to alternates,
3 if we need them pulled too, okay?

4 All right. So, Ladies and Gentlemen --
5 just bear with us, Ladies and Gentlemen, we've
6 got to put all your names in, we're gonna draft
7 it.

8 I will tell you, Ladies and Gentlemen, that
9 those of you that are chosen as a juror to the
10 trial of this case, what I intend on doing is,
11 you come back today at 2 o'clock, and we're
12 gonna do opening statements, and put some
13 witnesses up, and then we will also then come
14 back tomorrow morning.

15 I just want to get a good jump start on
16 this, so we can get moving. I will tell you
17 they're very hopeful that if we start today, we
18 will be done by Wednesday, and that's what I
19 always think for this sort of trial, okay?

20 So that's just letting you know the
21 schedule for today and what we're looking at.

22 While Ms. Bostick is pulling out a list of
23 names, Ladies and Gentlemen, I'll just introduce
24 you to a couple of people that are here with me.

25 I was just speaking with my Court Reporter,

1 Kymberlee Williams. Ladies and Gentlemen, we
2 are a court of record, and this is a trial
3 court, so anything from here is appealed to the
4 South Carolina Court of Appeals, or the South
5 Carolina Supreme Court.

6 So what we do in Circuit Court up here is
7 try cases. Kymberlee takes down anything that's
8 said, because if there is an appeal, for any
9 reason, then, obviously, they need to have an
10 entire transcript.

11 To my left is Morgan McNeil, my Law Clerk,
12 she is a lawyer. Judges in Circuit Court, under
13 the law, are allowed to hire Law Clerks, and
14 they are lawyers, who, in effect, act as my
15 lawyer, and take care of me while they're
16 dealing with legal issues, and anything else
17 that needs to be done, all right?

18 So that's pretty much the parties up here.
19 Ladies and Gentlemen, I'll also tell you,
20 obviously, COVID has been difficult for so many
21 people for so many reasons, but one of the
22 things it nearly did was shut down our system.

23 You know, there are backlogs, no question,
24 not only in our state, of course, but across the
25 country, so it's vitally important that we get

1 back, and we take care of these matters.

2 You know, both for people who have been
3 charged, and also for victims.

4 So, again, I know I tell you grateful we
5 are that you are here, please understand that we
6 mean it.

7 It's very necessary to get back into the
8 courthouse and be able to try these matters and
9 discuss them and have some resolution.

10 Ladies and Gentlemen, I will tell you that
11 Mondays always feel like we kind of hurry up and
12 wait. It can take some time to get a jury
13 picked, but I assure you that once the jury is
14 chosen in this first case, and the trial
15 actually starts, it'll move pretty swiftly.

16 So I'm just letting you know that Mondays
17 are often difficult. I will tell you other
18 people in the courtroom have cases, potentially,
19 that are gonna be called this week.

20 They were very interested to see you all,
21 and, again, as I stated, we have a few more
22 cases left I possibly can pull juries on, on
23 Wednesday or Thursday.

24 So, finally, Ladies and Gentlemen, if your
25 name is called, simply stand in place. You

1 don't say or do anything, and, again, if both
2 sides accept you as a juror, you may come take a
3 seat, all right?

4 MADAM CLERK: Juror number 105, Crystal
5 Aires. How says the State?

6 MR. THORNTON: Please present this juror.

7 MADAM CLERK: How says the defense?

8 MR. KOGER: Please seat this juror.

9 MADAM CLERK: Please come forward, ma'am.

10 THE COURT: Come forward. And make sure
11 you bring all your belongings with you when you
12 come up.

13 MADAM CLERK: Juror number 197, Joseph
14 Roycroft. How says the State?

15 MR. THORNTON: Please present this juror.

16 MADAM CLERK: How says the defense?

17 MR. KOGER: Please seat this juror.

18 MADAM CLERK: Thank you, sir, please have a
19 seat.

20 Juror number 187, Nancy Raymond. How says
21 the State?

22 MR. THORNTON: Please present the juror.

23 MADAM CLERK: How says the defense?

24 MR. KOGER: Please seat this juror.

25 MADAM CLERK: Please come forward, ma'am.

1 Juror number 81, Gail Jurlin.

2 JUROR 81: I'm right here.

3 MADAM CLERK: Ma'am, you're gonna have to
4 stand.

5 JUROR 81: My back is bad, ma'am, I can't
6 up and down every time, it's killing me.

7 MADAM CLERK: How says the State?

8 MR. THORNTON: Please excuse this juror.

9 MADAM CLERK: Thank you, ma'am. Juror
10 number 63, Daniel Ellenwood. How says the
11 State?

12 MR. THORNTON: Please present this juror.

13 MADAM CLERK: How says the defense?

14 MR. KOGER: Please seat his juror.

15 MADAM CLERK: Please step forward, sir,
16 have a seat in the jury box.

17 Juror number 241, James Williams. How says
18 the State?

19 MR. THORNTON: Please present this juror.

20 MADAM CLERK: How says the defense?

21 MR. KOGER: Please seat this juror.

22 MADAM CLERK: Please come forward, sir,
23 have a seat in the jury box.

24 Juror number 115, Laura -- Miss Laura.

25 JUROR 115: That's okay.

1 MR. THORNTON: Please present this juror.

2 MADAM CLERK: How says the defense?

3 MR. KOGER: Please seat this juror.

4 MADAM CLERK: Thank you, ma'am, you can
5 have a seat.

6 Juror number 238, Alfred Williams. How
7 says the State?

8 MR. THORNTON: Please excuse this juror.

9 MADAM CLERK: Thank you, sir, you can have
10 a seat.

11 Juror number 193, Ryan Rosewood. How says
12 the State?

13 MR. THORNTON: Please present this juror.

14 MADAM CLERK: How says the defense?

15 MR. KOGER: Please seat this juror.

16 MADAM CLERK: Please come forward, sir, and
17 have a seat in the jury box.

18 Juror number 106, Tina Smith. How says the
19 State?

20 MR. THORNTON: Please present this juror.

21 MADAM CLERK: How says the defense?

22 MR. KOGER: Please seat this juror.

23 MADAM CLERK: Please come forward, ma'am,
24 have a seat in the jury box.

25 Juror number 114, Daniel Jones.

1 How says the State?

2 MR. THORNTON: Please present this juror.

3 MADAM CLERK: How says the State?

4 MR. KOGER: Please seat this juror.

5 MADAM CLERK: Pardon me, sir?

6 MR. KOGER: Seat this juror.

7 MADAM CLERK: Thank you, sir, you can have
8 a seat.

9 Juror number 122, Delores Johnson. How
10 says the State?

11 MR. THORNTON: Please present this juror.

12 MADAM CLERK: How says the defense?

13 MR. KOGER: Please seat this juror.

14 MADAM CLERK: Please come forward, ma'am,
15 and have a seat in the jury box.

16 Juror number 50, Mark Sullivan. How says
17 the State?

18 MR. THORNTON: Please present this juror.

19 MADAM CLERK: How says the defense?

20 MR. KOGER: Please seat this juror.

21 MADAM CLERK: Please come forward, sir, and
22 have a seat in the jury box.

23 Juror number 32, John Angus. How says the
24 State?

25 MR. THORNTON: Please excuse this juror.

1 MADAM CLERK: Thank you, sir, you may have
2 a seat.

3 Juror number 228, Sandra Bena. How says
4 the State?

5 MR. THORNTON: Please present this juror.

6 MADAM CLERK: How says the defense?

7 MR. KOGER: Please seat this juror.

8 MADAM CLERK: Thank you, ma'am, please have
9 a seat.

10 Juror number 71, Donald Gregg, Jr. How
11 says the State?

12 MR. THORNTON: Please present this juror.

13 MADAM CLERK: How says the defense?

14 MR. KROGR: Please seat this juror.

15 MADAM CLERK: Please come forward, sir, and
16 have a seat in the jury box.

17 Juror number 16, Amy Thorne. How says the
18 State?

19 MR. THORNTON: Please present this juror.

20 MADAM CLERK: How says the defense?

21 MR. KOGER: Please seat this juror.

22 MADAM CLERK: Please come forward, ma'am,
23 and have a seat in the jury box.

24 Juror number 179, April Pickney. How says
25 the State?

1 MR. THORNTON: Please present this juror.

2 MADAM CLERK: How says the defense?

3 MR. KOGER: Please seat this juror.

4 MADAM CLERK: Please come forward, ma'am,
5 and have a seat in the jury box.

6 Juror number 132. How says the State?

7 MR. THORNTON: Please present this juror.

8 MADAM CLERK: How says the defense?

9 MR. KOGER: Please excuse this juror.

10 MADAM CLERK: Thank you, ma'am, and have a
11 seat.

12 Juror number 235, Neil White. How says the
13 State?

14 MR. THORNTON: Please present the juror.

15 MADAM CLERK: How says the defense?

16 MR. KOGER: Please excuse this juror.

17 MADAM CLERK: Thank you, sir, you may have
18 a seat.

19 Juror number 102, Matthew Hinn. How says
20 the State?

21 MR. THORNTON: Please present this juror.

22 MADAM CLERK: How says the defense?

23 MR. KOGER: Please excuse this juror.

24 MADAM CLERK: Thank you, sir, you may have
25 a seat.

1 Juror number 1, Grady Black. How says the
2 State?

3 MR. THORNTON: Please present this juror.

4 MADAM CLERK: How says the defense?

5 MR. KOGER: Please seat this juror.

6 MADAM CLERK: Please come forward, sir, and
7 have a seat in the jury box.

8 Alternate 1, Juror number 88. How says the
9 State?

10 MR. THORNTON: Please present this juror.

11 MADAM CLERK: How says the defense?

12 MR. KOGER: I'm sorry, what's the number
13 again?

14 MADAM CLERK: 88.

15 MR. KOGER: Please excuse this juror.

16 MADAM CLERK: Thank you, ma'am, and have a
17 seat.

18 Juror number 189, Forrest Richardson. How
19 says the State?

20 MR. THORNTON: Please present this juror.

21 MADAM CLERK: How says the defense?

22 MR. KOGER: Please excuse this juror.

23 MADAM CLERK: That's it, thank you, sir,
24 have a seat.

25 Juror number 150, James McCall. How says

1 the State?

2 MR. THORNTON: Please present this juror.

3 MADAM CLERK: Does the defense have cause
4 to strike?

5 MR. KOGER: Please seat this juror.

6 MADAM CLERK: Pardon me?

7 MR. KOGER: Seat this juror.

8 MADAM CLERK: Thank you. Please come
9 forward, sir, Alternate number 1.

10 Juror number 171, Joe Oliver. How says the
11 State?

12 MR. THORNTON: Please present this juror.

13 MADAM CLERK: How says the defense?

14 MR. KOGER: Please seat this juror.

15 MADAM CLERK: Please come forward, sir, and
16 have a seat, Alternate number 2.

17 THE COURT: Are there any questions
18 regarding the selection process from the State?

19 MR. THORNTON: None from the State, Your
20 Honor?

21 THE COURT: From the defense?

22 MR. KOGER: None from the defense, Your
23 Honor.

24 THE COURT: All right, thank you.

25 Welcome, Ladies and Gentlemen, you are my

1 jury for the trial of this case. If you will
2 just sit tight with me for a few minutes, and
3 I'll be right back with you.

4 Ladies and Gentlemen, those of you that are
5 still in the back of the courtroom, I'm going to
6 go ahead and excuse you with my thanks. I'm
7 going to ask that you all call the juror line
8 tomorrow night, which is Tuesday night at 6:00
9 p.m. I anticipate it will either say come in at
10 a certain time on Wednesday, where we'll pull
11 another jury, or it may say call Wednesday night
12 after 6:00 p.m.

13 That just means we're running a little
14 longer than we thought, and then I'll meet you
15 in here on Thursday.

16 Ladies and Gentlemen, just do whatever the
17 prompts say. I need you to remind you, again,
18 if, for any reason, someone doesn't return, or
19 doesn't do what they're supposed to do, I'm
20 gonna have to send out Sheriff's Deputies, all
21 right?

22 So I appreciate it, Ladies and Gentlemen,
23 you are excused. Thank you. Call back after
24 6:00 p.m. tomorrow. Thank you. Again, Ladies
25 and Gentlemen, welcome. Sorry I kind of can't

1 see everybody.

2 As I've told you, I'm Carmen Mullen. I'm
3 the presiding Judge for the trial of this case.
4 I just need to give you a few brief
5 instructions, and then what we're gonna do is,
6 go ahead and take a break. I have some pre-
7 trial matters I need to take up with the
8 lawyers, and that is going to take us a while.
9 And because I do not want you sitting here
10 waiting on us, I'm going to send you out to go
11 grab a bite to eat, and I'm going to ask you all
12 to come back at 3 o'clock today.

13 Margaret, where are they going to come in?

14 MADAM CLERK: They'll come in downstairs to
15 a security office.

16 THE COURT: To the downstairs --

17 MADAM CLERK: Yes.

18 THE COURT: -- in a secured office?'

19 MADAM CLERK: Yes.

20 THE COURT: All right.

21 MADAM CLERK: Yes.

22 THE COURT: Ladies and Gentlemen, I do need
23 to give you a couple of outlines of the morning.
24 So I will also tell you as well, that we will
25 not go past 5 o'clock today, I will tell you

1 that right now.

2 So we're going to bring you back, we're
3 going to do opening statements, and maybe put a
4 few witnesses up to get things going, as I've
5 told you before.

6 The first thing I need to tell you, Ladies
7 and Gentlemen, are you are not to discuss this
8 case with anyone, and that includes each other,
9 until you've heard all the evidence, you've
10 heard the lawyers closing arguments, and I've
11 charged you on the law that's applicable to this
12 case.

13 The reason why I say that Ladies and
14 Gentlemen, is, inevitably, someone's gonna try
15 to tell you something about something, when they
16 know nothing about this case. You're gonna have
17 everything you need to decide this case
18 presented to you right here in this courtroom,
19 and it would be highly inappropriate for anyone
20 to talk to you about it.

21 So, Ladies and Gentlemen, additionally,
22 over the lunch hour, if you see family, or
23 friends, or a colleague, the only thing you are
24 allowed to say is, that you've been chosen as a
25 juror in the trial of a criminal case. You

1 cannot say the attorneys involved, the
2 Defendant, or the charges, all right?

3 Again, you are to decide this case based
4 here. Additionally, Ladies and Gentlemen, I
5 don't want you doing any outside research,
6 whether by computer, or any other means, Ladies
7 and Gentlemen, no drive-bys, no nothing along
8 those lines.

9 Again, you're gonna have everything you
10 need right here in this courtroom. I also need
11 to warn you, Ladies and Gentlemen, because you
12 can get so much information off the Smart phone
13 these days, we ask that you keep them back in
14 your car or keep them at home.

15 If you need to use a phone, while you are
16 here performing jury service, simply ask the
17 Bailiffs, Deputies to bring you to a phone, and
18 we'll get you phone access.

19 Also, if you're concerned about any family
20 member, or anyone reaching you emergently, while
21 you are here, tell them to simply call up the
22 Jasper County Clerk of Court's Office, which is
23 Ms. Bostick's office, and they're gonna come
24 over here and directly get me, and like give me
25 your name, I'll come find you, all right?

1 Ladies and Gentlemen, I don't think there's
2 gonna be anything in the newspaper or in the
3 news about this case, but out of an abundance of
4 caution, if there is, I want you to close the
5 paper, not watch it, not consider it.

6 Ladies and Gentlemen, I have got to tell
7 you it is rarely accurate, and, again, I
8 wouldn't want you influenced by an outside
9 source, so, again, just disregard it, all right?

10 Also, I can tell you that I anticipate
11 running, roughly, from 9:30 in the morning, if
12 that works for everybody, to around 5:00 every
13 day. It just depends, Ladies and Gentlemen, on
14 how the witnesses break down. And if we do pick
15 up a pretty good pace, I do believe that we'll
16 probably be done by Wednesday.

17 I say that just if you have any evening
18 plans, or any other issues, certainly, let me
19 know, and I can kind of work around it. I know
20 other people have obligations, but I would like
21 to, roughly, run until that time.

22 There are days that we may break earlier,
23 but, again, that is typically how I try to run
24 the courtroom. You also will have, every day,
25 roughly, an hour and a half, maybe, hour and 15

1 minutes to grab a bite to eat. I like to
2 encourage people to get out of the courthouse,
3 just so you can, you know, get some fresh air,
4 and you can go grab a bite, which just keeps
5 things moving, and it keeps you-all feeling
6 better, all right? So with that said, the last
7 thing I need you-all to do for me is, I need you
8 to elect a Foreperson.

9 And, Margaret, are they going to go back to
10 the jury room now?

11 MADAM CLERK: They can, Your Honor.

12 THE COURT: Do you want them to, or not?

13 MADAM CLERK: Maybe when they come back.

14 THE COURT: Or when they come back. So I
15 need you to elect a Foreperson for me. A
16 Foreperson doesn't have any more if they say than
17 anyone else, they're simply a person that
18 communicates with me, regarding scheduling, and
19 tells me that, "No, we have one juror that can't
20 be here at 9:30, we have to start at 10:00 in
21 the morning," or, "There's one juror that has a
22 previous engagement, and has to be wherever at
23 4:30, you know, on Tuesday."

24 What I'm gonna ask you to do is, when you
25 come back downstairs, I want you to elect that

1 Foreperson, and again, just give me their name.

2 As far as seating is concerned, Ladies and
3 Gentlemen, what I have to ask is, I want my
4 Alternates to stay where they are. The rest of
5 you, because of social distancing, obviously,
6 and because we still have COVID protocols, I'm
7 gonna ask you to try really hard to keep your
8 same seats each day.

9 Again, that's so we aren't spraying down
10 the seats, but you're going to be watching us in
11 between every witness that we have, we have to
12 spray down the stand, to make sure everyone is
13 safe.

14 I will tell you I know it's also difficult
15 for those of you that are up front, it's a
16 little awkward where you're seated. I'm going
17 to tell everyone to do their very best to stay
18 as far away from you, but, at any point, you
19 feel like anyone's getting too close to you, or
20 you feel uncomfortable, I just need you to wave
21 your hand, all right, and let me know.

22 I'm pretty careful about not letting them
23 get too close to you. We're gonna pull the
24 podium back a bit, so the lawyers will come this
25 way, but I'm going to tell you right now, the

1 witnesses in this courthouse, the only way we
2 can get them up here is right through here, and
3 this is the witness box, Ladies and Gentlemen,
4 so that's just to let you know.

5 If there's anything you have a concern
6 about, I need you to tell me, all right? So
7 with that said, Ladies and Gentlemen, I am going
8 to go ahead and excuse you until 3 o'clock, but
9 I need you here by 3 o'clock at the very latest.
10 As I said you're gonna hear the opening
11 arguments from the lawyers, and we're gonna put
12 some witnesses up, all right?

13 Does anyone have any problems? Yes.

14 JUROR: Quick question --

15 THE COURT: Yes.

16 JUROR: -- is there something we can get to
17 present to our employers?

18 THE COURT: Absolutely.

19 JUROR: Okay.

20 THE COURT: You will have a work excuse,
21 absolutely --

22 JUROR: Okay.

23 THE COURT: -- so you don't have any
24 problem. And listen, if anyone has any real
25 difficulties with their employers, I don't know

1 any other way to phrase it or say it, I need you
2 to come tell me about it, because I can
3 certainly go call them, okay, and talk to them.

4 This is so important, Ladies and Gentlemen,
5 I will tell you this, other than fighting for
6 your country, this is the most important service
7 you can do, truly. We need people here to be
8 able to determine, you know, this case. You are
9 speaking for the community, Ladies and
10 Gentlemen, and, again, we are grateful you're
11 here, and we're going to resolve at least a few
12 cases.

13 And I will also tell you, and you'll hear
14 me say this at the very end, you know, my roster
15 starts with a lot of cases. Just having jurors
16 willing to come and serve in a term of Court,
17 and dispose of cases in other matters in
18 different ways, so, again, you're gonna handle
19 this case, but not only this case, you're gonna
20 handle this and many other cases to help us get
21 rid of them, all right?

22 So I appreciate that. Ms. Bostick will get
23 up with you about your work excuses. Anyone
24 else have any other concerns? All right,
25 lastly, I have to say this, and that's why there

1 are two Alternatives, if anyone falls ill over
2 the lunch hour, I need you to call into the
3 Clerk of Courts Office, and I'm going to say the
4 same thing tonight, when we break, if anyone
5 feels sick, I need you to call us and tell us,
6 because I'm going to be looking for you. I need
7 all 14 of you to be here, all right?

8 So if you have car trouble, or any other
9 concerns, either over the lunch hour, or over
10 the evening, again, you need to call the
11 Clerk's Office, because I'm gonna be looking for
12 you, all right? Yes, sir.

13 JUROR: Return back at 3:00 downstairs
14 where we came in, or --

15 THE COURT: Yes, downstairs, yes --

16 JUROR: Okay.

17 THE COURT: -- in the holding room, yes.

18 JUROR: Okay.

19 THE COURT: Exactly. 3 o'clock. And,
20 please, Ladies and Gentlemen, one thing I will
21 tell you is this, when we state a time, we try
22 very hard that everyone is on time.

23 I can't start until all 14 of you are here.
24 With that said, I can tell you, the attorneys,
25 the parties and myself, we are going to work

1 very hard to have everything we need to have
2 done and ready to go, at the time you arrive
3 here.

4 I try so hard not to waste you-all's time,
5 and I don't like you-all sitting back there if
6 we can be actually presenting something to you.

7 So I will tell you that I work very hard to
8 do that, but I will also tell you there are
9 times when I have to send you back there, and we
10 have to take up matters in here. It's just
11 something that happens, but we are going to try
12 these cases efficiently.

13 I know both of the attorneys very well in
14 this case, and they are both seasoned lawyers
15 who are going to put this case in front of you,
16 all right? So is everyone good?

17 All right, we'll see you all back at 3
18 o'clock, okay? Thank you.

19 (Jury exits courtroom.)

20 THE COURT: All right, the door's shut.
21 What I would like to do, I'd like to go ahead
22 and at least just take a quick five minutes, and
23 then let's start on the motions, and then I
24 would like to see the video if that would be a
25 great time for me to maybe watching it at the

1 same time if that's possible.

2 So you tell me what order you want to go
3 about doing this.

4 MR. THORNTON: Your Honor, what I'd like to
5 do is, with the Court's permission, is get the
6 matter we talked about in chambers with the
7 witness, Your Honor, if we could go ahead and
8 get that knocked out and out of the way, and
9 then you can tell them to come back tomorrow
10 with the Court's instructions, once you've
11 broken, Your Honor.

12 THE COURT: Absolutely.

13 MR. THORNTON: And then we could go on
14 whatever -- but most of them are Mr. Koger's
15 motions. I'm prepared to go in whatever order
16 we need to go in today.

17 THE COURT: Okay, that sounds good. So
18 let's go ahead and just take a quick five
19 minutes, and we'll refresh ourselves, and we'll
20 come back, and we'll start, and we'll get as far
21 I guess we can, after we talk to your people.

22 MR. THORNTON: Yes, ma'am.

23 THE COURT: Okay.

24 MR. THORNTON: And, Judge, I've got -- I'm
25 hooked up, and I'll try to test it, when we have

1 a minute, to make sure you can watch it. And if
2 you'd rather me just send you a link --

3 THE COURT: I'd prefer just to have a link
4 if that's okay.

5 MR. THORNTON: Yes, ma'am.

6 THE COURT: It'll be fine.

7 MR. THORNTON: Yes, ma'am.

8 THE COURT: Okay, thank you.

9 Anything else?

10 MR. THORNTON: Nothing from the State, Your
11 Honor.

12 THE COURT: Mr. Koger, are you okay?

13 MR. KOGER: Your Honor, I'm fine, nothing
14 else, Your Honor.

15 THE COURT: All right, well, I promised you
16 a break at some point, okay? So let's take five
17 minutes right now.

18 (Recess.)

19

20 PROCEEDINGS CONTINUED

21 THE COURT: All right.

22 MR. THORNTON: May I bring them in, Your
23 Honor?

24 THE COURT: Absolutely.

25 MR. THORNTON: The witness -- witnesses. I

1 will tell the Court that Tyquasia Lee is
2 absolutely going to be called. Her mother, Ms.
3 Lee, is potential but not likely. I do want
4 both of them. Okay.

5 THE COURT: Okay.

6 MR. THORNTON: They are both under
7 subpoena, Your Honor.

8 THE COURT: Thank you.

9 MR. THORNTON: Your Honor, in the front --
10 to the right is Ms. Tyquasia Lee and her mother
11 Paulette Lee is next to her. They indicated
12 they wish to briefly speak with the Court. As I
13 told the Court, they are both witnesses in the
14 case and have both been properly subpoenaed for
15 the week.

16 THE COURT: All right.

17 Ladies, we have pulled the jury in the case
18 against Mr. Nieves. My understanding is that
19 you are a State's witnesses in these cases.
20 Both of you are potentially.

21 What would you like to tell me?

22 MS. LEE: I would like to be dismissed from
23 this case.

24 THE COURT: You have been noticed as a
25 witness in this case. You are not going to be

1 dismissed from this case. Again, you are under
2 subpoena. I just want to make sure you both
3 understand -- I have heard that you will not be
4 required to testify until the earliest tomorrow
5 afternoon.

6 I will allow you to be released until 1:00
7 p.m. tomorrow. Once again, I expect to see both
8 of you here in the courthouse. If for any
9 reason you don't, I will have the sheriff's
10 deputies come pick you up.

11 MS. LEE: I won't be here tomorrow. I have
12 to take my mom to Charleston tomorrow.

13 THE COURT: Ma'am, you will be here
14 tomorrow.

15 MS. LEE: Okay.

16 THE COURT: All right?

17 MS. LEE: Okay.

18 THE COURT: See you tomorrow at 1 p.m.
19 ladies.

20 MR. THORNTON: Thank you, Your Honor.

21 THE COURT: What else can we take care of,
22 gentleman?

23 MR. THORNTON: Your Honor, I will tell you
24 that Mr. Koger made a motion to sequester the
25 witnesses. Obviously, I do not object to that.

1 I did have one witness who was already here. I
2 excused him. We only have victims' family
3 members in right now.

4 I certainly don't object to that. When the
5 Court gives us your customary few minutes, I
6 will make sure that I instruct them as to the
7 rule of sequestration. So we certainly don't
8 object to that.

9 THE COURT: Okay.

10 MR. THORNTON: One of the things that will
11 come up this afternoon in testimony, at least
12 the first batch, are the photographs. Unless
13 Mr. Koger objects, maybe we can go ahead and
14 take up the photograph issue.

15 MR. KOGER: Yes.

16 MR. THORNTON: If that is okay with Your
17 Honor.

18 THE COURT: Certainly.

19 MR. THORNTON: Judge, Mr. Koger and I have
20 gone through all of my photographs. The only
21 ones he had indicated in his motion that he
22 would be objecting to are some scene photos and
23 some photos from the autopsy. There is a ton of
24 them. I have tried to narrow it down as best I
25 can as far as scene photos.

1 I will read them out for the record. We
2 have them pre-marked.

3 THE COURT: He addressed it?

4 MR. THORNTON: Yes, ma'am. These are the
5 ones he objects to. This is State's 9, 10, 11,
6 15, 16, 19. Those are all scene photos. I
7 don't have everything marked yet. I will skip
8 ahead.

9 The autopsy photos that he objects to are
10 State's 50, 51, and State's 52.

11 I don't know that I will have that many
12 exhibits, Judge, but I just skipped ahead.
13 These will be some of the last things we enter.

14 I don't have copies of these. We may have
15 to look as you go through them. I have a
16 general response to all of those photos in the
17 Court's discretion.

18 THE COURT: Do you all need to be looking
19 over my shoulder when we go through these?

20 MR. THORNTON: It might help us.

21 THE COURT: Would that be helpful to you?

22 MR. KOKER: Yes.

23 MR. THORNTON: This is Mr. Koger's motion.
24 However Your Honor wants to do it.

25 THE COURT: Explain to me what I am seeing.

1 MR. THORNTON: State's 9. This is the
2 interior of the car. In all candor with the
3 Court, Mr. Koger and I were talking about this.
4 I have to get the officer in here to tell me if
5 this is before or after the bodies were removed.
6 The bodies are very charred, as you can see from
7 the inside of the car. I don't even see in
8 there definitively where the body would be. I
9 can't say for sure it's not there.

10 There may be something over it. I would
11 have to have him say it. I don't see anything
12 in there that that is even -- that you can even
13 describe as problematic.

14 I'm going to need the guy who pulled them
15 out of there to tell me if their bodies are even
16 that picture. I don't see how that could even
17 be objectionable.

18 THE COURT: Mr. Koger.

19 MR. KOGER: Once I had a discussion with
20 the Deputy Solicitor, I came to agree on Number
21 9.

22 THE COURT: Okay.

23 MR. THORNTON: So I will tell the Court on
24 State's 10, I believe I am pointing to the
25 interior where the passenger's seat would be. I

1 believe that that is -- I believe that in here
2 is where the body was located. Whether the body
3 is there or not, I am not positive.

4 THE COURT: Is that Ms. Jenkins in the
5 front?

6 MR. THORNTON: I believe Ms. Jenkins was in
7 the front, and Mr. Specks was in the back. I
8 would have to double-check that, but I believe
9 that is accurate.

10 THE COURT: Okay.

11 MR. THORNTON: And again, since I couldn't
12 definitively tell you, even knowing where it
13 would be located, I just don't see anything that
14 is grotesque. Even if you pointed to it and
15 said, yes, this is the body. If we can't even
16 tell by looking at it that it's a body, I just
17 don't know what the objectionable part of it
18 would be.

19 MR. KOGER: On this one right here, Exhibit
20 10, in comparison to the next one is coming up,
21 Number 11, I think you can tell it's a body in
22 that particular location. It would be redundant
23 because I think Number 11 is another view of
24 Number 10.

25 MR. THORNTON: This is 11. It's a little

1 bit different angle.

2 THE COURT: That IS in the car or out of
3 the car. That is inside the car. Here are the
4 seats right here. It's absolutely at a much
5 different angle. You can see this material
6 right here.

7 What I am frankly having trouble with is
8 locating this shaft in the other picture. I
9 think it just may be the angle or maybe
10 something was moved. This would be Ms. Jenkins'
11 again. I would have to have the witness testify
12 to it, but I believe that that is Ms. Jenkins
13 body.

14 THE COURT: Tell me something, Solicitor.
15 How does that photo -- how does it further what
16 you are trying to prove as far as elements of
17 the case?

18 MR. THORNTON: Your Honor, as you know, one
19 of the elements of murder is malice. The fact
20 that you allegedly have burned bodies trying to
21 dispose of evidence, all of that goes to the
22 maliciousness of it. It also goes to the fact
23 of exactly how the bodies are located and what
24 was done to them.

25 Again, especially in this case, judge.

1 It's difficult to even discern without the
2 witness coming in to show us.

3 The next couple of pictures may give you an
4 idea that are definitive. If it's an objection,
5 also as to redundancy, one is a little bit
6 different than the other.

7 I will take one out. I am not trying to
8 gild the lily on it. I don't mind taking one
9 out. They are pretty close.

10 The only caveat to that is Mr. Koger takes
11 a look at that -- when I talking to witness who
12 is going to be testifying. It's actually the
13 other seat. Obviously, I will come back to the
14 Court. If those are the same seat, I just need
15 one.

16 THE COURT: Who is the victims' advocate in
17 this case?

18 MR. THORNTON: It is probably Michelle
19 Frazier, Your Honor, for me. She deals with
20 most of my cases. She is not in today. Jillian
21 from our office is here, Your Honor, if you
22 needed something.

23 THE COURT: I just wanted to give you a
24 heads-up. Obviously, these are some difficult
25 photos for family members to see. I need to

1 make absolutely sure you have cautioned them
2 that they are coming. I can't have any
3 outbursts. I need to explain that. I know it's
4 emotional for them and difficult.

5 If for some reason they don't think they
6 can contain themselves, you need to figure out
7 when they are going to be shown and get them out
8 of here. I just want to make sure you
9 understood that. I appreciate it.

10 MR. KOGER: Your Honor, Mr. Koger has
11 indicated that he would prefer the State to use
12 10. So I am going to take State's 11. I may
13 end up using a different 11, but I will pull
14 that picture out.

15 THE COURT: Now you get to show me 15, 16,
16 19 are those all pretty close to the same?

17 MR. THORNTON: They are similar. They are
18 all from the scene, Judge. I can't tell you
19 which victim is which. I would have to go over
20 that with -- this is 15. This is 16. Then 19
21 is basically everything laid out. Again, 19
22 kind of goes just like the other ones did. You
23 really can't discern what a body would be or
24 which one would be the body. I would make the
25 same argument I made as a general matter.

1 I don't know what would be objectionable in
2 that. Certainly, I understand the objection to
3 15 and 16. I am happy to respond whenever the
4 Court is able.

5 THE COURT: Yes, Mr. Koger.

6 MR. KOGER: Judge, I do understand what the
7 other pictures are. If they need another
8 picture to identify Mr. Specks. To have several
9 pictures laid out on top, I think it's a bit
10 much.

11 MR. THORNTON: Your Honor, with your
12 permission, I will hand up two pages for Your
13 Honor's consideration.

14 State v. Collins, 409, South Carolina 524
15 and State v. Heyward, 432 South Carolina 296. I
16 will hand it up. I have two copies of each.

17 Your Honor, the relevant language -- I
18 understand Mr. Koger's objection. As you know,
19 Judge, this is left in your sound discretion. I
20 certainly know you are already aware of that.
21 What I would point out in State v. Collins,
22 Judge, is that Courts and juries cannot be too
23 squeamish about looking at unpleasant things,
24 objects, or circumstances in proceedings to
25 enforce the law, especially if the truth is on

1 trial.

2 The mere fact that an item of evidence is
3 gruesome or revolting, if it sheds light on
4 strengthens or gives character to other evidence
5 sustaining the issues in the case, should not be
6 excluded.

7 More importantly, the standard in this
8 case, Judge, is not just whether the evidence is
9 prejudicial. Your Honor, I know I have done
10 this argument several times. Everything I put
11 in to a certain extent is probably going to be
12 prejudicial in that it shows that, in my
13 opinion, the guilt of the defendant. That's why
14 I am putting it into evidence.

15 The test under 403 is whether there is a
16 danger of unfair prejudice that substantially
17 outweighs the probative value. Where the State
18 has the burden of proving the elements of the
19 offense charged, there are no eyewitnesses to
20 the incident -- which is what the Collins case
21 talks about -- resulting in the victim's death,
22 the photos provide concrete evidence as to what
23 transpired on that fateful day.

24 THE COURT: Is there any question that
25 these are the deceased victims' bodies?

1 MR. THORNTON: Well, we had to use DNA.
2 So, yes, ma'am. They could not be identified
3 absent DNA. I have family members who are going
4 to be called for that purpose because they had
5 to actually run DNA on them.

6 THE COURT: Okay.

7 MR. THORNTON: I know Mr. Koger said this
8 to me earlier. I would stipulate that they were
9 shot, or I would stipulate they were burned.
10 While I appreciate that, I have to prove this
11 case to a jury, including the element of malice.
12 Under that theory, you could never show any
13 would. The defense could just stipulate to,
14 they were shot, or they were stabbed, or they
15 were this.

16 I feel like based on Collins and based on
17 Heywood; these are not -- I think Mr. Koger
18 agrees with me. I had a lot of pictures I could
19 have chosen from. I am only putting in a
20 couple. I am not putting in a lot.

21 MR. KOGER: Judge, I think that -- these
22 are different than pictures of blood. These are
23 charred bodies. Again, I know the State has to
24 put in some, but it's getting to the point where
25 some of them you can't tell, but the jury could

1 assume that the bodies is in that debris.

2 These pictures in conjunction with the
3 autopsy photos -- I think that's a little much.
4 I think it runs the risk -- I don't know, how it
5 would play on appeal, but basically at this
6 particular point, I am not objecting to any
7 pictures being placed in.

8 I am objecting to the numbers of pictures
9 being put in showing charred bodies. I think
10 it's a little much.

11 THE COURT: Let me ask you this, Solicitor.
12 Are 15 and 16 the two different bodies?

13 MR. THORNTON: Yes, ma'am. That is my
14 understanding. I will confirm that, but I
15 believe that that is accurate.

16 THE COURT: What I would do -- I think that
17 15, 16, and 19 would be redundant. I think you
18 either need to choose 15 and 16 to use or 19,
19 but not all three.

20 Does that make sense?

21 MR. THORNTON: It does. May I reserve my
22 selection until I talk to my officer?

23 THE COURT: You may.

24 MR. THORNTON: Thank you. Then the last
25 set we have, Judge, are 50, 51, 52.

1 which are the last set.
.....

2 MR. THORNTON: And 50 is, obviously, one
3 victim, actually, 50 and 52 are the same victim.
4 52 is the closeup of the head.

5 THE COURT: So 50 and 52 are the same?

6 MR. THORNTON: I apologize, Judge, I'm
7 wrong, it's -- 51 and 52 are the same.

8 THE COURT: Okay.

9 MR. THORNTON: I'm looking at the autopsy
10 numbers.

11 THE COURT: So let me ask you, are you
12 going to have your forensic pathologist testify
13 to these pictures?

14 MR. THORNTON: Yes, ma'am, and I will tell
15 the Court, and tell Mr. Kroger that in my
16 discussions with her, she indicated that these
17 pictures, and I believe would testify that these
18 pictures would aid her in her testimony, in
19 discussing the injuries specifically to Mr.
20 Specks, who had injuries to his head that were
21 not consistent with the burning.

22 There was also, obviously, a bullet
23 located, and I know Mr. Kroger is going to point
24 out, so I will tell the Court we have some
25 radiological photos, x-rays, which he does not

1 object to --

2 MR. KROGER: I'm going to object to those.

3 MR. THORNTON: And we would use those as
4 well, but I didn't bring them out, because he's
5 not objecting to those.

6 THE COURT: Okay, so 51 and 52 are the
7 same, so what's 50?

8 MR. THORNTON: 50 is the other victim, Your
9 Honor.

10 THE COURT: And what is that?

11 MR. THORNTON: That is 655, 656, or 51 and
12 52. So if I need to, if the Court feels like
13 with 51 and 52 being the same person is
14 redundant, I will probably just take the
15 closeup.

16 THE COURT: Okay.

17 MR. THORNTON: Because of the position.
18 It's very difficult to be able to do that,
19 that's why I picked the two.

20 MR. KROGER: Of course, but the thought
21 that he would be able to do it.

22 THE COURT: Pardon?

23 MR. KROGER: But the thought that he would
24 be able to identify the parts --

25 THE COURT: Uh-huh.

1 MR. KROGER: -- on only one photo.

2 THE COURT: Okay. Well, I think you need
3 to pick between 51 and 52.

4 MR. THORNTON: Yes, ma'am.

5 THE COURT: And that would be both of them,
6 and then 50, again, is the other victim?

7 MR. THORNTON: The other victim, yes,
8 ma'am.

9 THE COURT: Okay. Explain to me how, when
10 you say that they have any DNA to match the
11 people, were they able to get DNA from what
12 part?

13 MR. THORNTON: Yeah, DNA from the autopsy,
14 but to be able to show --

15 THE COURT: What --

16 MR. THORNTON: -- who it was. So they've
17 got blood spots.

18 THE COURT: Right, to be compared.

19 MR. THORNTON: And then the one family
20 member, so they did one that was a familial, and
21 then one they actually did a familial, but they
22 also had -- it's either -- I think it was a
23 toothbrush.

24 MR. KROGER: A toothbrush.

25 MR. THORNTON: A toothbrush or hairbrush.

1 THE COURT: Okay.

2 MR. THORNTON: They actually were able to
3 do a confirmatory on one of them. And,
4 obviously, I have --

5 THE COURT: Okay.

6 MR. THORNTON: -- other witnesses who say,
7 "I saw him, it's this car, I've got the VIN."

8 THE COURT: Okay.

9 MR. THORNTON: But the actual to prove it's
10 those two people, which is obviously relevant --

11 THE COURT: Yeah.

12 MR. THORNTON: -- and they actually had the
13 DNA, but I don't even think the dental records
14 would have worked in this case.

15 THE COURT: Okay. Yes, sir.

16 MR. KROGER: I request that he select one
17 or the other.

18 THE COURT: Okay, well, you're gonna choose
19 your 51 or 52.

20 MR. THORNTON: Yes, ma'am.

21 THE COURT: And I'll just go ahead and make
22 a ruling, obviously, you know, it's required,
23 did they prove an element of crime?

24 Obviously, you have to prove malice, which
25 is the hurdle, I think, in these cases, and also

1 whether or not it outweighed, you know, any
2 potential suspect. So I think it should be
3 taken out. I've done a lot of these, so that's
4 kind of where we're at. All right, what else,
5 gentlemen?

6 MR. THORNTON: I believe Mr. Kroger has one
7 in relation to the redactions. Both are limited
8 to the testimony from Lieutenant Brown, as well
9 as the evidence of the video that came to Ms.
10 Lee. I thought, Mr. Kroger, we both think that
11 you're probably gonna need to view the video --

12 MR. KROGER: Right.

13 MR. THORNTON: -- for that.

14 MR. KROGER: Right.

15 MR. THORNTON: Okay.

16 THE COURT: You're fine.

17 MR. KROGER: It's your motion.

18 MR. THORNTON: Yeah, for the Jackson v.
19 Denno, I think we have to put it on record --

20 THE COURT: Okay.

21 MR. THORNTON: -- and I'll be as quick as
22 possible. There is about a 30-minute video.

23 THE COURT: Uh-huh. Okay.

24 MR. THORNTON: So --

25 THE COURT: Okay, so this one 30-minutes

1 that I'll look at, and then the other one is 30
2 minutes; is that correct?

3 MR. THORNTON: Only about -- so that one's
4 at least 39 or 40, or 39. It's something close,
5 I don't recall what it is, Your Honor. I think,
6 Your Honor, it is -- I think it's less than an
7 hour.

8 THE COURT: Okay.

9 MR. THORNTON: And then the video I'm
10 talking about, he actually asked for, in my
11 opinion, asked for an attorney. There are two
12 statements.

13 THE COURT: Okay.

14 MR. THORNTON: One is a -- was verbal that
15 did not get saved on video. He does do a
16 statement, the Defendant does do a very short
17 written statement, and then the second statement
18 that they got from him was a video-taped
19 statement, that is about 30 minutes, I would
20 say, long, 31 minutes. I cut it at the 31 or
21 32-minute mark, because in my opinion he asked
22 for counsel, and at that time, when he was
23 represented by Steve Plexico at the Public
24 Defender's office.

25 THE COURT: Uh-huh.

1 MR. THORNTON: He asked to speak to Mr.
2 Plexico. I considered it unequivocal, so I cut
3 it at that point.

4 The COURT: All right, and, Mr. Kroger,
5 I'll remind you that 31 minutes or so that he
6 had in that, you want the thing cut out as well,
7 correct?

8 MR. KROGER: Yes.

9 THE COURT: Do I have that video?

10 MR. THORNTON: Yes, ma'am.

11 I think that will be the best thing to do,
12 and then we can do it -- I can do the testimony
13 now, or I can do it when you get done, Judge,
14 whichever you want to do. I've got one who --
15 I'm just gonna do one officer for Jackson v.
16 Denno.

17 THE COURT: Let's do it, and let's get it
18 done now, because --

19 MR. THORNTON: All right.

20 THE COURT: -- then I'll know what I'm
21 looking for then.

22 MR. THORNTON: Your Honor, at this time,
23 the State calls Lieutenant Matt Brown to the
24 stand.

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CHARLES MATTHEW BROWN

* * *

being first duly sworn, testified as
follow:

MR. THORNTON: And, Your Honor, I wanted to
ask -- two of my witnesses have already asked,
are they allowed to remove their masks, or is
that a problem?

THE COURT: Yes, absolutely. I appreciate
it.

VOIR DIRE EXAMINATION

BY MR. THORNTON:

Q. Lieutenant Brown, where do you work,
sir?

A. The South Carolina Law Enforcement
Division, commonly referred to as SLED.

Q. All right. If we have to refer to that
anymore during your testimony, let's just say --

A. Sure.

Q. -- SLED, at least for today.

A. Will do.

Q. Lieutenant, did you work for SLED
during January of 2016?

A. Yes, sir, I did.

1 Q. And in what capacity did you work for
2 them in?

3 A. At the time I was an Agent. I was,
4 currently since then, been promoted, I'm a
5 Lieutenant.

6 Q. At some point, were you assigned the
7 case that we're here about today, State v.
8 Jonathan Nieves?

9 A. Yes, sir, I was.

10 Q. All right. And did it also involve
11 other potential suspects, or potential
12 individuals?

13 A. Yes, sir, it did.

14 Q. All right. Did you, at some point,
15 talk to Mr. Nieves?

16 A. I did.

17 Q. All right. Specifically, I'm going to
18 draw your attention to January the 7th of 2016,
19 at around 6:27 p.m. Did you speak to Mr. Nieves
20 at that time?

21 A. Yes, sir, I did.

22 Q. And who else was in the room with you,
23 sir?

24 A. It was myself and Lieutenant Shaun
25 Harley. We were conducting an interview with

1 him.

2 Q. And I keep saying this, but I want to
3 make sure I'm right, you are a Lieutenant; is
4 that correct?

5 A. Yes, sir.

6 Q. All right. Lieutenant, when you talked
7 to Mr. Nieves, do you remember where you were?

8 A. We were at the Jasper County Sheriff's
9 Office Criminal Investigations Division, CID.

10 Q. And was Mr. Nieves -- had he already
11 been, at that point, taken into custody?

12 A. Yes, sir, he had.

13 Q. All right.

14 MR. THORNTON: Your Honor, for the purposes
15 of this hearing, as to both statements, the
16 State will stipulate that Mr. Nieves was in
17 custody.

18 THE COURT: All right.

19 BY MR. THORNTON:

20 Q. I'm going to hand you what's been
21 marked as a Court's Exhibit Number 1, and ask if
22 you can identify that for me?

23 A. Yes.

24 Q. What is that?

25 A. A standard SLED Miranda rights form.

1 It was the thing that was read to, and
2 initialed by Mr. Jonathan Nieves.

3 Q. All right.

4 A. It was witnessed by myself and
5 Lieutenant Harley.

6 Q. All right. Lieutenant Brown, do you
7 see the person that you spoke with on the 16th
8 of January -- I'm sorry, on the 7th of January
9 of 2016 in the courtroom?

10 A. Yes, sir, I do.

11 Q. And where is he, sir?

12 A. At the defense table.

13 Q. All right. Can you go through with me
14 the process of how you provided him his rights
15 on Court's Exhibit 1, as we talked about?

16 A. Sir, we go statement-by-statement.
17 It's read directly off of this sheet.

18 Q. And before you do that, Lieutenant, I
19 apologize, I'm trying to go quickly, and I
20 skipped a step, so does that appear to be a true
21 and accurate copy of the Miranda rights form
22 that you read on January the 7th of 2016?

23 A. Yes, sir, it is.

24 Q. All right. Does it look like it's been
25 altered or changed in any way?

1 A. No, sir.

2 MR. THORNTON: Your Honor, at this time,
3 for the purposes of this hearing, I'd ask
4 Court's 1 be moved into evidence.

5 MR. KROGER: Without objection.

6 THE COURT: That's fine. Okay.

7 (Court's Exhibit 1 admitted into evidence.)

8 BY MR. THORNTON:

9 Q. Thank you, sir, if you would, please go
10 through the rights.

11 A. Yes, sir, so like I said, this is a
12 standard SLED Miranda rights form. The form is
13 read verbatim to the person that's being
14 interviewed, or in custody.

15 Q. And, Lieutenant, was it read -- I know
16 that's your standard practice, but was it read
17 verbatim that day?

18 A. Yes, sir, it was, it was read verbatim
19 from start to finish. Each statement that was
20 read to Mr. Nieves was initialed by himself.
21 And then the statement of the waiver of rights
22 at the bottom was read to him. He signed the
23 Miranda rights form, and this form was witnessed
24 by myself and Lieutenant Harley.

25 THE COURT: Lieutenant, I'm sorry to

1 interrupt you, sir, was this one on video, or
2 not?

3 THE WITNESS: This one -- this one it was
4 on -- I assume this one was video-taped, and
5 I'll go ahead and state for the record, I was
6 told that they were using a new software at the
7 Sheriff's Office, since the last time the room
8 was used. I was told that there was a retention
9 period, which I did not know that at the time.
10 So I thought it was videoed, there was a video
11 of it. When I asked for the video, they said
12 there was no reporting of it.

13 BY MR. THORNTON:

14 Q. The short answer is, yeah, but whether
15 it was being used or not, we never got a copy of
16 the tape yet.

17 THE COURT: Okay.

18 A. The standard at the time our agency did
19 not have a policy where we video-taped or audio
20 recorded every interview, so commonly we would
21 use the local Sheriff's Office interview rooms.
22 So like I said, I used the room numerous times
23 before, I was not aware that they had new
24 software, and that there was a retention period
25 on the -- the recordings.

1 THE COURT: Okay, thank you, sir.

2 BY MR. THORNTON:

3 Q. Lieutenant, if you would, just go
4 through the rights, as you went through them
5 with the Defendant on that day.

6 A. So it says, "Before we ask you any
7 questions, you must understand your rights. You
8 have the right to remain silent. Anything you
9 say can be used in court, as evidence against
10 you. You're entitled to talk to a lawyer now,
11 and have him present now, or at any time during
12 questioning.

13 If you cannot afford an attorney, one will
14 be appointed for you without cost. If you
15 decide to answer questions now, without a lawyer
16 present, you will still have the right to stop
17 answering at any time. You also have the right
18 to stop answering at any time, until you talk to
19 a lawyer. Do you understand these rights? Do
20 you wish to talk to us at this time"?

21 And then the waiver of rights says, "I have
22 read this statement of my rights, and I
23 understand what my rights are. I'm willing to
24 talk now without a lawyer present. I understand
25 that I know what I'm doing. No promises or

1 threats have been made to me, and no pressure or
2 coercion of any kind has been used against me."

3 Q. And did he, he being the Defendant in
4 this case, Mr. Nieves, did he indicate that he
5 understood all of his rights by initialing next
6 to each right?

7 A. Yes, sir, he verbally stated he did,
8 and he initialed next to each right, and he
9 signed down at the bottom on the waiver form.

10 Q. And, at that point, sir, did you have a
11 discussion with Mr. Nieves?

12 A. Yes, sir, we did.

13 Q. All right, and do you recall just, in
14 general terms, what he stated to you?

15 A. So, basically, Mr. Nieves, like I said,
16 this was several months after the incident
17 occurred. The incident occurred on the night of
18 October 2nd, 2015. So I started out by, you
19 know, just kind of asking him, if he was able to
20 remember his activities on the night of October
21 2nd. And he said he was kind of unable to
22 remember, because of the timeframe that had
23 passed. So I specifically asked him if he
24 remembered taking James Riley, whose nickname
25 was Jackpot, and Vanessa Boyles to the Tillman

1 area, to pick up some baby clothes.

2 He indicated to me that he did remember
3 taking them. They went in Mr. Nieves'
4 girlfriend's white colored car. They got to
5 that location in Tillman. They left that
6 location and walked to the store, which is a
7 short-ways down the dirt road to get some beer.
8 It was around dark when all this occurred, and
9 then they went back to the house after they
10 purchased some beer and drank the beer.

11 I had asked him if he went into the house
12 at any time, or if he talked with anyone else in
13 the house. He said he never went into the
14 house, and that they didn't stay long. And then
15 at that point, they all three, himself, Vanessa
16 Boyles and Mr. Riley all got into the vehicle.
17 He took them back home, because he had to pick
18 his girlfriend up around 10 o'clock.

19 I asked him, if he heard any gunshots or
20 anything at the house, near the house? He said
21 he didn't. He didn't know whether Mr. Riley had
22 a gun with him at the time, and so then I went
23 on to ask him if they purchased anything, you
24 know, at the store. He described some beer that
25 he had already told me about.

1 He initially indicated that he didn't
2 remember anything else being purchased. At that
3 time I showed him the still photographs from the
4 surveillance video that was taken from the gas
5 station. And in the photographs was a red gas
6 can that Vanessa Boyles pumped gas into. He
7 then indicated that he remembered that they
8 bought gas to pour into a burn barrel at the
9 location, which was Michael Toomer's house, to
10 light the fire.

11 And I asked him if he knew either of the
12 victims Bruce Specks or Shantay Jenkins. He
13 said he didn't know them, and he didn't have
14 anything to do with their death.

15 Q. And did your -- now, while you were in
16 the room with him, you had indicated earlier,
17 Lieutenant Harley was in there with you as well;
18 is that correct?

19 A. Yes, sir.

20 Q. All right. Did either of you promise
21 him any leniency to try to get him to talk to
22 you?

23 A. No, sir.

24 Q. Did any of you threaten him in any way?

25 A. No, sir.

1 Q. All right. Did he write a statement at
2 your request?

3 A. Yes, sir, he did.

4 Q. And could you go over -- I believe it's
5 fairly brief, could you read the statement --

6 A. Sure.

7 Q. -- that he wrote for you?

8 A. So the statement, he initialed the
9 beginning and the end of the statement, and it
10 says, "On October 2nd, 2015, I picked Jackpot
11 and his girlfriend up to go and get clothing.
12 We arrived at Jackpot's house, and then we
13 decided to go to the store to get beer. After
14 we got beer, we walked back to Jackpot's place
15 to drink the beer. After the beer we left, I
16 dropped them off home, and I went in my own
17 direction."

18 Q. Okay. And does it indicate on the
19 right form, and then, again, on this voluntary
20 statement form when the interview began, or at
21 least when the Miranda rights form was signed?

22 A. Yes. So the Miranda rights form was
23 read at 6:27 p.m.

24 Q. And this voluntary statement that you
25 just talked about, did that have a time on it,

1 as far as when he's done writing his statement?

2 A. Yes, sir, it was at 9:37 p.m.

3 Q. So a little over three hours and ten
4 minutes?

5 A. Yes, sir.

6 Q. All right, and is this the last thing
7 he did was write out that short statement?

8 A. Yes, sir.

9 Q. All right. So y'all had already had
10 the discussion that you referenced by the time
11 this occurred?

12 A. Yes, sir, that's correct.

13 Q. All right. And did he, at any time,
14 sir, seem to you to be under the influence of
15 alcohol or drugs, to the extent that he didn't
16 know what you were saying, or anything like
17 that?

18 A. No, sir.

19 Q. Did he seem to have any trouble
20 understanding you, or being able to respond to
21 your questions?

22 A. No, sir.

23 Q. And, again, did you, or anyone else
24 threaten him in any way, or make any promises of
25 leniency to him?

1 A. No, sir, we did not.

2 Q. As to --

3 MR. THORNTON: I could go to the second
4 statement, Judge --

5 THE COURT: Okay.

6 MR. THORNTON: -- or I can just stop here,
7 and do cross, whatever you would prefer.

8 THE COURT: You can continue.
.....

9 BY MR. THORNTON:

10 Q. Lieutenant Brown, did you have occasion
11 to talk to Mr. Nieves on another occasion?

12 A. Yes, sir, I did.

13 Q. All right. And was that on or about
14 the -- I believe the 25th --

15 A. Yes, sir.

16 Q. -- of January; is that correct, sir?

17 A. That is correct.

18 Q. I'm going to hand you what's been
19 marked as Court's Exhibit 2, and ask if you
20 recognize that?

21 A. Yes, sir, I do.

22 THE COURT: And this one is on video,
23 correct?

24 MR. THORNTON: This is on video, yes,
25 ma'am.

1 THE COURT: Okay.

2 BY WITNESS:

3 A. Yes, sir, I do.

4 Q. All right, and is that the Miranda
5 rights form you used on January the 25th of
6 2016?

7 A. It is.

8 Q. And did you go over that Miranda rights
9 form with Mr. Nieves?

10 A. Yes, sir. It was read verbatim, just
11 as the last was. He initialed and signed, and
12 then myself and Lieutenant Harley again
13 witnessed it.

14 Q. So the same two people?

15 A. Yes, sir.

16 Q. All right. Let me ask you a quick
17 question. Is that a true and accurate copy of
18 the Miranda rights form that you read to Mr.
19 Nieves on that day?

20 A. Yes, sir, it is.

21 Q. Has it been altered or changed in any
22 way?

23 A. No, sir.

24 MR. THORNTON: I ask that it be entered
25 into evidence for the purposes of this hearing,

1 Judge.

2 THE COURT: Admitted.

3 (Court's Exhibit 2 admitted into evidence.)

4 BY MR. THORNTON:

5 Q. Without having to read it, is that the
6 exact same form that you just read into the
7 record?

8 A. Yes, sir.

9 Q. All right.

10 A. It's the same form that I read from the
11 previous one.

12 Q. And I believe you testified that just
13 like before, you read through each one, and he
14 initialed next to it, and then signed it?

15 A. That is correct.

16 Q. All right. Did he make some statement
17 though in the video about he -- that you'all had
18 not Mirandized him the first time?

19 A. I believe he did.

20 Q. And is it also on the video that you
21 reminded him that you'all had gone through the
22 exact same rights form, and I believe he said
23 something like, "Okay, well, I just don't
24 remember a whole lot about that day," or
25 something to that extent?

1 A. That is correct.

2 Q. Would it be fair to say that you and
3 Agent Harley did most of the talking in the
4 second interview?

5 A. Yes, sir, that's correct, we did
6 probably 95 percent of the talking.

7 Q. Yes. And at some point, after about 30
8 some odd minutes in, he asked for a lawyer, to
9 Mr. Plexico, he asked -- that he wants to talk
10 to his attorney?

11 A. That is correct.

12 Q. All right.

13 MR. THORNTON: Without belaboring all the
14 details of exactly what you'all talked about,
15 and because this one's on video, Your Honor, I
16 would just refer the Court to the video.

17 THE COURT: Yes.

18 BY MR. THORNTON:

19 Q. During the second interview, Lieutenant
20 Brown, did you or Lieutenant Harley threaten Mr.
21 Nieves in any way, or promise him any specific
22 leniency with the Solicitor's office, or anybody
23 else?

24 A. No, sir.

25 MR. THORNTON: As I've already indicated,

1 Judge, I don't even know how much after that
2 goes, but at 31 minutes, we will stipulate that
3 he made an unequivocal indication of the right
4 to counsel, and it should be stopped at that
5 point.

6 THE COURT: Okay.

7 MR. THORNTON: So if I did introduce this
8 statement, Judge, it would be only to that brief
9 extent.

10 THE COURT: Okay.

11 MR. THORNTON: And I believe it's been
12 edited like that, in the version that you have.

13 THE COURT: All right.

14 MR. THORNTON: With that, Your Honor, I
15 don't have any more questions.

16 BY MR. THORNTON:

17 Q. Well, Lieutenant Brown, let me ask you
18 this, do you remember how long this interview
19 was? I know we talked about it being -- I'm
20 cutting it off at 30 minutes, or 31, did you
21 talk to him at all before the video starts at
22 all?

23 A. No.

24 Q. Okay.

25 A. He was in custody already at that time,

1 and was brought over --

2 Q. All right.

3 A. -- by one of the deputies. And like I
4 said, we did most of the talking, and pretty
5 much after, you know, we talked and everything,
6 it didn't last --

7 Q. Okay.

8 A. -- any longer.

9 MR. THORNTON: All right, I have no further
10 questions, at this time.

11 THE COURT: All right.

12 BY MR. THORNTON:

13 Q. If Mr. Kroger has any questions for
14 you, please answer them.

15 MR. KROGER: No questions, Your Honor, for
16 the witness at this time.

17 THE COURT: Okay, thank you. Do you want
18 him to step down?

19 MR. THORNTON: Yes, ma'am, I'd ask --

20 THE COURT: All right.

21 MR. THORNTON: -- that he be allowed to
22 step down.

23 THE COURT: Uh-huh.

24 MR. THORNTON: Judge, and especially in
25 light of Mr. Kroger, which we had discussed

1 earlier, I didn't think he had any questions.

2 THE COURT: All right.

3 MR. THORNTON: I would proffer the
4 testimony of Lieutenant John Harley, which would
5 be, essentially, the same testimony.

6 THE COURT: Okay.

7 MR. THORNTON: Mr. Kroger has seen the
8 video, and he knows that the Lieutenant is the
9 same Lieutenant Harley who just turned around
10 and walked out.

11 THE COURT: Yeah.

12 MR. THORNTON: He was in the room as well
13 on video, the day that he was in the room, but
14 at the time I would just proffer his testimony
15 would be the same.

16 THE COURT: Okay. Mr. Kroger?

17 MR. KROGER: Your Honor, I have no
18 objection to the statement.

19 THE COURT: Okay, thank you.

20 MR. THORNTON: Thank you, Your Honor, and I
21 apologize. I just - based on some of the case
22 law we have, I think we had to put it on the
23 record, Judge.

24 THE COURT: It's absolutely fine. Okay, so
25 correct me if I'm wrong, the only thing I need

1 to watch now is --

2 MR. THORNTON: Yes, ma'am, that day. So
3 that would be the coroner. The earliest she
4 would testify would be --

5 THE COURT: All right.

6 MR. THORNTON: -- late tomorrow afternoon,
7 so we could even argue this at lunch, and we'd
8 be fine. And, frankly, she will probably be
9 Wednesday morning.

10 THE COURT: Okay.

11 MR. THORNTON: But there is a chance we
12 could reach her, depending on how quickly we go
13 this morning.

14 THE COURT: Okay. So what else do we have
15 to do for pretrial, other than me watching this
16 video?

17 MR. KROGER: Nothing.

18 MR. THORNTON: I don't think there is
19 anything else, Judge. I think --

20 THE COURT: Okay.

21 MR. THORNTON: -- most of the other stuff is
22 pretty standard. You know, as indicated, I've
23 got the records from the interview for a couple
24 of these things.

25 THE COURT: Okay.

1 MR. THORNTON: Most of the DNA -- none of
2 the DNA points to his client, so I will address
3 the counsel issue --

4 THE COURT: Right.

5 MR. THORNTON: -- I just covered the base.

6 THE COURT: Okay.

7 MR. THORNTON: But, frankly, it's -- the
8 DNA was for the purpose of identifying the
9 victims.

10 THE COURT: Okay.

11 MR. THORNTON: And I don't think we can
12 stipulate to that, just because of that ruling
13 in Phillips.

14 THE COURT: Okay.

15 MR. THORNTON: So I think we have to go
16 through it and deal with it, but I'll be --

17 THE COURT: Right.

18 MR. THORNTON: -- as quick as I can.

19 THE COURT: Okay. All right.

20 Mr. Kroger, do you think -- should we go
21 ahead and break now until, approximately,
22 quarter to 3:00 --

23 MR. KROGER: Yes.

24 THE COURT: -- if that's acceptable?

25 MR. KROGER: It's acceptable, Your Honor.

1 THE COURT: Okay.

2 MR. THORNTON: I'm sorry, Judge.

3 THE COURT: Let's go ahead and break until
4 quarter to 3:00, give you all, you know, about
5 an hour and 20 minutes or so.

6 MR. KROGER: Yes, ma'am.

7 THE COURT: I also want to caution your
8 client, my understanding is this jury is gonna
9 be at the bottom of the stairs, before they're
10 brought in, so make sure no one discusses this
11 case in front of anyone in the jury box, and
12 just don't discuss it anywhere in the
13 courthouse, other than when you're sitting at
14 counsel table, okay?

15 MR. KROGER: Okay, yes, Your Honor.

16 THE COURT: Just be aware, okay?

17 MR. THORNTON: I'll let the victim's family
18 know the same thing, Judge.

19 THE COURT: And I appreciate that.

20 MR. THORNTON: Okay.

21 THE COURT: And also would you just remind
22 them, as far as potential videos and testimony,
23 I can't have any outbursts, okay?

24 MR. THORNTON: Yes, ma'am.

25 THE COURT: All right, I appreciate

1 you'all. Okay, anything else before I go back?

2 MR. THORNTON: No, Judge, I'll -- as soon
3 as my witness gets back, I will come in, and
4 have him tell me whether I'm right about all
5 this or not, and if there's anything we need to
6 take up, I'll --

7 THE COURT: Sure.

8 MR. THORNTON: -- run it through Mr. Koger.

9 THE COURT: All right, sounds good.

10 MR. THORNTON: Thank you, Judge.

11 THE COURT: Okay, thank you.

12 (Recess.)

13 (BREAK)

14 MR. THORNTON: We will call Paulette Lee --

15 THE COURT: Uh-huh.

16 MR. THORNTON: -- who is the mother --

17 THE COURT: Right.

18 MR. THORNTON: -- who I will not need
19 tomorrow.

20 THE COURT: Okay.

21 MR. THORNTON: She has called -- has a good
22 relationship with some folks in the Jasper
23 County Sheriff's Office, not me, and she has
24 indicated she really needs to get to this thing
25 with her mother.

1 THE COURT: Uh-huh.

2 MR. THORNTON: She will make sure that her
3 daughter, who is the main witness --

4 THE COURT: Okay.

5 MR. THORNTON: -- that's the video you're
6 gonna see --

7 THE COURT: Uh-huh.

8 MR. THORNTON: -- is here tomorrow at 1:00.
9 I don't object, but it was a Court's order.

10 THE COURT: Right.

11 MR. THORNTON: So as --

12 THE COURT: Okay.

13 MR. THORNTON: -- long as I --

14 THE COURT: As long as you don't object --

15 MR. THORNTON: I do not object.

16 THE COURT: -- she can go to Charleston.

17 MR. THORNTON: Right, but her daughter has
18 to --

19 THE COURT: And she needs to be subject to,
20 obviously, being called, if we need her, okay?

21 MR. THORNTON: Just -- and --

22 THE COURT: Okay.

23 MR. THORNTON: -- I'm sorry to interrupt
24 you, Judge.

25 THE COURT: I understand, that's absolutely

1 fine. Thank you, Kymberlee. Okay.

2 MR. THORNTON: Thank you, Your Honor.

3 (OFF RECORD)

4 THE COURT: Mr. Thornton, I was having a
5 really hard time hearing Ms. Lee -

6 MR. THORNTON: Yes, Judge.

7 THE COURT: -- audio tape.

8 MR. THORNTON: Yes,

9 THE COURT: And my question is, how do you
10 think they're gonna hear this?

11 Because like I said, I had a really -- I
12 mean I, literally, I had it all up on my
13 computer, my head against it, and I still --

14 MR. THORNTON: Yes, ma'am.

15 THE COURT: -- was having a hard time
16 understanding some of what she said, and what
17 she was referring to.

18 MR. THORNTON: Unfortunately, sometimes the
19 proprietary players are like that, but I will do
20 everything in my power to get that --

21 THE COURT: Okay.

22 MR. THORNTON: -- resolved.

23 THE COURT: Okay.

24 MR. THORNTON: With the Court's permission,
25 I'm gonna call my IT guy right now.

1 THE COURT: That's a good idea.

2 MR. THORNTON: Maybe he can work on it.

3 THE COURT: Okay, good.

4 MR. THORNTON: For the record, and for the
5 Court's information, and per your instructions,
6 I talked to all of the family members. I let
7 them know that there would be some photographs
8 coming up in today's fairly short testimony,
9 that they would be, you know, projected,
10 obviously, on the screen, that they need to be
11 able to see, that they may find very disturbing,
12 but the Court has instructed there are not to be
13 any outbursts whatsoever. They have all assured
14 me that a) I have given them that instruction,
15 and b) --

16 THE COURT: Okay.

17 MR. THORNTON: -- that they will be okay.

18 THE COURT: Okay. I just want to make sure
19 they understand that, if for any reason there is
20 some kind of outburst, or if there's anything
21 that is overly emotional, I'm going to have to
22 declare a mistrial in this case, and we don't
23 want to do that, okay?

24 So I'm just -- I just want you to know,
25 because I understand these are very difficult

1 photos to see; so I just want to make sure you
2 all are calm. And if for any reason you are
3 really struggling, I'm going to invite you to go
4 out. The only thing I can't have is have you
5 got out being very upset.

6 I just don't want the jury -- the jury is
7 supposed to be focused on the evidence that's
8 coming in, not on you'all, all right?

9 So, again, I just want to make sure you
10 knew that, because I understand how hard this
11 is. Okay, so, Margaret, are you ready to bring
12 the jury up?

13 THE CLERK: I'm ready.

14 (Jury enters the courtroom.)

15 ***

16 PROCEEDINGS CONTINUED

17 THE COURT: Welcome back, ladies and
18 gentlemen. I trust everyone had a good lunch.
19 At this time the clerk will swear you in as the
20 jury in this case, and then I will make a few
21 comments. Then the lawyers will make their
22 opening statements.

23 (Jury sworn and empaneled.)

24 THE COURT: For the record, ladies and
25 gentlemen, what I will tell you now is intended

1 to serve as an introduction to the trial in this
2 case. These remarks are not the charge you will
3 receive at the end of the case. This is merely
4 an explanation of the procedure that we will
5 follow so you can better understand what is
6 happening.

7 The defendant in this case has been charged
8 by indictments filed in in Court with two counts
9 of murder and one count of possession of a
10 weapon during the commission of a violent crime,
11 the elements of which I will explain to you
12 later. These indictments are simply the charge
13 by which a case is brought into the court for
14 evidence of any of the allegations that they
15 contain.

16 The defendant in this case, Mr. Nieves, has
17 pled not guilty to these indictments. The State
18 has the burden of proving each of the elements
19 of each of the indictments beyond a reasonable
20 doubt. It's your duty, ladies and gentlemen, to
21 decide whether the state has met that burden.
22 Your purpose as jurors is to find and determine
23 the facts.

24 You, the jury are the sole judge of all
25 facts in this case. You are to determine the

1 facts from the testimony you hear and other
2 evidence that is introduced into this courtroom.

3 It's up to you to determine the inferences
4 which you feel may be properly drawn from the
5 evidence.

6 With equal emphasis the same laws that
7 makes me the judge of the law, that is the only
8 law you may consider. You must accept and
9 follow it. You may disagree with it. I cannot
10 tell you what the facts in this case are, you
11 cannot disagree with me. What the law is or
12 what the law should be.

13 Your job is to take the law as I give it to
14 you, and at the end of this trial apply the law
15 to the facts as you find. Evidence will come in
16 the form of testimony of the witnesses, or any
17 other evidence introduced into this case.

18 After doing that, you will render your
19 verdict.

20 Until I advise you to begin your
21 deliberations, you must not discuss this case
22 with anyone, that includes your fellow jurors,
23 friends, family members, or anyone involved in
24 this case.

25 The attorneys and parties in this case, and

1 witnesses have been advised that they are not to
2 talk at the you at all. If you see someone
3 involved in this case coming and going on the
4 elevator or on the stairs and in the parking lot
5 and they do not speak to you, they are not
6 unfriendly. They are simply following my
7 instructions. That is also why you wear your
8 badges with juror on them, so we know you are a
9 juror in this case.

10 Do not read, listen to, or watch any news
11 reports about this case. You must not consider
12 anything you may read or heard about the case
13 outside the courtroom, whether before or during
14 the trial. It is important that you keep an
15 open mind and do not discuss it with anyone
16 else.

17 Ladies and gentlemen, your verdict must be
18 based solely on the evidence as it is presented
19 to you there the trial and on the law that I
20 instructed curing and at the close of the trial.
21 In just a moment, the solicitor is going to make
22 what is called an opening statement. That is
23 meant to explain to you the issues in this case,
24 what the solicitor feels will be the evidence in
25 this case.

1 The attorney for the defendant, Mr. Koger,
2 may also make an opening statement, but he is
3 not required to do so. what these attorneys tell
4 you in their opening statements is not evidence
5 in this case.

6 Again, it is only their contention as to
7 what the issues will be. The evidence in this
8 case will be presented to you by testimony of
9 sworn witnesses right here on the witness stand
10 as well as exhibits that may be introduced into
11 evidence.

12 I want you to know from time to time, you
13 may hear one of the lawyers say something like,
14 Your Honor we have something to discuss with
15 you, or Your Honor, may we approach the bench.
16 Or sometimes I might motion them to come forward
17 and discuss something with me.

18 I would never want anything I do to
19 influence you in your determination of the
20 facts. So out of an abundance of caution, we do
21 it outside your presence. In this case, you
22 must decide whether or not the testimony of the
23 witnesses is believable. It's my responsibility
24 to rule as a matter of law, as to whether the
25 testimony is admissible at all.

Once the evidence is admitted whether or not you believe it is solely for you to determine. In deciding whether to believe any witness, you must consider the bias of any witness, the prejudice of any witness. The opportunity of that to have seen the matters and things about which the witness may testify.

With that, we will go ahead and begin the trial of this case with the opening statement. Anything further from the State?

MR. THORNTON: Not from the state.

THE COURT: Anything from the defense?

MR. KOGER: Not from the defense.

THE COURT: Give Mr. Thornton your
attention.

* * *

OPENING STATEMENT BY MR. THORNTON

MR. THORNTON: October 2, 2015, on a dirt path, Bruce Specks' and Shantay Jenkins' burned bodies were found in a burned-out car. The evidence will show you it was Shantay's car. The reason they were in that car and the reason they were burned up is because the defendant in this case, Jonathan Nieves, along with another person killed them. Murdered.

1 Two counts. Possession of a weapon during
2 the commission of a violent crime. That is why
3 we are here today. We are here because of what
4 happened to Bruce Specks and Shantay Jenkins.
5 That is one of the things that you are going to
6 hear over and over again.

7 Now, in this case I am going to go ahead
8 and tell you now, it's very important as the
9 judge has already told you that the evidence
10 comes from that stand. Not what I say. Not
11 what Mr. Koger says. Evidence comes from the
12 witness and the exhibits that will be presented
13 to you.

14 I would caution you to please hold any --
15 the judge will tell you just about any time you
16 walk out the door, she will say, do not start
17 discussing the case. You don't know what the
18 evidence is. You may start your deliberations
19 after all the evidence has been presented in
20 total.

21 You must weigh every single exhibit, every
22 single thing that all the witnesses say. Before
23 you hear from Mr. Koger, I will tell you right
24 now, one of the things the judge said earlier on
25 and you were selected as jurors was that Mr.

1 Koger and I are both seasoned attorneys. That
2 is the judge's way of saying we have been around
3 a long time.

4 What we say is not evidence, the only
5 evidence comes in from that witness stand and
6 the witnesses who get up there and swear to tell
7 the truth and from any exhibits that are
8 introduced through those witnesses.

9 As we go through this case, it's not like
10 it is on television. Sometimes it moves
11 quickly; sometimes it moves slower. This is an
12 important case. We are dealing with the murder
13 of Bruce Specks and Shantay Jenkins and the
14 attempt to cover up that crime by burning up all
15 of the evidence and burning their bodies beyond
16 recognition.

17 Ladies and gentlemen, like in life, in this
18 case, some secrets cannot be kept, and a lot of
19 evidence can't always be hidden.

20 At the end of this trial I will come back
21 and argue to you for a verdict of guilty. This
22 case is about the murder of Bruce Specks and
23 Shantay Jenkins and the attempt to keep this a
24 secret and to cover up that crime. Thank you.

25 THE COURT: Thank you, Mr. Thornton.

2 * * *

4 MR. KOGER: May it please the Court.

6 MR. KOGER: Deputy solicitor, Thornton.

13 After six years of this case pending, the
14 State of South Carolina v. Jonathan Nieves --
15 take out a year because the courts were shut
16 down for COVID. After five years, the State of
17 South Carolina, Jasper County, is bringing you
18 an incomplete case. They are not bringing you
19 the whole truth.

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1 Deputy Solicitor Thornton did mention and
2 some other person. And some other person. I am
3 not going to mention that someone other person's
4 name now, You will hear throughout the trial,
5 this some other person. This some other person.
6 As you see, Mr. Nieves is sitting at that table.
7 You don't see that some other person. The
8 reason why you are not going to see that some
9 other person is because that some other person
10 has never been charged, never been brought in
11 for a trial for a crime after six years. That
12 some other person.

13 Now, the Court and Deputy Thornton say that
14 what comes from that chair is going to be
15 evidence. Testimony, also whatever physical
16 evidence. Part of your job as jurors is to
17 notice what is not brought in this courtroom and
18 the lack thereof.

19 That also goes to you determining whether
20 Mr. Nieves is guilty or not guilty. And of
21 course, as the judge has said, you will receive
22 further instruction. They have to prove -- they
23 need to prove their case beyond a reasonable
24 doubt. They have got to prove every element of
25 the crime. They have got to prove beyond a

1 reasonable doubt things that they are putting
2 into evidence in this courtroom. That is not
3 just for Mr. Nieves, that is for everyone who
4 sits at a defendant's table.

5 That is a constitutional requirement. I am
6 also an instructor in the criminal justice
7 program at South Carolina State University. I
8 teach a class called ethics, ethics in a
9 criminal justice profession. We go over every
10 semester the definition of justice, the
11 definition of justice, and for justice to be
12 right, for justice to be correct, it must be
13 based on fairness. It must be based on
14 equality, and it must be based on impartiality.
15 In other words, for justice to be right and
16 correct, it must be whole. It must be whole.

17 I submit to you that in this case, justice
18 cannot be whole in this case. The State is
19 bringing you an incomplete case. The other
20 person you will not see over the next day or
21 two, his name is going to be mentioned more than
22 Mr. Nieves. He was interviewed one time. One
23 time, early on in the investigation. That was
24 it.

25 I submit to you that when you go into that

1 jury room, you didn't take no special class to
2 be a juror, it didn't put you in any class to
3 teach you how to be a juror. You are selected
4 for your common sense, your life experiences,
5 being able to put two and two together. I will
6 submit that when you use your common sense and
7 life experiences and being able to put two and
8 two together, you will find Mr. Nieves not
9 guilty on two counts of murder and possession of
10 a weapon during the commission of a violent
11 crime. Thank you.

12 THE COURT: Thank you.

13 MR. THORNTON: State calls Richard
14 Brownlee.

15 RICHARD BROWNLEE,
16 being first duly sworn testified as
17 follows:

18 * * *

19 DIRECT EXAMINATION

20 BY MR. THORNTON:

21 Q. Mr. Brownlee, state your full name for
22 the record.

23 A. Richard F. Brownlee.

24 Q. I was going to tell you to do what you
25 have already done, make sure the microphone is

1 in front of you and everyone can hear you.

2 Mr. Brownlee, where do you live?

3 A. Hardeeville, South Carolina.

4 Q. How long have you lived in Hardeeville?

5 A long time?

6 A. Yes, sir.

7 Q. Did you live in the Hardeeville area
8 back on October 2, 2015?

9 A Yes, I did.

10 Q. Mr. Brown, do you remember experiencing
11 anything unusual on October 2, 2015, or October
12 3, 2015 the next day?

13 A. I'm not sure about the certain day, but
14 I know in October I found a burnt vehicle in the
15 woods --

16 Q. All right.

17 A. -- which I called 911.

18 Q. So you found a burnt vehicle in the
19 woods. Can you tell me about where it was?

20 A. It was on the end of -- off of Pine
21 View.

22 Q. Okay.

23 A. Approximately, maybe six or seven miles
24 from Tillman.

25 Q. All right. Well, let me ask you this,

1 was there any building nearby?

2 A. The closest building I described to the
3 911 operator --

4 Q. Yes, sir.

5 A. -- a landmark, so they can find the
6 location it was a church, which is Old Arm
7 Baptist Church. There was a driveway right in
8 front of the church itself --

9 Q. Okay.

10 A. -- and the vehicle was located on that
11 drive.

12 Q. Is that on Perrysburg Road?

13 A. Yes, sir, Piedmont Road.

14 Q. I'm glad you pronounced it, because I
15 know I'm not -- I've been around Jasper a long
16 time, I'm not from here, and I always
17 mispronounce that road, but when you found the
18 burnt vehicle, can you describe for me what you
19 were doing when you found it?

20 A. Okay. What I was doing that day, my
21 son and I were in my truck going hunting. I was
22 going to change my car, from one car to my
23 wife's car.

24 On the top end portion there was a vehicle.
25 Each time I go down there I always look down

1 that road, it's a long drive and old house farm.
2 On this particular day, I noticed there was a
3 vehicle, so I stopped to go to the driveway.

4 My son and I got out of the vehicle, walked
5 down to the burnt vehicle, and we looked inside
6 of it, and as we were both looking down, I
7 happened to notice what appeared to be -- it
8 looked like a bone hanging out of the driver's
9 side, a bone hanging down, and he did at the
10 same time. And at that point, I realized it
11 appeared to be a body.

12 Q. All right.

13 A. So I backed out of there and made sure
14 -- I got an AT&T cell phone and had no service
15 at that time. I went to use some landline.

16 Q. Did you call 911?

17 A. Yes, sir, I called 911.

18 Q. And did you -- you reported what you
19 had seen?

20 A. Yes, sir.

21 Q. And did the police come out?

22 A. Yes, sir. What I did after calling --
23 making the 911 call -- I went back to the
24 vehicle itself, trying to preserve the scene.
25 Parked the vehicle directly in front of it until

1 authority arrived.

2 Q. All right, and did you go back to the
3 scene, or did --

4 A. No, sir.

5 Q. -- they just go down there?

6 A. No, sir, that didn't involve me.

7 Q. And, at some point, did law enforcement
8 come out?

9 A. They finally arrived -- the Fire
10 Department was the first on-the-scene, and then
11 law enforcement.

12 Q. All right. Thank you very much, sir.
13 If you -- and this is gonna sound like a dumb
14 question, Mr. Brownlee, but what County is the
15 Baptist Church and your property, what county is
16 all that in?

17 A. Jasper County.

18 Q. Thank you, sir, I have nothing further.
19 Please answer any questions Mr. Koger has.

20 A. Yes, sir.

21 ***

22 CROSS-EXAMINATION

23 BY MR. KOGER:

24 Q. Mr. Brownlee, did you stay on the scene
25 after the Fire Department and law enforcement

1 arrived?

2 A. No, sir, after I talked to the
3 detectives, and he got the information, and I
4 described what I found, I left the scene to
5 avoid any involvement. I wasn't asked any
6 further questions until we entered something,
7 such as this.

8 Q. Okay. So during that point, you
9 weren't involved until appearing in court today?

10 A. Yes, sir.

11 Q. Okay, thank you, no further questions.

12 MR. THORNTON: I'd ask that he'd be allowed
13 to step down, Judge.

14 THE COURT: Any objection?

15 MR. KOGER: No objections, Your Honor.

16 THE COURT: You are excused, sir, thank
17 you.

18 MR. THORNTON: We'll call Jeff Crosby.

19 * * *

20 JEFF CROSBY

21 * * *

22 being first duly sworn, testified as
23 follow:

24 DIRECT EXAMINATION

25 BY MR. THORNTON:

1 Q. Chief Deputy Crosby, can you --

2 MR. THORNTON: I apologize, Your Honor.

3 BY MR. THORNTON:

4 Q. Chief Deputy Crosby, could you state
5 your full name for the record.

6 A. My name is Jeff Crosby.

7 Q. And I called you Chief Deputy, who do
8 you work for currently, sir?

9 A. I am currently the Chief Deputy of the
10 Jasper County Sheriff's Office.

11 Q. And did you work for the Jasper County
12 Sheriff's Office under a different Sheriff back
13 in 2015?

14 A. Yes, I did.

15 Q. And did you work for them back on
16 October the 2nd and October the 3rd of 2015?

17 A. Yes, I did.

18 Q. And what did you do for the Jasper
19 County Sheriff's Office?

20 A. I was a Sergeant in Investigations at
21 that time.

22 Q. And did you get a call out to any
23 specific area on what would have been October
24 the 3rd of 2015?

25 A. Yes, I did.

1 Q. All right, sir, and can you tell me
2 what that was?

3 A. It was in reference to a car vehicle
4 that was located in the Tillman area of
5 Hardeeville.

6 Q. And is that near the Oak Arm Baptist
7 Church?

8 A. Yes, that is in the section of
9 Perrysburg, and it's directly across the street
10 from the Oak Arm Baptist Church.

11 Q. I'm gonna hand you what's been marked
12 for identification, at this point --

13 MR. THORNTON: Your Honor, with the Court's
14 permission, I'm just gonna cut through this
15 side, that way I'm not right in front of the
16 jury.

17 THE COURT: All right.

18 BY MR. THORNTON:

19 Q. Can you identify State's Exhibit 1 for
20 me, please?

21 A. Yes, I can. This is an aerial view of
22 the area, to include Arm Oak Baptist Church, and
23 the Handy Dan Exxon in Tillman.

24 Q. All right, and does that map, again,
25 appear to you to be a correct representation of

1 at least part of the area that we're talking
2 about so far?

3 A. Yes, it does.

4 Q. All right. Does it appear that, other
5 than it's got some labels on it, I think you
6 mentioned Handy Dan, and is there another label
7 on there?

8 A. Yes, sir, it's Whistle Stop Road.

9 Q. And is there also a label for the
10 church?

11 A. Yes.

12 Q. All right.

13 A. Arm Oak Baptist Church.

14 Q. Other than the addition of those
15 labels, has it been altered or changed in any
16 way?

17 A. No, it has not, and this indicates the
18 road numbers and the roads -- some of the road
19 names on there.

20 Q. And you said you've been in Jasper
21 County a long time. Do those road names and
22 everything appear to be correct?

23 A. They do.

24 Q. All right.

25 MR. THORNTON: Your Honor, at this time I'd

1 ask that State's Exhibit 1 be moved into
2 evidence.

3 MR. KOGER: Without objection, Your Honor.

4 THE COURT: Without objection, it's in
5 evidence.

6 (State's Exhibit 1 admitted into evidence.)

7 MR. THORNTON: And just so that Your Honor
8 and the jury can see it, I'm going to publish
9 just this part of it.

10 BY MR. THORNTON:

11 Q. Can you see that okay --

12 A. Yes.

13 Q. -- Chief Deputy? All right. So this
14 line right here, is that the Reserve Road?

15 A. Yes, it is. It intersects with Highway
16 321, if you go further with it. There you go,
17 right there.

18 Q. All right, and would you describe the
19 area that this is found?

20 A. Not very many houses there, it's mostly
21 wooded, a lot of private property out there. A
22 lot is owned by, I believe, the plantations just
23 south of Ridgeland.

24 Q. All right, and let me ask you this, the
25 -- was this down like a paved road, a dirt road,

1 a dirt path, a trail, or what? You know where
2 was the car located.

3 A. The burnt vehicle is located on a dirt
4 road across from the Arm Oak Baptist Church.

5 Q. And I say -- I keep making reference to
6 a car, that may be incorrect. You said a burnt
7 vehicle. Could you tell by looking at it
8 exactly what it was, or do you have a general
9 description?

10 A. They tell us it was a white four-door
11 Sport utility type vehicle, but you couldn't
12 tell the make or the model of it.

13 Q. Is that because of its condition?

14 A. Yes.

15 Q. All right, I'm gonna hand you what's
16 been marked, for identification, as State's
17 Exhibit 2, 3, 4, 5, 6, 7 and 8.

18 MR. THORNTON: So these are 2 through 8,
19 Your Honor, marked for identification, at this
20 point only.

21 THE COURT: Okay.

22 BY MR. THORNTON:

23 Q. I'll ask you, if you can identify
24 those, just kind of as a group first, and then
25 we'll go through them individually.

1 A. Yes, I can.

2 Q. All right, sir, and can you tell me
3 just kind of, in general, what's State's 2
4 through 8-- I believe it's 9, 2 through 9?

5 A. State 2 --

6 Q. I apologize, 2 through 9.

7 A. I want to make sure I'm right here.
8 Yeah, 2 through 8.

9 Q. All right, so can you describe for me,
10 just in general terms, what those are of?

11 A. These are photographs of the road that
12 the burnt vehicle was located on. It's a
13 photograph of the burnt vehicle, and it's a
14 photograph of the front of Arm Oak Baptist
15 Church.

16 Q. All right, sir, and is that -- are
17 those photographs, each of those 2 through 8,
18 are they a true and accurate copy -- or excuse
19 me, a true and accurate representation of how
20 the scene appeared that day?

21 A. Yes, they are.

22 Q. And does it look like they've been --
23 other than there's an exhibit sticker on them,
24 does it look like they've been altered or
25 changed in any way?

1 A. No, they do not.

2 MR. THORNTON: Your Honor, I ask that
3 State's 2 through 8 be moved into evidence.

4 MR. KOGER: Without objection, Your Honor.

5 THE COURT: Without objection, they're in
6 evidence.

7 (State's Exhibits 2 - 8 admitted into
8 evidence.)

9 MR. THORNTON: Your Honor, may we approach
10 briefly?

11 THE COURT: You may.

12 (Bench conference.)

13 BY MR. THORNTON:

14 Q. All right, sir, if you would, I'm gonna
15 go ahead and put these up, so that everybody can
16 see them. If you would just kind of go through
17 and describe for me what each one of them is,
18 I'll start with State's Exhibit -- let me back
19 up a little bit, Number 2. All right, so what
20 are we looking at here, Chief Deputy?

21 A. That is the dirt road across the street
22 from the Church, where the vehicle was located.

23 Q. And is this right here -- and I always
24 mispronounce it, by Perrysburg Road?

25 A. That is Perrysburg Road.

1 Q. All right. State's 3?

2 A. That is the front of the Arm Oak
3 Baptist Church.

4 Q. Where is that road, in relation to what
5 we're looking at right now?

6 A. This asphalt part you see, with the
7 water running through it, is kind of like a
8 little pull off, or parking area in front of the
9 church, and beyond that is Perrysburg Road.
10 It's right there on the edge of the road.

11 Q. All right, State's 4?

12 A. That is the burnt vehicle that was on
13 the road across from the church. That is
14 another photograph of the burnt vehicle, and if
15 you look in the background, you can see the
16 vehicle's parked way back in the back, or
17 actually parked at the church.

18 Q. And that's back here?

19 A. Yes, beyond the pickup truck. That's
20 another photograph of the burnt vehicle.

21 Q. And then State's 7, the same thing, is
22 the --

23 A. The burnt --

24 Q. -- burnt vehicle, just from a different
25 angle?

1 A. That's correct.

2 Q. And you describe it as an SUV, that's
3 State's 8, the same thing?

4 A. Yes.

5 Q. All right. Once you got there, can you
6 just kind of go through, briefly, what you did,
7 when you got to the scene?

8 A. I was the on-call investigator at the
9 time. I was notified by the Deputy that
10 responded. He advised me that they had a burnt
11 vehicle located in the woods, that possibly had
12 a deceased individual in it.

13 When I responded, I walked up and looked at
14 the vehicle. I did notice a deceased individual
15 on the front seat, and while looking at the
16 vehicle, I also located another individual in
17 the floorboard in front of the rear seat, or
18 behind the front seat in that little opening
19 there.

20 Q. All right, what did you do once you
21 located the -- what you've described as someone
22 deceased in the backseat area, as well as the
23 front area?

24 A. At that time, notified SLED Arson,
25 getting them to come investigate the fire, and

1 also requested a SLED investigator, a criminal
2 investigator.

3 Q. And so just in case there's anybody on
4 the jury that does not know what SLED is, could
5 you tell us what SLED is?

6 A. That is the State Law Enforcement
7 Division, and the reason I requested them is
8 because they have a lot more resources than we
9 do.

10 Q. Okay.

11 A. So they can -- they're a lot more
12 experienced to handle the arsons and things of
13 that nature.

14 Q. And so did SLED Arson -- did an Arson
15 team come down?

16 A. They did.

17 Q. All right, and did they, at that point,
18 start looking at the vehicle and kind of take
19 over the scene?

20 A. Once they arrived on the scene, I
21 turned the scene over to them, and let them
22 investigate it.

23 Q. And, obviously, we've looked at some of
24 the photographs. Was it possible, in your just
25 kind of initial look, where you can tell the tag

1 number, or anything on this vehicle?

2 A. No.

3 Q. Did someone specifically from SLED come
4 down to try to check anything out about the car?

5 A. Yes, they also sent somebody down to
6 try to find a secondary VIN number, a Vehicle
7 Identification Number on it.

8 Q. All right, also thank you for clearing
9 that up, I was just about to ask you, because
10 the VIN -- is it correct that the VIN number is
11 found in different places on vehicles?

12 A. That is correct. It's on -- they
13 usually put it at least twice on the vehicle,
14 maybe more, it depends on the vehicle. Some of
15 them are on the frame, some are on the bodies.
16 And the number I'm referring to is the number
17 that's on the front windshield, or the front of
18 the dash.

19 Q. And that same number has been stamped
20 somewhere else usually on the car?

21 A. Correct.

22 Q. And is that what -- that SLED also sent
23 someone down, a specialist in that area, to try
24 to find it?

25 A. Yes. SLED also has an Auto Theft

1 Division, and they are experts in finding the
2 secondary VIN on the vehicle.

3 Q. And, in fact, did someone come from
4 SLED to come down to do that very thing?

5 A. Yes, they did.

6 Q. All right. And once you turned that
7 over to -- turned that scene over to SLED, did
8 that pretty much end your participation, at
9 least as far as the scene goes, other than just
10 kind of securing?

11 A. That's correct.

12 MR. THORNTON: Your Honor, the Court's
13 indulgence, please, one minute.

14 THE COURT: Okay.

15 BY MR. THORNTON:

16 Q. Chief, thank you very much, please
17 answer any questions Mr. Koger has.

18 ***

19 CROSS-EXAMINATION

20 BY MR. KOGER:

21 Q. Chief Deputy Crosby, I just have one
22 question. You said you turned over that night,
23 or that day when SLED came down, correct?

24 A. Yes, sir, I released the scene to them,
25 and let them conduct the investigation on it.

1 Q. Okay. Now, after that day, or that
2 time, did you have any other involvement in
3 another phase of the investigation?

4 A. I believe I assisted with interviewing
5 a witness, or I assisted with interviewing a
6 witness, and also looking at surveillance video
7 from the Handy Dans Exxon in Tillman.

8 Q. Okay. And then after you looked at the
9 video, was that the end of your portion of the
10 investigation?

11 A. Pretty much.

12 Q. Okay, thank you.

13 MR. THORNTON: No further questions, Judge,
14 ask that he be allowed to leave, subject to
15 recall, obviously.

16 MR. KOGER: No objection, Your Honor.

17 THE COURT: All right, Chief you can go.

18 WITNESS: Thank you.

19 THE COURT: Thank you, sir.

20 MR. THORNTON: The state calls Scott
21 Hardee.

22 * * *

23 LELAND SCOTT HARDEE,

24 Being duly sworn testified as follows:

25 DIRECT EXAMINATION

1 BY MR. THORNTON:

2 Q. Please state your name for the record

3 A. It's Leland Scott Hardy.

4 Q. Mr. Hardy, I'm gonna ask you, because I
5 know you used to work for SLED, but you don't
6 anymore, so what would your title or tank be?

7 A. I am Special Agent of Protective
8 Services for the South Carolina Department of
9 Revenue.

10 Q. All right, so Agent Hardy; would that
11 be correct?

12 A. Yes, sir.

13 Q. All right. Agent Hardy, you said you
14 work for the Department of Revenue right now.
15 Back in October of 2015, who did you work for,
16 sir?

17 A. The South Carolina Law Enforcement
18 Division.

19 Q. All right.

20 A. Also known as SLED.

21 Q. Thank you, sir. And what did you do
22 for SLED back in October of 2015?

23 A. I was assigned to the Arson Unit, as an
24 Arson Investigator.

25 Q. On October the 3rd of 2015, did you

1 have occasion to come down to Jasper County to
2 do any work?

3 A. Yes, sir, I did.

4 Q. All right, could you tell me about
5 that, please?

6 A. All right. On October 3rd I received a
7 call -- of 2015, let me back up, to investigate
8 a vehicle fire, where two victims were found
9 inside. I responded to the location. I met
10 with local -- the local jurisdiction that was
11 there. We obtained search warrants. I had a
12 couple of other agents come with me to assist,
13 and along with Low Country agents, Low Country
14 regions, and the agents assigned to the area of
15 the State, to investigate different types of
16 crimes.

17 Q. And when you say agents, you mean SLED
18 agents?

19 A. Yes, sir, I do.

20 Q. All right.

21 A. And we were to get a search warrant for
22 the vehicle, and I conducted an investigation
23 into the origin and cause of the fire.

24 Q. And what -- how long have you been, had
25 you been -- at that time, how long had you been

1 with SLED in, specifically, the Arson Unit?

2 A. Okay. I started to work at SLED in
3 2008. I transferred over to the Arson Unit on
4 April 1st, 2013, so from April 1st of 2013 to
5 October 3rd, 2015, we're talking about two and a
6 half years in the Arson Unit --

7 Q. All right.

8 A. -- honestly.

9 Q. What -- do you have any training, as
10 far as in looking at arsons, or looking at
11 fires?

12 A. Yes. The first course is the -- we had
13 to watch whole bunch of videos, read textbooks,
14 all that, as far as our training and curriculum.
15 I would also respond to fires with other agents,
16 that had already been released from the training
17 program, and I would start working fires from
18 there, and assisting them.

19 Q. And have you previously testified in
20 court, as an expert in arsons or fire
21 investigations?

22 A. Yes, sir. I know, just off the top of
23 my head, there was at least twice with the
24 Fifteenth Circuit, which is Horry, Georgetown, I
25 was determined to be an expert witness.

1 Q. All right, and do you hold any, or did
2 you, at that time, hold any certifications, as
3 far as your ability to investigate fires?

4 A. Yes, sir. I took some classes through
5 the National Association of Fire Investigators,
6 and during that time I went through two testing
7 processes. One to become a certified fire and
8 explosion investigator, and the second to be a
9 certified vehicle fire investigator.

10 Q. All right, sir. I'm gonna hand you
11 what's been marked, and this is only, at this
12 point, for identification purposes, as State's
13 9, 10, 12, 13, 14, 15, 16, 17 and 18. So it's,
14 basically 9 and 10, and then 12 through 18. And
15 if you would just look these over, and, first,
16 just tell me, can you identify these? And then
17 we'll get into the specifics.

18 A. Yes, sir, I can identify these.

19 Q. All right. Just, as a general matter,
20 sir, what are those photographs of? That will
21 be State's 9 and 10, and then 12 through -- I
22 think it's 12 through 18, if you'll double check
23 me on that.

24 A. Okay. Photograph 9, 10, 12 --

25 Q. And it should be -- if you'll check the

1 back, and I believe it's through 18.

2 A. Through 18.

3 Q. All right. So just in general terms,
4 what are those photographs of?

5 A. These were photographs of the fire
6 scene, as it was when I arrived on-scene.

7 Q. All right, so that would have been the
8 morning of October the 13th of 2015 -- I'm
9 sorry, October the 3rd of 2015?

10 A. Yes, I went there in the afternoon, I
11 believe.

12 Q. I'm sorry, the afternoon, okay. Now,
13 are those photographs a true and accurate
14 representation of how the vehicle and the scene
15 appeared, when you got there?

16 A. Yes, sir.

17 Q. And other than that I put exhibit
18 stickers on the photographs, does it look like
19 they've been altered or changed in any way?

20 A. No, sir.

21 Q. All right.

22 MR. THORNTON: Your Honor, at this time I'd
23 ask that State's 9 and 10, and 12 through 18 be
24 moved into evidence.

25 (State's Exhibits 9 and 10 and 12 through

1 18 were admitted into evidence.)

2 BY MR. THORNTON:

3 Q. And I'm going to -- if you'll just look
4 at the monitor that's next to you, I'm gonna go
5 ahead and publish these. So I don't know that
6 I'm necessarily gonna go in numerical order, so
7 just bear with me. So there's already been
8 testimony and already been photographs entered
9 into evidence of the outside of the car. And
10 State's Exhibit Number 9, if you can -- and I'll
11 back out a little bit, if you can describe for
12 me what we're seeing in State's 9?

13 A. Okay. This was a photograph taken from
14 the driver's side of back door going in. What
15 you're seeing in the upper kind of left corner
16 would be the passenger side of the front door,
17 and then adjacent to it would be the back
18 passenger door.

19 Q. So if I can, so that would be the front
20 passenger door?

21 A. Yes, sir.

22 Q. And I'm, obviously, not trying to put
23 words in your mouth, if I am wrong, please
24 correct me.

25 A. Absolutely.

1 Q. So rear passenger door, and the picture
2 would be taken kind of from this angle, you'd be
3 looking through the rear driver's side door; is
4 that right?

5 A. Correct.

6 Q. All right. And can you describe for me
7 what you see, as you get to the vehicle, and
8 kind of what you're looking for, and what is
9 represented in the picture?

10 A. This is more representative of just the
11 fire damage, and how much had been consumed by
12 the fire.

13 Q. All right.

14 What is this darker colored area here
15 in the floorboard of the backseat?

16 A. That is going to be one of the victims.

17 Q. I'll show you State's 10.

18 A. All right.

19 Q. And if you could describe what we're
20 seeing in that picture?

21 A. Okay, this is the photo that was taken
22 from the driver's side front seat, the front
23 door area, and, again, you have the rear seat's
24 reclined, and you also have a victim right there
25 on the passenger seat.

1 Q. All right, and is that this area?

2 A. Yes, sir.

3 Q. It is one of the victims?

4 A. Yes. Yes, sir.

5 Q. And, if you could, that's State's
6 Exhibit Number 12. What are we looking at
7 there?

8 A. This was the only identifier for the
9 vehicle make, and not even the model. It was a
10 Dodge -- of course, you've got the Dodge Ram.

11 Q. And is that where my finger's pointing?

12 A. Yes, sir.

13 Q. Okay. State's 13?

14 A. That's gonna be the front passenger
15 door.

16 Q. And is this side where the victim would
17 have been located in the front?

18 A. Yes, sir, and -- yeah, that's part of
19 the victim right there.

20 Q. All right, and this is State's 14. I
21 apologize, if I need to back it out, I can, but
22 State's 14.

23 A. All right, this is gonna be another
24 photograph just showing -- this is gonna be the
25 driver's side of the vehicle, the front door.

1 It's -- or the driver's side door is closed.
2 The driver's side passenger door is still -- is
3 open.

4 Q. And at some point, sir, did you take
5 some soil samples?

6 A. We did.

7 Q. All right. I'm gonna go through
8 State's -- this is gonna be State's 15, and what
9 does State's 15 represent, sir?

10 A. That is the photograph of the victim
11 that was located on the front passenger seat and
12 center console.

13 Q. State's 16?

14 A. That's going to be the victim that was
15 located on the floorboard of the rear passenger
16 seat behind the front passenger -- behind the
17 front passenger seat floorboard, on the rear.

18 Q. State's 17?

19 A. That's gonna be some fire debris that
20 we collected. And when we collect fire debris,
21 we put it inside a lined arson can, or a paint
22 can. And the purpose of that is to -- once it's
23 sealed, it's supposed to allow -- like, if
24 there's any accelerants, or any ignitable
25 liquids in that debris, it will stay with that,

1 it won't evaporate over time.

2 Q. All right, so -- and when you say an
3 accelerant, can you give me some examples of
4 what accelerants are, or what you would be
5 looking for?

6 A. Any ignitable liquid, gasoline, diesel,
7 kerosene. Anything that could be used to make a
8 fire easier to start.

9 Q. And when you said earlier, you said we
10 collected things, who else was with you on-the-
11 scene?

12 A. That would be Lieutenant Craig Collier,
13 and our Arson Canine Handler was Jeffrey Cagle,
14 if I remember.

15 Q. All right. State's Exhibit 18?

16 A. That will be an arson can. It's been
17 sealed, and it's got our evidence sticker on
18 there, that tells us where we collected it from,
19 the date and the time we collected it, and what
20 number it was.

21 Q. I'm gonna hand you what's been marked
22 for identification, as State's 21. Would you
23 please look at that and tell me if you can
24 identify the can.

25 A. Yes.

1 Q. All right, and are your initials
2 anywhere on the can, sir?

3 A. Yes, sir. When I seal evidence, I'll
4 always use a piece of evidence tape that has, in
5 this case, SLED Arson Unit, it has my initials
6 LSH, and the date I sealed it.

7 Q. All right. Thank you very much, sir.
8 And other than that the seal has obviously been
9 broken for Court, and there are other people who
10 have tested it, does it look like that can been
11 altered or changed in any way?

12 A. No, sir.

13 Q. All right.

14 MR. THORNTON: I'd like to ask at this
15 time, Your Honor, that State's 21 be moved into
16 evidence.

17 MR. KOGER: Without objection, Your Honor.

18 THE COURT: Without objection, it's in
19 evidence.

20 BY MR. THORNTON:

21 Q. I'm gonna hand you what's been marked,
22 for identification, as State's Exhibit 20, and
23 ask you if you can identify that for me?

24 A. Yes, sir. This is the crime scene
25 diagram. As part of our investigation, in

1 addition to photographs, we also do a rough
2 crime scene sketch with just pencil and paper.
3 And then when we get back to the office, when
4 we're finishing up, or working on our
5 investigation, we'll make a nicer view of --

6 Q. All right.

7 A. -- what we find there.

8 Q. So is that a rough crime scene sketch
9 that you did for this case?

10 A. This is the final drawing from the
11 rough sketch.

12 Q. Yes, sir.

13 A. And this is the one that I completed.

14 Q. All right. And does it appear to be a
15 true and accurate copy of your sketch?

16 A. Yes, sir, it does.

17 Q. All right.

18 MR. THORNTON: At this time, Your Honor,
19 I'd ask that State's Exhibit 20 be moved into
20 evidence.

21 MR. KOGER: Without objection.

22 THE COURT: Without objection, it's been
23 entered.

24 (State's Exhibit 20 was admitted into
25 evidence.)

1 BY MR. THORNTON:

2 Q. And I see you have alleged in there
3 that discusses a paper bag, water bottle label,
4 excuse me, in a green disposable lighter, are
5 those things that were just collected that you
6 found in the area?

7 A. Yes, sir.

8 Q. All right. And does that show the
9 approximate location of the victims, as you
10 described earlier?

11 A. Yes, sir, with, obviously, the -- what
12 I had available for the diagram. I couldn't
13 open the doors, to show the doors that were
14 open, so --

15 Q. Okay.

16 A. -- I just did the best approximation
17 that I could of where the victims were located,
18 and how they were found.

19 Q. And also, I see here, at the bottom,
20 you've got, that it's off of Perrysburg Road,
21 and a little bit back in the woods.

22 A. Yes, sir.

23 Q. All right.

24 MR. THORNTON: The Court's indulgence,
25 please, Your Honor.

1 THE COURT: Uh-huh.

2 BY MR. THORNTON:

3 Q. Thank you very much. I have no other
4 questions. If you would, please answer any
5 questions Mr. Koger has for you.

6 MR. KOGER: I have no questions.

7 THE COURT: Nothing? Okay.

8 MR. THORNTON: Thank you, Your Honor, I ask
9 that he be allowed to step down.

10 THE COURT: Any objection that he's gonna
11 be excused from anyone?

12 MR. KOGER: No objection.

13 THE COURT: All right, you're excused, sir,
14 thank you.

15 MR. THORNTON: Your Honor, that's probably
16 a good stopping point.

17 THE COURT: Okay.

18 MR. THORNTON: I have the next three
19 witnesses are all from -- I believe are gonna be
20 coming from Columbia from SLED --

21 THE COURT: Uh-huh.

22 MR. THORNTON: -- and they are scheduled to
23 be here first thing in the morning.

24 THE COURT: Okay, all right. Madam
25 Foreperson, I would like to start at 10:00 a.m.

1 tomorrow; is that okay with everybody?

2 FOREPERSON: Yes.

3 THE COURT: Is that fine with you'all? I
4 actually have a conference call at 9:00 a.m.,
5 and I don't want you worried -- waiting on me,
6 if I tend to go a little late, so I'm afraid
7 9:30 might be a little bit ambitious. So as
8 long as that's appropriate and fine, that's what
9 we're gonna do. Ladies and gentlemen, I need to
10 tell you and remind you, do not discuss this
11 case. It would not be appropriate to do so.
12 When you go home, again, the only thing you're
13 permitted to say, you've been chosen as a juror
14 in the trial of a criminal case, that is it, all
15 right? Additionally, you are not to do any
16 independent research, ladies and gentlemen.

17 Further, if you are someone that's on
18 social media, or any type of blogs, or anything
19 along those lines, you are not to post anything
20 about being a juror. It, of course, invites
21 comments, and I don't want anyone seeking you
22 out, all right? Ladies and gentlemen, I simply
23 ask that you go get a good night's rest, we'll
24 begin at 10:00 a.m. tomorrow morning.

25 We will break for lunch around 1 o'clock

1 tomorrow, and I'm guessing between like 1:00 and
2 2:15 or 2:30ish is what I intend to break for.
3 And then, typically, we will go to until around
4 5:00, if you'all are amenable to that, but I
5 want you to talk to the jury and make sure that
6 that's fine by everybody okay? Ladies and
7 gentlemen, I will tell you that -- I know when
8 you came in this morning you didn't know what to
9 expect, and it's probably difficult because you
10 don't know what you're going to be doing during
11 jury duty. It's a lot of sitting, obviously,
12 and listening, so I can tell you, that it's been
13 getting cold and hot in here, again, if you are
14 cold, bring a sweater, and make sure you dress
15 in layers, if you need to do that. Sometimes we
16 have a real difficult time just controlling the
17 HVAC system in here, all right? But I ask you,
18 ladies and gentlemen, just go get a good night's
19 sleep. We look forward to seeing you at 10:00
20 a.m. If there's any problems, fall ill, car
21 trouble, anything along those lines, call the
22 Clerk of Courts office, because I'm gonna be
23 looking for you, all right? I appreciate it,
24 you'all are excused. Thank you.

25 (Jury exits courtroom.)

15	END OF VOLUME I

.....

STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
COUNTY OF JASPER FOR THE 14TH JUDICIAL CIRCUIT
2016-GS-27-00007, -09

State of South Carolina,

vs.

TRANSCRIPT OF JURY TRIAL
VOLUME II
(Pages 155 - 356)

Jonathan Nieves,

October 12, 2021
Ridgeland, South Carolina

B E F O R E:

The Honorable Carmen T. Mullen, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
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PROCEEDINGS

TUESDAY, OCTOBER 12, 2021

BEAUFORT, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

THE COURT: Okay, Solicitor, anything you need to put on the record before we start this morning?

MR. THORNTON: No, Your Honor.

MR. KOGER: No, Your Honor.

THE COURT: Thank you. All right, well, if we're ready to go, the jury's all here, sir? Are we ready to get the jury, Mr. Thornton?

MR. THORNTON: The State is ready, Your Honor.

MR. KROGER: The defense is ready, Your Honor.

THE COURT: Thank you. Bring them on in, I appreciate it.

(Jury enters courtroom.)

THE COURT: Good morning, Ladies and Gentlemen.

It is a pleasure to see you all again. As you understand, they're going to continue with

1 the trial of this case. As you know, you heard
2 the opening statements from the lawyers
3 yesterday. They also put up their first three
4 witnesses, so we're going to go ahead and
5 continue with the State's case this morning, all
6 right? So if you'll give the lawyers your
7 attention.

8 MR. THORNTON: Thank you, Your Honor, may
9 it please the Court. The State calls Craig
10 Collier to the stand.

11 * * *

12 CRAIG COLLIER

13 * * *

14 DIRECT EXAMINATION

15 BY MR. THORNTON:

16 Q. I keep wanting to say Lieutenant
17 Collier, I understand it's Captain Collier now;
18 is that correct, sir?

19 A. Yes, sir, it is.

20 Q. Captain Collier, who do you currently
21 work for?

22 A. The South Carolina Law Enforcement
23 Division.

24 Q. And what do you do for the South
25 Carolina Law Enforcement Division?

1 A. I'm the Special Agent in charge of the
2 Arson Unit, the Bomb Squad.

3 Q. Back in October of 2015, were you with
4 Agent Hardee, and I'm just going to say SLED
5 from now on. The jury's been told several times
6 about what South Carolina Law Enforcement
7 Division is, so were you with Agent Hardee with
8 SLED back on October the 3rd of 2015?

9 A. Yes, sir, I was.

10 Q. And were you still acting in your
11 capacity with the Arson Unit at that time?

12 A. At that time I was a Lieutenant in
13 charge of the Arson Unit.

14 Q. And did you respond out to the scene
15 with Agent Hardee?

16 A. I did, yes, sir.

17 Q. I'm going to hand you what's been
18 marked for identification, as State's Exhibit
19 22.

20 MR. THORNTON: Your Honor, with the Court's
21 permission to continue to use this aisleway?

22 THE COURT: Yes, sir.

23 BY WITNESS:

24 A. Sorry.

25 Q. I'm sorry, that was my fault, I should

1 have pushed it further over. Can you identify
2 State's 22 for me? I'm sorry -- yeah, State's
3 22.

4 A. Yes, sir, this is a cardboard box
5 containing three metal cans that would be
6 evidence.

7 Q. And where were those three cans
8 collected?

9 A. They would have been collected from the
10 scene -- the fire scene.

11 Q. And, specifically, is there a can
12 inside labeled Item 8?

13 A. Yes, sir, there is.

14 Q. All right, and does it have a -- is it
15 labeled as far as what Item 8 contained, and
16 where it was located?

17 A. Yes, sir, it does.

18 Q. All right, and would -- and is it --
19 would those items have been sealed either by
20 you, or in your presence, by you and/or Agent
21 Hardee?

22 A. Yes, sir, that's correct.

23 Q. All right.

24 A. That's with the red tape.

25 Q. And is that -- are those items -- were

1 they collected from the scene on Purrysburg Road
2 in reference to this case?

3 A. Yes, sir, they were.

4 Q. Does it -- other than that they've been
5 submitted for testing, and, obviously, have tape
6 on them, would those items have been sealed in
7 your presence or by you?

8 A. Yes, sir.

9 Q. And would they then have been
10 transported to SLED for testing?

11 A. That's correct.

12 Q. Other than that, have they been altered
13 or changed in any way?

14 A. No, sir.

15 Q. All right.

16 MR. THORNTON: Your Honor, at this time I'd
17 ask that State's Exhibit 22 be moved into
18 evidence.

19 THE COURT: Any objection?

20 MR. KROGER: Without objection, Your Honor.

21 THE COURT: Without objection it's in
22 evidence.

23 (State's Exhibit 22 was marked and admitted
24 into evidence.)

25

1 BY MR. THORNTON:

2 Q. Thank you very much, sir, if you could,
3 just go ahead and put it back and the box and
4 I'll --

5 A. This?

6 Q. -- take that from you, and we'll try not
7 to make as much racket as we did when I handed
8 it to you. And now that that's in evidence, and
9 I apologize, I'll ask you to publish for me
10 where Item 8 was found.

11 A. Yes, sir, it was a soil and debris
12 sample collected from the area of the right rear
13 tire of the vehicle.

14 Q. And what is the purpose of collecting
15 soil samples at an arson investigation,
16 specifically, this arson investigation?

17 A. Certainly. We utilized the gas
18 detector, and it read a positive alert in that
19 area, so we collected a soil sample to see if
20 there might have been something in the soil, the
21 dirt. And once we collected it and placed it
22 into the can, you could, obviously, smell the
23 odor of gasoline in the soil inside the can.

24 Q. All right. And once you transported
25 that, other -- obviously, Agent Hardee's already

1 been here and testified.

2 A. Yes, sir.

3 Q. Would that be the end of your
4 connection to this case?

5 A. Yes.

6 Q. All right. Thank you very much, sir, I
7 have no further questions. Please answer any
8 questions Mr. Kroger has.

9 MR. KROGER: I have no questions for the
10 witness, Your Honor.

11 THE COURT: Thank you. Any objection to
12 this witness being excused?

13 MR. THORNTON: Not from the State, Judge,
14 thank you.

15 MR. KROGER: No, none from the defense,
16 Your Honor.

17 THE COURT: You're excused, sir.

18 WITNESS: Thank you, Your Honor.

19 MR. THORNTON: The State calls Megan
20 Fletcher.

21 * * *

22 MEGAN FLETCHER

23 * * *

24 being first duly sworn testified as
25 follows:

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DIRECT EXAMINATION

BY MR. THORNTON:

Q. Ma'am, would you please state your name for the record?

A. My name is Megan Fletcher, F-L-E-T-C--E-R.

Q. And are you currently an Agent with the South Carolina Law Enforcement Division, also known as SLED?

A. Yes, sir, I am.

Q. What do you do for SLED?

A. I'm a forensic analyst in the Trace Evidence Laboratory.

Q. And how long have you worked with SLED as a forensic analyst in Trace Evidence?

A. Just about 14 years.

Q. And what kind of education and background do you have to get a job as a forensic analyst?

A. I have my bachelor's degree in Biochemistry and English from Chatham College. I also have my master's in forensic science, emphasizing in Computer Forensics and Forensic Chemistry from Marshall University. And then I also underwent a training program in each area

1 that I am competent to perform analysis at SLED.

2 Q. And have you done continuing education
3 through the years to maintain any kind of
4 current status or certification?

5 A. Yes, sir, I continue my education
6 through different training events, as well as
7 proficiency testing in the different areas of
8 analyses.

9 Q. And you said you've been with SLED for
10 14 years. About how many cases do you think
11 you've worked in that time?

12 A. Of all of the trace evidence?

13 Q. Yes.

14 A. Probably close to a thousand.

15 Q. Have you ever been qualified as an
16 expert in forensic analysis, specifically, trace
17 evidence in Courts, in either State or Federal
18 Courts?

19 A. Yes, sir, I have.

20 Q. How many times?

21 A. Approximately, 37.

22 MR. THORNTON: Your Honor, at this time I'd
23 ask that Agent Fletcher be deemed an expert in
24 the field of forensic analysis, specifically, as
25 it relates to trace evidence.

1 MR. KROGER: Without objection.

2 THE COURT: Without objection?

3 MR. KROGER: Right, yes.

4 THE COURT: Ladies and Gentlemen, in this
5 case Ms. Fletcher is being qualified as an
6 expert in the area of trace analysis and in
7 trace evidence. That's for you to use as you
8 see appropriate, and as compared to other
9 evidence in the case, Ladies and Gentlemen.

10 MR. THORNTON: Thank you very much, Judge.

11 BY MR. THORNTON:

12 Q. Agent Fletcher, were you asked to
13 perform an analysis in this case?

14 A. Yes, sir, I was.

15 Q. I'm gonna hand you what's been entered
16 into evidence as State's Exhibit 22, which is a
17 box containing several cans. Watch the
18 microphone. If you would direct your attention
19 specifically to item eight. There's an item
20 eight inside State's 22. Do you have it?

21 A. Yes, sir, I do.

22 Q. Did you perform any analysis on item
23 eight?

24 A. Yes, sir, I performed a fire debris
25 analysis on SLED lab number L15-13384, item

1 number eight.

2 Q. All right.

3 MR. THORNTON: And for the record, that is
4 State's Exhibit 22.

5 BY MR. THORNTON:

6 Q. Agent Fletcher, you said you performed
7 a fire debris analysis. Can you explain to the
8 jury what that is?

9 A. So a fire debris analysis is performed
10 when an investigation is trying to determine
11 whether an ignitable liquid is present in an
12 item of evidence. An ignitable liquid is
13 commonly referred to as an accelerant, however,
14 it's basically any kind of liquid that is
15 flammable.

16 Q. And what sorts of equipment, or what
17 things do you use to try to determine whether
18 there's an accelerant present in fire debris,
19 just in general?

20 A. So, in general, fire debris is
21 submitted to the lab in airtight containers,
22 usually in paint cans, such as the one in front
23 of me. And once it comes into the laboratory, I
24 insert a carbon strip inside of it. So a carbon
25 strip is, basically, a piece of charcoal, like

1 you might put in your refrigerator to remove
2 odors, and I put that inside of the can. I then
3 heat the can in an oven overnight for about 16
4 hours, between 60 and 70 degrees Celsius, so
5 super hot. What that does is, it heats up the
6 evidence inside, and it helps to release any
7 vapors that are in the evidence. Those vapors
8 then attach to the charcoal strip. So the same
9 way that that charcoal removes odors from your
10 refrigerator, it's actually -- those odors are
11 attaching to the charcoal strip in this
12 evidence.

13 I then use a solvent to take those vapors
14 off of the charcoal strip, and I analyze it on a
15 gas chromatograph mass spectrometer, which
16 allows me to identify different components in a
17 pattern of a possible ignitable liquid, if it's
18 present.

19 Q. And you said you performed that
20 analysis on item eight? Did you state --

21 A. Yes, sir, I did.

22 Q. All right. And it's already been
23 testified to, but does it have a label on it
24 that says where that came from, where from the
25 scene?

1 A. According to the arson evidence label,
2 collected by Lieutenant Collier, the sample
3 location was soil and debris from area of right
4 rear tire.

5 Q. And were you able to render an opinion,
6 as to item eight?

7 | A. May I refer to my notes, please?

8 Q. Yes, ma'am.

9 A. (Reviews documents). For item number
10 eight, which is a one-gallon can containing soil
11 and fire debris, gasoline was found. This
12 includes any brand, or octane, as well as an
13 alcohol blended gasoline.

14 Q. So as to item eight in that soil
15 sample, you did find gasoline to be present?

16 A. Yes, sir, I did.

17 Q. I have no further questions. Please
18 answer any questions Mr. Kroger has.

19 * * *

20 CROSS-EXAMINATION

21 BY MR. KROGER:

22 Q. Did you have any further involvement in
23 the investigation after this point?

24 A. There were other items of evidence that
25 I did test in this case, but that's the extent

1 of my involvement.

2 Q. Thank you, no further questions.

3 THE COURT: Anything further?

4 MR. THORNTON: I'll ask that she be
5 excused, Your Honor.

6 THE COURT: All right, any objection to her
7 being excused, Mr. Kroger?

8 MR. KROGER: No, objection, Your Honor.

9 THE COURT: All right, your excused, thank
10 you.

11 WITNESS: Thank you.

12 THE COURT: Call your next witness.

13 MR. THORNTON: Thank you, ma'am. Kirk
14 Tyner.

15 * * *

16 JOHN K. TYNER

17 * * *

18 being sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. THORNTON:

21 Q. Sir, would you please go ahead and
22 state your name for the record?

23 A. John K. Tyner.

24 Q. And I'm going to call you Agent Tyner.
25 Agent Tyner, who do you work for?

1 A. South Carolina Law Enforcement
2 Division.

3 Q. All right, and what do you do for SLED,
4 Agent Tyner?

5 A. I'm an Agent in their Vehicle Crimes
6 Unit.

7 Q. What sorts of duties do you have in a
8 Vehicle Crimes Unit?

9 A. We work auto theft, chop shop cases,
10 you know, disassembling vehicles. We work DMV-
11 related crimes and dealer fraud.

12 Q. Did you work for SLED back in October
13 of 2015?

14 A. Yes, sir, I did.

15 Q. And did you have an occasion, I
16 believe, on October the 4th --

17 A. 4th.

18 Q. -- of 2015 to come out to Jasper
19 County?

20 A. Yes, sir, I did.

21 Q. And was that on an auto theft case, or
22 a chop shop case?

23 A. It was on a vehicle identification.

24 Q. All right, and so tell me about what
25 that is.

1 A. Well, what that is, is sometimes we'll
2 assist arson, or other agencies, when they have
3 a burned motor vehicle that they cannot
4 identify. We'll go out and we will either try
5 to locate numbers on the engine, or
6 transmission, or what they call a secondary VIN,
7 a confidential VIN, and try to assist in getting
8 that information, so they can identify the
9 vehicle, as to what make, or model, or owner
10 information.

11 Q. I see, so the -- and there was some
12 testimony about this yesterday, but -- so you
13 have the little number in the windshield --

14 A. Yes, sir.

15 Q. -- that most people are familiar with,
16 so that would be your VIN, your vehicle
17 identification?

18 A. Correct, that would be the public VIN,
19 yes, sir.

20 Q. All right. And there are other VINs
21 stamped in other places then on the car is your
22 testimony?

23 A. Yes, sir, or on, like, a door sticker,
24 like the mylar sticker you see on the door will
25 have the VIN on it with the car information.

1 Q. So were you called out then, to try to
2 gain some identification information on this
3 burned vehicle that was found here in Jasper
4 County back in October of '15?

5 A. Yes, sir, I was.

6 Q. And, sir, were you able to locate any
7 VIN information?

8 A. Yes, sir, I was able to locate a
9 secondary VIN.

10 Q. All right, and please feel free to
11 refer back to your notes, if you need to, sir.
12 I rarely use mine, but I do in this case,
13 because the VINs are extraordinarily long. So
14 can you --

15 A. Yes, sir.

16 Q. -- go through the VIN that you were
17 able to locate for the car that was found burned
18 on Purrysburg Road?

19 A. Yes, sir. We were able to locate a
20 secondary VIN, which was a derivative, so it's
21 not the complete VIN, and that VIN was -- that
22 derivative is cross-referenced to the National
23 Insurance Crime Bureau, and was able to get the
24 full VIN, based off of the manufacturer
25 information, and the full VIN was 3D, delta, 4G,

1 golf, G, golf, 47B, bravo, 89T, tango, 159845.

2 Q. All right, sir, and other than locating
3 the VIN, and then the partial VIN, and then
4 being able to get the full VIN from the
5 database, did you have any other duties, as it
6 related to this case?

7 A. No, sir, other than just running the
8 VIN and getting the registration information and
9 stuff.

10 Q. All right, and do you happen to have
11 the registration information handy?

12 A. Yes, sir, I do.

13 Q. And who was the vehicle registered to?

14 A. The vehicle, which was a 2009 Dodge
15 Journey, was registered to Shantay Monique
16 Jenkins, of 295 Langfordville Road in Ridgeland,
17 South Carolina.

18 Q. Thank you very much, sir, I have no
19 further questions. Please answer any questions
20 that Mr. Kroger has.

21 A. Yes, sir.

22 MR. KROGER: No questions from the defense.

23 THE COURT: Any objections to him being
24 excused?

25 MR. THORNTON: None from the State, Judge.

.....

1 MR. KOGER: No objection.

2 THE COURT: You are excused. Thank you.

3 MR. THORNTON: The State calls Laura Bane.

4 * * *

5 LAURA BANE

6 * * *

7 Being first duly sworn testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. THORNTON:

11 Q. Ma'am, would you please state your full
12 name for the record?

13 A. Yes, sir, Laura Bane.

14 Q. And, Ms. Bane, who do you work for?

15 A. The South Carolina Department of Motor
16 Vehicles.

17 Q. And what do you do for the Department
18 of Motor Vehicles?

19 A. I'm the Director of Vehicle Services.

20 Q. And as part of -- does the Department
21 of Motor Vehicles maintain certain records?

22 A. Yes, sir.

23 Q. And is some of that registration, or
24 title information?

25 A. Yes, sir, both.

1 Q. And at my request, or the request of
2 the Solicitor's Office, did you obtain certain
3 information for us from your records?

4 A. Yes, sir.

5 Q. I'm going to hand you, ma'am, what's
6 been marked as State's 23, for identification.
7 I'll ask if you can identify that document for
8 me?

9 A. (Reviews document). Yes, sir, this is
10 an official titling record from the South
11 Carolina Department of Motor Vehicles.

12 Q. All right, and, ma'am, if you don't
13 mind, can you -- is the VIN number for the car
14 we're talking about on that document?

15 A. Yes, sir.

16 Q. And could you read out what the VIN
17 number is? Well, I'm sorry, before we do that,
18 is that a document that you got from your
19 records at my request?

20 A. Yes, sir.

21 Q. And, ma'am, are those records kept in
22 the ordinary course of your business at the
23 Department of Motor Vehicles?

24 A. Yes, sir.

25 Q. And have -- other than that I put an

1 exhibit sticker on it, ma'am, has it been
2 altered or changed in any way?

3 A. No, sir.

4 MR. THORNTON: Your Honor, I would ask that
5 State's Exhibit 23 be moved into evidence.

6 THE COURT: Any objection, Mr. Kroger?

7 MR. KROGER: No objections, Your Honor.

8 THE COURT: It's into evidence without
9 objections.

10 MR. THORNTON: Thank you, Your Honor.

11 (State's Exhibit 23 was marked and entered
12 into evidence.)

13 BY MR. THORNTON:

14 Q. Ma'am, would you please read out what
15 the VIN number is associated with the car that I
16 asked you to run?

17 A. Yes, sir. 3D4GG47B89T159845.

18 Q. And does that list the make and model
19 of the vehicle as well?

20 A. It does, it's a Dodge Journey.

21 Q. And who was the registered owner for
22 that vehicle?

23 A. Yes, sir, it is Shantay Jenkins and
24 Travis Royals.

25 Q. Thank you very much, ma'am. I don't

1 think I have any further questions, ma'am.

2 Please answer any questions that Mr. Kroger has.

3 MR. KROGER: No questions of this witness,

4 MR. THORNTON: I ask that she be excused,

5 Your Honor.

6 THE COURT: Any objection?

7 MR. KROGER: No objection.

8 THE COURT: You are excused, ma'am, thank
9 you.

10 WITNESS: Thank you.

11 MR. THORNTON: The State calls Kayla
12 Garrett. Actually, Your Honor, I'd like to
13 withdraw that. I need to change out a witness,
14 if I can have one minute?

15 THE COURT: Yes, sir. Ladies and Gentlemen
16 of the jury, is everyone okay?

17 Does anyone need a break? Don't be shy.
18 Thank you.

19 MR. THORNTON: The State calls David Owen,
20 Your Honor.

21 THE COURT: Thank you.

22 * * *

23 DAVID OWENS

24 * * *

25 being sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. THORNTON:

Q. Mr. Owens, would you please state your full name for the record?

A. David Owen, O-W-E-N.

Q. And, Mr. Owen, who do you work for?

A. South Carolina Law Enforcement Division, commonly known as SLED.

Q. And so Agent Owen, would that be proper?

A. Yes, sir.

Q. All right. Agent Owen, did you have any duties to perform in regard to the case that we're here about today, the State v. Jonathan Nieves?

A. Yes, sir.

Q. What did you do in this case?

A. I collected evidence from the autopsy at the Medical University of South Carolina, transported it to the Charleston County Sheriff's Office and stored it overnight, and then transported it to our SLED laboratory in Columbia the next day, or a few days later.

Q. All right, I'm going to hand you a couple of things in just a second. So when you

1 say you collected things from MUSC, what would
2 be going on at MUSC that you would be
3 collecting?

4 A. It's an autopsy of victims.

5 Q. All right, and I'm gonna hand you three
6 items that have been marked for identification
7 as State's Exhibit 26, 27 and 28, and ask if you
8 can identify those for me?

9 A. All right, 26 is a small manilla
10 envelope labeled, "Unknown backseat blood spot,"
11 with a number identifying it as FA, which is a
12 forensic autopsy, 15-656, and it's in a heat-
13 sealed packet with my signature, date of October
14 12th, 2015, and my initials and date on the
15 seal, and that is item Number 26.

16 27 is the -- Exhibit 27 is the same manilla
17 envelope. Forensic autopsy or FA, 15-655, with
18 unknown front seat blood spot, in a heat-sealed
19 pack, with my signature, date of October 12th,
20 2015, my initials and date on the seal.

21 And State's Exhibit 28 is another small
22 manilla envelope, with a lead object, or
23 projectile, and it's labeled -- I don't see the
24 forensic autopsy number on that one, but it has
25 a SLED lab number on it for L15-13384, and it's

1 also in a heat-sealed pack with my signature,
2 date of October 12th, 2015, with my initials and
3 date on the heat seal.

4 Q. All right, and when you talk about a
5 blood spot, and you had -- if you would, please,
6 did you recover those directly at the autopsy?

7 A. Yes, sir.

8 Q. And did you alter or change them in any
9 way?

10 A. No, sir, I did not.

11 Q. And did you seal them, and then -- you
12 know, I understand you stored them temporarily
13 in Charleston. Did they remain sealed during
14 that time?

15 A. Yes, sir. When it's handed to me from
16 the pathologist or the autopsy tech, whoever's
17 signing it over, they have it sealed, and I took
18 it and immediately put it in the plastic bag and
19 heat sealed it.

20 Q. All right, and were those bags sealed
21 when you put them into evidence in Charleston
22 County?

23 A. Yes, sir, they were.

24 Q. Were they sealed when you got them out?

25 A. Yes, sir, they were.

1 Q. Again, have they been altered -- other
2 than that they've now been tested, have they
3 been altered or changed in any way?

4 A. Not to my knowledge, no, sir.

5 Q. All right.

6 A. They do not appear to be.

7 MR. THORNTON: Your Honor, at this time, I
8 would ask that State's Exhibit 26, 27 and 28 be
9 moved into evidence.

10 THE COURT: Any objection?

11 MR. KROGER: Without objection.

12 THE COURT: Without objection, they're in
13 evidence, 26, 27 and 28.

14 (States Exhibits 26, 27 and 28 were marked
15 and admitted into evidence.)

16 BY MR. THORNTON:

17 Q. And I noticed that you read this off
18 earlier, when you discussed 26 and 27, as being
19 unknown front seat, and it's a blood spot. When
20 an autopsy is performed, where are they getting
21 the blood spots from, typically?

22 A. From the body where there's enough
23 blood to obtain the blood spot.

24 Q. So that would be unknown backseat,
25 meaning the person that was located -- the

1 unknown person in the backseat, and same for the
2 front seat?

3 A. Yes, sir.

4 Q. In other words, it's not a blood spot
5 off a seat, it's a blood spot from --

6 A. From the body.

7 Q. -- the body that was recovered?

8 A. Correct.

9 Q. All right. Other than transporting
10 this directly from the autopsy to SLED
11 laboratory the next day, did you have any other
12 connection with this case?

13 A. No, sir, I did not.

14 Q. Okay, thank you very much. Please
15 answer any questions Mr. Kroger has.

16 ***

17 CROSS-EXAMINATION

18 BY MR. KROGER:

19 Q. So is your testimony that the blood
20 spot was found -- one blood spot was found on
21 the body in the backseat?

22 A. That's what was labeled to me, as given
23 to me by the pathologist, yes, sir.

24 Q. Okay, that's your understanding?

25 A. Yes, sir.

1 Q. And then the second blood spot in the
2 front seat was what was found on the person in
3 the front seat?

4 A. Again, it's according to what the
5 pathologist gave to me, yes, sir.

6 Q. Okay, and were you involved in any type
7 of analysis of the blood spots?

8 A. No, sir, I was not.

9 Q. Okay, thank you, no further questions.

10 MR. THORNTON: I'd ask that he be excused,
11 Your Honor.

12 THE COURT: Any objection?

13 MR. KROGER: No objection.

14 THE COURT: Thank you. You're excused,
15 thank you so much.

16 WITNESS: Thank you, Judge, good seeing
17 you.

18 MR. THORNTON: Kayla Garrett.

19 THE COURT: Mr. Thornton, at any point you
20 have a longer witness, just let me know at the
21 time, if that's okay?

22 MR. THORNTON: Yes, ma'am.

23 THE COURT: Thank you.

24 MR. THORNTON: This should be short. The
25 next one may be a little bit longer, not really

1 long, but this should be a very short witness.

2 THE COURT: Okay, that's fine, I want to
3 make sure that if you get into a very large one,
4 and so I want to break before that, but --

5 MR. THORNTON: Yes, ma'am, after Ms.
6 Garrett it will probably be a good place to
7 break.

8 THE COURT: Okay, thank you.

9 * * *

10 KAYLA GARRETT

11 * * *

12 being first duly sworn, testifies as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. THORNTON:

16 Q. Ms. Garrett, would you please state
17 your full name for the record for me?

18 A. Kayla Javon Garrett.

19 Q. All right, and, if you would, Ms.
20 Garrett, would you pull that microphone in front
21 of you? Thank you so much. Ms. Garrett, where
22 do you currently live?

23 A. In Gillisonville.

24 Q. All right, and what county is that?

25 A. Jasper.

1 Q. And where -- did you live in the same
2 place back in October of 2015?

3 A. No, sir.

4 Q. Where did you live then?

5 A. Right here in Ridgeland, Logan Lane
6 Apartments.

7 Q. And did you, at that time, know someone
8 by the name of Shantay Jenkins?

9 A. Yes.

10 Q. And do you recall seeing her on or
11 about -- and I know it's been a long time, but
12 October the 2nd of 2015?

13 A. Yes.

14 Q. And so could you tell the jury about
15 when the last time you saw her was?

16 A. Yes. She came to my home that evening,
17 her normal, jokey self. We laughed and talked
18 for a while. She took pictures with my
19 daughter. We all -- I had some other company
20 over, and we were supposed to be going out to
21 eat, and we tried to get Shantay to go, but she
22 said no. She said, "Me and my boo have plans,
23 so you-all go ahead and enjoy yourself."

24 She got in the car, so we thought she was
25 going, she said, "Psyche, I'm just playing," got

1 out of the car, and that was it.

2 Q. So when you said she had plans with her
3 boo, who is her boo? Did you know?

4 A. Bruce.

5 Q. And --

6 A. Bruce Specks.

7 Q. Bruce Specks?

8 A. Yes.

9 Q. And is that the last time when she left
10 at some point; is that the last time you saw
11 her?

12 A. Yes.

13 Q. All right, and was that on Friday,
14 October 2nd --

15 A. October 2nd.

16 Q. -- of '15?

17 A. Yes.

18 Q. All right. Thank you very much, ma'am,
19 I don't have any further questions. Please
20 answer any questions Mr. Kroger has.

21 ***

22 CROSS-EXAMINATION

23 BY MR. KROGER:

24 Q. Ms. Garrett, do you recall giving a
25 statement to Law Enforcement?

1 A. Yes.

2 Q. Okay. Do you recall giving a statement
3 in October 2015 -- it was sometime in October?

4 A. Yes.

5 Q. Okay. And do you recall mentioning in
6 your statement that you received a phone call at
7 10:54?

8 A. Yes, from Shantay's Facebook.

9 Q. Okay, from Shantay's Facebook, and that
10 was on October 2nd, not October 3rd; do you
11 recall?

12 A. The 3rd.

13 Q. The 3rd?

14 A. Uh-huh.

15 Q. So that was the next day?

16 A. Yes.

17 Q. Okay. And you stated that you didn't
18 speak to anyone.

19 A. No.

20 Q. But you did receive a call on October
21 3rd at 10:54?

22 A. Yes.

23 Q. P.M.?

24 A. P.M.

25 Q. Okay, thank you, no further questions.

1 REDIRECT EXAMINATION

2 BY MR. THORNTON:

3 Q. Just to clarify, but it was a call, and
4 you're going to have to forgive me, I don't have
5 Facebook --

6 A. Uh-huh.

7 Q. -- but you got a call through Facebook
8 from --

9 A. Facebook Messenger.

10 Q. Okay.

11 A. Uh-huh.

12 Q. And -- but was there anybody on the
13 line?

14 A. No, I kept saying, "Hello," but no one
15 ever said anything.

16 Q. Thank you very much, I don't have
17 anything further.

18 THE COURT: Do you have anything further,
19 Mr. Kroger?

20 MR. KROGER: Nothing further, Your Honor.

21 THE COURT: Any objection to this
22 witness --

23 MR. THORNTON: I'll ask that she be
24 excused, Your Honor.

25 MR. KROGER: No objection, Your Honor.

1 THE COURT: You are excused, thank you. Is
2 now a good time for a break?

3 MR. THORNTON: Yes, ma'am, I think so. I
4 can organize the next few witnesses.

5 THE COURT: All right. Ladies and
6 Gentlemen of the jury, we are going to take a
7 brief recess. I'll remind you again, do not
8 discuss this case with each other.

9 You have not heard all the evidence. You
10 have not heard the lawyers' closing argument,
11 nor my charge on the law, and it would be
12 inappropriate for you to discuss this case.

13 Go refresh yourselves, Ladies and
14 Gentlemen. Madam Foreperson, as soon as
15 everyone is ready to come back out - I
16 apologize, I can't see you, please knock on the
17 jury room door, and we'll bring you back in to
18 continue. And as I've told you before, I
19 anticipate that we're gonna run until probably
20 close to 1 o'clock, provided we have witnesses,
21 and we can keep moving, okay? Thank you, we'll
22 break for lunch then.

23 (Jury exits courtroom.)

24 THE COURT: Thank you. Gentlemen, anything
25 you need to put on the record before we take a

1 brief recess?

2 MR. THORNTON: No, Your Honor, thank you.

3 THE COURT: Mr. Kroger?

4 MR. KROGER: No, Your Honor.

5 THE COURT: Let's take about ten minutes or
6 so, and we'll see when the jury comes back,
7 okay?

8 MS. THORNTON: Yes, ma'am, thank you,
9 Judge.

10 THE COURT: So about ten minutes until,
11 thank you. All right.

12 (Recess.)

13 THE COURT: Bring the jury out.

14 (Jury enters courtroom.)

15 THE COURT: Thank you, sir. Welcome back,
16 Ladies and Gentlemen, the State will continue
17 with their case.

18 MR. THORNTON: Thank you, Your Honor, the
19 State calls Robin Vanhoffen.

20 * * *

21 ROBIN VANHOFFEN

22 * * *

23 being first duly sworn, testified as
24 follow:

25 DIRECT EXAMINATION

1 BY MR. THORNTON:

2 Q. Ma'am, would you please state your full
3 name for the record?

4 A. Robin Vanhoffen.

5 Q. And do you currently live in the Jasper
6 County area?

7 A. I do.

8 Q. And did you live in Jasper County back
9 on October the 2nd of 2015?

10 A. Yes, sir.

11 Q. And have you -- do you live in the same
12 place now?

13 A. No, I do not.

14 Q. So where did you live back in October
15 2015?

16 A. I lived in Cartersville.

17 Q. And there's been some testimony about
18 someone who lived in Jasper County, Bruce
19 Specks. Were you familiar with Mr. Specks?

20 A. Yes, sir.

21 Q. And how did you know him?

22 A. I considered him a brother.

23 Q. How long had you known him before his
24 death?

25 A. Probably almost nine or ten years.

1 Q. Did you know Shantay Jenkins?

2 A. Yes, sir.

3 Q. And how did you know her?

4 A. Through Bruce.

5 Q. Are you aware of what, if any,
6 relationship they had?

7 A. I know that they were a couple, like,
8 together.

9 Q. Okay. Did you have any occasion to see
10 Bruce Specks on the night of October the 2nd?

11 A. He came to my house between, like, 9:00
12 and 9:30.

13 Q. Okay. What was he there for?

14 A. He came by to drop a few things off,
15 and he was looking for Shantay to come back to
16 pick him up, so they would go out for the night.

17 Q. And you said he came by to pick some
18 things up? What was he picking up?

19 A. He was dropping things off.

20 Q. I'm sorry, dropping things off. What
21 was he dropping off?

22 A. He'd just recently bought some weed and
23 was coming to the house to put it away.

24 Q. All right. Did Shantay and Bruce come
25 together, or did they come in different

1 vehicles?

2 A. They came together, and Shantay left to
3 go uptown to go get a hotel room for the night,
4 so they came back through town, they weren't
5 coming to the house, they were going to the
6 hotel.

7 Q. What happened after that?

8 A. Shantay left, and I came out into the
9 kitchen, and I sat at the kitchen table and
10 talked to Bruce, while he stood by the kitchen
11 sink, and we talked for about 45 minutes to an
12 hour, and then my youngest son woke up.

13 Q. And so at some point did -- I'm sorry,
14 take a minute, if you need to.

15 A. Okay, it's all right.

16 Q. All right, what happened after that?

17 A. I went into the room to see my son, and
18 Bruce left. Shantay came back, and Bruce left,
19 and my oldest son is the one that let him out of
20 the house and locked the door.

21 Q. And did you try to reach Bruce later?

22 A. I did. I tried to call him and send
23 texts, but he never answered.

24 Q. And I realize, ma'am, this has been a
25 long time. Do you recall, off the top of your

1 head, what Bruce's phone number was?

2 A. I know it starts with [REDACTED].

3 Q. All right. Would it help you, if I
4 handed you a -- did you write a statement to Law
5 Enforcement?

6 A. I did.

7 Q. And did you provide his phone number in
8 that statement?

9 A. I did.

10 Q. All right. I'm just going to hand you
11 your statement.

12 MR. THORNTON: At this time, Your Honor, I
13 won't be admitting this into evidence.

14 THE COURT: Okay.

15 MR. THORNTON: It's just for the witness to
16 refresh her recollection.

17 BY MR. THORNTON:

18 Q. I believe it's at the bottom, ma'am, if
19 you would just see if that refreshes your
20 recollection on what Bruce's phone number was at
21 that time?

22 A. Yes.

23 Q. And what was his phone number?

24 A. [REDACTED] 4496.

25 Q. And is that the number that you tried

1 to call him on?

2 A. Yes, sir.

3 Q. And were you able to reach him?

4 A. No, sir.

5 Q. So October the 2nd, I believe you said
6 somewhere around 9 o'clock, is that the last
7 time that you saw Bruce Specks alive?

8 A. Yes, sir.

9 Q. All right, what happened, if anything,
10 after that night? Well, let me ask you --
11 that's probably a poorly worded question. Were
12 you concerned that you couldn't reach Bruce?

13 A. I was when he didn't come home the next
14 day.

15 Q. All right. What did you do, if
16 anything?

17 A. We didn't do really anything until we'd
18 really seen on Facebook that there was two
19 bodies that were found, and I just had a
20 feeling. And I called Bruce's mom, but we
21 called around asking people if they'd seen them.
22 And then when we had to call the Jasper County
23 Sheriff's Department and report a missing person
24 for Shantay and Bruce. And then --

25 Q. And -- all right, so let me stop you

1 for a second. So did you call the Sheriff's
2 Department --

3 A. We did.

4 Q. -- and made a report for both of them?

5 A. We ended up calling the Sheriff's
6 Department.

7 Q. And what, if anything, did you do after
8 that?

9 A. We filed a missing person's report, and
10 then that's when we found out that it could have
11 been them.

12 Q. All right, without telling me anything
13 that anybody specifically told you, okay, did
14 you get a phone call or information about a gun
15 that was found?

16 A. Yes.

17 Q. All right, and where was the gun
18 supposedly found?

19 A. Bruce used to talk to someone named
20 Patty, and, supposedly, it was at her
21 stepfather's house, Michael Toomer's house.

22 Q. All right, and did you go with Patty
23 over to Mr. Toomer's house?

24 A. Yes, sir.

25 Q. And, again, without talking about any

1 conversation with Mr. Toomer, did you get a gun
2 from him that he found?

3 A. Yes, sir, I did.

4 Q. All right. And did you turn that gun
5 over to Law Enforcement?

6 A. Yes, sir, I did.

7 Q. Did you recognize that pistol?

8 A. Yes, sir.

9 Q. And how did you recognize it?

10 A. 'Cause I've seen Bruce have it.

11 Q. That gun that you recognized --

12 A. Bruce had it on him.

13 Q. First, I'm gonna hand you, ma'am,
14 what's been marked as State's Exhibit 24 for
15 identification, and ask you, if you can identify
16 what that photograph is of?

17 A. Yes, sir, Michael Toomer's house.

18 Q. All right, and can you tell me where
19 Michael Toomer's house is?

20 A. From what I know it would have probably
21 been like in Tillman, by I think it's Whistle
22 Stop Road --

23 Q. Okay.

24 A. -- something like that.

25 Q. And --

1 A. -- yes.

2 Q. And is that where you went to retrieve
3 the pistol that you heard about?

4 A. Yes, sir.

5 Q. Does that photograph look -- as far as
6 back in October of 2015, is that how the house
7 appeared?

8 A. Yes, sir.

9 Q. All right, and does it look like it,
10 other than it's got an exhibit sticker on it,
11 has it been altered or changed in any way?

12 A. No, sir.

13 MR. THORNTON: Your Honor, I would ask at
14 this time that State's Exhibit 24 be entered
15 into evidence.

16 THE COURT: Any objection?

17 MR. KROGER: No objection, Your Honor.

18 THE COURT: Entered into evidence without
19 objection.

20 (State's Exhibit 24 was marked for
21 identification and admitted into evidence.)

22 BY MR. THORNTON:

23 Q. I'm now going to hand you, ma'am,
24 what's been marked as State's Exhibit Number 25
25 for identification, and ask you if you can

1 identify what's in that photograph?

2 A. This is the gun that I got.

3 Q. And is that the gun you recognize as
4 one that belonged to Bruce Specks?

5 A. Yes, sir.

6 Q. It's in a plastic bag. Did you put it
7 in the bag?

8 A. Yes, sir.

9 Q. And is that when you turned it over to
10 Law Enforcement?

11 A. Yes, sir.

12 Q. Is that a true and accurate picture, as
13 far as how the gun looked in the bag you put it
14 in? All right.

15 MR. THORNTON: All right, Your Honor, I'd
16 ask that State's 25 be moved into evidence.

17 THE COURT: Any objection?

18 MR. KROGER: No objection.

19 THE COURT: Without objection, it's in
20 evidence.

21 (State's Exhibit 25 was marked for
22 identification and admitted into evidence.)

23 BY MR. THORNTON:

24 Q. And then you talked about the fact that
25 you know that Bruce had that particular gun, or

1 the one that looked like --

2 A. Uh-huh.

3 Q. -- that gun. Did he carry that gun in
4 any particular way, or did he carry it with
5 anything?

6 A. He either carried it on his body, or in
7 a bookbag that I gave him.

8 Q. All right, you said you gave him a
9 bookbag?

10 A. Yes, sir.

11 Q. I'm gonna hand you what's been marked
12 for identification as State's 29, and ask if you
13 can identify that photograph?

14 A. This is a photograph of the bookbag
15 that I got him.

16 Q. All right, now, is that the exact
17 bookbag, or is that just one that is the same
18 style?

19 A. It's the same style, not the exact
20 bookbag, but it was my oldest son's bookbag, but
21 it was very similar to this one.

22 Q. And is that how the bookbag would have
23 appeared at that time?

24 A. Yes, sir.

25 Q. All right.

1 MR. THORNTON: Your Honor, I'd ask that
2 State's 29 be moved into evidence.

3 THE COURT: Any objection?

4 MR. KROGER: Just for clarification, again,
5 that is not the actual bookbag, but a photograph
6 of it?

7 THE COURT: Is that correct?

8 MR. THORNTON: Yeah, it is a photograph,
9 Your Honor, and it is a photograph of the same
10 style, size, type, it's not -- the bookbag in
11 this case was not recovered. That is the one
12 though that she can identify as being the same
13 as the one that she gave to Bruce Specks.

14 THE COURT: Okay, thank you.

15 MR. THORNTON: And for the Court's
16 information, I'm going to publish a statement,
17 for the Court's information and Mr. Kroger. As
18 seen, Your Honor, it's actually very clear this
19 couldn't be the backpack, because it says at the
20 bottom it's a Pinterest -- www.pinterest on the
21 bottom of it. It's just weird that it's an
22 advertisement bookbag.

23 THE COURT: Okay.

24 (State's Exhibit 29 was marked for
25 identification and admitted into evidence.)

1 BY MR. THORNTON:

2 Q. And State's 24, you testified it was a
3 picture of Mike Toomer's house. 25 is the
4 pistol, and, again, I know I've asked you this
5 already, but was this picture taken in your
6 presence?

7 A. No, it wasn't.

8 Q. And then the backpack that Bruce
9 carried. Ma'am, if you would, would Mr. Specks
10 keep anything else in that backpack?

11 A. Clothes and just the weed or whatever
12 he bought.

13 Q. All right, so it was common for him to
14 carry -- you said weed, marijuana in the bag?

15 A. Yes.

16 Q. All right. Thank you very much, ma'am,
17 I don't have anything further at this time. If
18 you'll please answer any questions that Mr.
19 Kroger has.

20 A. Yes, sir.

21 MR. KROGER: Your Honor, I beg the Court's
22 indulgence.

23 THE COURT: Yes, sir.

24 MR. KROGER: No questions of this witness,
25 Your Honor.

1 THE COURT: All right.

2 MR. THORNTON: And, Your Honor, I
3 apologize, I -- with the Court's permission and
4 without objection, if Mr. Kroger doesn't have
5 one, I did forget one question.

6 BY MR. THORNTON:

7 Q. Ma'am, and I don't know if you would
8 remember this from six years ago, do you
9 remember what your phone number was or phone
10 calls coming within at that time? It's okay if
11 you don't remember.

12 A. I mean I can tell you that I've had a
13 couple, but I know like one of them was, like,
14 258-8080.

15 Q. Rather than getting confused --

16 A. Okay.

17 Q. -- did you -- when you talked to Law
18 Enforcement, did you provide that information to
19 Agent Brown?

20 A. Yes, I did.

21 Q. All right, thank you very much.

22 MR. THORNTON: I apologize, Judge, that's
23 all I have.

24 THE COURT: Anything further, Mr. Thornton?

25 MR. THORNTON: Nothing from the State, Your

1 Honor.

2 MR. KROGER: Nothing further, Your Honor.

3 THE COURT: You're excused.

4 MR. THORNTON: Your Honor, this --

5 * * *

6 MARIEL PURDU

7 * * *

8 being first duly sworn, testified as
9 follow:

10 BY MR. THORNTON:

11 Q. Ma'am, if you would please state your
12 name for the record, I'm afraid I might have
13 messed it up when I called.

14 A. That's okay, my name is Mariel Purdu.

15 Q. And, ma'am, who do you work for?

16 A. Verizon Wireless.

17 Q. And what do you do for Verizon
18 Wireless?

19 A. I'm a Senior Analyst for Executive
20 Relations.

21 Q. And, ma'am, you said -- and I
22 apologize, I was writing numbers down. Okay,
23 what exactly is it that you do for Verizon
24 Wireless?

25 A. Yes, I'm a Senior Analyst for Executive

1 Relations.

2 Q. All right, and what does that very
3 fancy title mean that you do?

4 A. Yes, so what I do is various things of
5 different types of case sites, but one of the
6 things I do is the custodian of records.

7 Q. All right, so as it relates to this
8 case, did you pull records from Verizon Wireless
9 at the request of the Solicitor's Office?

10 A. Yes.

11 Q. All right. Ma'am, I'm going to hand
12 you what's first been marked as State's Exhibit
13 30 for identification and ask if you can tell me
14 what that is.

15 A. Yes, so Exhibit 30 is our switch
16 location.

17 Q. All right, and if you could explain
18 what a switch location is.

19 A. Yep, so this is where our towers are
20 located. I'm sorry, it's not the switch
21 location, it's the tower location.

22 Q. All right, I was not going to correct
23 you, but I was hoping I had not handed you the
24 wrong piece of paper. So those are tower
25 locations, meaning, that's, literally, which

1 cell tower is located at what address, or
2 latitude, longitude, or however you-all do it?

3 A. Yeah.

4 Q. All right, so, basically, that means
5 that they could tell you where your cell towers
6 are?

7 A. Correct.

8 Q. All right. And did you pull that
9 paperwork at my request?

10 A. Yes.

11 Q. And is that a true and accurate copy of
12 the records from Verizon Wireless?

13 A. Yes.

14 Q. And are those records kept in the
15 ordinary normal course of your business?

16 A. Yes.

17 Q. All right.

18 MR. THORNTON: And, Your Honor, at this
19 time I would ask that State Exhibit 30 be moved
20 into evidence.

21 MR. KROGER: No objection, Your Honor.

22 THE COURT: Without objection it's in
23 evidence.

24 (State's Exhibit 30 was marked for
25 identification and admitted into evidence.)

1 BY MR. THORNTON:

2 Q. Ma'am, I'm going to hand you what's
3 been marked as State's Exhibit 31. Can you
4 identify that for me?

5 A. Yes, this is the call detail report of
6 incoming and outgoing calls.

7 Q. All right, and so a call detail report
8 for incoming and outgoing calls, so that means
9 -- is that like, if you have a telephone and say
10 that tells you whether you called out to another
11 number, or whether you received a call from a
12 number?

13 A. Correct.

14 Q. All right, and --

15 MR. THORNTON: And, Your Honor, I'm gonna
16 cover both quick, off the record, as well as for
17 the jury. As I said, this is a witness who's a
18 little bit out of order, so the person that
19 we're about to ask has not been mentioned
20 before, but it will be cleared up with another
21 witness.

22 THE COURT: Okay.

23 BY MR. THORNTON:

24 Q. Ma'am, so what is the phone number that
25 I asked you to run that detail for?

1 A. Yes, the telephone number is 843-694-
2 7334.

3 Q. All right. And are those the ingoing
4 and outgoing calls from that number for a
5 certain timeframe?

6 A. Yes.

7 Q. And do you have the time period on
8 there?

9 A. Yes, October 1st, 2015, until October
10 5, 2015.

11 Q. All right, and, ma'am, are those
12 records just like the ones that you just
13 testified to in State's 30? So as to State's
14 Exhibit 31, are those records kept in the normal
15 ordinary course of your business?

16 A. Yes.

17 Q. And are those a true and accurate copy
18 of those records?

19 A. Yes.

20 MR. THORNTON: Your Honor, at this time I
21 ask State's 31 be moved into evidence.

22 MR. KROGER: Without objection.

23 THE COURT: Without objection.

24 (State's Exhibit 31 was marked for
25 identification and admitted into evidence.)

1 BY MR. THORNTON:

2 Q. Ma'am, I'm gonna hand you what's been
3 marked as State's Exhibit 32 and ask the same
4 question. For identification, can you identify
5 that for me, please?

6 A. Yes, these are the incoming and
7 outgoing calls call detail record.

8 Q. And what number is that for?

9 A. [REDACTED]-4496.

10 MR. THORNTON: All right, and there was
11 testimony earlier that that was the phone of
12 Bruce Specks.

13 BY MR. THORNTON:

14 Q. Ma'am, is that a true and accurate copy
15 of the call detail for that number?

16 A. Yes.

17 Q. And what timeframe is that for?

18 A. This is October 1st, 2015, until
19 October 5th, 2015.

20 Q. All right, and are those also a true
21 and accurate copy of those records?

22 A. Yes.

23 Q. And are they kept in the normal
24 ordinary course of your business?

25 A. Yes.

1 Q. All right.

2 MR. THORNTON: Your Honor, I'd ask at this
3 time that State's 30 -- and forgive me, I think
4 it's 32 be moved into evidence.

5 MR. KROGER: No --

6 THE COURT: Without objection?

7 MR. KROGER: Without objection.

8 THE COURT: Admitted without objection.

9 (State's Exhibit 32 was marked for
10 identification and admitted into evidence.)

11 BY MR. THORNTON:

12 Q. I did want to ask you another question.
13 Having dealt with these records before, are the
14 records, as they are printed out, correct, as to
15 time and -- in other words, do we have to
16 subtract or -- I've seen records sometimes they
17 come out in Zulu time, so is that gonna be
18 Eastern Standard Time on those records, or do we
19 need to do anything with them?

20 A. They're Eastern Standard Time and
21 there's a 24-hour one.

22 Q. All right, thank you very much.

23 MR. THORNTON: Your Honor, the Court's
24 indulgence please?

25 THE COURT: Yes, sir.

1 MR. THORNTON: Your Honor, I have no
2 further questions at this time. Thank you,
3 ma'am. Please answer any questions Mr. Kroger
4 has.

5 ***

6 CROSS-EXAMINATION

7 BY MR. KROGER:

8 Q. Other than turning these records over
9 to the Solicitor's Office, did you do any other
10 probative analysis on these records?

11 A. No.

12 Q. In your title that you stated that the
13 analysis, let me ask you this question right
14 here. As far as the length of a call, what
15 would determine whether a call into someone
16 called and the other person couldn't answer,
17 what is the time for a call that is made, and no
18 one answers?

19 A. So as a custodian of records, we would
20 not be able to verify that.

21 Q. Okay. Thank you, no further questions.

22 MR. THORNTON: Nothing further, Judge. I'd
23 ask that she may be excused.

24 THE COURT: You may be excused. Without
25 objection, Mr. Kroger?

1 MR. KROGER: Without objection.

2 THE COURT: Thank you, you may be excused.

3 MR. THORNTON: All right, the State calls
4 Cynthia Howard.

5 * * *

6 CYNTHIA HOWARD

7 * * *

8 being first duly sworn testified as
9 follow:

10 DIRECT EXAMINATION

11 BY MR. THORNTON:

12 Q. Thank you, ma'am, would you please
13 state your full name for the record for me?

14 A. Cynthia Howard.

15 Q. Ms. Howard, as I promised you, this
16 will be quick. Are you related to Bruce Specks,
17 one of the victims in this case?

18 A. Yes.

19 Q. And how are you related to Mr. Specks?

20 A. I'm his mother.

21 Q. Ma'am, were you asked by Lieutenant
22 Brown with SLED to provide what's commonly
23 called a buccal swab, or a DNA sample?

24 A. Yes.

25 Q. And did you provide him with one?

1 A. Yes.

2 Q. All right. I have no further
3 questions. Please answer any questions Mr.
4 Kroger has.

5 MR. KROGER: No questions of Ms. Howard
6 now.

7 MR. THORNTON: Thank you. I'd ask that
8 she'd be allowed to step down, Your Honor?

9 THE COURT: You may step down.

10 MR. THORNTON: Oh, Your Honor, I apologize,
11 I tried to work it --

12 THE COURT: One more time.

13 BY MR. THORNTON:

14 Q. One more question, Ms. Howard, I
15 apologize.

16 A. Uh-huh.

17 Q. And I'm going to need to show you
18 something real quick.

19 Ma'am, did you also give a toothbrush and a
20 toothbrush case to Matt Brown with SLED for
21 testing?

22 A. Yes.

23 Q. And whose toothbrush did you give him?

24 A. My son, Bruce.

25 Q. All right, so you gave them Bruce's --

1 A. Yes.

2 Q. -- toothbrush for a DNA sample?

3 A. Yes.

4 Q. Thank you very much.

5 MR. THORNTON: Now, Judge, I apologize,
6 that's all the questions I have. Please answer
7 anything Mr. Kroger has.

8 THE COURT: Mr. Kroger?

9 MR. KROGER: No questions, Your Honor.

10 THE COURT: Ma'am, you may step down.

11 * * *

12 EMISA SWINTON

13 * * *

14 being first duly sworn testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. THORNTON:

18 Q. Thank you, Mr. Swinton, would you
19 please state your name for the record?

20 A. Emisa Swinton, Sr.

21 Q. Mr. Swinton, are you related to Shantay
22 Jenkins?

23 A. Yes.

24 Q. And --

25 A. I'm her father.

1 Q. -- how -- go ahead.

2 A. I'm her -- I'm her father.

3 Q. All right, sir. Mr. Swinton, did you,
4 at some point, provide a DNA swab or a buccal
5 swab to Lieutenant Brown with SLED?

6 A. Yes, sir.

7 Q. All right. Thank you very much. I
8 have no further questions. Please answer any
9 questions Mr. Kroger has.

10 MR. KROGER: No questions, Your Honor.

11 MR. THORNTON: I'd ask that he be allowed
12 to step down, Judge.

13 THE COURT: Any objection?

14 MR. KROGER: No objection.

15 THE COURT: You may step down, sir.

16 MR. THORNTON: The State calls Patricia
17 Jenkins.

18 * * *

19 PATRICIA JENKINS

20 * * *

21 being first duly sworn testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. THORNTON:

25 Q. Ms. Jenkins, since you're one of the

1 folks that is in the courtroom, I know these are
2 gonna seem like very mundane questions, since
3 I'm going to ask you the same ones, but would
4 you --

5 A. Okay.

6 Q. -- please state your name for the
7 record?

8 A. My name is Patricia Renee Jenkins.

9 Q. And, ma'am, are you related in any way
10 to Shantay Jenkins?

11 A. Yes, that's my daughter.

12 Q. Thank you very much, ma'am. And I'm
13 just gonna ask you the same question. At some
14 point, did you provide a buccal swab for DNA
15 purposes to SLED, specifically, Lieutenant
16 Brown?

17 A. Yes, I did.

18 Q. Thank you, ma'am.

19 MR. THORNTON: I have no further questions,
20 Your Honor.

21 MR. KROGER: No questions.

22 MR. THORNTON: I'd ask that she be allowed
23 to step down, Judge.

24 THE COURT: You may step down, ma'am.

25 MR. THORNTON: Can I have about not even

1 five minutes? I just need to check and see what
2 witnesses I have remaining, before I can tell
3 the Court whether we need a break for lunch.

4 THE COURT: That's fine.

5 MR. THORNTON: Okay.

6 THE COURT: Okay. We will wait on you.
7 Ladies and Gentlemen, does anyone need a break?
8 Ladies and Gentlemen, we're gonna go ahead and
9 break for lunch right now. I am going to ask
10 that you be back -- and do you want them in the
11 jury room, Margaret, or downstairs?

12 MADAM CLERK: Downstairs.

13 THE COURT: Downstairs at 12:45, and we're
14 going to continue with the trial of this case.
15 I need to remind you, Ladies and Gentlemen, you
16 are not to discuss this case with anyone,
17 including each other, or anyone that you might
18 come into contact with.

19 Additionally, you're not to do any
20 independent research. Ladies and Gentlemen keep
21 your juror buttons on, so if you're out in
22 public, people know that you are sitting on this
23 jury, so they don't speak about this case in
24 front of you in any way. Go grab a bite to eat.
25 I look forward to seeing you back. As far as

1 timewise, Solicitor, today --

2 MR. THORNTON: Yes.

3 THE COURT: Do you have any idea about how
4 late you think we might go?

5 MR. THORNTON: I don't think we will go
6 past 5:00, and depending on how, obviously, how
7 quick some of these witnesses go, we may even
8 end a little early. I've got a couple
9 witnesses, again, from the Upstate that are
10 coming in the morning --

11 THE COURT: Okay.

12 MR. THORNTON: -- but we certainly will not
13 go over 5:00, and unless something outlandish
14 happens, Judge, I would expect to finish before
15 5:00 tomorrow.

16 THE COURT: Tomorrow? All right. So
17 Ladies and Gentlemen, I just was looking for
18 time purposes. Madam Foreperson, I need you to
19 make sure that no person has to be anywhere
20 specific at a time tonight, when we need a break
21 before 5:00. We might finish before then, but,
22 again, I just need to know. I want to make sure
23 if you-all have previous engagements, I want to
24 make sure you make them, all right? Go get a
25 bite to eat, Ladies and Gentlemen. I look

1 forward to seeing you-all back again at 12:45
2 downstairs, okay?

3 (Jury leaves the courtroom.)

4 THE COURT: All right, anything we need to
5 put on the record before we get back?

6 MR. THORNTON: Nothing from the State, Your
7 Honor.

8 THE COURT: Mr. Kroger?

9 MR. KROGER: Nothing from the defense, Your
10 Honor.

11 THE COURT: Very good. I'll see everyone
12 back at 1:35.

13 (Luncheon recess.)

14 PROCEEDINGS CONTINUED

15 (Jury enters courtroom.)

16 THE COURT: Welcome back, Ladies and
17 Gentlemen, I hope you got a bite to eat. At
18 this time, we're gonna move on with the State's
19 case. Mr. Thornton?

20 MR. THORNTON: Thank you, Your Honor. The
21 State calls Michael Toomer.

22 * * *

23 MICHAEL TOOMER

24 * * *

25 being first duly sworn testified as

1 follows:

2 DIRECT EXAMINATION

3 BY MR. THORNTON:

4 Q. Mr. Toomer, if you would please state
5 your full name for the record.

6 A. Michael Toomer.

7 Q. Mr. Toomer, back in October of 2015,
8 specifically, October the 2nd of 2015, where did
9 you live, sir?

10 A. At Whistle Stop Road.

11 Q. All right. And what county is that in,
12 sir?

13 A. Jasper.

14 Q. Do you recall the events of October the
15 2nd of 2015, what you were doing that day?

16 A. Yes, sir.

17 Q. All right, can you tell the members of
18 the jury what you were doing on that day?

19 A. I had just come back into town from out
20 of town. I'm coming back into South Carolina,
21 because I was in Georgia, I started to calling
22 my nephew, Bruce. I call him a nephew, because
23 I raised him almost his whole life. I've known
24 him all his life. He never answered the phone,
25 and I called his friends, because --

1 Q. And let me stop you for a second, Mr.
2 Toomer. When you say your nephew, Bruce, Bruce
3 who?

4 A. I don't know Bruce's last name.

5 Q. Okay.

6 A. I just know his first name. I know his
7 mother, his father, his grandparents, his whole
8 family. I've been knowing them for years, but I
9 don't know his last name. I never called him by
10 his last name, I never used that.

11 Q. All right, so go ahead.

12 A. And I talked to some of his friends,
13 because when I normally call Bruce, he picks up,
14 he'll say, "What's up, Uncle Mike?" You know,
15 and did the same with my brother, Chris, called
16 Uncle Pat, but he never did pick up the phone,
17 and I thought it was strange.

18 So I went over to the house, tried calling,
19 like, three or four times, he never answered the
20 phone. So I'm sitting home, I'm by myself. My
21 daughter comes in the yard -- well, he comes in
22 the yard first, and in the car is Mr. Riley,
23 another gentleman that knew these girls.

24 Q. And you say Mr. Riley, do you know Mr.
25 Riley by any other name?

1 A. Yeah, his name is Daniel Riley, we call
2 him Jackpot.

3 Q. Okay. And you said -- who else was in
4 the car?

5 A. The gentleman who was driving I did not
6 know, and my daughter, Vanessa.

7 Q. And what is your name?

8 A. Vanessa Renee Boyles.

9 Q. All right, so you and Vanessa -- how is
10 Vanessa related to you?

11 A. I raised Vanessa from a baby.

12 Q. All right, so is she someone you would
13 consider to be your daughter?

14 A. She is my daughter.

15 Q. All right. All right, so your daughter
16 gets there, and that is Vanessa Boyles. What
17 happens next?

18 A. We sit down. She -- first she gets out
19 of the car. She says, "Hey, daddy." She walks
20 up, she gives me a hug. Mr. Riley looks at me
21 and asked me do I want to get a bag of drugs. I
22 told him, "You know I don't mess with that
23 stuff."

24 Q. All right, let me stop you for a
25 minute, because I didn't ask this question.

1 So what is the relationship at that time in
2 October of 2015 between Vanessa Boyles and Mr.
3 Riley, also known as Jackpot?

4 A. They were dating. They have a little
5 girl together.

6 Q. Okay. All right, so I apologize for
7 interrupting you, so -- and the other person in
8 the car you said you did not recognize them?

9 A. No. As soon as I saw him, my stomach
10 just felt nauseated, I had a weird feeling,
11 and --

12 Q. All right, so you see Ms. Boyles, she
13 gets out of the car, and you were talking about
14 that Mr. Riley had asked you if you wanted to do
15 some drugs?

16 A. Yes, he asked me if I wanted to get a
17 bag of drugs, and I told him, "No, I don't mess
18 with that stuff."

19 Q. All right, go ahead, sir.

20 A. So then he picks up a .9 millimeter out
21 of his back, and he asked me if I wanted to
22 shoot? I told him, "I am not okay with guns,
23 period, at all."

24 And so me and my daughter go in the house,
25 we sit down and start talking. As we're

1 talking, I light up a blunt. We're talking,
2 conversating, and all of a sudden two gentlemen
3 got out of the car, and as me and my daughter's
4 talking, they disappeared.

5 I'd never seen them leave out the yard, I
6 never heard them get back in the car, all the
7 doors are closed, so --

8 Q. All right, and let me stop you, and I
9 apologize for keep interrupting you, but there's
10 things that I want to make sure we clear up.
11 You said earlier that Mr. Riley asked if you
12 wanted to -- I think you said get a bag of
13 drugs, or do some drugs, and you said you don't
14 mess with that, but then just a second ago you
15 said that you smoked a blunt.

16 A. Yeah.

17 Q. Now, would you explain to the jury, so
18 they know what you're talking about, the
19 difference between those two things?

20 A. Okay, the drugs that he was asking me
21 about getting was cocaine and heroin, a bag of
22 cocaine, and I don't mess with cocaine.

23 Q. All right.

24 A. I'm definitely a weed person.

25 Q. Okay, I just wanted them to understand

1 that, so go ahead, sir.

2 A. Me and my daughter sat in the house and
3 smoked a blunt. Then the coversating started.
4 I had hasn't seen her in about a week. As a
5 matter of fact, two weeks since I had been gone
6 to Georgia. All of a sudden, I heard a sound.
7 The windows are tinted in the trailer the two
8 gentlemen came back. Mr. Reilley sat a 40-ounce
9 beer on the top of the car which caught my
10 attention. I said, they are back. We continued
11 to talk. All of a sudden, we ran out of cigars.
12 I said I needed another cigar. She went outside
13 to see if they were outside.

14 So when she went outside to see if they
15 were out there, no one was outside.

16 Q. And she being your daughter, Vanessa
17 Boyles?

18 A. Yes, sir.

19 Q. All right, sir, go ahead.

20 A. After that situation she came back in,
21 then she went back outside to the car. If I
22 remember right, she got in the car, she drove
23 down and to the store.

24 When she came back from the store, the
25 gentleman was, I guess, in the car with her, and

1 when she came back in the house they were
2 outside.

3 Q. All right, and was it the same two?
4 You said Mr. Riley and some -- and another
5 person you did not know?

6 A. Yes, sir.

7 Q. Same two people?

8 A. Yes, sir.

9 Q. All right.

10 A. We sat down, I rolled up another blunt,
11 we started talking. The sun is going down. And
12 then she got ready to leave -- so she got ready
13 to leave me, and we both walked out on the front
14 porch down the staircase, and she looked -- went
15 to go look in the car, and there was nobody in
16 the car.

17 So she walked to the back of the car, like
18 she's going to look down the dirt road. As she
19 did that, there were shots going off in the air.
20 If I remember right, there was two guns. One
21 sounded like a .9 millimeter, one sounded like a
22 revolver, 'because it took a minute for it fully
23 to ring out. It didn't ring out as fast as the
24 .9 millimeter.

25 Q. Now, could you see -- when you say

1 shots going off, is that just something you've
2 heard?

3 A. Yes, I just heard.

4 Q. And I know this may be a dumb question,
5 because when you talked about it, it sounded
6 like two different guns, so did it sound like
7 just one or two shots, or several shots?

8 A. The first, okay, it sounded like a .9
9 millimeter, maybe five or six rounds, and the
10 other pistol left off three.

11 Q. Okay. All right then.

12 A. As she was walking to the back of the
13 car, she came back, before she even got to the
14 dirt road, and said, "Daddy, I'm going, because"
15 excuse my language, "because dumbass is
16 shooting," and that's when I called the police.

17 So she got into the car, she backed out of
18 the yard, she turned toward the street or
19 roadside, which is to the left, she backed out,
20 she pulled up. As she's pulling up, I saw the
21 door open, but I could not see who got in the
22 car, because it was behind the high grass and
23 the pole on the side of the yard, because of the
24 light pole the grass is kind of high, I could
25 only see the door open. I saw somebody hop,

1 skipping, the guy got in the car, and they left.

2 After they left a blue vehicle came down
3 the road. What caught my attention was that she
4 had not even hit the gas fast enough for the
5 blue vehicle to be coming as fast as it did, and
6 that road has a lot of potholes in it.

7 So, you know, they went on out, I didn't
8 hear any crash, so I went on in the house. I
9 got up Saturday morning like I normally do, go
10 to the store to get a chicken salad sandwich, a
11 pack of -

12 Q. And I'm sorry to interrupt you. When
13 you say going to the store, I didn't -- I
14 misunderstood you, I was looking at something.
15 Did you say you were going to the store?

16 A. Yes, sir, I got up and --

17 Q. All right, and what store are you
18 talking about?

19 A. The Handy Dans down at the corner, I
20 think that's what it's called.

21 Q. All right, and how close is that to
22 where you were living at the time?

23 A. Not even a five-minute walk.

24 Q. Okay, so very close?

25 A. Yes.

1 Q. All right, go ahead.

2 A. So I got a chicken salad sandwich, a
3 bag of Lay's Dill Pickled potato chips, a Sprite
4 soda, and I bought two cigars. Before I got to
5 the store though, I'm sorry, as I'm walking down
6 the road from the house, before I even left out
7 to the store, a little red -- it looked like a
8 fire red Nissan was coming down the road at that
9 point, and it had rained the night before.

10 As I'm walking down the road, the car's
11 coming behind me on the -- in front of the
12 neighbor's house, which is the first house
13 coming from Handy Dans, it's on the right. As
14 I'm almost in front of this house -- just
15 passing this house, the little silver Nissan --
16 Neon comes up on me, and I look back like this.
17 I noticed something silver behind the passenger
18 side.

19 I let the car pass on by, and I walked back
20 to see what the silver flash was that caught my
21 eye, it was a .38 pistol. I picked the pistol
22 up, there was sand on it, I wiped it off, and
23 stuck it in my pocket. I walked up to the store
24 and got my items. The young lady behind the
25 counter, I told her that I just found a pistol

1 on this dirt road, and she wanted to -- me to
2 show it to her, but the spirit told me not to
3 show it to her.

4 Somebody's wanting to buy it, you know, it
5 just gave me a bad feeling on my stomach. So as
6 I'm walking back from the store, before I get to
7 my neighbor's house, which is on the right now,
8 I noticed a little down on the left side of the
9 ditch there's \$20 bills that are wet, soaked
10 from like the night before, that were folded up,
11 right, crisp \$20 bills. So I took them and put
12 them in my pocket, and I walked up to the house.
13 I went to the house, sat down, ate the sandwich,
14 put on -- the movie in, watched TV, and I called
15 my nephew and his cousin.

16 Q. All right.

17 A. And when they came by the house, I
18 showed them the pistol. When I showed them the
19 pistol, I wouldn't let neither one of them touch
20 the pistol.

21 Q. That's okay.

22 A. I picked it up by the -- where the
23 trigger goes like this, and I showed it to them.
24 We smoked a blunt, and they left.

25 Q. All right and let me stop you for a

1 second. At some point, did you find out that
2 Bruce was dead? At some point later --

3 A. Yeah.

4 Q. -- did you find that out?

5 A. Yes, I did.

6 Q. All right. At some point, did a Patty
7 and Robin come by your house?

8 A. Yes. This was like -- when I found the
9 pistol, I went to visit Vanessa's mother, and --
10 to check on my grandkids, and this was Sunday,
11 if I remember right. So when I walked in the
12 door, she was acting kind of strange, she had
13 her head down, her face was full of sweat, full
14 of trauma.

15 Q. All right, and we can't talk about what
16 you talked to someone else about. So at some
17 point though do you find out that Bruce has
18 died, is dead?

19 A. Yes, sir.

20 Q. All right, and, again, going back to my
21 earlier question, at some point after that, do
22 -- does Robin Vanhoffen and Patty come to your
23 house?

24 A. Yes. If I remember right, it was
25 Monday morning about 9:00, 9:30.

1 Q. All right. And do you show one of them
2 the pistol? Did they come asking about the
3 pistol? And without them -- without telling
4 exactly what was said, did they come asking
5 about the pistol?

6 A. Yes, Patty came and asked to see the
7 pistol, and I picked it up just like I normally
8 do, and then like this she snatched it, and she
9 ran out the door.

10 Q. All right, and --

11 A. And --

12 Q. -- it was Robin Vance -- or Vonhoffen,
13 sorry, was she one of them -- was she with her?

14 A. Yes.

15 Q. All right, okay.

16 A. Yeah.

17 Q. And after that, and I'm sorry, I keep
18 interrupting you, but I'm trying to get this
19 straight, so they took the pistol at that point?

20 A. Yes, sir.

21 Q. And is it your understanding they
22 turned that over to Law Enforcement?

23 A. Yes, sir, I called the Sheriff's
24 Department, to let them know what she's coming,
25 because I knew exactly what she was. She saw

1 the pistol, and I showed it to her, exactly she
2 called up her nephew, and I mean it's like -- I
3 have known her all her life, and have never seen
4 her act like that, and I knew then that the
5 pistol belonged to Bruce. Because they have a
6 relationship as they were growing up and were
7 very close.

8 Q. Okay.

9 All right, let me ask you a couple
10 other questions.

11 MR. THORNTON: Your Honor, the Court's
12 indulgence, please.

13 BY MR. THORNTON:

14 Q. Mr. Toomer, I'm going to show you, this
15 is already -- both of these photos are already
16 in evidence, but I'm going to show you State's
17 Exhibit 24. I realize it's been six years, but
18 do you recognize what's in State's 24?

19 A. Yes, that's the trailer.

20 Q. All right, and whose trailer was that?

21 A. That's the trailer I was staying in.

22 Q. All right. And is that on Whistle Stop
23 Lane?

24 A. Yes, sir, it is actually, to tell you
25 the truth, it's the second house on the right-

1 hand side coming to that road.

2 Q. Okay. I'm gonna now hand you -- thank
3 you, sir, what's State's 25, which is already in
4 evidence. Do you recognize the gun that's in
5 that picture?

6 A. Yes.

7 Q. And is that the gun that you found on
8 the way to Handy Dans?

9 A. Yes.

10 Q. All right. Thank you, sir. And, Mr.
11 Toomer, I know you and I talked before, and I
12 told you I was going to ask you about this, but
13 back in 1997 you had a breach of trust
14 conviction; is that correct?

15 A. Yes, sir.

16 Q. All right, and -- I'm sorry, I'm
17 looking at the year now. In about 2004 you had
18 some fraudulent checks; is that right?

19 A. Yes, sir.

20 Q. All right.

21 MR. THORNTON: Your Honor, I don't have any
22 further questions at this time.

23 BY MR. THORNTON:

24 Q. Thank you, Mr. Toomer. Please answer
25 any questions that Mr. Kroger has for you.

CROSS-EXAMINATION

BY MR. KROGER:

Q. Mr. Toomer, you had an opportunity to talk with Agent Brown back on October 2nd of 2015, correct?

A. Yes, sir.

Q. Okay. And how long did you talk with him; do you recall?

A. It might have been an hour or more.

Q. Okay. And you also gave a written statement, but you didn't write the statement itself, correct?

A. Correct.

Q. Okay. Agent Brown wrote the statement for you --

A. Yes.

Q. -- correct? And it's safe to assume that what Agent Brown wrote down were what you wanted him to write --

A. Right.

Q. -- down, correct?

A. Yes.

Q. Okay. Now, before I question you about this statement, you stated that Jackpot has been

1 identified as James R. Riley, correct?

2 A. Yes, sir.

3 Q. Okay. And how long have you known --

4 A. Mr. Riley?

5 Q. -- Mr. Riley?

6 A. All his life.

7 Q. Okay, all his life?

8 A. From school.

9 Q. Okay, so not that I want to know your
10 age, but you said all his life, about how many
11 years is that?

12 A. Mr. Riley should be like 30, I think --

13 Q. Okay.

14 A. -- if that.

15 Q. Okay, all right. And, basically, so
16 you-all are lifelong friends, like you just
17 stated?

18 A. I wouldn't say lifelong friends. I've
19 known him since -- because I'm way older than he
20 is.

21 Q. Okay.

22 A. He was a child when he came to me.

23 Q. Okay. Okay, but you have been
24 acquaintances all your life?

25 A. Yes.

1 Q. Okay, all right. And you said that
2 when he came to your house, that he showed you a
3 .9-millimeter gun?

4 A. Yes, sir.

5 Q. Okay. And he wanted -- he asked you
6 whether you wanted to shoot it?

7 A. Yes, sir.

8 Q. Okay, all right. And also you stated
9 that he had a bag of cocaine, correct?

10 A. Yes, sir.

11 Q. Okay. And I think you stated it on the
12 stand, but that's not the drug that you use,
13 correct?

14 A. Yes, sir.

15 Q. All right, and you say you are a weed
16 smoker, correct?

17 A. Yes, sir.

18 Q. And I think on that particular night
19 you might have had about four or five blunts,
20 correct? Throughout the night on --

21 A. Yes.

22 Q. -- that evening?

23 A. About four or five blunts.

24 Q. Oh, okay. Now, you also stated during
25 your testimony, that -- and I would imagine by

1 your testimony that you are familiar with guns,
2 correct?

3 A. Yes, sir.

4 Q. Okay. And I think you testified too
5 that you heard several shots, correct?

6 A. Yes, sir.

7 Q. And I think you testified too that the
8 first five or six shots was from a .9
9 millimeter, correct?

10 A. Yes, sir.

11 Q. And you testified that, I guess, the
12 remaining shots is from a revolver, correct?

13 A. Yes, sir.

14 Q. And on that night Mr. James R. Riley,
15 Jackpot, showed you a .9 millimeter, correct?

16 A. Yes, sir.

17 Q. Okay. Now, you testified to some of
18 the items that was in your voluntary statement,
19 but you didn't testify to some other things in
20 your statement, correct?

21 Did you -- well, let me ask you this here.
22 How long did Ms. Boyles stay at your house that
23 evening?

24 A. When she got there, it must have been
25 like about maybe 4:00 or 4:30. When she left,

1 it was about dark. In October the trailer sits
2 this way, and the sun was going down over that
3 way, it was going down behind the field, and it
4 was kind of hard, just looking back, when she
5 pulled out the yard, the van I told you that
6 came behind her --

7 Q. Okay.

8 A. -- is what caught my eye, and I
9 couldn't quite see the driver, because the sun
10 was going down in front of the house.

11 Q. Okay, okay. So she left when the sun
12 was going down?

13 A. Yeah.

14 Q. Okay, did she ever leave and come back
15 to the house?

16 A. Yeah, she went to the store, she picked
17 up cigars, and she came back.

18 Q. Okay. All right, so what time,
19 approximately, did she leave to go to the store?

20 A. I couldn't quite tell you that right
21 offhand. I know it was before -- it might have
22 been 5:30, maybe 6 o'clock, because the --

23 Q. Okay.

24 A. -- sun hadn't dropped off, but there
25 was still light over the --

1 Q. 5:30, 6 o'clock, but, of course, the
2 sun was still up?

3 A. Yeah, because --

4 Q. Okay, all right.

5 A. -- when I said the way the trailer
6 sits, and --

7 Q. Uh-huh.

8 A. -- I would have to look over my
9 shoulder to look out the window. But when she
10 left, I walked her to her door, the sun hadn't
11 even come down towards the ceiling. It was
12 still light.

13 Q. Okay. How long after she came back
14 from the store did, she stay with you?

15 A. How long did she stay?

16 Q. Yeah, after she came back from the
17 store?

18 A. Oh, she might have been maybe another
19 two-and-a-half hours.

20 Q. Two-and-a-half hours?

21 A. Yeah.

22 Q. Okay. And you-all were just
23 conversating and everything?

24 A. Yeah.

25 Q. Okay.

1 A. Because I hadn't seen her in about a
2 month.

3 Q. In about a month, okay. Now, what was
4 the situation about her leaving? Did she just
5 leave? Did somebody come and just say, "Let's
6 go," or what did that picture look --

7 A. When it started getting dark, she
8 walked out and checked the car for a third time,
9 because the first time she checked it, they
10 weren't in the car, so she came back, and we
11 smoked a blunt.

12 Then I heard all the way at the top of the
13 car, and I looked out, and I told her they were
14 back. So that's when we went to the front door,
15 she sat down again to talk to me, and we started
16 talking. And she -- actually, she got up about
17 maybe 30 minutes, I guess, to get the cigar, and
18 then we were at the car. So she got into the
19 car, and she drove down to the store, if I
20 remember right. And when she came back, they
21 were with her in the car.

22 Q. Okay. Did anyone come in to -- come to
23 your house and told your daughter, "Let's go?"

24 A. No. Me -- nobody was there but me and
25 her. The whole time they came up, they didn't

1 -- well, Mr. Riley know he couldn't come around
2 here in the first place.

3 Q. Okay. Now, you acknowledged that you
4 gave this statement --

5 A. Yeah.

6 Q. -- on October 2nd, 2015, correct?

7 A. Yes, sir.

8 Q. Okay. All right.

9 MR. KROGER: Your Honor, may I approach?

10 THE COURT: You may.

11 MR. KROGER: Which direction?

12 THE COURT: This way, please.

13 MR. KROGER: Okay.

14 BY MR. KROGER:

15 Q. Is this your signature on this
16 statement right here?

17 A. Yes, sir.

18 Q. Okay, and this is from October 2nd,
19 2015, correct?

20 A. Yes, sir.

21 Q. Okay. Can you read the statement?

22 A. No.

23 Q. Okay, all right. Well, I'm going to
24 read the statement.

25 A. That's fine, sir.

1 Q. And you are going to acknowledge that
2 this is in your statement, okay?

3 A. Yes, sir.

4 Q. Okay. "I got home at 10:44 a.m. from
5 Savannah, Georgia."

6 A. Yes.

7 Q. "I took my clothes out of my
8 girlfriend's car, and she left." Correct?

9 A. Somewhat. The young lady was not my
10 girlfriend --

11 Q. Okay.

12 A. -- she's a friend.

13 Q. A friend, sorry, okay. "I called
14 Bruce, and he didn't answer."

15 A. Yes, that's true.

16 Q. Okay, "After that I sat home and
17 watched TV."

18 A. Yes, sir.

19 Q. Okay. "About 4:00 p.m. a white car
20 pulled into my yard."

21 A. Yes, sir.

22 Q. "I think it was either a Pontiac or a -
23 -

24 A. Yes, sir.

25 Q. "I went outside, and it was Jack Clark

1 on the passenger side."

2 A. Yes.

3 Q. "The driver." You already testified
4 that you didn't know it, at the time.

5 A. Yes, sir.

6 Q. Okay, all right. "And my daughter was
7 in the back on the passenger side."

8 A. Yes, sir.

9 Q. Okay. "My daughter said, 'Hey, how are
10 you doing?"

11 A. I think she said, "Hey, daddy."

12 Q. Okay, all right.

13 A. She always call me, hey, daddy. She
14 always calls me daddy.

15 Q. "Hey, daddy," okay. "And she got out."

16 A. Yes.

17 Q. Okay.

18 A. She hugged me, and we went into the
19 house.

20 Q. Excuse me?

21 A. I said after that she hugged me, and we
22 went in the house.

23 Q. Okay, all right. "Jackpot asked me if
24 I wanted to hit the drugs."

25 A. Yeah.

1 Q. "And I said, 'No,'" correct?

2 A. Yes, sir.

3 Q. You said no, okay. "Jackpot showed me
4 a pistol, and asked if I wanted to shoot it, and
5 I said, 'No.'"

6 A. Yes, sir.

7 Q. Okay. "The pistol looked like a .9
8 millimeter, semi-automatic, grayish black, and
9 he had it between his lap on the floor."

10 A. Yes, sir.

11 Q. Okay. "Me and my daughter went into
12 the house."

13 A. Yes.

14 Q. Okay. "We talked about my grandbaby,
15 and said she missed her son."

16 A. Yes.

17 Q. "About 5:30 to 6:00 p.m. she got up,
18 went to the bathroom, and said she was about to
19 leave, and walked out to the car."

20 A. Yes.

21 Q. Okay. "When she walked out, the fella
22 and Jackpot were gone."

23 A. Yes, sir.

24 Q. "She said they must have went to the
25 store."

1 A. Yes, sir.

2 Q. Okay. "She came back in, sat down, and
3 we started talking some more."

4 A. Yes, sir.

5 Q. Okay. "We smoked a blunt and heard
6 Jackpot and the other guy put the bottle up on
7 top of the car."

8 A. Yes, sir.

9 Q. Okay. "I looked out and saw them
10 talking with the beer on the car."

11 A. Yes, sir.

12 Q. "I started talking to my daughter for
13 another hour and a half."

14 A. Yes, sir.

15 Q. Okay. "She left and I went out the
16 door behind her."

17 A. Yes, sir.

18 Q. She looked in the car to see if they
19 were in the car, and she say, 'Where the F,'" and
20 I can't read this hear. "Where the F at, they
21 must have went back."

22 MR. THORNTON: Not to interrupt, but if
23 he's having trouble reading it, the State has no
24 objection, if he just wants to enter that into
25 evidence.

1 THE COURT: He can ask him questions from
2 it, Mr. Kroger, you're welcome.

3 MR. KROGER: Okay.

4 BY MR. KROGER:

5 Q. "They must have went back to the
6 store."

7 A. Yes, sir.

8 Q. "She walked like she was going to look
9 down the road."

10 A. Yes.

11 Q. "She got to the back of the car, turned
12 around, and came back up the stairs."

13 A. Yes, sir.

14 Q. Got to the front stairs to --

15 A. To the house.

16 Q. Oh, to your house, okay. "I turned
17 around and we came back in the house."

18 A. Yes, sir.

19 Q. Okay. You already testified to this.
20 "I heard six or nine shots that was close."

21 A. Yes.

22 Q. "A minute, to a minute and a half,
23 Jackpot and the guy came hop, skipping down the
24 road, and into the yard."

25 A. Well, I did not see the other guy.

1 Q. Okay.

2 A. I said I only saw when she backed out,
3 and the shots went off, she said, "Daddy, I'm
4 leaving." Because -- excuse my language again,
5 "dumb ass is shooting a gun," and she was gonna
6 call the police there.

7 Q. Okay.

8 A. And she got in the car, she backed out,
9 and drove -- she turned toward the Handy Dans
10 side. As she pulled up behind the bush, the
11 door opened, and I saw somebody doing like a
12 hop, skip, you know, how you hop, skip like kids
13 do, and they got in the passenger seat, and the
14 car went on down the road.

15 Q. So the only person you saw, at that
16 time, was Jackpot?

17 A. I couldn't even say it was Jackpot.

18 Q. Okay. Now, here's the rest of this
19 statement that you gave on October 2nd, 2015.
20 "Jackpot told my daughter, 'Baby, let's go.'"

21 A. Okay.

22 Q. Okay. If it's in this statement, do
23 you recall -- being it's written for you in this
24 statement?

25 A. Yes, I mean I do remember hearing --

1 Q. Okay.

2 A. -- the words --

3 Q. "She got --"

4 A. -- but not in the statement.

5 Q. I'm sorry. "She got into the driver's
6 side, cranked up the car. Jackpot got in on the
7 passenger side. I saw the other person in the
8 road. My daughter backed out and eased down the
9 road." So --

10 A. That's not right. I never looked down
11 the road to see the other gentleman at all.

12 Q. Okay. Did Jackpot come into your house
13 to you-all, and just said, "Baby, let's go?"

14 A. No. Like I say, when she backed out
15 into the road, facing the Handy Dans side, as
16 the car was easing up behind the bush, I saw the
17 person hop, skip, is when I heard him say,
18 "Baby, let's go." That's why I assumed it was
19 Mr. Riley, because he said, "Baby, let's go."

20 Q. Okay.

21 A. Because that's normally what he would
22 say to her.

23 Q. Okay. So, basically, you say you can't
24 read it, but you could read the signature?

25 A. Yes, sir.

1 Q. All right, and this is your statement,
2 and it says, "That the facts contained here are
3 true, and correct?"

4 A. Yes, sir.

5 Q. Okay. So what was written on October
6 2nd, 2015, at that time, at 6:00 p.m. was true
7 and correct?

8 A. Yes, sir.

9 Q. Now, correct me if I'm wrong, you did
10 testify to, or maybe you didn't, that you saw a
11 blue vehicle?

12 A. Yes. I think it might have been a
13 Dodge, or some kind of van came down the road
14 kind of fast, as she backed out into the road,
15 and the person got in the driver's side.

16 The van was coming down the road driving
17 kind of fast, and it was driving fast enough
18 that when it got to the back of the vehicle she
19 was in the driveway, but it didn't, by the time
20 she eased up, I think whoever that was, whoever
21 got in the car, and eased down the road, the van
22 was coming up fast, and I guess it slowed down
23 behind them going down the road.

24 Q. But how do you know it was a Dodge?

25 A. I couldn't tell, I said I don't know if

1 it was a Dodge or a Plymouth, I could just tell
2 it was a van.

3 Q. Okay, a Dodge, or a Plymouth --

4 A. Yes.

5 Q. -- isn't quite the same?

6 A. Yes, I just picked that because of the
7 way it's shaped.

8 Q. Okay, all right. And you said it was
9 coming at a high rate of speed, like it was
10 driving recklessly?

11 A. Yes.

12 Q. Okay.

13 A. Because that road has a lot of potholes
14 in it, you could easily just hit a pothole, and
15 it'll pull you to another side of the road.

16 Q. At what point did you -- the silver
17 revolver -

18 A. I had -- I got it Saturday, and it was
19 gone by Monday. A gentleman was supposed to
20 pick it up from, I guess, the County Sheriff's
21 Department. Vanessa's sister, Brittney, who, at
22 the time, was going with a Law Enforcement
23 Agent, and when I spoke to Vanessa's mother, she
24 told me, "Turn your gun into the Police
25 Department," and the guy was supposed to be

1 coming to my house to pick it up, but he never
2 did there.

3 Q. Okay. So you were holding the gun for
4 the Officer. You initially set it up, that
5 person being -- didn't come at the time they
6 were supposed to come?

7 A. Right.

8 Q. And, eventually, it got to the
9 Sheriff's Office?

10 A. Yes, sir.

11 Q. Okay. Thank you, no further questions.

12 MR. THORNTON: No redirect, Your Honor.

13 THE COURT: Any --

14 MR. THORNTON: I'd ask that he be allowed
15 to step down.

16 MR. KROGER: Yes.

17 THE COURT: Thank you, Mr. Toomer, you may
18 step down.

19 WITNESS: Okay.

20 THE COURT: Call your next witness.

21 MR. THORNTON: Your Honor, the State calls
22 Matt Brown. This will be for the purposes of
23 chain of custody.

24 THE COURT: Okay.

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CHARLES MATTHEW BROWN

* * *

being first duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. THORNTON:

Q. Mr. Brown, if you would, please state your name for the record.

A. Charles Matthew Brown.

Q. And I'm going to really hope that you're going to answer yes to this, do you also go by Matt?

A. Yes, sir, I do.

Q. All right, because if you didn't, I've been calling you the wrong name for a long time. Who do you work for, sir?

A. SLED.

Q. All right, and are you a Lieutenant, currently, with the South Carolina Law Enforcement Division --

A. Yes.

Q. -- also known as SLED?

A. Yes, sir, I am.

Q. And are you the case officer attached to this case?

1 A. Yes, sir.

2 Q. All right. I'm gonna hand you what's
3 been marked for identification purposes is
4 State's Exhibit -- let's do them one at a time,
5 33, and ask, if you can tell me what that is.

6 A. State's Exhibit 33 is a toothbrush and
7 a case that I received for Bruce Specks.

8 Q. All right, and is that -- obviously,
9 you were in here with me at the counsel table,
10 is that what was testified to earlier by Ms.
11 Howard?

12 A. Yes, sir, it is.

13 Q. All right, and did you receive custody
14 of Bruce Specks' toothbrush?

15 A. Yes, sir.

16 Q. And did you seal it in that container?

17 A. I did. It was sealed in the manilla
18 envelope, and then it was taken to the SLED lab,
19 where it was entered by the Evidence Custodian,
20 who sealed it.

21 Q. All right, and then was it taken up
22 there for, basically, DNA testing?

23 A. Yes, sir, it was.

24 Q. All right. While it was in your care,
25 custody and control, did it remain in a sealed

1 condition?

2 A. Yes, sir.

3 Q. All right, all the way up until it went
4 into SLED's laboratory?

5 A. Yes, sir.

6 Q. All right. Did you alter it or change
7 it in any way?

8 A. No, sir.

9 Q. All right.

10 MR. THORNTON: Your Honor, at this time I'd
11 ask that State's Exhibit 33 be moved into
12 evidence.

13 THE COURT: Any objection?

14 MR. KROGER: Without objection, Your Honor.

15 THE COURT: Without objection, it's been
16 entered.

17 (State's Exhibit 33 was marked and admitted
18 into evidence.)

19 BY MR. THORNTON:

20 Q. State's 34 for identification, I'll ask
21 you the same question, can you tell me what that
22 is, sir?

23 A. State's Exhibit Number 34 are buccal
24 swabs that I obtained from Cynthia Howard, who
25 is the mother of Bruce Specks.

1 Q. Those, I think, you said you obtained,
2 so did you collect that sample?

3 A. Yes, sir. They're actually a -- it's a
4 long Q-tip, and taking the swabs inside of the
5 person's mouth, and then I in turn sealed them
6 in this envelope, which, again, I sealed the
7 manilla envelope, I took it to the SLED lab, and
8 then put them in this plastic envelope, and
9 entered it for tests.

10 Q. All right, sir, while it was in your
11 care, custody and control, did it remain in the
12 sealed condition?

13 A. Yes, sir.

14 Q. Did you alter it or change it in any
15 way?

16 A. No, sir.

17 Q. All right.

18 MR. THORNTON: Judge, at this time I'd ask
19 that State's Exhibit 34 be entered into
20 evidence.

21 MR. KROGER: Without objection, Your Honor.

22 THE COURT: Without objection, entered into
23 evidence.

24 (State's Exhibit 34 was marked and admitted
25 into evidence.)

1 BY MR. THORNTON:

2 Q. I'll hand you State's 35 and 36, and
3 just refer to them by number, if you don't mind,
4 and can you tell me what each one of those are?

5 A. All right, State's 35 are buccal swabs
6 that I obtained from Mr. Swinton, who is the
7 father of Shantay Jenkins. And State's 36 are
8 buccal swabs from Ms. Patricia Jenkins.

9 Q. And as testified to earlier, the mother
10 of Shantay --

11 A. The mother of Shantay Jenkins.

12 Q. All right. And while 35 and 36 were in
13 your care, custody and control, did both of them
14 remain in the sealed condition?

15 A. Yes, sir.

16 Q. All right, and did you alter or change
17 them in any way?

18 A. No, sir.

19 MR. THORNTON: Your Honor, I'd ask that
20 State's 35 and 36 be moved into evidence.

21 MR. KROGER: Without objection.

22 THE COURT: Without objection.

23 (State's Exhibit 35 and 36 were marked and
24 admitted into evidence.)

25 BY MR. THORNTON:

1 Q. And what was the purpose of getting
2 these swabs for DNA?

3 A. So the purpose of getting the swabs
4 from the mother and father would be a standard -
5 - a known DNA standard, it was the toothbrush of
6 Mr. Specks. It was, in turn, would be compared
7 to the DNA obtained from the autopsy, to be able
8 to identify the bodies that were found in the
9 vehicle.

10 Q. I'm going to hand you now what's been
11 marked for identification as State's 39, 40 and
12 41. I'm sorry, we'll just do 39 and 40 first.
13 39 and 40, I'll ask if you can identify those?

14 A. All right, so State's 39 are buccal
15 swabs that I obtained from Robin Vanhoffen.

16 Q. All right, sir.

17 A. And 40 are buccal swabs that I obtained
18 from Michael Toomer.

19 Q. And same question as to 39 and 40,
20 while they were in your care, custody and
21 control, did they remain in the sealed
22 condition?

23 A. Yes, sir.

24 Q. And did you alter or change them in any
25 way?

1 A. No, sir.

2 Q. All right, sir.

3 MR. THORNTON: Your Honor, at this time I'd
4 ask that State's 39 and 40 be moved into
5 evidence.

6 MR. KROGER: No objection.

7 THE COURT: Without objection they're in
8 evidence.

9 (State's Exhibit 39 and 40 were marked and
10 admitted into evidence.)

11 BY MR. THORNTON:

12 Q. And, sir, what was the purpose of
13 getting buccal swabs from Ms. Vanhoffen and Mr.
14 Toomer?

15 A I had to obtain a buccal swab, which
16 will be a standard, that they can compare it to
17 any DNA that was on that pistol, so, basically,
18 we could rule those two out.

19 MR. THORNTON: It has been rendered safe
20 Your Honor.

21 THE COURT: Thank you.

22 BY MR. THORNTON:

23 Q. Other than that I just unsealed this,
24 sir, I'm going to ask you for -- if you can
25 identify State's -- for identification State's

1 37.

2 A. State's Exhibit Number 37 is a silver-
3 colored part revolver, with a black grip, and
4 five rounds, which I obtained from Robin
5 Vanhoffen. She actually -- I got a call after
6 we got the revolver -- I actually met her and
7 picked this up from her, and the revolver's in
8 here.

9 Q. And has it been zip-tied through the
10 cylinder to not allow it to be fired?

11 A. That's correct.

12 Q. All right. And you said with five
13 rounds. How many shots does that pistol hold?

14 A. It should be a five-round pistol. It's
15 five rounds, and there were five rounds here
16 that were with and in the gun.

17 Q. And is that how you collected it?

18 A. Yes, sir.

19 Q. All right, and is that the same pistol
20 that is located in State's 25?

21 A. Yes, sir, it is.

22 Q. And it was testified to earlier by Ms.
23 Vanhoffen and Mr. Toomer?

24 A. Yes, sir.

25 Q. And, obviously, other than when I just

1 unsealed it, while that was in your custody,
2 sir, was it maintained in a sealed and safe
3 condition?

4 A. Yes, sir. As you can see, I sealed it
5 with the red tape, with my initials and the
6 date's on it.

7 Q. Yes, sir. You sealed it with several
8 layers of red tape, which is why it took me a
9 minute to get to it. While it was in your care,
10 custody and control, did it -- was it maintained
11 throughout this case in that sealed condition?

12 A. Yes, sir.

13 Q. And did you turn that over to SLED
14 Laboratory?

15 A. Yes, sir.

16 Q. All right. Did you alter, or change it
17 in any way, other than to pull the rounds out?

18 A. No, sir.

19 Q. All right.

20 MR. THORNTON: Your Honor, at this time I'd
21 ask that State's 37 be moved into evidence.

22 MR. KROGER: Without objection.

23 THE COURT: Without objection, it's in
24 evidence.

25 (State's Exhibit 37 was marked and admitted

1 into evidence.)

2 MR. THORNTON: The Court's indulgence,
3 please, Your Honor. Your Honor, at this time,
4 that's all the questions I have, as to chain,
5 and Lieutenant Brown will be called back to the
6 stand, likely, tomorrow for full testimony.
7 This is just to allow the SLED analyst to come
8 in and testify.

9 THE COURT: Thank you, I appreciate it.

10 MR. KROGER: No questions at this time for
11 the witness.

12 THE COURT: All right, thank you, Mr.
13 Kroger, and you may step down, sir.

14 MR. THORNTON: Your Honor, the State calls
15 Jennifer Clayton.

16 * * *

17 JENNIFER CLAYTON

18 * * *

19 being first duly sworn testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. THORNTON:

23 Q. Ma'am, if you would, please state your
24 full name for the record.

25 A. Jennifer Clayton, C-L-A-Y-T-O-N.

1 Q. And although you did a really good job
2 keeping your voice up, if you would, pull that
3 microphone down just a little bit. Thank you,
4 ma'am. Who do you currently work for?

5 A. I currently work for the Orangeburg
6 Department of Public Safety.

7 Q. And prior to that, in 2015, who did you
8 work for?

9 A. I worked for the South Carolina Law
10 Enforcement Division, also known as SLED.

11 Q. And what did you do in October of 2015,
12 and I'll ask you, what was your role at SLED?

13 A. I was a Forensic DNA Analyst.

14 Q. And what are you doing right now for
15 the Orangeburg Department of Public Safety?

16 A. I am helping the Orangeburg Department
17 of Public Safety open their own forensic DNA
18 laboratory.

19 Q. What kind of education do you have that
20 allows you to do the work that you do?

21 A. I earned a Bachelor of Science in
22 biology from the University of North Carolina,
23 Chapel Hill. I've also taken classes at N.C.
24 State and USC. My post-work includes
25 microbiology, biochemistry, genetics and

1 statistics. I completed an internship with the
2 North Carolina State Bureau of Investigations,
3 which is the equivalent of the South Carolina
4 SLED agency, the agency. I was originally hired
5 on with SLED as a Forensic Technician in the DNA
6 Department, and I worked as a Technician for two
7 years as a forensic analyst.

8 And once I was hired as an Analyst, I
9 completed a one-year training program under
10 another qualified Analyst, and worked the case
11 work under his supervision, before I was allowed
12 to work case work on my own.

13 Q. And have you ever been previously
14 qualified as an expert in your field?

15 A. Yes, I have.

16 Q. And what were you qualified as an
17 expert of?

18 A. Forensic DNA Analyst.

19 Q. And how many times?

20 A. Over 50.

21 Q. Can you explain to the jury a little
22 bit about what DNA is, and how you go about
23 testing it?

24 A. Okay. DNA is a long chain chemical,
25 it's found in every cell of the body, with the

1 exception of red blood cells. And we inherit
2 half of our DNA from our mother, and half of our
3 DNA from our father. And with the exception of
4 identical siblings, no two individuals have the
5 same DNA profile. And this is useful in
6 forensic science, because it allows us to
7 develop DNA profiles from evidence, and develop
8 DNA profiles from known standards, to compare
9 them to see if the individual could have
10 contributed in making that happen.

11 And with the understanding that the sample
12 is taken directly from a particular individual,
13 so that we know the DNA profile developed from
14 that item came from that individual.

15 Q. And what are the ways in which you
16 actually go about doing the testing, or,
17 specifically, at SLED at that time?

18 A. So the first step in the process that's
19 called extraction, and that basically separates
20 the DNA out from the other parts of the cell,
21 whatever material it was on versus a swab, or a
22 piece of fabric.

23 So at the end of the extraction process,
24 I'm left with DNA and liquid in a tube, it's
25 purified. At that point, we need to know how

1 much DNA is in the sample, because if there's
2 too much DNA in the sample, it overwhelms the
3 sensors on the instrument, and we get
4 information that's not true information, it's
5 not part of the profile. If there's not enough
6 DNA in the sample, then we only get partial
7 information for a profile, or possibly no
8 information at all.

9 So we test the samples, determine how much
10 the evidence -- or how much DNA is in that
11 sample, and then, if necessary, we adjust it
12 down. If there's too much DNA, we'll adjust it
13 down, and if there's not enough, we'll do what's
14 called concentrating a sample, in an attempt to
15 be able to put more DNA on the sample.

16 The next step is called amplification. We
17 don't test every single piece of the DNA; we
18 test locations of the DNA. They're unique
19 between individuals, they vary between
20 individuals, and so the amplification process
21 does two things; one, it makes lots and lots of
22 copies of the locations that we're interested
23 in, and it also tags them with a forensic dye.

24 So then we run it through the final
25 instrument, and completed the DNA profile. This

1 is displayed as seven peaks with numbers
2 assigned to them, and it's that unique set of
3 numbers, which is referred to as a DNA profile.
4 And so much like Social Security Numbers, two
5 individuals might have some of the same numbers
6 at some locations, but they're not going to
7 share the same set of numbers over their entire
8 profile, just like your Social Security Number
9 may have some of the same numbers as another
10 individual, but when you look at the whole
11 Social Security Number it's unique to you.

12 And so that allows us to make comparisons
13 and draw conclusions as to whether or not
14 someone might have contributed.

15 Q. And the processes that you used to do
16 this, as you just described, are those accepted
17 in the scientific community?

18 A. Yes, they are.

19 Q. And have they been peer reviewed over
20 time?

21 A. Yes, they have.

22 Q. And was the SLED Lab a certified lab at
23 the time that you were doing these?

24 A. It's a forensic laboratory. What that
25 means is, that there are a set of standards that

1 we have to adhere to, and an outside agency
2 comes in, and looks over the work that's being
3 done, reviews the protocols or foundation, and
4 verifies that we are following within the
5 guidelines, that we're using strict rules and
6 guidelines to complete our analysis.

7 Q. And did you perform the DNA analysis in
8 this case?

9 A. Yes, I did.

10 Q. All right.

11 MR. THORNTON: Your Honor, at this time,
12 I'd ask that Agent Clayton be recognized as an
13 expert in the field of forensic DNA analysis.

14 MR. KROGER: No objection, Your Honor.

15 THE COURT: Ladies and Gentlemen, in this
16 case Ms. Clayton is being qualified as an expert
17 in the area of forensic DNA analysis. That
18 allows her to give her opinion and her reasons
19 for her opinion, and that's, again, for you to
20 use, as you see appropriate, and it's compared
21 to other evidence in this case.

22 MR. THORNTON: Thank you, Your Honor.

23 THE COURT: Thank you.

24 BY MR. THORNTON:

25 Q. I'm first going to hand you what's been

1 entered into evidence already, this is State's
2 Exhibit 33 and 34, and ask if this was part of
3 your analysis for this case?

4 A. Yes, State's Exhibit 33 is SLED item
5 24, which is a toothbrush and case from Bruce
6 Specks. The lab work is, I wrote the lab
7 number, the item number and my initials on the
8 evidence pouch, and then, additionally, when I
9 resealed the evidence pouch, I dated when I
10 resealed the evidence pouch, and placed my
11 initials on that too.

12 State's Exhibit 34 is SLED item number 17,
13 and that is buccal swabs from Cynthia Howard,
14 and it's listed as the mother of Bruce Specks;
15 and, again, I wrote the lab number, item number
16 and my initials on the inner pouch, and then
17 when I resealed the outer pouch, I also put the
18 date that I resealed it, and my initials on
19 that, as well.

20 Q. And is that like, specifically, the
21 toothbrush, is that what you referred to earlier
22 as trying to get a known standard?

23 A. Correct. So this is actually what's
24 referred to -- the toothbrush is actually what's
25 referred to as alternate known standard. A

1 known standard is a sample that's taken directly
2 from an individual. Typically, it's a buccal
3 swab. However, sometimes it's not possible to
4 get a known standard directly from an
5 individual. For instance, if you have a missing
6 person, you may have evidence that may help you
7 figure out what happened to that individual, but
8 you can't get a standard from it because they're
9 missing; or in the case of unidentified remains,
10 you can develop -- you can take a sample
11 directly from that individual, and you have a
12 known standard from that individual, but you
13 need another sample to compare it to, to help
14 you confirm that this is that person.

15 So in those instances we use what's called
16 an alternate known standard, and those are
17 sample that -- the items that belonged to a
18 particular individual, and shared things like
19 hairbrushes, toothbrushes, razors. And so in
20 this case to help identify the individual, a
21 toothbrush and the case for it were submitted
22 from Bruce Specks.

23 Q. I'm also going to hand you what's been
24 entered into evidence as State's 26 from the
25 autopsy, and ask you if you analyzed that as

1 well?

2 A. Yes, I did. This is SLED item number
3 22, and it's listed as unknown backseat blood
4 spot.

5 Q. All right, and what would a blood spot
6 from an autopsy typically be?

7 A. Typically, when we request that an
8 agency send us -- the Coroner's Office sends us
9 a dried blood sample. So what they do is, take
10 a liquid blood sample from an individual, put it
11 on a special piece of what's called a sterile
12 paper, and let it dry. There's several reasons
13 we do this. One, it's easier to store by blood.

14 You don't have to keep it in the
15 refrigerator, you can store it at room
16 temperature; two, it prevents the DNA from
17 breaking down. It's much less likely the DNA
18 will start breaking down, if we store it in a
19 dry form, protected from moisture, things like
20 that; and three, it protects us from especially
21 transmitted disease, or blood-borne diseases,
22 such as HIV, or Hepatitis C. They don't live
23 very long in a dried blood sample, but they can
24 live longer in a liquid blood sample. So the
25 Coroner will take a blood sample, a liquid blood

1 sample, and dry it on this piece of paper, and
2 then submit it to us as a known standard for the
3 deceased individual.

4 Q. And as in this case, if it's an
5 autopsy, would it be a pathologist that would do
6 that during the autopsy?

7 A. It might be a pathologist, or a
8 Coroner, yes.

9 Q. And is that sample listed as being
10 taken during an autopsy?

11 A. It appears so. It has -- it's listed
12 as an autopsy, it has autopsy on it, so I'm
13 assuming so. Additionally, the numbers of the
14 FA15-656 is in the form that's commonly seen
15 assigned to the Coroner's office.

16 Q. And when comparing -- and, forgive me,
17 I need to -- just so the record is clear, when
18 comparing State's Exhibit 26, the DNA standard
19 from the unknown backseat -- the unknown body in
20 the backseat to State's 33 and 34, which were
21 the toothbrush and case, and then the DNA sample
22 from the mother of Bruce Specks, were you able
23 to reach a conclusion?

24 A. Yes, I was.

25 Q. And what was that conclusion?

1 A. May I refer to my notes?

2 Q. Yes, ma'am.

3 A. Okay. So with reference to the
4 toothbrush, which is -- and the toothbrush case,
5 which is SLED item 24.1.12, if the DNA profile
6 developed from those items is from Bruce Specks,
7 Jr., and the DNA profile developed from Item 22,
8 which is alleged to be from Bruce Specks, Jr.,
9 matches the DNA profile of Bruce Specks, Jr.

10 It probably would randomly select the
11 individual from the population by the DNA
12 profile, matching these items, approximately,
13 one in ten quadrillion. So that just means if I
14 were to go out in the population and just grab
15 one individual at random, unrelated to the
16 individual that was found in the backseat of the
17 vehicle, the probability that they would just by
18 random chance have the DNA profile matching this
19 individual, is approximately one in ten
20 quadrillion. And then -- I'm sorry.

21 Q. Yes, ma'am.

22 A. The sample for Cynthia Howard's profile
23 developed from Item 22, alleged to be from Bruce
24 Specks, Jr., is consistent with being from a
25 biological offspring of Cynthia Howard.

1 Q. Meaning his mother?

2 A. Yes, it means she has DNA --
3 information in her DNA profile that's consistent
4 with information in the DNA profile of the
5 individual from the backseat of the vehicle.

6 Q. Thank you very much, ma'am. I'm now
7 going to hand you State's Exhibit 35, 36 and 27.
8 If you will look at those three items, and I
9 would ask you, did you analyze those?

10 A. Yes, I did. State's Exhibit 27 is SLED
11 item number 20, and that is a blood spot from
12 unknown contributor, and, again, that's an
13 autopsy sample. State's Exhibit 35 is SLED item
14 number 23, and that is buccal swabs from Emisa
15 Swinton, who is the father of Shantay Jenkins.
16 And SLED item -- or, sorry, State's Exhibit 36
17 is SLED item number 9, which is buccal swabs
18 from Patricia Jenkins, who is the mother of
19 Shantay Jenkins.

20 Q. And did you analyze those items?

21 A. Yes, I did.

22 Q. And were you able to come to a
23 conclusion, as to those items?

24 A. Yes, I did.

25 Q. And what was your conclusion?

1 A. The DNA profile developed from SLED 20,
2 which is the sample that's alleged to be from
3 Shantay Jenkins, is consistent with being from
4 the biological offspring of Patricia Jenkins,
5 and Emisa Swinton. It's approximately 410
6 billion times more likely results that Patricia
7 Jenkins and Emisa Swinton are the biological
8 parents of the donor of Item 20, that identify
9 the individual from the backseat -- I'm sorry,
10 from the front seat, and the two random
11 individuals are biological parents. So that
12 just means if I were to go out at random and
13 pick two random individuals as the possible
14 mother and father, and test their DNA profiles,
15 99.99 percent of them would be excluded as the
16 parents of the individual from the front seat of
17 that vehicle.

18 Q. But not the parents of Shantay Jenkins,
19 who were the match -- or -- and match may be the
20 wrong word, but the two testified about.

21 A. The -- correct, the individual on the
22 front seat of the vehicle was consistent, and
23 that was consistent with being from an offspring
24 of Patricia Jenkins and Emisa Swinton.

25 Q. Thank you, ma'am. I'm now gonna hand

1 you State's 39 and 40, and ask you, if you
2 analyzed those as well?

3 A. Yes, I did. State's Exhibit 39 is SLED
4 item number 16, and that is buccal swabs from
5 Robin Vanhoffen.

6 Buccal swabs from Robin Vanhoffen. And
7 State's Exhibit item 40 is SLED item number 18,
8 and that is buccal swabs from Michael Toomer.

9 Q. And I'm going to hand you what's
10 been --

11 MR. THORNTON: And, Your Honor, the Court's
12 indulgence just one moment.

13 THE COURT: Okay.

14 MR. THORNTON: Your Honor, I'm -- and I'm
15 going to go through this real quick, but --

16 THE COURT: Okay.

17 MR. THORNTON: State's Exhibit 41 are the
18 swabs taken from the pistol. Frankly, I don't
19 remember if I moved it into evidence or not, but
20 at this time I talked to Mr. Kroger, I would ask
21 that State's 41 be moved into evidence.

22 THE COURT: Did we move that in earlier.

23 COURT REPORTER: I do not have that before.

24 THE COURT: She doesn't have it, so, yes.

25 MR. THORNTON: Thank you very much, Your

1 Honor.

2 (State's Exhibit Number 41 was marked and
3 admitted into evidence.

4 BY MR. THORNTON:

5 Q. Ma'am, I'm gonna ask you, as to State's
6 41, if you also analyzed those items?

7 A. Yes, I did. State's Exhibit 41 is SLED
8 items 10.1, 15.1, and 10.8. SLED item 10.1 is
9 swabs from handgun, and SLED item 10.2 is debris
10 from the handgun, and SLED item 15.1 is swabs
11 from SLED items 11.315.

12 Q. All right, and did you -- were you able
13 to reach any conclusions, as to the comparisons
14 from the swabs from the gun, and the DNA samples
15 that you just testified to from Ms. Vanhoffen
16 and Mr. Toomer?

17 A. Sorry. For the gun, SLED 10.1, is a
18 mixture of at least two individuals. The DNA
19 profile matches the DNA profile of Michael
20 Toomer. The probability of randomly selected
21 and unrelated individuals having their DNA
22 profile matching this item is approximately one
23 is 170 quintillion. Part of the DNA profile is
24 a minor contributor is from an item by the
25 individual. So in this particular instance, a

1 mixture would have come from the item, and what
2 that means is, that more than one individual
3 contributed DNA to the item.

4 And sometimes with the mixture one
5 individual will contribute a significant larger
6 portion of the DNA than another, and that's what
7 happened. And in that instance, we'd refer to
8 that individual as the major contributor,
9 because they contributed the majority of the
10 DNA. So the DNA profile from -- of a major
11 contributor matches the DNA profile of Michael
12 Toomer.

13 And then the article being profiled of the
14 minor contributor was compared to all of the
15 standards that were submitted for comparison,
16 but it didn't match any of those individuals, so
17 that information came from an unidentified
18 contributor.

19 Q. And, ma'am, I'm gonna hand you now
20 what's been marked as State's Exhibit 21, this
21 is already in evidence, and ask you if you also
22 analyzed that, along with all the other -- all
23 the known standards that you have?

24 A. Yes, I did. State's Exhibit 21 is SLED
25 items number 4.1 and 4.2. And that is 21, 4.1

1 is white fabric recovered from the left rear
2 floorboard of the vehicle. And item 4.2 is red
3 fabric recovered from the left rear floorboard
4 of the vehicle.

5 Q. And did you -- were you able to reach
6 any conclusions, as to 4.1 and 4.2, which I
7 believe is State's 27?

8 A. Yes. The DNA profile developed from
9 item 4.1, which was the white piece of fabric,
10 matches the DNA profile of Bruce Specks, Jr.,
11 and that's on the assumption that that
12 individual from the backseat which Bruce Specks,
13 Jr. Additionally, we have the toothbrush that
14 is from Bruce Specks, Jr. So the DNA profile
15 developed from item 4.1 matches the DNA profile
16 of Bruce Specks, Jr.

17 The probability of a randomly selected and
18 unrelated individual having the DNA profile
19 matching this item is approximately one in 10
20 billion. And then for item 4.2, which is the
21 red fabric from the vehicle, the parts of the
22 DNA profile was developed from item 4.2 also
23 matches the DNA profile of Bruce Specks.

24 Q. Thank you, ma'am.

25 MR. THORNTON: At this time, Your Honor, I

1 have no further questions. Ma'am, please answer
2 any questions that Mr. Kroger has.

3 MR. KROGER: I have no questions for this
4 witness.

5 MR. THORNTON: I ask that she be excused.

6 MR. KROGER: She can be excused.

7 THE COURT: You are excused, thank you.
8 Call your next witness.

9 MR. THORNTON: Yes, ma'am. The State calls
10 Diane Echols.

11 * * *

12 DIANE ECHOLS

13 * * *

14 being first duly sworn testified as
15 follow:

16 DIRECT EXAMINATION

17 BY MR. THORNTON:

18 Q. Ms. Echols, would you please state your
19 full name for the record?

20 A. My name is Diane Echols.

21 Q. And, ma'am, back in October of 2015,
22 did you have any connection, at that time, to
23 the Handy Dans convenience store?

24 A. Yes, sir, I was the General Manager.

25 Q. And as part of your duties, ma'am, are

1 you familiar with the video recording system?

2 A. Yes, sir.

3 Q. And did it record things --

4 simultaneously is not the word I'm looking for,
5 but as they happened?

6 A. Yes, sir.

7 Q. And at some point, were you -- did SLED
8 make a request of you to pull -- or to get video
9 of the Handy Dans from October the 2nd of 2015?

10 A. Yes.

11 Q. And did you assist them in getting
12 that?

13 A. Yes, sir.

14 Q. And was that video kept in the ordinary
15 normal course of your business?

16 A. Yes, sir.

17 Q. Ma'am, I'm gonna hand you what's been
18 marked for identification as State's Exhibit 42,
19 and, if you would, and if you need to take that
20 out you can, but do you recognize that item?

21 A. Yes, sir.

22 Q. And how do you recognize it?

23 A. My initials are on it.

24 Q. And at my request, ma'am, did you watch
25 the videos that are on that disk?

1 A. Yes, sir.

2 Q. And is that, basically, two different
3 camera angles from the night of October the 2nd
4 of 2015?

5 A. Yes, sir.

6 Q. And when you viewed that, did it appear
7 to be a true and accurate depiction of that
8 evening?

9 A. Yes, sir.

10 Q. And did it appear to have been altered
11 or changed in any way?

12 A. No, sir.

13 Q. All right.

14 MR. THORNTON: Your Honor, at this time I'd
15 ask that State's 42 be moved into evidence.

16 MR. KROGER: Without objection, Your Honor.

17 THE COURT: Without objection.

18 (State's Exhibit 42 was marked and admitted
19 into evidence.)

20 BY MR. THORNTON:

21 Q. Thank you very much, ma'am, I have no
22 further questions. Please answer any questions
23 Mr. Kroger has.

24 MR. KROGER: No questions by defense, Your
25 Honor.

1 THE COURT: All right. You may be excused,
2 thank you.

3 MR. THORNTON: The State calls Vida Smalls.

4 * * *

5 VIDA SMALLS

6 * * *

7 being first duly sworn testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. THORNTON:

11 Q. Ms. Smalls, would you please state your
12 full name for the record for me?

13 A. Vida Smalls.

14 Q. And, Ms. Smalls, back in October,
15 specifically, October the 2nd of 2015, where did
16 you work?

17 A. Handy Dan.

18 Q. And you'll have to forgive me, I don't
19 know if there's more than one Handy Dans, but in
20 what area is the Handy Dan that you work at?

21 A. Tillman.

22 Q. Okay, and were you working on October
23 the 2nd of 2015?

24 A. Yes.

25 Q. And, again, I know it's been a long

1 time, but at some point, did you talk to Law
2 Enforcement, with agents from SLED, about what
3 you saw that evening?

4 A. Yes.

5 Q. So, if you would, please, go ahead and
6 just kind of go through what you saw that
7 evening, and I think it was around 8 o'clock, or
8 a little bit before 8:00.

9 A. Well, a customer had came in, was
10 shopping, then two guys came in -

11 Q. All right and hang on just a second.
12 You said two guys came in; did you recognize
13 either one of them?

14 A. I did, the one that always comes in the
15 store all the time.

16 Q. Okay, and do you know what his name is,
17 or his nickname is?

18 A. They call him Jack, but --

19 Q. All right.

20 A. - not sure.

21 Q. Could it be Jackpot?

22 A. Jackpot, uh-huh.

23 Q. All right, that's okay, I know it's
24 been a long time. And now I'll tell you what,
25 I'm going to hand you this, just to allow you to

1 refresh your memory for just a second. And when
2 you're done with that, let me know, and then
3 I'll ask you the next question.

4 A. Okay. Okay.

5 Q. Okay. Does that bring it back a little
6 bit?

7 A. Yes, sir.

8 Q. All right. So now that you've
9 refreshed your recollection with your statement,
10 two guys came in, and you said one of them was
11 Jackpot, and did you describe the other person?

12 A. It was a light skinned guy.

13 Q. Okay, so you saw a light-skinned guy,
14 did you know who that was?

15 A. No.

16 Q. All right, and then you saw the
17 Jackpot, and did they come in together?

18 A. Yes.

19 Q. And was there anybody else with them?

20 A. No, not right then.

21 Q. Okay, and did someone else come up with
22 them, at some point?

23 A. Yes.

24 Q. And was it a man, or a woman?

25 A. A woman.

1 Q. And you said that Jackpot -- or you
2 said that one of them asked to use the phone.
3 Do you remember which one?

4 A. Jackpot.

5 Q. And you said, "You know, as long as
6 it's not a long-distance phone call?"

7 A. Yes.

8 Q. All right, so did he appear to just
9 dial the number straight, or did he have to look
10 for the number first?

11 A. The number from his cell phone, and
12 then they dialed.

13 Q. Okay.

14 A. Or he dialed.

15 Q. So he dialed it, but he got the number
16 from the other guy?

17 A. Yeah.

18 Q. All right. And do you remember if --
19 did you hear any of the phone conversation?

20 A. He said, "I got you a smoke," that was
21 it.

22 Q. And do you remember, ma'am, if the
23 woman that you said came in, did she get
24 anything, or buy anything?

25 A. Pumped some gas.

1 Q. She paid for some gas?

2 A. Uh-huh.

3 Q. All right. Do you remember, and I know
4 this was a long time ago, do you remember how
5 much it was?

6 A. Maybe two or \$3.

7 Q. Okay, so like in a small container type
8 thing?

9 A. Yeah.

10 MR. THORNTON: And, Your Honor, I'll go
11 ahead and state for the record, this is the one
12 that there should be audio on it, but for some
13 reason it's not playing properly. I'm going to
14 work on that this afternoon, but we are going to
15 go ahead and play the video at this time.

16 THE COURT: Okay. Just to be able to see
17 the individual, correct?

18 MR. THORNTON: Yes, ma'am. It's gonna be a
19 visual anyway, and as soon as I get to that in
20 the video, I'll do the audio.

21 THE COURT: And then you're going to
22 attempt to get the audio as well later; is that
23 correct?

24 MR. THORNTON: Yes, ma'am.

25 THE COURT: Okay.

1 MR. THORNTON: There's audio in it, but for
2 some -- as Your Honor knows, when you're doing
3 these, sometimes it's with proprietary players,
4 the audio does not come in as well. I'm going
5 to work on that this afternoon, and if you need
6 to play it, if I can get the audio squared away,
7 I will take care of it at that time.

8 THE COURT: Thank you.

9 MR. THORNTON: Yes, ma'am.

10 BY MR. THORNTON:

11 Q. And, ma'am, in just a second, unless I
12 have further difficulties, you should see it on
13 your video right next to you.

14

15 (Video being played in courtroom.)

16 Q. Ms. Small, is that you behind the
17 counter?

18 A. Yes.

19 Q. All right. Is that the gentleman and
20 his son that you referred to as a customer?

21 A. Yes.

22 Q. And who is that individual?

23 A. Jackpot.

24 Q. And is he the one in the gray shirt?

25 A. Yes.

1 Q. All right. Is that where you're
2 talking about getting the number from the light-
3 skinned person's phone that you saw?

4 A. Yes, sir.

5 Q. And is that last person the woman that
6 was with them?

7 A. Yes.

8 Q. And did you know her, or know her name?

9 A. No, but she would come to the store
10 almost every night.

11 Q. Is that that same young lady, ma'am,
12 with the gas?

13 A. Yes.

14 Q. All right. That's all I have for you,
15 thank you. Thank you very much, Ms. Smalls,
16 please answer any questions that Mr. Kroger for
17 you.

18 * * *

19 CROSS-EXAMINATION

20 * * *

21 BY MR. KROGER:

22 Q. Ms. Smalls, first just to clarify, was
23 the young lady -- did she pay for the gas?

24 A. Uh-huh.

25 Q. And you said two or \$3 worth of gas?

1 A. Yes.

2 Q. Did she -- did Jackpot give the money,
3 or she paid the money, she had to get it out of
4 her pocket?

5 A. I know she needed money for it.

6 Q. Okay. And you just saw the video, and
7 she went and pumped the gas?

8 A. Yes.

9 Q. Okay, and she went outside and pumped
10 the gas?

11 A. Yes.

12 Q. You had referred to him as a light-
13 skinned person; is that right?

14 A. Yes.

15 Q. Okay, and the light-skinned person did
16 not go out and pump the gas?

17 A. No.

18 Q. Okay, and I think you stated that the
19 light-skinned person purchased a drink?

20 A. Yes, sir.

21 Q. Do you -- I know it's been a long time,
22 I guess you wouldn't remember what he bought to
23 drink, correct?

24 A. No.

25 Q. Okay, and then you had named -- you

1 identified the lady as a light-skinned girl,
2 correct?

3 A. Yes, sir.

4 Q. But you knew Jackpot?

5 A. Yes, sir.

6 Q. Okay.

7 A. Like they come in and he called his
8 name one time.

9 Q. Okay, and you started the statement --
10 you also stated in your statement that Jackpot
11 seemed like he was drinking?

12 A. Yes.

13 Q. Okay, did you smell alcohol on him?

14 A. Well, he was kind of sluggish and kind
15 of slurry.

16 Q. Okay, and his speech was slurry, when
17 he attempted to ask you to use the phone?

18 A. Yes.

19 Q. Oh, okay, all right. And I think you
20 testified to that he could make the call, if it
21 was not a long distance call at that time?

22 A. Yes.

23 Q. Okay.

24 MR. KROGER: And I beg the Court's
25 indulgence.

1 BY MR. KROGER:

2 Q. So it's your testimony that the brown-
3 skinned person, as you referred to other than
4 Jackpot, that person didn't buy the gas?

5 A. No.

6 Q. That person didn't pump the gas?

7 A. No, he did not.

8 Q. And to the best of your recollection,
9 he bought something to drink?

10 A. I think so.

11 Q. All right.

12 A. Yes.

13 Q. Okay, and the only person to pump the
14 gas is the light-skinned girl, and she paid for
15 the gas?

16 A. Yes.

17 Q. Okay. No further questions.

18 MR. THORNTON: No redirect. I'm gonna ask
19 she be allowed to step down.

20 THE COURT: Any objection, Mr. Kroger?

21 MR. KROGER: Without objection, Your Honor.

22 THE COURT: You may step down, ma'am.

23 Is this a good time for a break?

24 MR. THORNTON: Yes, Your Honor, and
25 probably if we could have about 15 minutes --

1 THE COURT: Yeah.

2 MR. THORNTON: -- so that I can get my next
3 witnesses set up.

4 THE COURT: Okay, I appreciate it.

5 Ladies and Gentlemen, we're gonna go ahead
6 and take a recess. I have to remind you again
7 not to discuss this case with each other, it
8 wouldn't be appropriate to do so. Go back, get
9 yourself whatever you need. There should be
10 some fresh coffee back there and some Coke.

11 Ladies and Gentlemen, I anticipate that we
12 will run until we are finished with the
13 witnesses that are here to be presented today,
14 and I'm not exactly sure how long that's gonna
15 take, roughly, but I will talk to the Solicitor
16 and defense counsel after that, and I'll kind of
17 let you know, give you an idea how late we're
18 gonna run, all right? I appreciate it.

19 You-all are excused back to your jury room,
20 thank you.

21 (Jury exits courtroom.)

22 THE COURT: Anything you need to put on the
23 record, Mr. Thornton?

24 MR. THORNTON: No, ma'am. I will tell the
25 Court; I think I've got two witnesses left.

1 THE COURT: Okay.

2 MR. THORNTON: One of them I would expect
3 to be fairly long, but I don't believe Mr.
4 Kroger has exceedingly long witnesses, so I
5 would say we probably won't run more than
6 another hour, at the most, once we get started.

7 THE COURT: Okay.

8 MR. THORNTON: There will be, I believe,
9 Ms. Boyles next, and then Mr. Hightower from our
10 office, with some cell phone records of the two
11 numbers that were referenced earlier by Verizon.

12 THE COURT: Okay.

13 MR. THORNTON: So I don't expect Mr.
14 Hightower's will be super long.

15 Ms. Boyles' might be, but I wouldn't think
16 it'd be more than an hour, total, for both
17 sides.

18 THE COURT: Okay. So anything you want to
19 put on the record, Mr. Kroger?

20 MR. KROGER: Not at this time, Your Honor.

21 THE COURT: All right, so if you could all
22 be back at about 20 minutes until 3:00, that
23 gives you a little over 15 minutes or so to get
24 everything cued up, or whatever you need.

25 MR. THORNTON: Thank you, Your Honor.

1 THE COURT: Thank you.

2 (Recess)

3 MR. THORNTON: Your Honor, there is one
4 other thing I probably should put on the record.

5 THE COURT: Yes.

6 MR. THORNTON: I spoke with Ms. Lee, who
7 showed up, as she was supposed to.

8 THE COURT: Uh-huh.

9 MR. THORNTON: I told her that it did not
10 look like she was going to be needed today, but
11 to please be back in the morning, and I
12 reiterated to her, of course --

13 THE COURT: Uh-huh.

14 MR. THORNTON: -- instructions on being
15 here. I told her to be here by 9:00 a.m.
16 tomorrow. I do not anticipate she'll be the
17 first witness, but I did want to make sure she
18 was here, and we would know that. So she was
19 here on time, but we will not be able to get to
20 her today anyway, so --

21 THE COURT: Okay.

22 MR. THORNTON: -- I asked her to come back
23 tomorrow morning.

24 THE COURT: Thank you.

25 MR. THORNTON: Yes, ma'am.

1 PROCEEDINGS CONTINUED

2 THE COURT: Okay. Bring the jury in.

3 (Jury enters courtroom.)

4 THE COURT: All right, welcome back, Ladies
5 and Gentlemen. I understand, potentially, from
6 the Solicitor that we're looking at, roughly,
7 another hour or so testimony today, so I think
8 we can anticipate being done, roughly, around
9 4:00ish, if not before, all right, just to let
10 you all know. Thank you.

11 MR. THORNTON: Thank you, Your Honor, the
12 State calls Vanessa Boyles.

13 * * *

14 VANESSA BOYLES

15 * * *

16 being first duly sworn testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. THORNTON:

20 Q. Ms. Boyles, would you state your full
21 name for the record, please, ma'am?

22 A. Vanessa Boyles.

23 Q. And, Ms. Boyles, back in October,
24 October the 2nd, specifically, of 2015, where
25 did you live?

1 A. On Whistle Stop Road in Tillman. No,
2 in Hardeeville, I'm sorry.

3 Q. All right, and did you have relatives
4 who lived on Whistle Stop?

5 A. Yes, sir.

6 Q. And who was that?

7 A. My father, Michael Toomer.

8 Q. Okay. So just to go back again, so
9 where were you living at the time?

10 A. In Hardeeville.

11 Q. All right, and who did you live with,
12 if anybody?

13 A. My child's father, James Riley and his
14 sister.

15 Q. All right, and does James Riley go by
16 -- or does he have a nickname?

17 A. Yes, sir.

18 Q. And what's that nickname?

19 A. Jackpot.

20 Q. Okay. And did you see James Riley or
21 Jackpot on the morning of October the 2nd of
22 2015?

23 A. Yes, sir.

24 Q. All right and describe for me how that
25 happens.

1 A. Well, we was living together, but that
2 morning we were sitting out in the yard talking
3 early that morning.

4 Q. Okay. And did anyone else come by?

5 A. Yes, sir.

6 Q. And who was that?

7 A. It's -- his name is Santana.

8 Q. Santana?

9 A. Yes.

10 Q. And do you know Santana's real name?

11 A. Jonathan, I think.

12 Q. All right, and do you see Santana in
13 the courtroom?

14 A. Yes, sir.

15 Q. And can you point him out for me? All
16 right.

17 MR. THORNTON: Your Honor, let the record
18 reflect she's indicated the Defendant, Jonathan
19 Nieves.

20 THE COURT: Okay.

21 BY MR. THORNTON:

22 Q. And you know him as Santana?

23 A. Yes, sir.

24 Q. All right. So Santana you said came
25 over, what happens then?

1 A. We were sitting outside in the yard, we
2 was talking about a robbery.

3 Q. And now, does Santana live -- do you
4 know where Santana lived at the time?

5 A. I think he lived on 1st Street.

6 Q. All right, and you just said you were
7 on 2nd Street --

8 A. Yes, sir.

9 Q. -- so I'm assuming these streets are,
10 roughly, a block apart --

11 A. Yes.

12 Q. -- or close by?

13 A. Yes, sir.

14 Q. All right. So you said they were
15 talking about a robbery, they who?

16 A. Him and James Riley.

17 Q. All right, him, and I'm sorry, I'm
18 going to have to ask you these questions, by
19 him, who?

20 A. Santana.

21 Q. All right, so the Defendant, Santana,
22 and James Riley, also known as Jackpot -- they
23 were discussing a robbery?

24 A. Yes, sir.

25 Q. What -- I mean did they say anything

1 specific? What kind of robbery? Were they
2 talking about robbing a bank? What were they
3 talking about?

4 A. Just like a regular robbery, they were
5 supposed to be robbing a person.

6 Q. Okay. Do you remember if it was a
7 specific person they were talking about?

8 A. Yes, sir.

9 Q. All right, and who was that?

10 A. A guy named Tyree Jenkins.

11 Q. Okay. Now, at some point did -- that
12 day, did you go over to your dad's house?

13 A. Yes, sir.

14 Q. And who, again, is your dad?

15 A. Michael Toomer.

16 Q. Okay, and, again, he lives you said on
17 Whistle Stop Lane; is that right?

18 A. Yes, sir.

19 Q. Okay.

20 A. Road -- Whistle Stop Road.

21 Q. I'm sorry, Whistle Stop Road.

22 A. Yes, sir.

23 Q. Okay. Is there a convenience store
24 anywhere near his house?

25 A. Yes, sir.

1 Q. All right.

2 A. A Handy Dan.

3 Q. And how far away is it?

4 A. About a three to five-minute walk.

5 Q. Okay.

6 A. It's not far.

7 Q. Okay. So when you went over to your

8 dad's that day, did anybody else go with you?

9 A. Yes, sir.

10 Q. Who went with you?

11 A. James and Santana.

12 Q. And how did you-all get over there?

13 Whose car?

14 A. Santana's car.

15 Q. And did you have any discussion with

16 them about the robbery?

17 A. Any discussion about the robbery?

18 Q. At --

19 A. Beforehand or after?

20 Q. That was a poorly phrased question.

21 Did you tell them whether or not you wanted to

22 be a part of the robbery?

23 A. Yes, sir.

24 Q. And what did you tell them?

25 A. No, sir, I wanted to go to my dad's

1 house.

2 Q. All right, so -- and you said that you-
3 all all went to your dad's house?

4 A. Yes, sir.

5 Q. All right, so what happened then? When
6 you got to your dad's house, what do you do?

7 A. Once we got there, I went in the house
8 to speak to my dad for a minute, and then I told
9 him we was going to the store.

10 Once I left out of the house, we went to
11 the store, and then we walked down the street to
12 the store.

13 Q. And by store are you talking about --

14 A. The Handy Dan.

15 Q. -- the Handy Dan?

16 A. Yes, sir.

17 Q. All right. Now, Ms. Boyles, at some
18 point did you smoke some marijuana with your dad
19 at --

20 A. Yeah.

21 Q. -- some point while you were over
22 there?

23 A. Yes, sir.

24 Q. All right. So you said that you went
25 to the Handy Dan after that, right?

1 A. Yes, sir.

2 Q. And did anybody go with you?

3 A. Yes, sir, Santana and James.

4 Q. All right, Santana and James --

5 A. James, yes, sir.

6 Q. -- also Jackpot?

7 A. Yes, sir.

8 Q. I'm going to hand you, ma'am, what's
9 been marked as State's Exhibit 43, 44 and 45 for
10 identification, and ask if you can identify
11 those, or if you've seen those?

12 A. Yes, sir.

13 Q. And are those still shots pulled from
14 the video at Handy Dan's?

15 A. Yes, sir.

16 Q. And have you been shown those before?

17 A. Yes, sir.

18 Q. And do they look accurate, as far as
19 what occurred that day, and how you were
20 dressed?

21 A. Yes, sir.

22 Q. All right.

23 MR. THORNTON: Your Honor, I'd ask that
24 State's 43, 44, and 45 be put into evidence.

25 THE COURT: Any objection?

1 MR. KROGER: Without objection.

2 THE COURT: Thank you, sir, they're in
3 evidence.

4 (State's Exhibits 43, 44, and 45 were
5 marked and admitted into evidence.)

6 BY MR. THORNTON:

7 Q. Thank you, ma'am. All right, so the
8 jury -- you were not in here, obviously, the
9 video's already been played, so the jury has
10 seen this. So who is this person standing right
11 here?

12 A. Santana.

13 Q. And is that the person you've
14 identified as the Defendant in this case?

15 A. Yes, sir.

16 Q. And who is this right here?

17 A. Me.

18 Q. And you don't see it very well, but,
19 yeah, there's obviously other areas where it's
20 clear, but who is that?

21 A. James.

22 Q. And who is that pumping gas?

23 A. Me.

24 Q. And who is that?

25 A. That's me.

1 Q. All right, when you went to the store,
2 whose idea was it to get the gas?

3 A. James.

4 Q. And did you -- so you went out and
5 pumped the gas; is that correct?

6 A. Yes, sir.

7 Q. All right, and what happened after
8 that?

9 A. After that we went back to the house,
10 and I went in the house with my dad.

11 Q. And at some point, did you notice
12 whether or not they were still out in the yard,
13 or still around?

14 A. Not until after we was getting ready to
15 leave.

16 Q. Okay, and what -- so tell me about
17 that.

18 A. Once I was in the house with my dad,
19 and he heard the gunshot.

20 Q. And when you say we, whose we heard the
21 gunshot?

22 A. Me and my dad.

23 Q. All right. And did you hear just like
24 one gunshot, or several gunshots?

25 A. It was a few.

1 Q. Okay.

2 A. So after the gunshots, maybe like five
3 minutes later -- around five minutes later we
4 walked outside -- well, I walked outside, and
5 they were getting ready to go.

6 Q. All right, they -- so when you said
7 they was getting ready to go, so were they in
8 vehicles?

9 A. Yes, sir.

10 Q. All right, who was in what kind of
11 vehicle?

12 A. Santana was in his car, and Jackpot was
13 in the SUV.

14 Q. All right. Had you been in -- had you
15 seen that SUV up until that point?

16 A. Oh maybe once or twice before.

17 Q. All right, let me rephrase that, had
18 you seen it that night?

19 A. Oh, no, sir.

20 Q. All right, so Jackpot is driving an
21 SUV?

22 A. Uh-huh.

23 Q. And Santana's coming up in his car?

24 A. Uh-huh. No, the car was already parked
25 in --

1 Q. Okay, so what do you do then?

2 A. They told me to come on, basically, so
3 I went out and I left with them.

4 Q. All right, did you get in the SUV --

5 A. No.

6 Q. -- or did you get in --

7 A. In the other car, the white car.

8 Q. All right. Where did you-all go?

9 A. To Purrysburg Road.

10 Q. The -- did you drive?

11 A. No, sir.

12 Q. All right, so -- and, again, just so
13 we're clear, so who's driving this new SUV that
14 -- or the SUV --

15 A. James.

16 Q. -- that's on the scene now?

17 A. James is driving.

18 Q. All right.

19 A. Yeah.

20 Q. And who's driving the car you're in?

21 A. Santana.

22 Q. What happens when you get to Purrysburg
23 Road?

24 A. James rolled down this little dirt
25 path, I guess it's a road, I guess, I don't

1 know, down a little dirt path. We'd seen --
2 once we'd seen the planes and stuff, we rolled
3 and went back to 2nd Street.

4 Q. All right, now, let's back up for a
5 second. So James pulls the car down into you
6 said a dirt path, is that off of Purrysburg
7 Road?

8 A. Yes, sir.

9 Q. All right, and does he go by himself,
10 or does Santana go with him?

11 A. Santana went with him.

12 Q. Okay. At some point do you -- because
13 a minute ago you said we, so were you with
14 somebody else, or were you by yourself in the
15 car, at the time?

16 A. I was at home.

17 Q. All right, and you see flames?

18 A. I did.

19 Q. Did you actually see the car burning,
20 or you'd just seen flames?

21 A. No, sir. Just the flames.

22 Q. All right. At some point did you see
23 either James, also known as Jackpot, or the
24 Defendant in this case, Santana, or one, both,
25 or neither come back out of the woods?

1 A. Yes.

2 Q. Or out -- I'm sorry, path?

3 A. Yes, sir, both.

4 Q. Both of them came out of the path?

5 A. Yes, sir.

6 Q. Were they together?

7 A. Yes, sir.

8 Q. Were they carrying anything?

9 A. Just a bookbag and a gas thing.

10 Q. And you said a bookbag, do you remember
11 anything about the bookbag?

12 A. Just that it had skulls on it.

13 Q. And that --

14 A. I don't remember the color or nothing.

15 Q. All right, it had skulls on it?

16 A. Uh-huh.

17 Q. Had you ever seen a bag like that
18 before?

19 A. Yes, sir.

20 Q. And where had you seen that before?

21 A. With Bruce.

22 Q. And do you know Bruce's last name?

23 A. Specks.

24 Q. Had you known Bruce before -- did you
25 find out, at some point, that Bruce had been

1 killed?

2 A. Yes, sir, I had.

3 Q. All right, had you -- prior to that,
4 obviously, had you known him for a long time?

5 A. Yes, sir.

6 Q. How long?

7 A. Almost my whole life.

8 Q. All right, after they came out, and you
9 said you saw the flames, and the Defendant in
10 this case, Mr. Nieves, and Mr. Riley come out
11 with the backpack and the gas can, what happens
12 next?

13 A. We drove to -- back to Santana's house
14 on 1st Street.

15 Q. All right, what happened then?

16 A. We went in the house. They started --
17 I guess you would say splitting the stuff, what
18 they got, the weed, the marijuana, or whatever.

19 Q. All right, and where was the weed or
20 marijuana at?

21 A. Well, it come out of the bookbag?

22 Q. Yes, ma'am, that's what I meant. So
23 they were dividing up the marijuana out of the
24 bookbag?

25 A. Uh-huh.

1 Q. I don't know if you're gonna remember
2 this, ma'am, it being -- I know it's been
3 several years ago, do you recall what your phone
4 number was at that time off the top of your
5 head? If you don't, that's fine, but --

6 A. I believe the last four was 7334. I
7 believe it was 694, or something like that.

8 Q. All right, you've got a very good
9 memory, so 843-694-7334?

10 A. Yes, sir.

11 Q. All right. At some point after that,
12 ma'am, did you talk to the Defendant in this
13 case, who you referred to as Santana? Did you
14 talk to him about what happened, or tried to get
15 some information?

16 A. It wasn't really -- really wasn't a
17 full conversation, it was just like small
18 details --

19 Q. Okay.

20 A. -- but, yes, sir.

21 Q. All right. Well, what did he tell you,
22 if anything?

23 A. Basically, just that James started
24 shooting first, and he felt like he had to go
25 along with it.

1 Q. All right, did he say -- go along with
2 it, did he say anything more specific than that?

3 A. That he had to shoot them.

4 Q. All right. So he said James shot
5 first, and then he had to shoot too?

6 A. Yes.

7 Q. Ms. Boyles, you have talked to Law
8 Enforcement, SLED, specifically, on a couple
9 different occasions about this case; is that
10 correct?

11 A. Yes, sir.

12 Q. And the first time they talked to you;
13 did you tell them everything that you just told
14 this jury?

15 A. No, sir.

16 Q. What did you tell them, basically?

17 A. Basically, that nothing happened, when
18 I talked to them, basically, the first time,
19 so --

20 Q. So you did not tell them the truth the
21 first time you talked to them?

22 A. No, sir.

23 Q. Why is that?

24 A. I was scared.

25 Q. And you talked to them again?

1 A. Yes, sir.

2 Q. And did you tell them the entire truth
3 that time?

4 A. The second time I believe I told them
5 some of the truth.

6 Q. All right, but not everything you just
7 testified to?

8 A. Maybe not everything --

9 Q. All right.

10 A. -- but, yes, sir.

11 Q. And then the third time did you --

12 A. Yes, sir.

13 Q. -- tell them what you knew?

14 A. Yes, sir.

15 Q. All right. Ma'am, you've got a prior
16 conviction for a burglary case; do you not?

17 A. Yes, sir.

18 Q. And you also pled guilty in this case
19 for lying to the police.

20 A. Yes, sir.

21 Q. All right, now -- and that charge is
22 being handled by the Solicitor's Office,
23 correct?

24 A. Right.

25 Q. Have I promised you, or anybody in my

1 office promised you anything as to sentencing,
2 or any deal, or anything like that?

3 A. No, sir.

4 Q. All right, and you understand you could
5 be sentenced on that charge of a felony?

6 A. Yes, sir.

7 Q. And has anybody promised you probation,
8 or anything like that?

9 A. No, sir.

10 Q. All right.

11 MR. THORNTON: Your Honor, the Court's
12 indulgence, please. I don't have anything else,
13 Your Honor, at this time.

14 BY MR. THORNTON:

15 Q. Ms. Boyles, please answer any questions
16 that Mr. Kroger has.

17 ***

18 CROSS-EXAMINATION

19 BY MR. KROGER:

20 Q. All right, so, Ms. Boyles, you gave a
21 statement on October 13th, 2015, and that was
22 your first statement, correct?

23 A. Yes, sir.

24 Q. Okay, and you said you lied on that
25 day?

1 A. Yes, sir.

2 Q. Okay, and then you gave another
3 statement three months later, January 13th,
4 2016, and you lied on that date?

5 A. Yes, sir.

6 Q. Okay. You said some of it was true,
7 some of it was not true?

8 A. Right.

9 Q. Okay. And then you gave your third
10 statement in 2020?

11 A. I believe so.

12 Q. Okay.

13 A. In 2020.

14 Q. Okay, and wasn't it in March of 2020?

15 A. I don't exactly remember the month.

16 Q. Okay. Were you informed that this case
17 was going to court in March of 2020?

18 A. I don't remember.

19 Q. Okay.

20 A. I think so, but I don't --

21 Q. Okay.

22 A. -- remember.

23 Q. All right, and how -- you were informed
24 that he was supposed to go to court in March of
25 2020, when did you give the statement?

1 A. I'm sorry, say that again?

2 Q. When did you give the statement in
3 2020? He was going to Court, you know, in March
4 of 2020, and were you asked to testify during
5 this trial in March of 2020?

6 A. I don't remember the date that I talked
7 to them, but I don't remember being -- I was
8 told I had to testify.

9 Q. Okay, you --

10 A. But I don't remember --

11 Q. Okay, so you were told you had to
12 testify in 2020?

13 A. Uh-huh.

14 Q. The first part of 2020?

15 A. Uh-huh.

16 Q. Okay.

17 COURT REPORTER: Was that yes?

18 BY WITNESS:

19 A. Yes.

20 Q. Okay. And you went to court sometime
21 in 2020, correct?

22 A. Yes, sir.

23 Q. Okay, and when did you go to court in
24 2020?

25 A. I know it was like around the end of

1 the year. I think I was in jail. September,
2 Octoberish, somewhere around there.

3 Q. Is that when you pled guilty?

4 A. Well, something like that, November --
5 yes, one of -- it was the end of the year I know
6 that.

7 Q. Okay, so you didn't plead in 2020?

8 A. I'm sorry?

9 Q. You didn't plead to a felony in 2020?

10 A. Say it one more time.

11 Q. You --

12 A. I didn't plead?

13 Q. Yes.

14 A. Yeah, I pled in 2020. I believe it was
15 2020.

16 Q. Okay, and --

17 A. Which is -- yeah, I believe it was,
18 yeah.

19 Q. Okay, 2020?

20 A. Uh-huh.

21 Q. Okay, and you said the last part of
22 2020?

23 A. Yeah, when I went in the court, I was
24 in jail. I believe it was in October,
25 Novemberish, maybe.

1 Q. The last part of 2020?

2 A. I believe.

3 Q. Okay. Did you go into actual court, or
4 you pled by video?

5 A. I went to court.

6 Q. Okay, all right. So you pled in
7 October of 2020, and you pled for a jury trial,
8 in which you were charged with, correct?

9 A. Uh-huh.

10 Q. And the charges you pled to were the
11 lower charge that you were charged with,
12 correct?

13 A. Uh-huh.

14 Q. Okay, all right. And when you were
15 charged, were you told that you needed to
16 testify before you pled, or after you pled?

17 A. Sir, I'm sorry.

18 Q. Were you told you needed to testify in
19 this trial before you pled guilty in October
20 2020, or after you pled guilty in 2020?

21 A. I think it was -- I'm not sure, I don't
22 know.

23 Q. Okay, I know, it's been a while, no
24 problem. Okay, now, you said that there was a
25 discussion about a robbery that you and -- that

1 I'm just going refer to Jackpot.

2 A. That's right.

3 Q. That's also James R. Riley.

4 A. Uh-huh.

5 Q. Okay. Now, you testified to a
6 conversation that occurred at y'all's home --

7 A. Uh-huh.

8 Q. -- in Hardeeville, correct?

9 A. Uh-huh.

10 Q. And you stated that you didn't want no
11 part of the robbery?

12 A. Uh-huh.

13 Q. Okay, now, did you purchase the gas at
14 the Handy Dan store?

15 A. I didn't purchase it, but I pumped it.

16 Q. You pumped it?

17 A. Uh-huh.

18 Q. Who gave the money to the cashier?

19 A. One of those, but I'm not sure which
20 one. James or either Santana, I'm not sure
21 which one.

22 Q. Okay. Now, I think you testified to
23 that -- and correct me, if I'm wrong, I think
24 you testified to Jackpot is the one who came up
25 with the idea, correct?

1 A. Uh-huh.

2 Q. Okay, now he came up with the idea of
3 the robbery, or he came up with the idea of
4 getting gas?

5 A. Both.

6 Q. Okay, both.

7 A. Uh-huh.

8 Q. Okay, so Jackpot came up with the idea
9 for you to purchase the gas, and you to pump the
10 gas?

11 A. Uh-huh.

12 Q. All right, okay. Mr. Nieves didn't
13 purchase the gas, right?

14 A. Right.

15 Q. And Mr. Nieves didn't pump the gas,
16 because you pumped the gas, right?

17 A. Yes.

18 Q. Okay, now, the first statement you say
19 that basically, you went out of town, you and
20 Jackpot were supposed to go out of town with
21 friends, Jeremy and Danielle Jones, correct?

22 A. Uh-huh.

23 Q. All right, and you told Law Enforcement
24 that you-all was out the entire weekend, and
25 you-all came back Sunday morning?

1 A. Uh-huh.

2 Q. And, of course, that was a lie?

3 A. No.

4 Q. Huh?

5 A. We did go.

6 Q. When did you-all go?

7 A. On that weekend.

8 Q. Friday.

9 A. The whole weekend, and we came back
10 Monday.

11 Q. Okay, so, basically -- okay, this
12 allegedly happened on October 2nd, 2015.

13 A. Uh-huh.

14 Q. Okay, so when did you and Jackpot both
15 leave?

16 A. On that Friday night. It was --

17 Q. That --

18 A. -- Friday, I think.

19 Q. That Friday night?

20 A. Uh-huh.

21 Q. What time that Friday night?

22 A. Around about 10:00 or 11:00 maybe.

23 Q. So about 10:00 or 11:00?

24 A. Uh-huh.

25 Q. Okay, you're not sure?

1 A. Around 10:00 or 11:00. I know for a
2 fact it was like 10:00 or 11:00.

3 Q. Okay.

4 A. Yes, sir.

5 Q. Okay, all right. Now -- but the
6 portion that was not true?

7 A. Right.

8 Q. Okay, all right. Then three or four
9 months later you gave another statement, and you
10 say this was possibly true, because you lied in
11 the first statement that was true, correct?
12 Correct?

13 A. Uh-huh.

14 Q. Okay. Now, in your second statement it
15 says that -- or it didn't say it, but you
16 relayed the information to Agent Brown, that you
17 usually got the weed for Jackpot from Specks,
18 correct?

19 A. Sometimes, yeah.

20 Q. Okay. About how many times did you
21 have transactions with Specks, on behalf of
22 Riley -- on behalf of Jackpot?

23 A. I can't count really how many times.

24 Q. Okay. It's been a lot of times?

25 A. Right.

1 Q. Okay, all right, but -- so, again, you
2 were -- Jackpot, I guess, the middle person to
3 get the weed for him?

4 A. Not all the time, but sometimes.

5 Q. Most of the time?

6 A. About.

7 Q. Okay, all right. So you knew Mr.
8 Specks better than Jackpot did?

9 A. I would say.

10 Q. Okay, you would say?

11 A. Uh-huh.

12 Q. Okay, all right. And, again, how many
13 years have you been buying weed, on behalf of
14 Jackpot, from Mr. Specks?

15 A. I really just started -- we just
16 started when we moved to Tillman, so it was like
17 a few months, not a year, like up to a year, six
18 months, but not really long.

19 Q. Okay, you said a few months?

20 A. Uh-huh.

21 Q. Okay. In that few months, six, nine,
22 three, ten?

23 A. I really can't tell about how long.
24 I'm not sure.

25 Q. Okay. How often would you buy weed

1 from Mr. Specks on behalf of Mr. Riley?

2 A. Not often. I would have to say it was
3 for him, it was for us.

4 Q. Huh?

5 A. It wasn't just for him; it was really
6 for us --

7 Q. Okay.

8 A. -- so --

9 Q. But Mr. Specks supplied the weed to
10 you?

11 A. Right.

12 Q. All right. And did you pay the money
13 to Mr. Specks for the weed I presume?

14 A. Did I pay?

15 Q. Yes.

16 A. Sometimes.

17 Q. Okay.

18 A. Uh-huh.

19 Q. So you knew Mr. Specks had money,
20 correct?

21 A. Yeah.

22 Q. Okay. Now, the third statement, when
23 do you think the third statement was, because I
24 don't have that date. Did you give the third
25 statement before you pled guilty, or after you

1 pled guilty?

2 A. I'm not sure, I don't remember.

3 Q. Probably --

4 A. I think it was before, but I don't
5 remember.

6 Q. Okay. Was it in 2020?

7 A. 2019, 2020, yeah, I think so.

8 Q. Okay, all right. And you agree that
9 the third statement was given before you pled?

10 A. Uh-huh.

11 Q. And it was given -- you can't remember
12 what -- you pled in 2019?

13 A. I don't know. I think it was -- I
14 think at that time I was in jail in 2020.

15 Q. Okay.

16 A. The end of 2020, if I'm not -- 2019.

17 Q. Okay.

18 A. I'm not sure.

19 Q. You pled out in 2019 or 2020?

20 A. Right, when I was in jail.

21 Q. All right. And you gave this new
22 statement in 2019, 2020, or 2020?

23 A. I'm gonna say 2019, when I was locked
24 up in Hampton County.

25 Q. Okay, so this occurred around the same

1 time?

2 A. Right.

3 Q. Okay, gotcha, all right. And in your
4 third statement here, and I think you mentioned
5 in your testimony that this is after you got
6 back from the store, that you came back to your
7 father's house --

8 A. Uh-huh.

9 Q. -- Mr. Toomer? All right.

10 A. Uh-huh.

11 Q. And you-all were talking. I guess you-
12 all were smoking; is that right?

13 A. Me and my father? Yeah.

14 Q. Yeah, okay. And then you testified to
15 that Jackpot came back with a SUV?

16 A. Uh-huh.

17 Q. Do you recall the color?

18 A. It was like a grayish color.

19 Q. I can't --

20 A. A grayish color.

21 Q. A grayish color?

22 A. I do believe, yes, sir.

23 Q. Oh, okay. And you say that you got
24 into the white car, correct?

25 A. Uh-huh.

1 Q. Did you ask why Mr. Riley, your
2 boyfriend, was in another vehicle?

3 A. I asked what was going on, but I was
4 basically told to mind my business.

5 Q. Okay, you were told to mind your
6 business?

7 A. Uh-huh.

8 Q. Okay, who told you to mind your
9 business?

10 A. When I asked about what was going on --

11 Q. Okay.

12 A. -- James.

13 Q. Okay, so Jackpot did. And I think you
14 have a child with Jackpot, correct?

15 A. Yes, sir.

16 Q. Okay, so recently have you been
17 together?

18 A. I'm sorry?

19 Q. At the time how long have you been
20 together?

21 A. No, we lived together about three years
22 I would say.

23 Q. Okay, living together?

24 A. Right.

25 Q. Okay, all right. So he told you to

1 mind your own business. Had he stated that in
2 the past to you?

3 A. Oh, all the time.

4 Q. Okay, all right.

5 MR. KROGER: Your Honor, I beg the Court's
6 indulgence.

7 THE COURT: Okay.

8 BY MR. KROGER:

9 Q. So you went to the scene on Purrysburg
10 Road, correct?

11 A. Uh-huh.

12 Q. And you stated that Jackpot went down
13 this path first, correct?

14 A. Uh-huh.

15 THE COURT: Is that a yes for the record,
16 or no?

17 BY WITNESS:

18 A. Yes -- yes, ma'am.

19 THE COURT: Thank you.

20 BY MR. KROGER:

21 Q. Yes, Jackpot went down in the SUV
22 first, right?

23 A. No, sir.

24 Q. All right.

25 A. I mean yes, sir, I'm sorry.

1 Q. Okay. And you stated that Mr. Nieves
2 went after this?

3 A. Uh-huh.

4 Q. Okay.

5 A. Yes, sir.

6 Q. All right. And you also testified to
7 that you didn't actually see any burning, but
8 they just saw the smoke and flames, correct?

9 A. You said --

10 Q. You testified to that they saw flames
11 or smoke?

12 A. Yes, sir.

13 Q. Okay, you didn't actually see any type
14 of burning?

15 A. Right.

16 Q. Okay, so you don't know who lit the
17 fire, or who burned the car, or anything --

18 A. Right.

19 Q. -- correct? As a matter of fact, you
20 also stated in your testimony today, you didn't
21 see either one shoot at anyone, correct?

22 A. Right.

23 Q. All right, so what you had testified to
24 that you saw smoke and flames, but you don't
25 know who set the car on fire, correct?

1 A. Right.

2 Q. You don't know who -- well, you bought
3 the gas --

4 A. Right.

5 Q. -- correct?

6 A. Yes, I did.

7 Q. So you provided the gas?

8 A. Uh-huh.

9 Q. Okay, all right, but you don't know who
10 burned the car?

11 A. Right.

12 Q. Okay. And you didn't see anyone shoot
13 anyone?

14 A. No, sir.

15 Q. Do you recall in the first -- or do you
16 recall when you spoke with Law Enforcement as a
17 reason why you lied the first two times, or
18 maybe the first time, why -- do you recall
19 speaking to Law Enforcement, because Jackpot is
20 the father of your child, and you didn't want to
21 go to jail?

22 A. Yes, sir.

23 Q. So you were actually trying to, in your
24 initial statement, protect that father?

25 A. During the first statement, yes, he was

1 good, and I was scared so --

2 Q. Okay.

3 A. Yeah.

4 Q. Okay. Would you say that Jackpot came
5 up with this entire plan?

6 A. Yes.

7 Q. And would you say that Jackpot
8 controlled everything?

9 A. Yes.

10 Q. Okay. And Jackpot's not on trial
11 today, correct?

12 A. No.

13 MR. KROGER: May I beg the Court's
14 indulgence one more time?

15 THE COURT: Yes, sir.

16 BY MR. KROGER:

17 Q. It would be reasonable to expect, by
18 you testifying here today, that you are going to
19 get some type of deal from the State, correct?

20 A. Sir?

21 Q. It is reasonable for you to expect some
22 type of deal from the State because you
23 testified for the State, correct?

24 A. I hope.

25 Q. Yes, you hope.

1 A. Yes.

2 Q. You hope, by testifying today, that you
3 will not have to do any time on the charges?

4 A. Yes.

5 MR. KROGER: I have no further questions.

6 THE COURT: Okay.

7 ***

8 REDIRECT EXAMINATION

9 BY MR. THORNTON:

10 Q. Ma'am, are you still with Jackpot?

11 A. No, sir.

12 Q. How long has it been since you were
13 with Jackpot?

14 A. Maybe like four years now.

15 Q. Okay. When Jackpot came out of that
16 path, was he by himself or was Santana with him?

17 A. Santana was with him.

18 Q. When they were divvying up all the dope
19 out of the bag, was he doing that by himself, or
20 was Santana with him?

21 A. Santana was with him.

22 Q. And what was it that Santana told you
23 about that shooting?

24 A. That Jackpot started shooting first,
25 and he felt like he had too.

1 Q. He had to what too?

2 A. Shoot too.

3 Q. Uh-huh. He didn't say, "No, James did
4 it all?"

5 A. No, sir.

6 Q. Okay. A couple other things, Mr.
7 Kroger asked you about getting marijuana,
8 getting weed, whatever you want to call it
9 from --

10 A. Uh-huh.

11 Q. -- Bruce Specks. And you testified
12 that your phone, being 7334, so --

13 A. Uh-huh.

14 Q. -- would you contact him from that
15 number sometimes?

16 A. Yes, sir.

17 Q. And is that a phone that you used by
18 yourself, or did you --

19 A. No.

20 Q. -- share --

21 A. We shared.

22 Q. I'm sorry?

23 A. We shared.

24 Q. And we who?

25 A. Me and James.

1 Q. All right. So the night of October the
2 2nd, 2015, did you call Bruce Specks?

3 A. No, sir.

4 Q. Who had your phone?

5 A. James.

6 Q. All right. I don't have anything
7 further, thank you, ma'am.

8 ***

9 RECROSS-EXAMINATION

10 BY MR. KROGER:

11 Q. Well, you didn't think anyone would
12 shoot anybody, correct?

13 A. No, sir.

14 Q. Okay, and you didn't see the car
15 burning, right?

16 A. No, sir.

17 Q. And you didn't see no one pull up and
18 start the fire, right?

19 A. No, sir.

20 Q. But you did buy the gas, correct?

21 A. yes.

22 MR. KROGER: Thank you, Your Honor, no
23 further questions.

24 THE COURT: Anything further, Mr. Thornton:

25 MR. THORNTON: Nothing further, Your Honor,

1 I ask that she be excused.

2 THE COURT: Any objection, Mr. Kroger?

3 MR. KROGER: No objection, Your Honor.

4 THE COURT: You may be excused, ma'am,
5 thank you.

6 MR. THORNTON: Thank you. And, Your Honor,
7 I'm going to have to step out for just a minute
8 and see if my witnesses arrived.

9 THE COURT: Thank you.

10 * * *

11 DYLAN HIGHTOWER

12 * * *

13 DIRECT EXAMINATION

14 BY MR. THORNTON:

15 Q. Sir, would you please state your full
16 name for the record?

17 A. Yes, sir, my name is Dylan Hightower,
18 I'm an Investigator for the 14th Circuit
19 Solicitor's Office.

20 Q. All right. Well, you handled my next
21 question, which was where do you work, which I
22 always feel silly asking you since you work with
23 me.

24 How long have you been with the Solicitor's
25 Office?

1 A. So June 24th was my ten-year
2 anniversary.

3 Q. All right, and what do you do for the
4 Solicitor's Office?

5 A. I am a criminal investigator based
6 primarily out of Beaufort County. I also
7 supervise the intelligence unit and assist law
8 enforcement with investigations, primarily
9 dealing with cell phone forensics.

10 Q. All right, and do you -- have you had
11 any specialized training in regard to cell phone
12 analysis, tower locations, historical cell data,
13 that sort of thing?

14 A. Yes, sir, I have.

15 Q. All right. Can you kind of go briefly
16 through your qualifications?

17 A. Yes, sir. In 2011 -- I'll just start
18 with 2010.

19 I graduated from the University of
20 South Carolina with a Bachelor of Arts degree in
21 sociology.

22 Upon graduating college, I attended a
23 certified intelligence analyst class through
24 the SLED. That was a four-week, on-the-job
25 training basically familiarizing myself with all

1 aspects of criminal intelligence analysis, with
2 a small focus on cell phone forensics and tower
3 analysis.

4 Later on that year in December of 2011,
5 PCTC, also in Columbia, South Carolina.
6 That class taught me how to analyze and
7 interpret phone records and create reports and
8 identify tower locations, how sectors work, how
9 towers work, how cell phones work from the
10 records perspective.

11 Shortly thereafter, in 2014, I attended
12 another course ETS fundamental call detail
13 analysis in North Carolina.

14 I received certification in that, as well
15 as in 2017, I attended a course for mobilized
16 forensic analysis tool, which allows me to
17 essentially rip a cell phone of its contents and
18 analyze and interpret that data within it.

19 Later in 2018, I attended the cellular
20 analysis survey team class, which is operated by
21 the Federal Bureau of Investigations. That was
22 in Charleston, South Carolina.

23 Pretty much ever since then its constant
24 webinars, attending online trainings dealing
25 with cell phone forensics. Obviously, it's an

1 ever-changing technology. So I am just
2 basically staying up to par with what is going
3 on with the technology.

4 Q. Mr. Hightower, have you ever been
5 qualified as an expert in historical cell data
6 analysis?

7 A. Yes, sir, I have.

8 Q. How many times?

9 A. Five.

10 MR. THORNTON: Your Honor, at this time I'd
11 ask that Investigator Hightower be qualified as
12 an expert, and I think I get this right, in
13 historical cell data analysis and tower
14 location.

15 MR. KROGER: Without objection, Your Honor.

16 THE COURT: Okay. All right, Ladies and
17 Gentlemen, in this case Mr. Hightower is being
18 qualified as an expert in historical cell data
19 analysis, and tower location. That allows him
20 to give his opinions and the reason for his
21 opinions. And, again, that's for you to use as
22 you see appropriate as compared to other
23 evidence in the case.

24 BY MR. THORNTON:

25 Q. Mr. Hightower, I'm going to hand you

1 what's been marked for identification as State's
2 Exhibit 46, and ask you if you can identify that
3 for me, please, sir?

4 A. Yes, sir, I can.

5 Q. And what is State's 46?

6 A. This is cell tower listing for Verizon,
7 the service provider here in, essentially,
8 Beaufort and Jasper Counties.

9 Q. And I know you were not present in
10 court when this was testified to, but is that
11 the cell tower location data of latitude and
12 longitude that was provided to you by Verizon in
13 this case?

14 A. That is correct.

15 Q. And is that map a visual representation
16 of where certain towers are?

17 A. Yes, sir, it is.

18 Q. And did you prepare that map using the
19 data that's already been admitted into evidence
20 in this case?

21 A. Yes, sir. In most cases, when Law
22 Enforcement agencies are investigating a
23 particular crime, and they will reach out to me,
24 ask to analyze the phone records, create a
25 report, and then, obviously create exhibits such

1 as this that will identify the towers that were
2 in use during that timeframe.

3 Q. And are those tower locations that
4 you've mapped -- is that a true and accurate
5 representation of where the towers are located?

6 A. Yes, sir, it is. It's from the raw
7 data that is provided by Verizon.

8 MR. THORNTON: Your Honor, at this time I
9 ask that State's Exhibit 46 be entered into
10 evidence.

11 MR. KROGER: Without objection, Your Honor.

12 THE COURT: Without objection.

13 (State's Exhibit 46 was marked and admitted
14 into evidence.)

15 BY MR. THORNTON:

16 Q. Mr. Hightower, do you have any notes,
17 or report, or do you need one for your
18 testimony?

19 A. Yes, sir, I do have my report.

20 Q. As part of --

21 Q. As part of your analysis, Mr.

22 Hightower, did you analyze records to the phone
23 number that's been testified to as Bruce Specks,
24 [REDACTED]-4496?

25 A. Yes, I did.

1 Q. All right. And did you also analyze
2 records for what's been testified to as Vanessa
3 Boyles' number, [REDACTED]-7334?

4 A. Yes, sir, that is correct.

5 Q. All right, and are there also a couple
6 calls that you looked at that came from Ms.
7 Vanhoffen at [REDACTED]-8080?

8 A. Yes, sir. I conducted my analysis from
9 8:00 p.m. on October 2nd, 2015, to 3:00 a.m. on
10 October 3rd, 2015 for the numbers we previously
11 spoke of.

12 Q. All right. So how many times -- can
13 you tell me when the number, if the number 7334,
14 which was Vanessa Boyle's called the number
15 4496, Bruce Specks, did that -- do these two
16 phones link up any time?

17 A. Yes, sir, they did.

18 Q. And when was that?

19 A. At 8:25 p.m. Bruce Specks, which is the
20 [REDACTED]-4496, received an incoming call from
21 [REDACTED]-7334, and that phone call duration was
22 97 seconds.

23 Q. So about a-minute-and-a-half duration?

24 A. Yes, sir.

25 Q. And that was, you said, at 8:25 p.m.?

1 A. Correct.

2 Q. All right. What about after that?

3 A. So shortly after that, around 8:27,
4 there was an outgoing call from Bruce Specks'
5 phone number, the [REDACTED]-area code number, to an
6 [REDACTED]-8164, potentially identified as Shantay
7 Jenkins' phone number, and that call lasted for
8 a total of 27 seconds.

9 Q. All right. What about after that?

10 A. So 8:28 p.m. there was an outgoing call
11 for Mr. Specks' phone to an [REDACTED]-9380, that
12 call lasted for a duration of 44 seconds.

13 Q. And what about 8:32 p.m.?

14 A. So from 8:32 to 8:33 and 8:36, he
15 received a total of one incoming call and two
16 outgoing calls. The one at 8:33 utilized tower
17 208, so in order for the phone to process, as
18 you can see, just kind of center of the map.

19 MR. THORNTON: And, Your Honor, I
20 apologize, can Mr. Hightower come down, so he
21 can actually point to which tower locations
22 there are?

23 THE COURT: Yes, sir.

24 BY MR. THORNTON:

25 Q. And, Mr. Hightower, would you please

1 come down for the remainder of your testimony?
2 We're talking about the map. If you would, sir,
3 just point to the tower that you're going over.

4 A. Okay. So 8:33 Bruce Specks received an
5 incoming call from [REDACTED]-7334. The duration
6 of the call was 33 seconds, and the call was
7 processed through Tower 208, which is located
8 here on 73 Old Cherry Hill Road in Ridgeland.
9 Do you need me to continue down?

10 Q. Yes.

11 A. Okay.

12 Q. At 8:36 there's an outgoing call from
13 Bruce Specks' phone to an unknown phone number
14 that I was unable to identify a subscriber for,
15 utilizing Tower 208, which is the same tower
16 here on 73 Old Cherry Hill Road.

17 Four minutes later at 8:40 p.m. Mr. Specks
18 received an incoming call from [REDACTED]-2670, and
19 this call was 72 seconds long, utilizing Tower
20 271, which is located over here, 11996 Deerfield
21 Road.

22 Again, at 2050, 8:50 p.m., Tower 271, there
23 was an incoming call from a [REDACTED]-5497, that
24 call lasted for a duration of 18 seconds, also
25 utilizing Tower 271, which is right here on

1 Deerfield Road.

2 Q. And let me ask you a quick question.
3 This was actually asked earlier, and the Verizon
4 person was unable to answer it.

5 Can you determine just by the duration of a
6 call, whether a call was answered, or not
7 answered, if it goes to voicemail, or anything
8 like that? Is there any specific timeframe
9 where you can tell?

10 A. In some scenarios, depending on if they
11 provide a proper code, like, within the call
12 detail records, it'll tell you if it went to
13 voicemail, or if it was answered. Generally,
14 between like a 15 to 30 second phone call, you
15 cannot necessarily verify that that phone was
16 answered or not, but it all really depends on
17 the provider.

18 Q. So in this case, would you have been
19 able to tell whether an 18-second phone call was
20 answered, or went to voicemail?

21 A. No, sir.

22 Q. All right. Thank you, go ahead, sir.

23 A. All right, moving onto 8:51 p.m., Mr.
24 Specks received an incoming call from [REDACTED]-
25 6140, and lasted for a duration of 26 seconds,

1 utilizing, again, Tower 271. At 2057, or 8:57
2 p.m. Mr. Specks received an incoming call from
3 ██████████-9380, lasted for a duration of 30
4 seconds, and then utilizing Tower 288, which is
5 just right here at 10724 Perrysburg Lane.

6 Q. Mr. Hightower, do you know,
7 approximately, how far that is to the incident
8 location, where the car was found burned?

9 A. Okay, so, approximately, 2.7 miles away
10 from the incident location.

11 Q. Okay.

12 A. Again, at 8:57 p.m., another incoming
13 call with the phone number of ██████████-8080, a 34
14 second phone call, and that was determined to be
15 Robin Vanhoffen's phone number, and that call
16 was processed through Tower 288.

17 Once again, right here at 8:59 another
18 incoming call from Ms. Robin Vanhoffen lasted
19 for a total of 29 seconds, utilizing, again,
20 Tower 288 at Purrysburg.

21 Then again at 9 o'clock p.m. another
22 incoming call from Robin Vanhoffen, lasting for
23 a total of 45 seconds. That call was processed
24 or utilized through Tower 288. And then the
25 last phone call, where I have active on Mr.

1 Specks' phone records is at 9:03 p.m., he
2 received another incoming call from Robin
3 Vanhoffen, for a total of 29 seconds.

4 Q. All right, as to -- sir, if you could,
5 I think you can -- I think it's okay to go ahead
6 and take the stand, at this point. As to the
7 7334 number, what is the last call that you have
8 -- or excuse me, that's poorly phrased. You
9 testified earlier there was an 8:33 p.m. call,
10 where the 7334, which has been associated as the
11 phone of Vanessa Boyles appears with Jackpot,
12 but that number calls Bruce Specks' 4496 at
13 8:33.

14 Are there any other calls to that number,
15 or any other numbers immediately after that?

16 A. Incoming calls to Mr. Specks' phone?

17 Q. No, any calls from 7334?

18 A. Yeah, it shows up at 8:33 p.m. for 33
19 seconds.

20 Q. And does 7334 make any other calls
21 after 8:33 p.m., and, if so, what's the next
22 one?

23 A. Showing Vanessa Boyles' phone?

24 Q. Yes.

25 A. Again, 8:33 p.m., Vanessa Boyles was

1 making an outgoing call to [REDACTED]-4496, which
2 is Mr. Specks. At 10:45 p.m. Vanessa Boyles
3 makes an outgoing call to [REDACTED]-6842.

4 Q. All right and let me stop you. So
5 between 8:33 and 10:45, the phone that's
6 associated with Mr. Boyles and Mr. Riley, there
7 are no phone calls?

8 A. That's correct.

9 Q. And were you able to determine a Tower
10 location for the 10:45 call?

11 A. From Ms. Boyles' records?

12 Q. Yes.

13 A. At 2245 there was an outgoing call from
14 Ms. Boyles' number, that utilized Tower 257.

15 Q. And where is 257?

16 A. If you look at the bottom left side of
17 the map, it's right there in the Town of
18 Hardeeville.

19 Q. Right where my finger is?

20 A. Yes, sir.

21 Q. All right, and do you know how close
22 that is to 1st and 2nd Streets?

23 A. It's approximately 2.5 miles away.

24 MR. THORNTON: The Court's indulgence,
25 please, Your Honor.

1 BY MR. THORNTON: Thank you, sir, that's
2 all I have at this time. Will you please answer
3 any questions Mr. Koger has.

4 ***

5 CROSS-EXAMINATION

6 BY MR. KROGER:

7 Q. Did you have a number that was related
8 to Jonathan Nieves?

9 A. Yes, sir, I do.

10 Q. Okay, all right. And you didn't pull
11 out, in your testimony, any calls that came from
12 Mr. Nieves, the only calls that Mr. Nieves
13 received, correct?

14 A. No.

15 Q. You did not, okay. And did you receive
16 information to analyze any type of phone calls
17 of phone number of James R. Riley?

18 A. No, sir.

19 Q. Okay. And you never received any
20 information from the Solicitor's Office or Law
21 Enforcement?

22 A. No, sir.

23 Q. So that phone as never analyzed, as far
24 as being in the area or anything?

25 A. I never received any records from Mr.

1 Riley.

2 Q. Okay.

3 MR. KROGER: I beg the Court's indulgence,
4 Your Honor.

5 BY MR. KROGER:

6 Q. No further questions, than you.

7 THE COURT: Mr. Thornton, anything further
8 for this witness?

9 MR. THORNTON: No, ma'am. Thank you, Your
10 Honor. I ask that he be excused, and that would
11 be my final witness for today, Your Honor.

12 THE COURT: Thank you, you may step down.
13 Sir, what would be a good time for us to start
14 tomorrow, 9:30?

15 MR. KROGER: Yes, Your Honor.

16 THE COURT: 10:00?

17 MR. KROGER: Either one, Your Honor.

18 MR. THORNTON: Fine with the State, Your
19 Honor.

20 MR. KROGER: Fine with the defense.

21 THE COURT: All right.

22 Foreperson, around 9:30 or 10:00, what do
23 you think?

24 THE FOREPERSON: 9:30.

25 THE COURT: 9:30 is okay? All right,

1 fabulous.

2 Ladies and Gentlemen, I need to caution you
3 again, do not discuss this case with anyone
4 tonight. As I told you last night, the only
5 thing you can say is that you've been charged as
6 a juror in the trial of a criminal case.

7 Again, you can't say what's been going on
8 in here. You can't do any of your own
9 independent research. I also will tell you that
10 we did have someone from the newspaper here
11 today, and they were, I know taking notes, and I
12 know they took some pictures.

13 I don't know if any of you noticed that,
14 but I do need to tell you they're not permitted
15 to show your faces as jurors. In fact, I do
16 caution by telling you this, if there is
17 anything in the newspaper, or on the news, or on
18 the internet either tonight or tomorrow, you are
19 not to read it.

20 I'll advise you again, you are going to
21 have everything you need to decide this case
22 right here in this courtroom. You-all have been
23 here from the beginning, Ladies and Gentlemen,
24 and you will be here until the end.

25 And, again, you are the people to judge the

1 evidence in this case. That is your job, to
2 determine the facts. So, again, it would be
3 highly inappropriate for anyone else to
4 influence you. So I ask you, Ladies and
5 Gentlemen, go home, get a good night's sleep. I
6 do believe we're going to conclude this case
7 tomorrow; I will tell you that. So with that
8 said, have a wonderful evening, and I will see
9 you tomorrow morning at 9:30, all right? Thank
10 you.

11 (Jury exits courtroom).

12 THE COURT: Thank you. Is there anything
13 the State needs to put on the record this
14 evening?

15 MR. THORNTON: No, ma'am.

16 THE COURT: Anything for the defense?

17 MR. KROGER: Not at this time.

18 THE COURT: All right.

19 See everyone tomorrow morning.

20 (At 6:05 p.m. the proceedings were
21 continued until the following day without
22 interruption.)

23 END OF VOLUME II

.....

STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
COUNTY OF JASPER FOR THE 14TH JUDICIAL CIRCUIT
2016-GS-27-00007, -09

State of South Carolina,

vs.

TRANSCRIPT OF JURY TRIAL
VOLUME III

Jonathan Nieves,

(Pages 357 - 542)

October 12, 2021
Ridgeland, South Carolina

B E F O R E:

The Honorable Carmen T. Mullen, Judge Presiding

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PROCEEDINGS

WEDNESDAY, OCTOBER 13, 2021

RIDGELAND, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

THE COURT: All right, is there anything we need to put on the record this morning, before we bring the jury out in this case?

MR. THORNTON: Nothing from the State, Your Honor.

THE COURT: Okay, from the defense, Mr. Koger?

MR. KOGER: Nothing from the defense, Your Honor.

THE COURT: Do you still believe you have four witnesses this morning?

MR. THORNTON: I have five, Your Honor.

THE COURT: Okay.

MR. THORNTON: And I've already told Mr. Koger that I believe they should be short, and I think we should be finished with testimony, no problem, by lunchtime.

THE COURT: Very good, okay.

MR. THORNTON: And, Your Honor, the only

1 other thing I would tell the Court is, I have
2 five total witnesses, four are already here.
3 The only one who is not here yet is the
4 pathologist, who I asked to be here at 10:30.

5 THE COURT: Okay. All right, let's bring
6 the jury in.

7 (Jury enters courtroom.)

8 THE COURT: Good morning, Ladies and
9 Gentlemen.

10 JURORS: Good morning.

11 THE COURT: It's a pleasure to see you all
12 again.

13 At this time, we're gonna go ahead and
14 continue with the State's case.

15 Mr. Thornton, if you'll call your first
16 witness to come up.

17 MR. THORNTON: Thank you, Your Honor. The
18 State calls James Green.

19 JAMES GREEN

20 * * *

21 being first duly sworn, testified as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. THORNTON:

25 Q. Good morning, sir.

1 A. Good morning.

2 Q. Mr. Green, would you please state your
3 full name for the record?

4 A. James Green.

5 Q. And who do you currently work for, sir?

6 A. I'm employed by the South Carolina Law
7 Enforcement Division, commonly referred to as
8 SLED.

9 Q. And what do you do for SLED?

10 A. I'm a Forensic Firearms Examiner in the
11 Firearms and Toolmark Identification of the
12 Forensics Services Laboratory.

13 Q. And what kind of education do you have
14 that allows you to perform that job?

15 A. I have a bachelor's and a master's
16 Degree both from Charleston Southern University,
17 and then when I was hired with SLED back in
18 2005, I started the Firearms and Toolmark course
19 of instruction. It's about a three-to-three-
20 and-a-half-year course of instruction, studying
21 under Core Qualified Forensic Examiners in an
22 apprentice type fashion.

23 Q. And how long have you done Firearms and
24 -- I'm sorry, let me make sure I get it right,
25 Firearms and Toolmark Identification, how long

1 have you done that with SLED?

2 A. Since June 2005, so 16 years -- well
3 over 16 years.

4 Q. Approximately how many cases do you
5 believe you worked in that amount of time?

6 A. Oh, good gravy, in the thousands.

7 Q. Have you ever been qualified in the
8 Courts in either South Carolina or Federal
9 Courts, as an expert in Firearms and Toolmark
10 Identification?

11 A. Yes, sir.

12 Q. How many times?

13 A. 97 times. Twice Federal and 95 times
14 in the State Courts.

15 MR. THORNTON: Your Honor, at this time I'd
16 ask that Agent Green be declared an expert in
17 the area of Firearms and Toolmark
18 Identification.

19 MR. KOGER: Without objection, Your Honor.

20 THE COURT: Ladies and Gentlemen, in this
21 case Agent Green is being qualified as an expert
22 in the area of Firearms and Toolmark
23 Identification. That allows him to give his
24 opinion and the reasons for his opinion, and
25 that's for you to use as you see appropriate,

1 and as compared to other evidence in this case.

2 MR. THORNTON: Thank you, Your Honor.

3 BY MR. THORNTON:

4 Q. Sir, I'm first going to hand you what's
5 already in evidence, as State's Exhibit 37,
6 which has been testified to as the gun found by
7 Mike Toomer on the roadway.

8 Did you perform any analysis on State's
9 Exhibit 37?

10 A. Yes, sir.

11 Q. All right. I'm going to now hand you
12 -- and this is just for identification at this
13 point, what's been marked as State's Exhibit 38.
14 Can you identify that for me?

15 A. Yes, sir. State's Exhibit 38 are test
16 specimens, test ballistic cartridge cases I
17 fired when I was examining the State's item 37
18 per your request.

19 Q. And were those test cartridges fired by
20 you?

21 A. Yes, sir.

22 Q. And were they sealed up in that
23 envelope, either by you, or in your presence?

24 A. Yes, sir, they were sealed up by me in
25 my presence on actually January 12th of 2017,

1 and my initials and the seals are still intact.

2 Q. So when you put these test firings in
3 that envelope, it was sealed by you, correct?

4 A. Yes, sir.

5 Q. And is it still sealed?

6 A. Yes, sir.

7 Q. All right.

8 MR. THORNTON: Your Honor, at this time I'd
9 ask that State's Exhibit 38 be moved into
10 evidence.

11 MR. KOGER: Without objection, Your Honor.

12 THE COURT: Without objection, it's in
13 evidence.

14 (State's Exhibit 38 was marked and admitted
15 into evidence.)

16 BY MR. THORNTON:

17 Q. And, sir, could you explain to the jury
18 what the purpose of doing test firings is?

19 A. Yes, sir. Firearms identification is a
20 discipline, when we try to determine whether a
21 fired bullet and/or a fired cartridge case was
22 fired by a particular firearm.

23 State's Exhibit 37 was submitted in this
24 case, I test-fired it myself, that way I know,
25 beyond a shadow of a doubt, that those bullets

1 and cartridge cases fired out of that gun, were
2 fired out of that gun, because I fired them
3 myself. We do that for every case, where a
4 firearm is submitted, and they become a subitem
5 or a child of the parent item.

6 So State's Exhibit 38 are the test
7 specimens I fired from State's Exhibit 37, to
8 compare against any fired bullets or cartridge
9 cases that were submitted in the case.

10 Q. I'm going to hand you what's been
11 marked as -- and actually entered into evidence
12 already as State's Exhibit 28, which was a
13 projectile pulled from autopsy.

14 Did you perform any analysis with that
15 item, sir?

16 A. Yes, sir. State's Exhibit 28 is a
17 fired bullet that I examined as SLED item 19.
18 And what I did was, once I test-fired State's
19 Exhibit 37, I compared State's Exhibit 28 with
20 the test specimen -- test bullets I fired from
21 the revolver.

22 Q. And what, if any, conclusions were you
23 able to reach?

24 A. State's Exhibit 28 was a very damaged
25 .38 caliber bullet, so it's in the .38 family,

1 and based on its weights and what we call the
2 open seams, the observable physical
3 characteristics, it was most consistent with a
4 .38 special, or a .370 caliber bullet.

5 So a .38 special is the same caliber as the
6 State's Exhibit 37 revolver.

7 So I just calculated and compared State's
8 Exhibit 28 with test specimens that are out of
9 the revolver.

10 Due to the damage sustained by State's
11 Exhibit 28, my results were inconclusive. And
12 that means that it could have been fired by this
13 revolver, or it could have been fired by another
14 firearm with similar observable characteristics.
15 It was just really too damaged to tell.

16 I could include State's Exhibit 20 --
17 excuse me, 37 as a possible source, but I cannot
18 say it was the source of State's Exhibit 28.

19 Q. And without asking you to put an exact
20 number certainly on it, but how many pistols do
21 you think are out there, or .38s out there, that
22 could have been the gun that fired those
23 bullets?

24 A. It's in the millions.

25 Q. Okay. So you can say that it's

1 consistent in weight, and observable
2 characteristics with a .38 or .357, but that is
3 all you can say?

4 A. Yes, sir.

5 MR. THORNTON: The Court's indulgence,
6 please, Your Honor.

7 BY MR. THORNTON:

8 Q. Thank you very much, sir, I don't have
9 any further questions for you. If you would,
10 please answer any Mr. Koger has.

11 CROSS-EXAMINATION

12 BY MR. KOGER:

13 Q. Mr. Green, so what are you saying? You
14 thought the projectile was so heavily damaged
15 that you could not make a determination whether
16 it came from that gun?

17 A. Yes, sir.

18 Q. Okay, thank you, nothing further.

19 THE COURT: Anything further?

20 MR. THORNTON: Nothing further from the
21 State, ask that he be excused.

22 MR. KOGER: Without objection, Your Honor.

23 THE COURT: Thank you for your expertise,
24 sir, thank you.

1 WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MR. THORNTONG: State recalls to the stand
4 Lieutenant Matt Brown.

5 THE COURT: Okay.

6 * * *

7 CHARLES MATTHEW BROWN

8 * * *

9 being previously sworn, testified as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. THORNTON:

13 Q. Lieutenant, you've already, obviously,
14 been called to testify, so we won't go back
15 through the who you are and who you work for
16 routine, as we had to do when you first took the
17 stand, but were you assigned as the case agent,
18 or the case agent on this case?

19 A. Yes, sir, I was.

20 Q. And we've already talked about some of
21 the chain custody things and tasks that you
22 performed in carrying items to SLED, and
23 securing different items; is that something that
24 you do fairly routinely when you are the case
25 agent?

1 A. Yes, sir, it is.

2 Q. All right. And I don't -- I'm sure I
3 probably did ask you this, but how long have you
4 been with SLED?

5 A. Approximately 14 years.

6 Q. Can you tell me about when you got
7 called out to the scene on or about, I guess it
8 would have been October the 3rd of 2015, out on
9 Purrysburg Road?

10 A. Yes, sir, if I remember correctly, it
11 was around midday. That day after the vehicle
12 was discovered by the gentleman that testified
13 earlier on the dirt lane hill on Purrsyburg
14 Road.

15 Q. All right, and what did you do when you
16 got there?

17 A. So, typically, how it works with SLED,
18 just to kind of give you an idea, we're an
19 assisting agency, so a lot of times when
20 Sheriff's Departments, Police Departments
21 respond to incidents, they don't have the
22 manpower or the expertise to work that type of
23 incident. They'll contact us, and, in turn,
24 we'll send our agents out, and sometimes we
25 assist them, and sometimes they ask us to

1 actually take the case, and we work it
2 ourselves.

3 In this instance, that's what happened.
4 The Sheriff's Office called us, they indicated
5 that they had a burned vehicle that they had
6 found and believed that there were two bodies
7 located in the vehicle, so they called and asked
8 us to pretty much, and we'd take over the case,
9 as if we were the Sheriff's Office working that
10 case.

11 So on that day I responded out to the
12 scene, myself, Lieutenant Shaun Harley, another
13 agent, and then along with our varsity unit
14 later on that day came down. After we got to
15 the scene, we kinda saw what we had going on,
16 what we needed, developed a plan, and then
17 started working forward with that plan.

18 As was testified earlier, I walked down the
19 dirt path, I actually saw the vehicle that was
20 down the dirt path that was burned. You know,
21 kind of looked around, and then we developed a
22 plan. I started getting a little bit of
23 information here and there about who the persons
24 may be, because they hadn't been seen.

25 Q. And let me back you up just one second,

1 because this is, I wouldn't say, unusual, but a
2 little bit different than some of the ones that
3 you've worked on.

4 When you say who they were, what are you
5 talking about?

6 A. The two individuals who were burned,
7 bodies in the vehicle. We started receiving
8 information that it possibly could be Bruce
9 Specks and Shantay Jenkins. So from that point,
10 basically, you start trying to figure out what
11 we need to do, as I said, start trying to
12 develop a plan.

13 We started doing interviews. We start
14 trying to identify the persons inside too.

15 Q. I'm sorry, I didn't mean to cut you
16 off, but let me ask you a quick question.

17 So at some point, do you go into the Handy
18 Dan's?

19 A. Yes, sir.

20 Q. And why did you do that?

21 A. So, typically, when you have an
22 incident, and especially in this situation
23 that's in a very rural location, we try to find
24 the video surveillance video from somewhere that
25 may assist us in whatever fashion it is. Most

1 of the time a video surveillance system only
2 retains video for an X amount of days, some may
3 be ten days, some may be 30 days, some may be 60
4 days, so it's imperative that you get there
5 quick, because you never know what that
6 retention period is, and the video may be
7 overridden.

8 So I did go down to the Handy Dan's gas
9 station. We started receiving information about
10 approximately what time and when this incident
11 may have occurred, so I went and requested that
12 video surveillance be pulled between two
13 different times. And then later on I actually
14 watched the video, to see if we could
15 corroborate any information that we were
16 receiving about who may be involved.

17 Q. All right, and once you -- obviously,
18 the jury is now seeing the Handy Dan's video, so
19 what were you able to observe, once you reviewed
20 it?

21 A. So we had received potential
22 information about who may be involved, and on
23 the video, you could actually see the three
24 individuals that you saw on the surveillance
25 video coming in, who were identified as Jonathan

1 Santana Nieves, James Jackpot Riley, and Vanessa
2 Boyles.

3 Q. And do you see Jonathan Santana Nieves
4 in the courtroom?

5 A. Yes, sir, I do, he's sitting at the
6 defense table.

7 Q. All right, thank you very much.

8 MR. THORNTON: Your Honor, I'd ask for the
9 record to reflect he's identified the Defendant.

10 THE COURT: Yes, sir.

11 BY MR. THORNTON:

12 Q. And you gave testimony earlier, and
13 forgive me, if we're going back over stuff,
14 you've already talked about, but what was the
15 purpose of you going out and getting all the
16 buccal swabs, and things from the family?

17 A. So, again, we received the information
18 that the two persons found burned in the vehicle
19 were possibly Bruce Specks and Shantay Jenkins.
20 We needed to get a standard from the parents, if
21 possible. And then, of course, we got the
22 toothbrushes that belonged to Bruce Specks, as
23 another standard to compare. And what we were
24 doing there was being able to compare the DNA
25 that was obtained from the autopsy with the

1 known standards to actually try to identify the
2 two victims through DNA.

3 Q. And let me go back to something you
4 were saying earlier, and I apologize, again, I
5 cut you off, but you said you conducted some
6 interviews in this case; is that right?

7 A. Yes, sir.

8 Q. At some point, right after this
9 happened, did you try to end up and interview
10 with the Defendant, Mr. Nieves?

11 A. Yes, sir, I believe it was somewhere
12 around October the 19th, which would have been,
13 approximately, a little over two weeks after the
14 incident. Again, it's a very moving and fluid
15 investigation, and you're always getting more
16 and more information to try to tie everything
17 together, and we were at a point where we
18 obtained the information and wanted to talk to
19 Mr. Nieves.

20 So we attempted to locate him over in the
21 general area, I believe it was at his mother's
22 house. We couldn't locate him. We'd seen
23 information that he had gone to -- I believe it
24 was in New Jersey. I obtained contact
25 information and contacted Mr. Nieves by phone.

1 Q. And did he indicate where he was?

2 A. Yes, sir. He said that he was in New
3 Jersey. I believe he was working. It was, I
4 think, a family member, I believe an uncle, and
5 he said he would not be returning to South
6 Carolina anytime soon.

7 Q. All right. At some point after that,
8 on or about January the 7th of 2016, so a couple
9 of months later, were you able to locate Mr.
10 Nieves, the Defendant in this case locally?

11 A. Yes, sir, we did down in Hardeeville.

12 Q. All right. And were you able to then
13 interview him at that time?

14 A. Yes, sir, we did.

15 Q. I'm going to hand you, sir, what's been
16 marked for identification as State's 47, and ask
17 you if you can identify that document?

18 A. This document, State's Exhibit Number
19 47, is our SLED Miranda rights form.

20 Q. All right, and could you be more
21 specific? Is it a particular SLED Miranda
22 rights form?

23 A. Yes, sir, this is the SLED Miranda
24 rights form that was actually read, initialed
25 and signed by Mr. Jonathan Nieves.

1 Q. So is this the form that you commonly
2 use any time you conduct an interview,
3 especially if someone you have is someone you
4 consider a suspect?

5 A. That's correct. If they're in custody,
6 and there's any type of interrogation, then they
7 must be read their Miranda rights.

8 Q. And was Mr. Nieves in custody at that
9 point?

10 A. Yes, he was.

11 Q. All right. So can you go through the
12 rights that you read to him that day?

13 A. Okay, so this form was read verbatim to
14 Mr. Nieves, and it reads as follow: "Before we
15 ask you any questions you must understand your
16 rights. You have the right to remain silent.
17 Anything you say can be used in court as
18 evidence against you.

19 You're entitled to talk to a lawyer now and
20 have him present now, or any time during
21 questioning. If you cannot afford an attorney,
22 one will be appointed for you without cost. If
23 you decide to answer questions now, without a
24 lawyer present, you will still have the right to
25 stop answering at any time.

1 You also have the right to stop answering
2 at any time until you talk to a lawyer. Do you
3 understand these rights, and do you wish to talk
4 to us at this time?"

5 And then there's also a waiver of rights
6 which reads, "I have read this statement of my
7 rights, and I understand what my rights are, and
8 I'm willing to talk now without a lawyer
9 present. I understand and know what I'm doing.
10 No promises or threats have been made to me, and
11 no pressure or coercion of any kind has been
12 used against me."

13 At that point it was signed by Mr. Nieves.
14 He placed his initials next to each of the
15 statements that I read, and then the form was
16 witnessed by myself and Lieutenant Shaun Harley.

17 Q. And is that a true and accurate copy of
18 the form that you read, and that he signed that
19 day?

20 A. Yes, sir, it is.

21 Q. Other than that I put an exhibit
22 sticker on it, has it been altered or changed in
23 any way?

24 A. No, sir.

25 MR. THORNTON: Judge, I'd ask that State's

1 Exhibit 47 be moved into evidence.

2 MR. KOGER: Without objection, Your Honor.

3 THE COURT: Without objection, it's in
4 evidence.

5 MR. THORNTON: Thank you, Your Honor.

6 (State's Exhibit 47 was marked and admitted
7 into evidence.)

8 BY MR. THORNTON:

9 Q. I'm now going to hand you, sir, what's
10 been marked as State's Exhibit 48 for
11 identification, and ask you if you can identify
12 that for me?

13 A. This is the SLED voluntary statement,
14 which was completed by Mr. Nieves on January the
15 7th of 2016.

16 Q. And is that a true and accurate copy of
17 the written statement that Mr. Nieves gave you
18 on January the 7th, 2016?

19 A. Yes, sir, it is.

20 MR. THORNTON: Judge, I'd ask that State's
21 Exhibit 48 be moved into evidence.

22 THE COURT: Without objection?

23 MR. KOGER: Without objection, Your Honor.

24 THE COURT: Thank you, it's in evidence.

25 (State's Exhibit Number 48 was marked and

1 admitted into evidence.)

2 BY MR. THORNTON:

3 Q. Now, Lieutenant Brown, does it
4 indicate, and if I need to give this back to
5 you, I can, does it indicate on the form about
6 what time Mr. Nieves was read his rights?

7 A. I believe it was 6:27 --

8 Q. Yes, sir.

9 A. -- when I read Miranda rights.

10 Q. That is correct, sir. So 6:27 is when
11 you give him his Miranda rights. Do you then
12 have a discussion with him about -- or ask him
13 questions about, you know, why you're there, and
14 why he's there?

15 A. Yes, sir, we did.

16 Q. All right, and does the written
17 statement come at the beginning of that
18 discussion, in the middle, or at the end?

19 A. At the end.

20 Q. All right, so you've already had your
21 discussion with him at that point?

22 A. Yes, sir.

23 Q. And is there a time when he -- is there
24 any time referenced on his written statement?

25 A. Yes, sir, the time indicated on the

1 statement, when the statement was actually
2 completed, was 9:37 p.m., so, approximately,
3 three hours.

4 Q. So you-all talked to him in total for
5 about three hours?

6 A. Yes, sir.

7 Q. All right. What did he tell you when
8 you-all were having your discussion? What did
9 you tell him, and what did he tell you?

10 A. So, basically, the interview started
11 out, you know, we just kind of told him why
12 we're here, you know, the situation. We gave
13 him an opportunity to talk, to explain whatever
14 he wanted to explain. So on that day Mr. Nieves
15 indicated that he picked up Jackpot and his
16 girlfriend, and he took them to get some
17 clothing.

18 He said they arrived at Jackpot's, and then
19 they went to go to the store to get beer. After
20 they got the beer they walked back to Jackpot's
21 place to drink the beer, and then after the beer
22 they left, and they dropped him off at home, and
23 Mr. Nieves just went his own direction.

24 Q. All right, so when you were talking
25 with him verbally, did he recall the events of

1 October the 2nd, when you first started talking
2 to him.

3 A. He initially said that he didn't recall
4 the events, because it'd been so long a
5 timeframe between the actual incident date and
6 January, whenever we ended up meeting him.

7 Q. But once you talked to him for a little
8 while, he indicated he now did remember?

9 A. Yes, that is correct.

10 Q. All right, and did you just read off of
11 his written statement? Is that what the written
12 statement says?

13 A. Yes, sir.

14 Q. All right, and would you go over that
15 one more time real quick, please?

16 A. All right, it says, "On October 2nd,
17 2015, I picked Jackpot and his girlfriend up to
18 go and get clothing. We arrived at Jackpot's
19 house, and then we decided to go to the store to
20 get beer. After we got beer, we walked back to
21 Jackpot's place to drink a beer.

22 After the beer, we left, I dropped him off
23 at home, and I went in my own direction."

24 Q. All right, sir, and that was on January
25 the 6th, correct?

1 A. January the 7th.

2 Q. I'm sorry, the 7th of 2016. All right,
3 sir, if I can have this statement back. At any
4 point during that three-hour conversation you
5 had with Mr. Nieves, did he say he had any
6 information, or knew anything about the murders
7 of Bruce Specks and Shantay Jenkins?

8 A. Yeah, he told me that he didn't know
9 anything about what happened, and that he didn't
10 know Bruce Specks and Shantay Jenkins.

11 Q. All right, sir, but he did acknowledge
12 who he was with that night?

13 A. That is correct.

14 Q. And who did he say he was with?

15 A. He said he was with Jackpot, who is
16 James Riley, and his girlfriend, who is Vanessa
17 Boyles.

18 Q. Did you have another conversation with
19 Mr. Nieves?

20 A. Yes, sir, I did.

21 Q. And during that conversation did you
22 give him -- do you remember what date that was?

23 A. I believe it was approximately a week
24 later.

25 Q. Okay.

1 A. I don't remember the date.

2 Q. So during that conversation, did you go
3 through the same Miranda rights procedure?

4 A. Yes, sir, I did.

5 Q. And did you read him the same form, and
6 then have him initial it?

7 A. Yes, sir, I did.

8 Q. And did you give him an opportunity
9 during that time to tell you anything he knew
10 about this incident?

11 A. Yes, sir. Typically, we like to do a
12 follow-up interview about a week or so later,
13 and so that's what was occurring on that day. I
14 was giving Mr. Nieves an opportunity to provide
15 the same information, or any additional
16 information that he wished to provide.

17 Q. Did he give you any additional
18 information?

19 A. No, sir, he pretty much told us that he
20 told the truth about everything the first time
21 that he had talked to us, and that he didn't
22 have anything else that he wanted to say about
23 the incident.

24 Q. All right. Moving on, did you conduct
25 interviews with different people other than Mr.

1 Nieves throughout this procedure?

2 A. Yes, sir, we did.

3 Q. Are many of them people who have
4 testified in this case?

5 A. Yes, sir, they are.

6 Q. And did you also conduct an interview,
7 this was, I believe, referenced by Mr. Koger
8 earlier, did you also interview James Riley?

9 A. Yes, sir, I did.

10 Q. And, obviously, it's not proper to talk
11 about, as to what he said, specifically, but did
12 he admit to any involvement in anything?

13 A. No, sir, he didn't.

14 Q. All right, and, obviously it is not
15 proper to talk about as to what he said,
16 specifically, but did he admit to any
17 involvement in anything?

18 A. No, sir, he didn't.

19 Q. Initially, when you talked to Vanessa
20 Boyles, did she admit involvement in anything?

21 A. No, sir, she didn't.

22 Q. You said you've been doing this for how
23 long now?

24 A. I've been in Law Enforcement for 17
25 years, with SLED 14.

1 Q. How many interviews of potential
2 suspects do you think you've conducted over the
3 years?

4 A. Hundreds.

5 Q. Is it unusual for defendants charged
6 with crimes to not be honest the first time you
7 talk to them?

8 A. That's not unusual at all.

9 Q. And, again, you've already discussed
10 the transport of the different items that you
11 did. Did you also conduct and get the search
12 warrants to obtain the Verizon cell phone
13 records that have been testified to, and things
14 of that nature?

15 A. Yes, sir. Either myself, or,
16 typically, in large investigations like this, we
17 have other agents that responded also, that I
18 would get ready to instruct to obtain the search
19 warrants for it. I just alleviates me and helps
20 me be able to focus on other things that need to
21 occur, so, yes, there were search warrants that
22 were obtained for telephone numbers.

23 Q. And is one of the other witnesses that
24 you talked to, or interviewed, a Ms. Tyquasia
25 Lee?

1 A. Yes, sir.

2 Q. All right.

3 MR. KOGER: Your Honor, I think I need to
4 approach.

5 THE COURT: You may.

6 (Bench conference.)

7 BY MR. THORNTON:

8 Q. Tyquasia Lee is one of the people that
9 you interviewed in connection with this case?

10 A. Yes, sir, it was.

11 Q. All right. And are those, at least in
12 broad strokes, the majority of your duties that
13 you performed, as a part of this case, other
14 than, obviously, being here with me and
15 preparing it?

16 A. Yes, sir.

17 Q. All right. Thank you very much, sir.

18 I have no further questions at this time.

19 Please answer any questions that Mr. Koger has.

20 CROSS-EXAMINATION

21 BY MR. KOGER:

22 Q. Isn't it right that you testified that
23 you had an opportunity to review the video from
24 the Handy Dan store, correct?

25 A. Yes.

1 Q. Okay, and on that video, you had stated
2 that Vanessa Boyles was pumping gas, correct?

3 A. Yes, sir, she did.

4 Q. And you also said that she purchased
5 the gas, right?

6 A. Yes, sir, I believe she did.

7 Q. Okay. From that interview, do you know
8 who gave her the money?

9 A. I don't believe that it was apparent as
10 to who actually gave her the money --

11 Q. Okay.

12 A. -- to pay for the actual gas --

13 Q. Okay.

14 A. -- from my recollection.

15 Q. Okay, would you say -- and I think you
16 already testified that Jackpot was in there too,
17 correct?

18 A. Yes, sir, he was.

19 Q. Okay, and would you say from the video
20 that Mr. Nieves had a drink, or purchased a
21 drink, or from your investigation that's what
22 you was told?

23 A. Yes, sir, I believe he did.

24 Q. Okay. Now, the first time you
25 interviewed Mr. Nieves, what was that date

1 again?

2 A. The first time would have been on
3 January the 7th of 2016.

4 Q. Okay. And at that time he was in New
5 Jersey?

6 A. No, sir, at that time that's when we
7 located him in Hardeeville.

8 Q. Okay, but the first time you contacted
9 him he was in New Jersey?

10 A. Yes, sir, the first time was back in
11 October, I believe the 19th of 2015.

12 Q. Okay. And that was the first time
13 anyone from Law Enforcement contacted him,
14 correct?

15 A. To my knowledge, that's the first time
16 I contacted him.

17 Q. Okay, all right. And from your
18 investigation, he said he was working in
19 construction up there?

20 A. Yes, sir, I believe that he said he was
21 working for an uncle, or something like that --

22 Q. Okay.

23 A. -- and doing some construction.

24 Q. Okay, and from your investigation, he
25 said he was working construction, because his

1 father was sick or something?

2 A. I believe so.

3 Q. Okay, and then isn't it true that he
4 agreed to have an interview in New Jersey on
5 this case?

6 A. Yes, sir, he did.

7 Q. Okay, and isn't it true that you
8 indicated that you maybe would try to set
9 something up, so he could give an interview in
10 New Jersey?

11 A. Yes, sir. Typically -- a lot of times
12 we'll try to do an interview. In this case, he
13 said he didn't know when he was coming back.

14 At the point we felt that we needed to meet
15 him in New Jersey to do an interview with him,
16 we would have done so. Just because of the
17 investigation, we didn't actually go to New
18 Jersey, but we located him in Hardeeville,
19 that's when he came back.

20 Q. But he did agree to an interview in New
21 Jersey?

22 A. Yes, sir, he did.

23 Q. Okay. And you never went to New
24 Jersey?

25 A. No, sir, we did not.

1 Q. Okay, no one from Law Enforcement went
2 to New Jersey?

3 A. No, sir.

4 Q. Did you contact anyone in New Jersey
5 from the Law Enforcement Department, in
6 particular, to say that he was located, to
7 contact anyone about doing some type of
8 investigative work for you?

9 A. No, sir, we did not.

10 Q. Okay. So it would be -- you would say
11 that when you called him, Mr. Nieves was not
12 trying to evade you?

13 A. No, sir.

14 Q. Okay, all right. Now, you said on
15 January 7th, that's when he was physically here
16 in South Carolina, correct?

17 A. Yes, sir, that's correct.

18 Q. All right. And the actual interview
19 started, you testified to, at 6:27, and went up
20 until 9:30; is that correct?

21 A. Yes, sir, 6:27 is when he signed his
22 Miranda rights form, and 9:37 is when the
23 written statement was completed.

24 Q. Okay. Are there any conversations that
25 took place between you and Mr. Nieves before

1 6:27?

2 A. No, sir. We located him at the hotel.
3 He was transported from the hotel to Jasper
4 County Sheriff's Office, Criminal Investigations
5 Division. There was no questions asked about
6 the incident, or alleged incident prior to that
7 before he was read his Miranda rights.

8 Q. Okay. But, of course, within the three
9 hours you-all talked about the incident?

10 A. Yes, sir.

11 Q. Okay, all right. And from that
12 discussion this voluntary statement was given by
13 him, correct?

14 A. That is correct.

15 Q. Okay. Now, what determines whether a
16 statement is on video tape or not?

17 A. I'm sure at the time, back in 2015, it
18 was at the agency's discretion as to whether or
19 not the interview was videotaped. Typically, we
20 work out at local Sheriff and Police
21 Departments, so we're not like a Sheriff's
22 Department, where we have a location. A lot of
23 times when we take somebody back to, that is a
24 SLED interview room or office.

25 So for this case I used Jasper County

1 Sheriff's Office, Criminal Investigations
2 Division, which was equipped with an interview
3 room with a camera. It was my assumption that
4 this interview was recorded.

5 I attempted to get the recording for the
6 interview after it was done, and I was told that
7 the retention period had been exceeded, because
8 they had switched over to a new software. I was
9 not aware of that at the time. So I was under
10 the impression that this interview, along with
11 the second interview were both recorded.

12 Q. So you brought up a videotape of a
13 three-hour interview?

14 A. That's correct.

15 Q. Okay, all right. For the second
16 interview -- I'm sorry, yeah, the second
17 interview on January 25th how long was that
18 interview?

19 A. How long was it?

20 Q. Yes.

21 A. At the end, at 10:28, it was not very
22 long.

23 Q. Okay, and do you have a video of that
24 interview?

25 A. Yes, sir that one was videoed.

1 Q. Okay, so you have the video of the
2 short interview, but you don't have a video of
3 the long interview?

4 A. Again, it was because of the retention
5 period that I was not aware of, it was not our
6 software and our system.

7 So, again, the second interview I made sure
8 that interview was obtained thereafter of the
9 interview, so that it could be used later in the
10 case.

11 Q. You testified too that it is customary,
12 or it could be protocol that once you interview
13 someone the first time, that you have a follow-
14 up interview, correct?

15 A. That's correct, sir.

16 Q. All right. And you utilized that
17 protocol, when you -- in relation to Mr. Nieves,
18 correct?

19 A. Yes, sir.

20 Q. Again, first you contacted him in
21 October 2015 to see whether he'd be cooperative,
22 then you physically spoke with him on January
23 the 7th in a three-hour interview, correct?

24 A. Yes, sir.

25 Q. And then I think you might have said on

1 the January 25th interview, it was 28 or 30
2 minutes, or something?

3 A. Yeah, it wasn't long.

4 Q. Okay, all right. And that was
5 videotaped, but the three-hour interview was not
6 videotaped, correct?

7 A. Well, again, it was my assumption there
8 was a videotape --

9 Q. Okay.

10 A. -- but just didn't have it because of
11 the retention --

12 Q. Okay.

13 A. -- period.

14 Q. But you don't have a videotape?

15 A. No, sir, there's no --

16 Q. Okay.

17 A. -- videotape.

18 Q. Now, back early on in the
19 investigation, I think -- what date did you see
20 -- and I don't want you -- let me see, I might
21 have put it down, but, basically, you watched
22 the video, and at the end of the day, in that
23 particular video, of course, you identified, or
24 it was brought to your attention that it
25 contained Jonathan Nieves, Vanessa Boyles and

1 James Jackpot Riley, correct?

2 A. Yes.

3 Q. Okay. And then you spoke with James
4 Jackpot Riley --

5 MR. KOGER: I beg the Court's indulgence.

6 BY MR. KOGER:

7 Q. -- on -- what did you say, October 13,
8 2015?

9 A. That's correct.

10 Q. Okay. And when you spoke -- what did --
11 - from your investigation what did James Jackpot
12 Riley -- or from your investigation, what did
13 you learn about James Jackpot Riley's
14 whereabouts on that date, during the time of the
15 alleged time of the commission of the crime?

16 A. Okay, so Mr. Riley indicated that Mr.
17 Nieves took him and Ms. Boyles to Whistle Stop
18 Road, so they could get some clothes for their
19 child.

20 He said while they were there they chilled,
21 smoked, and they walked to the store to get some
22 beer, and then they went back to Mike Toomer's
23 house and drank the beer. And then Mr. Nieves
24 dropped him off at Jackpot's sister's house,
25 where they lived, and after that Mr. Riley

1 Jackpot and Ms. Boyles left and went to
2 Beaufort.

3 Q. Okay. Now, when did you speak for the
4 first time, because Ms. Boyles was spoken to on
5 three different occasions in this investigation,
6 right?

7 A. Yes, sir.

8 Q. Okay. When did you speak with Ms.
9 Boyles the first time, Vanessa Boyles, the other
10 person in the video?

11 A. I believe the first date was on October
12 13th of 2015.

13 Q. Okay. So you spoke with her right
14 after. What time did you speak with Jackpot,
15 and what time did you speak with Vanessa Boyles?

16 A. I don't have the actual statements
17 here, sir, in front of me, so I don't know exact
18 times. They were spoken to on October the 13th,
19 2015.

20 Q. Okay.

21 MR. KOGER: Your Honor, the Court's
22 indulgence?

23 THE COURT: Yes, sir.

24 BY MR. KOGER:

25 Q. If this said that you spoke with James

1 Jackpot Riley at 4:54, would you agree?

2 A. Yes, sir, if that's what's documented,
3 yes, sir --

4 Q. Okay.

5 A. -- I'd agree with that.

6 Q. And would you agree that it's
7 documented that you spoke with Vanessa Boyles at
8 3:47?

9 A. Yes, sir.

10 Q. Okay, so you spoke with Ms. Boyles,
11 approximately, maybe an hour before you spoke
12 with James Jackpot Riley, correct?

13 A. That's correct, yes, sir.

14 Q. All right. And you will agree that Ms.
15 Boyles did not tell you the truth the first
16 time?

17 A. That's correct.

18 Q. Or she didn't give a truthful
19 statement?

20 A. She wasn't truthful, yes, sir.

21 Q. Okay, all right.

22 Now, you also spoke with another person,
23 Tyquasia Lee, correct?

24 A. Yes, sir, I did.

25 Q. And she gave some information about the

1 case, correct?

2 A. Yes, sir.

3 Q. Okay, all right. And it was
4 information that you used to further the
5 investigation, correct?

6 A. Yes, sir.

7 Q. Oh, okay, and you spoke with Ms. Lee
8 the first time on October -- was it October
9 19th?

10 A. Yes, sir, I believe that's the first
11 time was October 19th, when we spoke to Tyquasia
12 Lee.

13 Q. Okay. And at that particular time --
14 well, how long was that conversation?

15 A. It was more than an hour.

16 Q. Was it three hours?

17 A. It was quite a long time. I don't have
18 the actual times in front of me. As I said, I
19 don't know how long the interview was, but it
20 was more than hour.

21 Q. Was it as long as Nieves' interview?

22 A. It possibly could have been.

23 Q. Okay, so more than an hour? Between
24 one and five hours?

25 A. Yes, sir.

1 Q. Okay, all right. And did she write a
2 statement at that particular time?

3 A. She did not write a statement at that
4 time. Typically, they don't write a statement.
5 I have to prepare what's called a memorandum of
6 interview, which is based off the information of
7 the person derived, or if the person can't
8 write, doesn't want to write a statement, so
9 that's the alternative way of documenting the
10 interview.

11 Q. Okay. And you had an opportunity to
12 somehow able to videotape her interview,
13 correct?

14 A. That's correct, sir.

15 Q. All right. And this was -- the
16 videotape was supposed to be a rehashing of what
17 she told you on October 19th, correct?

18 A. Yes, sir.

19 Q. Okay. And how long was the video in
20 November?

21 A. It's less than an hour, I believe about
22 40 minutes or so.

23 Q. Okay. And from -- again, from that
24 interview, you picked up more information,
25 correct?

1 A. It was --

2 Q. Additional information?

3 A. Yes, sir.

4 Q. Okay, all right. And you picked up
5 additional information on James Jackpot Riley in
6 that interview, correct?

7 A. Yes, sir.

8 Q. Okay. And you said that it was
9 protocol to do follow-up interviews, correct?

10 A. Yes, sir.

11 Q. Okay. And from the information that
12 you picked up and the additional information
13 from our interview or dealing with Tyquasia Lee,
14 it showed that James Jackpot Riley didn't tell
15 the truth in his statement, correct?

16 A. According to her statement, yes, sir.

17 Q. Okay, all right.

18 Did you have a follow-up interview with
19 James Jackpot Riley?

20 A. No, sir, we didn't.

21 Q. Okay. So if you got additional
22 information that his involvement may have been
23 deeper than what he indicated, why didn't you
24 have a follow-up interview with James Jackpot
25 Riley?

1 A. Because, typically, during an
2 investigation, you start receiving information,
3 and you build a compound on the information that
4 you received. Investigations are ongoing,
5 they're fluid. You can't put a timeframe on
6 them. They don't last -- maybe less than a
7 month, they could last years.

8 So, again, it's at my discretion as to when
9 I conduct the interviews, where, and ultimately
10 with whom.

11 Q. Okay. So you talked to him the first
12 time on October 13, 2015, correct?

13 A. Yes, sir.

14 Q. And you received additional information
15 on October 19th, 2015, about five or six days
16 later --

17 A. Yes.

18 Q. -- that his involvement in this whole
19 incident was much deeper than he indicated?

20 A. Yes, sir.

21 Q. And now -- and today is October 13th,
22 2021, and you said an investigation is ongoing,
23 and there's no timeframe; but within that time
24 you had not had a follow-up interview with James
25 Jackpot Riley, correct?

1 A. No, sir.

2 Q. Okay. Now, there was certain items --
3 well, let me ask you this here.

4 In the interview with Ms. Lee, was there
5 any type of clothing description given, as far
6 as in relation to Mr. Riley and Mr. Nieves?

7 A. With Ms. Lee I do -- I believe, if I
8 recall, that she did make some description about
9 their clothing that they were wearing that
10 night.

11 Q. Okay, all right. And with any of your
12 other witnesses, was there any type of clothing
13 description was made in reference to Mr. Nieves
14 and Mr. Riley?

15 A. Offhand, I don't recall.

16 Q. Okay, all right. And, of course, you
17 watched the interview -- the Handy Dan video,
18 and so you would actually see what type of
19 clothing, at that particular time, that those on
20 the video had on, correct?

21 A. Yes, sir, that's correct.

22 Q. Okay, all right. And you mentioned
23 that you made -- that once you determined phone
24 calls made, that you actually went to get a
25 search warrant for the phone records, correct?

1 A. That's correct.

2 Q. Okay. So you had information -- well,
3 let me ask you this here. You also received
4 information about a brown bag, correct, from Ms.
5 Lee?

6 A. Yes, sir.

7 Q. And you received information about a
8 bookbag?

9 A. Yes, sir.

10 Q. Okay, all right. And you received
11 information about some guns, correct?

12 A. Yes, sir.

13 Q. All right. And, you know, and you
14 received information on a description of those
15 guns, correct?

16 A. Yes, sir.

17 Q. And you received information on the
18 condition of those guns, correct?

19 A. Yes, sir.

20 Q. All right. And I think, at this
21 particular time, you already knew the address of
22 James Riley, correct?

23 A. Yes, sir.

24 Q. And you already knew the address of
25 Vanessa Boyles, correct?

1 A. Yes, sir.

2 Q. Because they stayed together, correct?

3 A. Yes, sir.

4 Q. And you also had the address of
5 Jonathan Nieves, right?

6 A. That's correct.

7 Q. And they both lived in Hardeeville,
8 correct?

9 A. Yes, sir.

10 Q. In close proximity to each other?

11 A. That's correct.

12 Q. Okay. Well, let me ask you this
13 question, did it ever occur to you to get a
14 search warrant of the residence of James Riley,
15 Vanessa Boyles, and Jonathan Nieves, all three
16 who was on the Handy Dan video?

17 A. So the timeframe between when the
18 actual incident occurred, and when I received
19 that information was about two weeks, so that
20 was the reason that a search warrant was not
21 obtained for that residence, was due to the
22 timeframe between the incident, and when we
23 received that information, which I didn't
24 consider fresh, at the time.

25 Q. You received information, you saw the

1 clothing on the video --

2 A. Yes, sir.

3 Q. -- what they had on? You received
4 information in relation to clothing description,
5 correct?

6 A. Yes, sir.

7 Q. You received information about the
8 existence of a bookbag, correct?

9 A. Yes, sir.

10 Q. You received information -- well, you
11 actually had the information about the bookbag I
12 think, before because Robin Vanhoffen -- I can't
13 pronounce her last name, but Ms. Vanhoffen --

14 A. Vanhoffen.

15 Q. -- testified to knowing the skull bones
16 bookbag, correct?

17 A. Yes, sir.

18 Q. And you received information, as far as
19 various guns and things, correct?

20 A. Yes, sir.

21 Q. And you still didn't deem that
22 important?

23 A. Again, the freshness of when I received
24 that information versus the actual date that the
25 incident occurred, was at least -- approximately

1 two weeks. All the evidence that, you know,
2 you're speaking of could be easily destroyed or
3 gotten rid of between that time.

4 Q. But you don't know, because you didn't
5 get a search warrant, correct?

6 A. Because it wasn't fresh information.

7 Q. Okay, but you don't know because you
8 didn't get a search warrant, correct?

9 A. Again, we didn't do one, because it
10 wasn't --

11 Q. Okay.

12 A. -- fresh.

13 Q. How many times --

14 A. Almost two years later.

15 Q. I'm sorry. Okay. How many times have
16 you gotten a search warrant to look for things,
17 and when you searched you didn't find them?

18 How many times?

19 A. Plenty of times.

20 Q. Plenty of times, okay. So what would
21 have been the harm to have got a search warrant?
22 Even if you didn't find anything, what would you
23 have risked by getting a search warrant for
24 these items?

25 A. Technically, in obtaining a search

1 warrant and issuing probable cause or obtaining
2 probable cause for that search warrant, and
3 getting a Judge to sign that, again, the
4 freshness of the information was almost two
5 weeks later.

6 And in order to obtain the search warrant,
7 I have to have probable cause that the items
8 were there through other evidence or testimony,
9 and that information has to be fairly fresh. So
10 that's the reason why that search warrant was
11 not obtained for that residence.

12 Q. Agent Brown, isn't murder the most
13 serious offense in our criminal court?

14 A. Yes, sir. That is my opinion.

15 Q. Okay.

16 Q. And this is a murder that's alleged to
17 have had guns involved, correct?

18 A. That is correct.

19 Q. Okay. So you decided, based on your
20 thought process today, it was not worth you
21 going to a Magistrate, and getting a search
22 warrant to look for guns that was mentioned in
23 the statement?

24 A. Well, it's not a persona decision or
25 opinion, as to whether or not that occurs.

1 That's based upon, again, the first piece of
2 information that was received, along with -- I
3 could go to a Magistrate and submit the
4 information for a search warrant, and they end
5 up deeming that there's not probable cause for
6 that search warrant even to be issued.

7 So just because I thought, or it was my
8 opinion, does not even mean that that search
9 warrant would even be signed by the Magistrate.

10 Q. At that time, did you have the
11 information from the medical examiner that Mr.
12 Specks and Ms. Jenkins had been shot?

13 A. I believe by that time I don't remember
14 when the autopsy results were published. I
15 would have to look at the autopsy report.

16 Q. The date and time of the autopsy
17 October 5th of 2015, and this is an autopsy
18 report?

19 A. Yes, sir.

20 Q. Okay.

21 A. I was given that information probably
22 shortly thereafter.

23 Q. Okay, and --

24 A. I don't know the exact date.

25 Q. All right. And you would agree that

1 that was before the time you talked with Ms. Lee
2 on October 19th of 2015?

3 A. That's correct.

4 Q. So you had information that they were
5 shot, right?

6 A. Yes, sir.

7 Q. And to be shot, you have to have a gun,
8 correct?

9 A. That is correct.

10 Q. All right, so, again, once you receive
11 the information from Ms. Lee on October 19th
12 that we have two persons that are deceased, that
13 was shot with a gun, you got information that
14 Mr. Riley had a gun, but you didn't feel the
15 need to get a search warrant to at least have a
16 hit and miss to search for the gun?

17 A. That was -- so the incident occurred on
18 the 2nd. The information that you're speaking
19 of that I received from Ms. Lee -- I believe you
20 said was the 19th?

21 So that's 17 days after the actual incident
22 occurred. And I didn't receive the information
23 from the autopsy, again, probably the 5th or the
24 6th, but, again, that's between the 5th and the
25 19th, that's 15 days in between there. If you

1 were developing information on the potential
2 individuals that were involved, if I didn't have
3 probable cause at the time on the 5th to get the
4 search warrant, and I didn't have the
5 information from Ms. Lee until the 19th, again,
6 that's almost two weeks later.

7 Q. You had probable cause on the 19th.

8 A. Yes, sir, but, again, that's almost two
9 weeks later.

10 Q. We don't need to disagree on this.

11 MR. THORNTON: Objection, Your Honor, I
12 think it's been asked and answered --

13 THE COURT: Yes.

14 MR. THORNTON: -- multiple times.

15 THE COURT: Sustained.

16 MR. KOGER: I beg the Court's indulgence, a
17 couple things.

18 BY MR. KOGER:

19 Q. Agent Brown, you would agree that from
20 your investigation of this particular matter,
21 that James Jackpot Riley is a major player,
22 correct?

23 A. Correct, according to the testimony, he
24 was involved in it.

25 Q. Sure. According to the testimony and

1 evidence, he was the primary player.

2 A. It's according to whose statement --

3 Q. Okay, according to what is in the
4 courtroom, correct?

5 A. Yes, sir.

6 Q. And maybe even your investigation,
7 correct?

8 A. Yes, sir.

9 Q. Okay.

10 A. But he did play a role in this.

11 Q. All right, okay. And he was not
12 charged, correct?

13 A. He has not been charged yet.

14 Q. He has not been charged yet after six
15 years?

16 A. Yes, sir. For a murder, there isn't a
17 statute of limitations, so then if you commit a
18 murder today, and 20 years later you can still
19 be arrested for that crime.

20 In other crimes that are statutes of
21 limitations, whereas you can only be arrested
22 for that crime up to a certain number of years.
23 There is no statute of limitations with murder.

24 Q. As of today, he's not been charged?

25 A. As of today, he has not been charged.

1 Q. Okay.

2 MR. KOGER: May I beg the Court's
3 indulgence.

4 MR. THORNTON: A brief redirect, Your
5 Honor?

6 THE COURT: Yes.

7 REDIRECT EXAMINATION

8 BY MR. THORNTON:

9 Q. Lieutenant Brown, Mr. Koger asked you
10 about -- and, again, we have to be careful not
11 to talk about anything specific that was said,
12 but as part of your investigation during this
13 interview with Ms. Lee, that Mr. Koger asked you
14 about, specifically, as it relates to the
15 backpack or the bag and one of the guns, wasn't
16 the information provided that Mr. Nieves had
17 actually thrown the gun in the river?

18 A. That is correct. From my knowledge and
19 the information that was provided, that the
20 information -- or that the evidence would most
21 likely not be located at either residence.

22 MR. THORNTON: I don't have any further,
23 Judge.

24 THE COURT: Anything further, Mr. Koger?

25 MR. KOGER: No further questions, Your

1 Honor.

2 THE COURT: You may step down, sir.

3 MR. THORNTON: The State calls Rebecca
4 Ellwood. Your Honor, while that witness is
5 coming in, may we approach?

6 THE COURT: You may.

7 (Bench conference.)

8 * * *

9 REBECCA ELLWOOD

10 * * *

11 MR. THORNTON: Your Honor, the Court's
12 indulgence --

13 THE COURT: Yes, sir.

14 MR. THORNTON: -- please, one moment.

15 DIRECT EXAMINATION

16 BY MR. THORNTON:

17 Q. Ma'am, if you would, please state your
18 name for the record.

19 A. Rebecca Ellwood.

20 Q. All right, and Ms. Ellwood, back in
21 October, specifically around October the 2nd,
22 2015, where did you live, ma'am?

23 A. I lived on 1st Street --

24 Q. Okay.

25 A. -- in Hardeeville.

1 Q. And did you live with anyone in
2 particular?

3 A. Yes, my boyfriend, Jonathan Nieves.

4 Q. All right, and does Jonathan Nieves
5 have a nickname?

6 A. He goes by Santana.

7 Q. All right and do you see Santana in the
8 courtroom?

9 A. Yes, sir.

10 Q. And can you point him out?

11 A. (Indicating.)

12 Q. All right, are you indicating over
13 there seated next to --

14 A. Yes.

15 Q. -- Mr. Koger at the defense table?

16 A. Yes, sir.

17 MR. THORNTON: Your Honor, I'd ask the
18 record reflect she's identified the Defendant.

19 THE COURT: That's right.

20 BY MR. THORNTON:

21 Q. So I'd asked you, so on or about
22 October the 2nd, 2015, you said you lived at 1st
23 Street with Santana. Are you aware, at some
24 point around that time, that two people were
25 killed and burned in a car?

1 A. Yes.

2 Q. And did you ever have a conversation
3 with Santana about that?

4 A. No.

5 Q. You did not?

6 A. Uh-uh. I think --

7 Q. Ma'am, if you will hang on just a
8 second, I'm going to hand you what's been marked
9 as State's Exhibit 49, just for identification,
10 and ask you to see if that refreshes your
11 memory.

12 A. Yes.

13 Q. And maybe I just phrased it poorly, but
14 --

15 A. I think --

16 Q. -- did Santana ever tell you anything
17 about what had occurred?

18 A. Yes.

19 Q. And did you provide that information to
20 Law Enforcement?

21 A. Yes.

22 Q. All right, and do you remember what you
23 told them, and what he told you in October of
24 2015?

25 A. He said that he was taking the guy,

1 Jackpot, to go get weed from I think those
2 people that they was gonna meet. I'm not sure
3 where they were meeting, but --

4 Q. Okay.

5 A. -- I don't know.

6 Q. And all I want you to tell me, if you
7 would, what Santana told you, not anything else,
8 just what he told you.

9 A. Yeah, he was going to get weed from --
10 I think with Jackpot to go get weed, and --
11 like --

12 Q. Would it help to refresh your memory
13 again?

14 A. Yeah.

15 Q. Yes, ma'am.

16 A. 'Because I don't remember, I'm sorry.

17 Q. That's okay.

18 A. It's so long ago. Yeah, he told me
19 that he took the guy, Jackpot, to meet the guy
20 to get weed. And he told me that he had nothing
21 to do with it, that Jackpot planned the whole
22 thing, and that Jackpot was the one who shot the
23 people, and Jackpot's girlfriend, Vanessa, was
24 with them, and Jackpot drove the car that was
25 burned and the bodies that were found.

1 Q. Okay, so he acknowledged being there
2 with him, but said he didn't do anything?

3 A. Right.

4 MR. THORNTON: Your Honor, I don't have any
5 further questions at this time.

6 BY MR. THORNTON:

7 Q. And please answer any questions Mr.
8 Koger has.

9 THE COURT: Mr. Koger?

10 CROSS-EXAMINATION

11 BY MR. KOGER:

12 Q. I will state, of course, this happened
13 a long time ago, but if you can remember, did
14 you work on that particular night?

15 A. I did.

16 Q. Okay, and where did you work?

17 A. I worked at Dunkin' Donuts.

18 Q. And that's the one where?

19 A. The one in Hardeeville.

20 Q. Hardeeville, Independence Boulevard?

21 A. Yes.

22 Q. Okay, all right. And what time do you
23 usually work?

24 A. Well, that night I had closed, I didn't
25 get out until about after 10:00.

1 Q. Okay, all right.

2 A. And then he came to pick me up.

3 Q. Okay, and what time did he come to pick
4 you up?

5 A. I'll say maybe like 10:40, 10:50 maybe.

6 Q. Okay.

7 A. Around there.

8 Q. And did Mr. Nieves come pick you up
9 when you close?

10 A. Well, I'd usually drive myself, but he
11 had my car that night --

12 Q. Okay.

13 A. -- so --

14 Q. Okay.

15 A. Yeah.

16 Q. Okay, but he had borrowed your car in
17 the past, correct?

18 A. Yes.

19 Q. Okay, so that was nothing unusual?

20 A. No.

21 Q. Okay. Now, at that time how long had
22 you-all been together?

23 A. We dated for like two-and-a-half years.

24 Q. Two-and-a-half years?

25 A. Uh-huh.

1 Q. Okay, and you-all were living together
2 at the time?

3 A. Yes, we did.

4 Q. Okay. How long had you lived together?

5 A. I would say maybe a couple months.

6 Q. A couple months?

7 A. Uh-huh, I would say, yes.

8 Q. Okay, and that was in Hardeeville on
9 your location?

10 A. Yes.

11 Q. Okay, all right. And when did the two
12 of you -- well, y'all are still together?

13 A. Uh-uh.

14 Q. Okay, when did the two of you break up?

15 A. It was right after he actually got out
16 of jail.

17 Q. Okay.

18 A. He was locked up the first time, and
19 then when all this happened, and when he got
20 out, that's when we ended up --

21 Q. Okay, all right.

22 A. Uh-huh.

23 Q. All right. And like with all
24 relationships, or some relationships, you-all
25 went through some things, correct?

1 A. Right.

2 Q. Okay, all right. And was it a rough
3 breakup?

4 A. For me, yes.

5 Q. Okay.

6 A. I don't know about him.

7 Q. Okay. Thank you.

8 MR. KOGER: No further questions.

9 THE COURT: Okay. Mr. Thornton?

10 MR. THORNTON: No, nothing further, Judge.

11 I ask that she be excused.

12 THE COURT: Any objection, Mr. Koger?

13 MR. KOGER: No objection, Your Honor.

14 THE COURT: You're excused, Ms. Ellwood.

15 MR. THORNTON: Your Honor now may be an
16 appropriate time to take a short break.

17 THE COURT: Thank you. All right.

18 Ladies and Gentlemen of the jury, I want to
19 remind you again, do not talk discuss this case,
20 wouldn't be appropriate to do so. We're going
21 to take a brief recess.

22 Madam Foreperson, when everyone's refreshed
23 themselves, can you knock on the jury room door,
24 and let us know you're ready to come back in?

25 MADAM FOREPERSON: Yes.

1 THE COURT: Thank you.

2 (Jury exits courtroom.)

3 THE COURT: Thank you. All right, do you
4 want to go ahead and just take a five-minute
5 break first?

6 MR. THORNTON: That would be great, Judge.

7 THE COURT: And then -- we'll take a five-
8 minute break, and then we'll go over the
9 objections with Ms. Lee and anything else.
10 Okay?

11 MR. THORNTON: Yes, Your Honor.

12 THE COURT: Okay? Let's just take a five-
13 minute break, okay? Thank you.

14 (Recess.)

15 THE COURT: All right, before we bring the
16 jury in, I think there's an issue you wanted to
17 take up; is that correct?

18 MR. THORNTON: Yes, and I believe Mr. Koger
19 has a couple of motions related to the taking of
20 the tape and statements. Just so Your Honor
21 knows what my plan would be, and I shared this
22 with Mr. Koger.

23 Ms. Lee will be the next witness. I will
24 put her up. If she says anything inconsistent,
25 I will follow the rule under 613B; however, if

1 she does not admit to making those statements,
2 and, Your Honor, unless you tell me differently,
3 I'm gonna do as you normally instruct, and just
4 go line-by-line, as the part of the statement
5 that she -- not a written statement, but a
6 verbal statement that she gave the Officer; and
7 if she does not admit doing that, then I would
8 seek to introduce extrinsic evidence through
9 Lieutenant Brown, and then I would play the
10 videotape of her interview.

11 We did get the volume up, yet still she
12 just talks softly, so I think it's --

13 THE COURT: Uh-huh.

14 MR. THORNTON: -- a good idea to have him
15 testify, in general, as to it first. That would
16 be my procedure going forward. And, of course,
17 if she, you know, testifies consistently with
18 her prior statement, then that becomes an issue.

19 THE COURT: Okay.

20 MR. THORNTON: But that's the procedure I
21 would take.

22 THE COURT: And you are going to play it.
23 You're gonna get it in through her, or through
24 how?

25 MR. THORNTON: I'm gonna get it in through

1 the Officer, and I'm going to have him lay out
2 what the information she provided, and then play
3 the video there.

4 THE COURT: I'd prefer to let them cross-
5 examine. I think you guys are finished with
6 her, and then you can bring her in, if you want
7 to.

8 MR. THORNTON: All right.

9 THE COURT: And you have your three
10 specific objections that there are portions that
11 objectionable; is that correct?

12 MR. KOGER: That's correct.

13 THE COURT: All right. Well, I'm looking
14 at it.

15 MR. KOGER: Well, that the fire was one of
16 the causes of death.

17 THE COURT: Uh-huh.

18 MR. KOGER: You know -- we can -- it
19 indicates multiple times --

20 THE COURT: Uh-huh.

21 MR. KOGER: -- when she stayed here, so,
22 basically, I wanted, you know, that redacted,
23 and I think I put down the times on that one.

24 THE COURT: You did. Okay, I'm not gonna
25 redact that. I think he can say something else,

1 and she can either agree or disagree, but I also
2 think you can cross-examine him.

3 Say, "Isn't it true that 1704, you know,
4 second 35 39, she said A, and you said B, she
5 said, "Get him," correct? So I think you can
6 cross-examine him on that.

7 MR. KOGER: Okay.

8 THE COURT: You know, this next one you
9 talk about, where you say, "We got improper
10 opinion testimony on, she thought the gun was
11 broken?"

12 MR. KOGER: Not he, she, I'm sorry.

13 THE COURT: Pardon?

14 MR. KOGER: She, not he.

15 THE COURT: She.

16 MR. KOGER: Yeah, okay, all right, okay.

17 THE COURT: I thought that's what I said.

18 MR. KOGER: Okay, fine, okay.

19 THE COURT: Okay. Ms. Lee's a woman.

20 MR. KOGER: Yeah, yeah, I know, but I will
21 tell you, I apologize.

22 THE COURT: Yeah.

23 MR. KOGER: Okay.

24 THE COURT: Because I saw her, that's a
25 she.

1 MR. KOGER: Okay.

2 THE COURT: What I understood is that she
3 said there was a piece broken off of the gun,
4 that's the exact testimony I heard on the video.
5 So that's just what she saw.

6 MR. KOGER: Right.

7 THE COURT: And your objection, "What Lee
8 speculated on the gun was broken." And you
9 said, "Lee's improper opinion statement of how
10 it's prejudicial, and has no probative value
11 with the improper --

12 MR. KOGER: Okay.

13 THE COURT: -- statement has. I heard her
14 say that there was a piece broken off the gun,
15 not that the gun couldn't --

16 MR. KOGER: Right.

17 THE COURT: -- project a projectile. So I
18 don't see how that's improper, that's just what
19 she saw.

20 MR. KOGER: But she -- but I have no
21 problem with what she saw, but she -- and maybe
22 I put the wrong time, but she went into how it
23 could have happened. Because I think that, you
24 know, I think I picked it up, when she said that
25 she saw the gun.

1 THE COURT: Well, she's gonna testify, so
2 you can always cross-examine her on whatever she
3 says.

4 MR. KOGER: Okay.

5 THE COURT: So I don't see how that's
6 improper, it just is what it is. And you can
7 ask her, "So you're just speculating a
8 possibility, right? You weren't there, you
9 didn't know."

10 I mean, I think you're gonna ask her, "You
11 didn't see any of this with your own eyes, this
12 is only what, you know, you think might have
13 happened, you know, hindsight."

14 MR. KOGER: Okay.

15 THE COURT: And then last objection you
16 had, "We referred to the incident as a killing
17 at 17:01:39, as if she were an eyewitness to the
18 incident, and so, potentially, confusing the
19 jury." I can't start telling witnesses how to
20 testify. How you characterize the one thing,
21 but you need to say, again, "You didn't see
22 anything, you don't know what happened.

23 Anyway, I'm going to overrule these
24 objections.

25 THE COURT: That is going to appear in the

1 record, and --

2 MR. KOGER: Okay.

3 THE COURT: -- and so we're good.

4 MR. KOGER: All right, all right.

5 THE COURT: Okay.

6 MR. KOGER: Thank you.

7 THE COURT: I appreciate it. Okay.

8 MR. THORNTON: Your Honor, I just need a
9 couple minutes. I want to go ahead and get the
10 speaker ready --

11 THE COURT: Good.

12 MR. THORNTON: -- so that we're good to go.

13 THE COURT: Absolutely. Okay.

14 (Brief recess.)

15 THE COURT: Thank you. All right, are we
16 ready to go?

17 MR. THORNTON: Yes, ma'am.

18 THE COURT: Do you have a witness after
19 this, or is this your last witness? Oh you
20 still have some follow-up, I'm sorry.

21 MR. KOGER: Yes. I'm sorry.

22 (Jury enters courtroom.)

23 THE COURT: You can call your next witness,
24 sir.

25 MR. THORNTON: Thank you, Your Honor. The

1 State calls Tyquasia Lee.

2 * * *

3 TYQUASIA LEE

4 * * *

5 DIRECT EXAMINATION

6 BY MR. THORNTON:

7 Q. Good morning, ma'am.

8 A. Good morning.

9 Q. Ma'am, would you please state your full
10 name for the record?

11 A. Tyquasia Lee.

12 Q. Ms. Lee, do you know the Defendant in
13 this case, Jonathan Nieves?

14 A. Yes, sir.

15 Q. All right, and did you know him back in
16 October of 2015?

17 A. Yes, sir.

18 Q. All right, and at some point, did you
19 become aware of the fact that there had been two
20 people killed and burned up in a car?

21 A. Yes, sir.

22 Q. All right. Prior to that happening, a
23 few days, or a week or so before that happened,
24 do you remember overhearing a conversation with
25 Jonathan Nieves?

1 A. Yes, sir.

2 Q. All right, and do you know Jonathan
3 Nieves, does he have a nickname that you know
4 of?

5 A. Yes.

6 Q. And what is that nickname?

7 A. I used to call him Santana.

8 Q. Okay. So who did you overhear a
9 conversation with?

10 A. I couldn't really see who the person
11 was?

12 Q. All right, who couldn't you see?

13 A. The person he was talking to.

14 THE COURT REPORTER: I'm sorry?

15 BY WITNESS:

16 A. The person he was talking to.

17 Q. All right, was it one person, or more
18 than one person?

19 A. I don't know, it was a six years ago.

20 Q. All right.

21 Do you remember, ma'am, talking to
22 Lieutenant Matt Brown, who's seated at the table
23 with me, back on October the 19th, 2015, and
24 then again November the 16th of 2015?

25 A. Yes, sir.

1 Q. And do you remember that you told him
2 that you saw -- or heard a conversation and saw
3 with Santana and Jackpot, who is also known as
4 James Riley, and Jackpot's girlfriend, Vanessa
5 Boyles?

6 A. Yes, sir.

7 Q. And did you tell him that?

8 A. He was asking me a question, and I was
9 answering him, but it wasn't like I was -- not
10 knowing, but, oh, I know, it wasn't like that,
11 it was like he was asking me questions, and I
12 answered his questions.

13 Q. All right. Is that the answer you gave
14 when he asked about that conversation?

15 A. Yes, sir.

16 Q. All right, so did you, in fact,
17 overhear a conversation between Santana and the
18 two other people?

19 A. Yes, sir.

20 Q. And who are those two other people?

21 A. Jackpot and his girlfriend, I don't
22 know her name.

23 Q. And what were they talking about?

24 A. Whatever they did I guess, because I
25 didn't really hear no names.

1 Q. Ma'am, do you recall during those same
2 two dates that you told Agent Matt Brown with
3 SLED, that Jackpot and Vanessa, identified as
4 Vanessa Boyles and Nieves were talking about
5 robbing someone, so they could get money for
6 their kids, because they didn't have a job?

7 A. No, that wasn't it.

8 Q. That's not true?

9 A. No.

10 MR. THORNTON: Your Honor, at this time I
11 think we're going to go under 613B. I'm going
12 to stop the questioning now. I would like the
13 right to recall her, if it becomes necessary,
14 and I'll turn that over to Mr. Koger --

15 THE COURT: Uh-huh.

16 MR. THORNTON: -- and I'll be introducing
17 the extrinsic evidence of that conversation
18 then.

19 THE COURT: Okay.

20 MR. THORNTON: And, Your Honor, briefly,
21 may we approach?

22 THE COURT: You may.

23 (Bench conference.)

24 MR. THORNTON: Your Honor, at this time I'd
25 ask that --

1 THE COURT: Well, she can stay right where
2 she is.

3 MR. THORNTON: All right, Your Honor, but
4 I'm asking for testimony --

5 THE COURT: Okay.

6 MR. THORNTON: Yes, ma'am.

7 THE COURT: Okay.

8 MR. THORNTON: So unless there's an
9 objection from the defense, I'd like for her
10 just to have a seat in the back of the
11 courtroom, Your Honor.

12 THE COURT: That's fine.

13 BY MR. THORNTON:

14 Q. Ma'am, if you would please come down
15 off the stand, and have a seat back in the back
16 row back there.

17 MR. THORNTON: The State recalls Lieutenant
18 Matt Brown, for the purpose of 613B.

19 THE COURT: Thank you.

20 CHARLES MATTHEW BROWN

21 * * *

22 being previously sworn, testified as
23 follows:

24 BY MR. THORNTON:

25 Q. Lieutenant Brown, I'll just go ahead

1 and get right into this. At some point in your
2 investigation, did you receive information that
3 Tyquasia Lee may have information regarding this
4 case?

5 A. Yes, sir, I believe that we were
6 contacted by her mother, Paulette Lee.

7 Q. And did you talk to Tyquasia Le, who
8 was just up on the stand testifying on October
9 the 19th of 2015?

10 A. Yes, sir, I did.

11 Q. I think Mr. Koger has already asked you
12 this, but did you then follow-up that interview
13 again, just to kind of go everything that she
14 had told you on the first interview and put it
15 on videotape?

16 A. Yes, sir, we did.

17 Q. And did you, in fact, videotape that
18 interview, which occurred on November the 16th
19 of 2015?

20 A. Yes, sir, I did.

21 Q. All right, can you go through it just
22 basically? I know you do a memorandum of
23 interview, so you have the information.

24 Can you tell me what she told you, and what
25 information she gave you?

1 A. All right, so she indicated that Mr.
2 Nieves, who she referred to as Santana, had just
3 moved into the neighborhood a couple months ago
4 with his girlfriend. Ms. Lee indicated that she
5 is friends -- or she was friends, and at the
6 time she was 14 years old, when this incident
7 occurred.

8 She indicated that she was friends with the
9 girl that lived across the street from Mr.
10 Nieves, and that they all had went into Mr.
11 Nieves' yard, and they sat on a log, and they
12 would talk to each other, her and this other
13 young girl. She said about a week or so before
14 the bodies were found burned on Purrysburg Road,
15 that she heard Jackpot, who has been identified
16 as James Riley, and Vanessa, who was identified
17 as Vanessa Boyles, and Mr. Nieves talking about
18 robbing someone, so that they could get some
19 money for their kids, because neither of them
20 had a job, referring to Vanessa and Jackpot.

21 She indicated that Jackpot told Mr. Nieves
22 that he tried to get someone else to participate
23 in this alleged robbery, but that whoever that
24 person was backed out. She didn't know the name
25 of that person. She said that Mr. Nieves,

1 Jackpot and Vanessa were on the front porch of
2 Mr. Nieves' house during this conversation that
3 she overheard, and, again, she was sitting,
4 where she says was on a log, sitting in the
5 yard, when she overheard this conversation.

6 She indicated that Jackpot, Mr. Nieves and
7 Ms. Boyles walked into Mr. Nieves' house, so she
8 was unable to hear the rest of their
9 conversation, or what that conversation was
10 about. She then -- after that she talked with
11 Mr. Nieves about the conversation that she
12 overheard between him, Riley and Vanessa Boyles,
13 and Ms. Lee indicated she actually told Mr.
14 Nieves that he should not participate in the
15 robbery, or whatever it was that they were gonna
16 do.

17 She told me that on the Saturday that the
18 bodies were discovered in the burned vehicle,
19 that Mr. Nieves actually told her about what
20 happened during the incident. Mr. Nieves told
21 her that they used Vanessa Boyle's cell phone
22 and called the guy to come and sell them some
23 weed.

24 She indicated that person was later
25 identified as Mr. Specks. She indicated that

1 that person and another person met them at the
2 location where Mr. Jackpot -- Mr. Riley and
3 Vanessa Boyles used to live, which was
4 identified as Whistle Stop Road, the Tillman
5 area. The person was driving the vehicle, and
6 the female was sitting in the front passenger
7 seat. Mr. Riley, Jackpot, and Ms. Vanessa
8 Boyles got into the vehicle --

9 Q. And let me -- I just want to -- just so
10 we're clear, all this is information that she's
11 relaying to you from who?

12 A. That she received from Santana Nieves.

13 Q. So this is not her being an eyewitness,
14 this is her -- it's her relation, what --

15 A. Yes, sir.

16 Q. -- she heard directly from Santana?

17 A. This is information that she said that
18 she got directly from him, that he told her.

19 Q. All right, sir, I'm sorry, go ahead.

20 A. She said that the male, again, who we
21 identified as Bruce Specks was driving the
22 vehicle, and the female was sitting in the front
23 passenger seat; that Jackpot and Vanessa got
24 into the vehicle with him, and told the male,
25 again, who we identified as Bruce Specks, said

1 they had a friend that wanted to buy some weed.

2 At that time Mr. Jackpot -- Mr. Riley and
3 Vanessa got out of the vehicle, and they went to
4 get Mr. Nieves. When they walked back to the
5 vehicle together, Jackpot pulled out a pistol,
6 and he shot Bruce Specks numerous times. Then
7 Mr. Riley -- or Jackpot went around to the other
8 side of the vehicle, and then he shot Ms.
9 Jenkins, who was in the front seat. They said
10 she was told by Mr. Nieves that Mr. Specks
11 continued to talk after he was shot by Riley, so
12 Riley and Mr. Nieves --

13 MR. KOGER: My earlier objection.

14 THE COURT: Okay. Okay, well he will be
15 subject to cross-examination, so you can --

16 MR. KOGER: I just want to object.

17 THE COURT: Thank you, all right.

18 BY MR. THORNTON:

19 Q. I'm sorry, can you start back over.

20 A. Okay. So he said that the male, again,
21 who we identified as Bruce Specks, was driving
22 the vehicle, and the vehicle, who we identified
23 as Shantay Jenkins was sitting in the front
24 passenger seat. Jackpot and Vanessa got into
25 the vehicle and told Bruce Specks that they had

1 a friend that wanted to buy some weed. Jackpot
2 and Vanessa got out of the vehicle and went to
3 get Mr. Nieves.

4 When they walked back to the vehicle,
5 Jackpot pulled out a pistol and shot Bruce
6 Specks numerous times. Riley then went around
7 to the other side of the vehicle, and shot Ms.
8 Jenkins, who was in the front seat.

9 Mr. Specks continued to talk after he was
10 shot by Jackpot, so Jackpot and Mr. Nieves beat
11 Mr. Specks about his head with Jackpot's pistol
12 until he died. After Mr. Specks died, Jackpot
13 and Mr. Nieves picked him up, and moved him
14 around into the backseat of the vehicle.

15 While they were moving Mr. Specks, Mr.
16 Specks' pistol fell on the ground. Mr. Nieves
17 told her that they didn't want to pick up the
18 pistol, and they left the pistol on the ground
19 where it fell. Jackpot got into Mr. Specks
20 vehicle and drove it to the location, where it
21 was found burned.

22 Mr. Nieves and Vanessa got into Mr. Nieves'
23 white colored vehicle and followed Jackpot. Mr.
24 Nieves told her that Vanessa was driving the
25 car, and that she hit something when she was

1 backing out of the yard. Once they were at the
2 location, Jackpot poured gas into the vehicle,
3 and set the vehicle on fire.

4 They stood at the location for a while, and
5 watched the vehicle burn, until the bodies
6 disappeared. They got back into Mr. Nieves'
7 vehicle and drove to Hardeeville to Mr. Nieves'
8 house.

9 Ms. Lee indicated that she was actually out
10 in the yard with her mother at, approximately,
11 11:00 p.m., as she saw Jackpot and Vanessa walk
12 through their yard, and, again, they all live in
13 the same neighborhood there on 1st and 2nd
14 Street in Hardeeville.

15 She said when she saw them walk through the
16 yard that Jackpot had on a white shirt, that had
17 blood all over it. They were also carrying a
18 bookbag and a brown colored bag with a handle.
19 And Riley made a comment -- or Jackpot made a
20 comment to her mother about turning off the
21 headlights on the car, because she and her
22 mother were outside, and the vehicle headlights
23 were on in the yard.

24 Mr. Nieves also told her that they beat Mr.
25 Specks so hard that the handle of the pistol

1 broke. Mr. Nieves showed her the pistol with
2 the broken handle, and she identified it as a
3 black in color revolver, with a woodgrain grip.
4 She said the pistol was dark -- was in a dark
5 blue -- or a black bookbag with skulls or heads
6 all over it.

7 On the Tuesday after the incident she saw
8 Mr. Nieves leave his house with the bag, and he
9 told her that he threw the gun in the river.
10 Mr. Nieves then told her that both pistols
11 involved in the incident belonged to him, and
12 that he gave the revolver to Jackpot to use.
13 The other pistol that Mr. Nieves had during the
14 incident was black and it had a clip on it.

15 Mr. Nieves told her that he never fired his
16 pistol, but he did beat Bruce Specks about the
17 head. She also indicated that she saw the brown
18 colored bag at Mr. Nieves' bag and was told that
19 it contained the weed. She was unable to see
20 how much weed was in the bag.

21 Mr. Nieves and Riley were upset, because
22 Specks did not have a lot of money on him, which
23 is why they intended to rob him. They were also
24 concerned, because he says that they forgot to
25 wipe down the outside handles of the vehicle, so

1 that the police could not obtain any DNA or
2 fingerprints.

3 At some point during that incident, I
4 showed her surveillance photographs, which I
5 believe have already been published, that were
6 taken from the Handy Dan's from surveillance
7 video the night of the incident, and she
8 actually identified the persons in the video as
9 Mr. Nieves, Mr. Riley and Ms. Boyles.

10 Q. And is that the information that she
11 provided to you, sir, on or about October the
12 19th, 2015, and again on November the 16th of
13 2015?

14 A. Yes, sir, it is.

15 Q. All right.

16 MR. THORNTON: Your Honor, I'm going to --
17 I think what I'm going to do, to be on the safe
18 side, is skip ahead a little bit, and we'll call
19 this video that I'm about to ask about, State's
20 Exhibit 60. I do not yet have a disk; it's
21 being burned now. I will have a physical disk,
22 so that it may be placed into evidence.

23

24 BY MR. THORNTON:

25 Q. But, sir, at my request did you review

1 what I'm now calling State's Exhibit 60, several
2 times, including this morning, as the videotape
3 interview between yourself and Tyquasia Lee?

4 A. Yes, sir, it is.

5 Q. And is her mother also in the room?

6 A. Yes, she is.

7 Q. All right, and is that a true and
8 accurate copy of that interview?

9 A. Yes, it is.

10 Q. All right. Has it been altered or
11 changed in any way?

12 A. No, sir.

13 Q. All right.

14 MR. THORNTON: Your Honor, at this time, I
15 would move in, under 613B, State's Exhibit 60,
16 which I will have a physical copy of it to place
17 into evidence.

18 THE COURT: Okay.

19 MR. KOGER: Without objection.

20 THE COURT: Without objection.

21 (State's Exhibit 60 was marked and entered
22 into evidence.)

23 THE COURT: And you're getting ready to
24 play it?

25 MR. THORNTON: Yes, ma'am, it will only

1 take a moment.

2 THE COURT: That's okay.

3 Ladies and Gentlemen, I need to take a
4 quick five-minute break. I need you to go back
5 to your jury room, and I will remind you do not
6 discuss this case, it wouldn't be appropriate to
7 do so.

8 I'm going to bring you right back out and
9 we'll play the video, all right? Just go back,
10 there's some refreshments out that you're
11 welcome to, and I'll be right back with you,
12 okay? Thank you.

13 (Jury exits courtroom.)

14 (Recess.)

15 **

16 PROCEEDINGS CONTINUED

17 THE COURT: All right, you ready to go?

18 MR. THORNTON: Yes, Your Honor.

19 (Jury enters courtroom.)

20 THE COURT: Thank you. Welcome back,
21 Ladies and Gentlemen. I understand we're going
22 to go ahead and play the interview. Ladies and
23 Gentlemen, if any of you can't hear it, I need
24 you to wave to me, and let us know. We're going
25 to do the best we can to turn up the volume as

1 much as we can, sometimes it's pretty difficult,
2 so --

3 MR. THORNTON: Yes, and thank you, Your
4 Honor, and I will say that Lieutenant Brown
5 suffered some of the same problems that I have,
6 which is, he has a deep voice, and it's hard to
7 adjust it, so I'll try not to have his part too
8 loud, and Ms. Lee does talk fairly quietly.

9 THE COURT: Okay, let's try.

10 (VIDEO IS PLAYED FOR JURY.)

11 BY MR. THORNTON:

12 Q. And between your testimony that you
13 gave earlier, and, obviously, that encompasses
14 two different discussions with her; is that
15 correct?

16 A. Yes, sir, that's correct.

17 Q. All right. And the video is that an
18 accurate portrayal of your conversations with
19 her?

20 A. It is.

21 Q. Pardon me?

22 A. Yes, sir, it is.

23 Q. All right.

24 MR. THORNTON: Your Honor, I believe I'll
25 move 60 into evidence. I'll get you a disk and

1 make sure that that physically is in there. I
2 don't have any further questions on this issue
3 for the Lieutenant.

4 CROSS-EXAMINATION

5 BY MR. KOGER:

6 Q. As we've stated before, this interview
7 was in November of 2015, correct?

8 A. Yes, sir, that's correct.

9 Q. All right. And you said the first time
10 you met with her, between one to five hours.
11 Did you meet with her before this video was
12 initiated?

13 A. She did come in before, yes, sir.

14 Q. Okay.

15 A. We went into the interview room and had
16 a conversation.

17 Q. But you didn't talk to her before this
18 video here?

19 A. Yes, I talked to her. The first
20 interview was the one that I read from a few
21 minutes ago, which --

22 Q. Right.

23 A. -- you can see that I had in my hand
24 during the --

25 Q. I'm talking about during the day of the

1 videotape.

2 A. No, sir, I don't remember having any
3 other --

4 Q. Okay.

5 A. -- any conversation with --

6 Q. All right.

7 A. -- her that day.

8 Q. All right. And just a couple of places
9 in the video, would you agree in the video that
10 she said that Jackpot shot both victims?

11 A. Yes, sir, that's what she said.

12 Q. Okay. Would you agree in the video she
13 said that Nieves did not say he used the gun to
14 beat one of them?

15 A. Say -- ask your question again, sir?

16 Q. Would you say that she said, when you
17 responded, saying that Nieves used the gun to
18 beat one of the victims, she said that she did
19 not say that the gun was used to beat one --

20 A. Yes.

21 Q. -- of the victims? She did not say it?

22 A. Right.

23 Q. Okay, all right, okay. And you would
24 agree that she said that Mr. Nieves allegedly
25 hit him, and beat him?

1 A. Yes, sir, I believe she said hit, and
2 the question I asked her, "How many was it --

3 Q. He was beat?

4 A. -- that he was beat."

5 Q. Okay, all right. And from the first
6 interview, she, according to your memorandum,
7 you stated that Mr. Riley had on a bloody -- she
8 described, a bloody tee-shirt?

9 She didn't do it in the videotape, but she
10 did, I think, it was in your memorandum,
11 correct?

12 A. Yes, sir, that's correct.

13 Q. Okay. And, again, as we went over, she
14 also mentioned about the brown bag, correct?

15 A. Correct.

16 Q. The bookbag?

17 A. Yes, sir.

18 Q. And she gave a clothing description of
19 just Jackpot, correct?

20 A. I believe he was the only one that she
21 was able to actually describe.

22 Q. Okay, all right. And she made mention
23 both times, according to your testimony, by the
24 first interview, and in this particular video
25 interview she gave a description of various

1 guns, correct?

2 A. Yes, sir.

3 Q. Okay, all right. And you stated that
4 you did not have any search warrants to confirm
5 what she's saying was true? You didn't ask for
6 any search warrants for the bloody tee-shirt,
7 the guns, anything?

8 A. No, sir.

9 Q. Okay. So you had no confirmation, at
10 least from a search warrant, that this was true?

11 A. No, sir, not from a search warrant.

12 Q. Okay, all right. And, again, you
13 stated again -- well, you stated before that,
14 it's part of protocol that if additional
15 information come about that for Law Enforcement
16 to reinterview a person, correct?

17 A. Yes, sir.

18 Q. Okay, all right. And you would agree
19 that even from her for this statement, that
20 Jackpot seemed to have been the primary person
21 in this whole incident?

22 A. I think it's according to how you
23 categorize primary. They all were --

24 Q. Well, he was a main participant?

25 A. He was a participant, yes.

1 Q. Okay, all right. And, again, you did
2 not follow protocol with Mr. Riley, that you did
3 not reinterview him, correct?

4 A. Well, I think you're using the term
5 protocol, it's not set in writing. That would
6 be something at the agent or investigator's
7 discretion, as to when he reinterviews, how many
8 times he reinterviews.

9 There's not per se a checklist that you
10 would go down, and say, "Okay, well, I've got
11 this information, now I have to go back and
12 interview him tomorrow." That's a description
13 of the investigator or the agent that is
14 conducting the interview.

15 Q. Okay. But, Agent Brown, in this case
16 you used your discretion -- you chose not to
17 reinterview Mr. Riley?

18 A. Up until this point, yes, sir.

19 Q. Okay. Up until -- well, up until the
20 point today --

21 A. Yes, sir.

22 Q. -- correct? All right.

23 A. That's correct.

24 Q. And you used your discretion to
25 reinterview Ms. Smalls twice, correct?

1 A. Yes, sir.

2 Q. And you used your discretion to contact
3 Mr. Nieves and interview him twice?

4 A. Yes, sir.

5 Q. Okay.

6 MR. KOGER: No further questions.

7 MR. THORNTON: Just briefly, Your Honor.

8 THE COURT: Yes, sir.

9 REDIRECT EXAMINATION

10 BY MR. THORNTON:

11 Q. And, again, the grain in the audio is
12 not the best in the world, but the tape speaks
13 for itself, but based on your memorandum of this
14 interview from your first conversation with her
15 as well it's on video, I just want to be clear,
16 she did say that, first of all, all this
17 information is coming from Santana, the
18 Defendant in this case, correct?

19 A. That's correct. She said she was not
20 there during the incident, that all this
21 information that she received, which is in the
22 interview and in the memorandum that I read, she
23 got directly from Santana, Mr. Nieves.

24 Q. And not to put two fine pointers with
25 it -- and she in no uncertain terms said that

1 Santana told her that he, along with Jackpot
2 beat the victim, or hit the victim in the head?

3 A. That's correct.

4 Q. Because he was dying too slow?

5 A. That is correct.

6 MR. THORNTON: I don't have anything else.

7 THE COURT: Okay.

8 MR. KOGER: I have no recross.

9 THE COURT: All right, you may step down,
10 sir.

11 WITNESS: Thank you.

12 THE COURT: All right. Call your next
13 witness.

14 MR. THORNTON: Your Honor, at this time the
15 State calls Dr. Angelina Phillips.

16 * * *

17 ANGELINA PHILLIPS

18

19 being first duly sworn, testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. THORNTON:

23 Q. Dr. Phillips, please state your name
24 for the record.

25 A. Angelina Phillips.

1 Q. Let's get that out of the way.

2 Are you in fact a medical doctor?

3 A. Yes.

4 Q. All right, let' get that out of the way
5 first, so they know why I keep calling you Dr.
6 Phillips. Dr. Phillips, where do you currently
7 work?

8 A. I work at the Medical University of
9 South Carolina.

10 Q. And how long have you worked there?

11 A. Six years.

12 Q. And what do you do for the Medical
13 University of South Carolina?

14 A. I'm a forensic pathologist.

15 Q. All right, and can you explain, for the
16 jury, what a forensic pathologist is?

17 A. Yes. A forensic pathologist is a
18 doctor, who's trained in general pathology, and
19 then undergoes specialized training in forensic
20 pathology. And forensic pathology is,
21 basically, the performance of autopsies, and to
22 determine cause and matter of death.

23 Q. Thank you, ma'am. What kind of
24 training or education do you have that allows
25 you to be a forensic pathologist?

1 A. You do the usual training for a medical
2 doctor, which is undergraduate medical training,
3 medical schools, and then fellowship in
4 pathology, and then you go one more year for
5 forensic pathology training.

6 Q. And did you do all of those things?

7 A. Yes.

8 Q. And how long have you been a forensic
9 pathologist?

10 A. A forensic pathologist for five years.

11 Q. All right, and how many autopsies do
12 you think you've performed in that time?

13 A. Over a thousand.

14 Q. And before today have you been
15 qualified as an expert in the field of forensic
16 pathology?

17 A. Yes.

18 Q. How many times?

19 A. At least 30.

20 Q. All right.

21 MR. THORNTON: Your Honor, I'd ask that Dr.
22 Phillips be recognized as an expert in the field
23 of forensic pathology.

24 MR. KOGER: No objection, Your Honor.

25 THE COURT: Ladies and Gentlemen, in the

1 case Dr. Philips is being qualified as an expert
2 in the area of forensic pathology. That allows
3 her to give her opinion, and the reasons for her
4 opinion, and that's for you to use, as you see
5 appropriate, as well as other evidence in the
6 case.

7 MR. THORNTON: Your Honor, I apologize, I'm
8 going to need the Court's indulgence for just a
9 moment.

10 THE COURT: Yes.

11 BY MR. THORNTON:

12 Q. And, ma'am, these are not in evidence
13 yet, but I'm gonna hand you what's been marked
14 as State's 50, 51, 53, 54 and 55, and just ask
15 you, in general terms, ma'am, do you recognize
16 those photographs?

17 A. Yes, sir.

18 Q. All right, and are those photographs
19 that you took, as part of the two autopsies you
20 did in this case?

21 A. Yes, they are photographs I took at the
22 time of autopsy, and photographs are images
23 depicting x-rays that were taken at the time of
24 that.

25 Q. Ma'am, are those true and accurate

1 copies of the photographs and images that you
2 took and observed, when you did the autopsies in
3 this case?

4 A. Yes.

5 Q. And does it look like they've been
6 altered or changed in any way?

7 A. Not to my knowledge.

8 MR. THORNTON: Your Honor, at this time,
9 I'd ask that State's 50, 51, 53 and 54 and 55 be
10 moved into evidence.

11 MR. KOGER: Over my previous objection.

12 THE COURT: They'll moved into evidence
13 over your prior objection.

14 MR. KOGER: Thank you.

15 THE COURT: Okay.

16 (State's Exhibits 50, 51, 53, 54 and 55
17 were marked and admitted into evidence.)

18 BY MR. THORNTON:

19 Q. Dr. Phillips, let me also show you
20 Exhibits 26, 27 and 28 and ask you if you can go
21 ahead and identify what these are?

22 A. 26 is the blood spot envelope, labeled
23 backseat, unknown. And this is what we
24 collected at the time of autopsy for page number
25 FA15656. 27 is the blood spot envelope labeled

1 front seat unknown for FA15655, and that was
2 also collected at the time of autopsy.

3 And 28 the blood spot envelope, but this
4 one is the envelope that would be for KFA15655,
5 and it would contain projectiles found at the
6 time of autopsy.

7 Q. So from a general standpoint, just to
8 make sure there's no confusion, and forgive me
9 if this is a dumb question, but in this case,
10 you just talked about the blood spot.

11 First of all, what is a blood spot, and
12 what is it generally used for?

13 A. For every autopsy that we perform, we
14 try to collect DNA samples. That is usually for
15 identification purposes, and we collect liquid
16 blood or dried blood, and it is collected on
17 filter paper, and is placed to dry, and then
18 collected in an envelope.

19 Q. And do you then usually turn that over
20 to Law Enforcement?

21 A. Yes.

22 Q. And was that done in this case?

23 A. Yes.

24 Q. All right, So -- and this is -- now,
25 that was not the question I thought you might

1 think is dumb, this might be.

2 So what you have on there, it says -- and
3 when I say you, this would have been done by
4 either you or your staff under your supervision
5 at autopsy, correct?

6 A. Correct.

7 Q. All right, so when it says unknown
8 front seat blood spot, that is not some blood
9 spot taken off of the front seat?

10 A. That is correct.

11 Q. All right. So this would be the body
12 that was found on the front seat that is, at
13 that point, you do the autopsy, that they are
14 unknown at that point; is that right?

15 A. Correct. The name that we use to
16 identify each body was unknown front seat, and
17 unknown backseat, and that's what we entered in
18 place of the name on the identification label.

19 Q. All right, and this is a follow-up
20 question. In this case, what was the -- and I
21 don't need in detail, but in general terms, what
22 was the condition of the two bodies, both front
23 seat and backseat?

24 A. Both bodies were markedly burned.

25 Q. All right. So are you still able

1 though to get blood, even in the condition that
2 these bodies were in?

3 A. Yes.

4 Q. All right, and that was represented by
5 these two blood spots?

6 A. Yes.

7 Q. All right.

8 MR. THORNTON: And that would, again, Your
9 Honor, for the record, that's State's 26 and 27.

10 BY MR. THORNTON:

11 Q. And did you give different autopsy
12 numbers, so that each, both the front seat at
13 this point unknown, and backseat unknown, would
14 have individual autopsy numbers?

15 A. Yes.

16 Q. All right. And so could you go over
17 that, just so we can keep that straight, as to
18 which one's the front and which one is the back?

19 A. All right. So each autopsy that we
20 perform will get an autopsy number, or
21 identifier, in addition to their names, and any
22 other information that we might have, so that we
23 can identify each individually. The place for
24 the front seat, we initially identified as
25 unknown front seat, and gave it a number

1 FA15655. The case for the backseat was
2 identified as unknown backseat and was given a
3 case number FA15656.

4 Q. So we'll just start with 655, which is
5 the front seat. What were your -- first of all,
6 were you able to tell, at some point, whether
7 the -- I'm just gonna say person, whether the
8 person that was located in the front seat,
9 whether that person was a male or a female?

10 A. Yes. We were able to identify the
11 organs on the body, that helped us to say that
12 that was a female passenger.

13 Q. All right. And you said that would be
14 655, correct?

15 A. Yes.

16 Q. And, Dr. Phillips, would it help you to
17 be able to come down, and go through these
18 photographs, by using the pointer, you can
19 actually point to the different areas?

20 A. Yes, that would help me in explaining
21 the cause of death, but not necessarily help in
22 identifying the other female.

23 Q. I understand. So, if you would, come
24 on down and we'll start going through it. And
25 so since you're the one that's talking, if you

1 will step over here, I'll keep my mask on.

2 MR. THORNTON: And, Your Honor, with the
3 Court's permission I'd ask she be allowed to
4 keep hers off.

5 THE COURT: She may.

6 MR. THORNTON: All right

7 BY MR. THORNTON:

8 Q. First, I will hand you State's Exhibit
9 50, and, if you would, just go ahead and kind of
10 go through what your findings were at autopsy.

11 A. So this is a photograph taken of what's
12 number FA15655, and all of our photographs for
13 each case will have that case number within it,
14 to help us identify which one it is. It is a
15 photograph of the upper portion of the torso and
16 head, and some of the fragments that are with
17 the body in the bag. What you'll note is that
18 the extremities are missing, and we have an
19 identification band around the stump of the left
20 arm. Parts of the skull are also missing, and
21 you can see the exposed brain.

22 The majority of the body is very charred,
23 and that limits the external examination that I
24 can do for identifying features. And we can't
25 really tell injuries on the skin because it's

1 burned or burnt off. What I can tell you are
2 some of the injuries that we see on the inside
3 of the body once we open it up.

4 In addition to taking photographs, I also
5 take x-rays of a body in this condition, because
6 that will help me before I even cut into the
7 body, or look at the inside of the body, to see
8 if there's any projectiles, or metals that's in
9 the body, or anywhere on the body. And I
10 believe in this case we have an x-ray that we
11 took. And this right here is an x-ray of the
12 upper portion, head and chest of FA15655. And
13 what we noted in this x-ray --

14 Q. And, Doctor, I'm sorry to interrupt,
15 but that would be the front seat passenger --

16 A. Yes.

17 Q. -- correct?

18 A. The front seat passenger. What we can
19 tell in this x-ray is that we have something
20 that lights up right here in the clavicle or
21 collar bone region, and that is a piece of
22 metal. And once we retrieve that, that would be
23 the projectile that we have marked in this case,
24 that we provided in the envelope. In all of the
25 -- throughout are other fractures of bones, and

1 that's all due to heat. I can't tell you
2 whether there was any additional trauma to those
3 bones, because of the heat and burning part of
4 that. That was the front seat passenger.

5 Q. And did you earlier testify that that
6 was a female?

7 A. Yes.

8 Q. All right. And as to -- this is
9 State's Exhibit 51, autopsy 15656.

10 A. So this is another image we took of
11 656, that would be our backseat passenger.

12 Q. And were you able to determine, Doctor,
13 whether the person found in the backseat was a
14 male or a female?

15 A. Yes. There was a male pelvic organ in
16 place that we could identify, and that's what
17 tells us that this was a male body. And what we
18 have in this image is, again, the head and upper
19 portion of the torso. You can see that the head
20 is detached from the rest of the body, and,
21 again, fragments of bone debris that were
22 received in the bag.

23 In this case, this body was even more
24 charred and burned than the previous body, so
25 there were more limitations in this case than we

1 had on the previous one. We did do x-rays, as
2 we did on the other case.

3 This did not reveal any projectiles in the
4 remains that we had. Thank you. This is -- in
5 this case there were no projectiles that showed
6 up on x-rays. We do have some small metal
7 debris fragments, but those are just from the
8 process of the burning car and the debris that
9 is with it.

10 You can see, again, the fractures of all
11 the bones, and in this case, when we examined
12 the head, what we found, in addition to the heat
13 related fractures, were clotted blood around the
14 base of the brain, part of skull bone. And in
15 heat-related deaths you can get some damage that
16 happens just because of the heat. It creates a
17 -- almost a bubbling artifact of the blood
18 that's in the bones that comes out because of
19 the heat.

20 We can differentiate that from injury-
21 related hemorrhage, based on the location. And
22 in this case, while the majority of the skull is
23 missing on the left side, we did notice that the
24 blood was in the base of the skull and around
25 the brain, which is not what we generally see

1 with hemorrhage that's from a heat-related
2 injury.

3 Q. So what would that type of clotting be
4 associated with, if not heat injury?

5 A. In general, that kind of injury, blood
6 in the cranium is from blunt trauma. And blunt
7 trauma occurs from the head being struck with
8 something or hitting something blunt.

9 Q. Like say if somebody was beaten with a
10 pistol?

11 A. Yes.

12 Q. Doctor, if you would, if you would
13 please retake the stand. Oh one other picture I
14 wanted to ask about, if you could go through
15 really quick what this is a picture of?

16 A. This is a picture of the envelope,
17 labeled with unknown front seat, and one
18 projectile. This is the projectile that we
19 recovered, and this is our autopsy label number.

20 Q. Thank you so much, Doctor, if you would
21 please retake that stand for me?

22 Dr. Phillips, as part of your autopsy, do
23 you also write down your findings, basically, in
24 a report?

25 A. Yes.

1 Q. And do you have that to refer to right
2 now?

3 A. I do.

4 Q. All right, and do you have the report,
5 as to each of the both front seat female and
6 backseat male that you did autopsies on?

7 A. Yes.

8 Q. As to the female in the front seat,
9 which I believe is autopsy number 655, were you
10 -- that's where you recovered the bullet. Were
11 you able to determine an entrance wound?

12 A. No.

13 Q. And why not?

14 A. Because of the burning artifacts on the
15 body, we weren't able to examine the majority of
16 the skin to find an entry wound.

17 Q. How about a bullet pathway?

18 A. The bullet pathway would have been much
19 more difficult to determine, again, because of
20 the charring and burning that we had. We could
21 tell some of the injuries that were present.

22 Q. All right, and so is it fair to say
23 then that had you not located a projectile, it
24 would have been difficult to determine if there
25 had been a bullet injury to her?

1 A. Correct. I would have been able to
2 tell you that there were injuries to the lungs
3 and the chest breathing, but I would not have
4 been able to tell you what caused those
5 injuries.

6 Q. So in the case of the backseat male
7 body that was recovered, autopsy number 656,
8 since there were no projectiles recovered, it
9 would be difficult for you to say whether there
10 had been any gunshots, correct?

11 A. Correct.

12 Q. All right. How do you know, Doctor,
13 that both of these people didn't just die of
14 smoke inhalation, or heat?

15 A. The -- I cannot rule out that there was
16 a component of smoke inhalation, however, I so
17 see trauma separate from that, and unrelated to
18 that, which is what, I believe, led to their
19 death.

20 Q. All right. And was there an excess of
21 soot in their airways?

22 A. There was some soot in the airways,
23 however, when bodies are very burned, just the
24 process of the fire being there and not being
25 out, it can extend some soot down into the

1	airway.

2 Q. As part of your job, Dr. Phillips, when
3 doing an autopsy, do you attempt to determine
4 both the cause and manner of death?

5	A. Yes.

6 Q. As to autopsy number 655, who is the
7 front seat female, were you able to determine a
8 cause and a manner of death?

9	A. Yes.

10	Q. And what was the cause of death?

11 | A. The cause of death was a gunshot wound.

12 Q. And what is the manner of death?

13	A. Homicide.

14 Q. As to 656, the male in the backseat,
15 were you able to determine the cause and manner
16 of death?

17	A. Yes.

18 Q. And what was the cause of death?

19 A. His was intracranial hemorrhage
20 involving the brain due to head injury, and the
21 manner was homicide.

22 Q. Thank you very much, Doctor, I have no
23 further questions. Please answer any questions
24 Mr. Koger has.

25 CROSS-EXAMINATION

1 BY MR. KOGER:

2 Q. Dr. Phillips, as far as what an
3 intracranial hemorrhage is, could it occur when
4 hitting the side of a car?

5 A. Yes.

6 Q. Okay. And as far as in relation to
7 that also, the movement -- could the movement of
8 the body from one location to the other?

9 A. I would not be able to answer that
10 question. It depends on the movement and the
11 injury to the head.

12 Q. Thank you, Doctor, no further
13 questions.

14 THE COURT: Anything further.

15 MR. THORNTON: Just one thing.

16 REDIRECT EXAMINATION

17 BY MR. THORNTON:

18 Q. Dr. Phillips, just so we have this
19 clear, you're talking about movement of the
20 body. Once the body is burned up and dead it
21 doesn't bleed anymore, correct?

22 A. That's correct.

23 Q. All right, so all this evidence of
24 blood, and, you know, that would not have been
25 able to happen from the transporting of the body

1 after it basically was killed; is that correct?

2 A. No.

3 MR. THORNTON: I don't have anything
4 further, Judge. I ask that she be excused.

5 THE COURT: Any objection.

6 RE CROSS EXAMINATION

7 BY MR. KOGER:

8 Q. It could have hit the side of the car
9 prior to death to cause the injury?

10 A. Prior to death, yes.

11 Q. Thank you.

12 MR. KOGER: No further questions.

13 THE COURT: Anything further?

14 MR. THORNTON: No, ma'am, I ask that she be
15 excused.

16 THE COURT: All right. Dr. Phillips, you
17 may be excused, thank you.

18 Mr. Thornton?

19 MR. THORNTON: Your Honor, the State rests.

20 STATE RESTS

21 THE COURT: Ladies and Gentlemen, at this
22 time the State has rested their case, and I
23 think now is a very good time for you-all to go
24 get a bite to eat. I am going to ask you to be
25 back in the jury room at -- or I'm sorry, back

1 downstairs at 2 o'clock. Then we're going to go
2 ahead and continue with this case.

3 I have to remind you, Ladies and Gentlemen,
4 don't discuss this case with anyone. Don't do
5 any independent research. Grab a bite to eat
6 and come back, and we will see you again at 2
7 o'clock, all right? Thank you.

8 (Jury exits courtroom).

9 THE COURT: Any motions?

10 MR. THORNTON: Your Honor, I'm sorry, Mr.
11 Koger is conferring with his client. I have
12 asked him if he needed Ms. Lee to remain for his
13 case.

14 THE COURT: Okay.

15 MR. KOGER: I'm not going to call her.

16 THE COURT: All right.

17 MR. KOGER: Okay.

18 THE COURT: Motions?

19 MR. THORNTON: Thank you, ma'am.

20 THE COURT: Thank you.

21 MR. THORNTON: Thank you, Your Honor.

22 THE COURT: Whenever you're ready.

23 MR. KOGER: Yes, Your Honor, may it please
24 the Court

25 THE COURT: Yes, sir.

1 MR. KOGER: Yes, Your Honor. May it please
2 the Court, at this juncture of the trial we set
3 forth that the State has not put forth evidence
4 sufficient to prove its case, and ask at this
5 particular point that this case be dismissed on
6 directed verdict.

7 THE COURT: Solicitor, do you want to
8 reply?

9 MR. THORNTON: Your Honor, I would just
10 say, as Your Honor knows, two counts of murder,
11 the unlawful killing of another with malice
12 aforethought. I think there is ample
13 circumstance and direct evidence that would put
14 Mr. Nieves at the scene. The State has put
15 enough evidence in.

16 As Your Honor knows, this is in the light
17 most favorable to the State. At this point we
18 certainly feel like there is more than ample
19 evidence to do that. We would ask respectfully
20 that the motion for directed verdict be denied.

21 If the murders were committed, then the
22 possession of a weapon, which is also evidence,
23 during the commission of that violent crime.
24 There is also evidence of that. Thank you.

25 THE COURT: All right. Well, respectfully,

1 obviously, I'm concerned with the non-existence
2 of evidence, and it all goes to the weight.

3 I do think there is adequate evidence, both
4 direct and circumstantial, to determine that Mr.
5 Nieves was guilty of these two murders, and
6 there is evidence of a violent crime, and I am
7 going to let it go to the jury.

8 All right, Mr. Koger, other than your
9 client, do you have any witnesses that you think
10 you're going to call?

11 MR. KOGER: There is no witness, Your
12 Honor.

13 THE COURT: All right, and is now a good
14 time to go through your client's rights; is that
15 correct?

16 MR. KOGER: That's correct, Your Honor.

17 THE COURT: All right.

18 Mr. Nieves, could you please rise and raise
19 your right hand, sir?

20 * * *

21 JONATHAN NIEVES

22 * * *

23

24 being first duly sworn testified as
25 follows:

1 BY THE COURT:

2 Q. All right, and I'm just going to need
3 you to speak up. You can put your hand down.
4 Sir, we've come to that point in the trial,
5 where you are allowed to present a defense.
6 What I want you to understand is that you have a
7 right to testify, or not testify.

8 The 5th amendment to the Constitution
9 states in part that no person is required to be
10 a witness against themselves. In other words,
11 no one can make you testify. Certainly, if you
12 want to testify, you are allowed to. I just
13 need to make sure that you understand should you
14 choose to testify in this case, that you
15 understand that you're going to be subject to
16 cross-examination by the State, just as if --
17 I'm sorry, cross-examination by the State, just
18 like any other witness in this case.

19 Do you understand that?

20 A. I do.

21 Q. All right, sir. And have you had an
22 opportunity to speak with your lawyer about
23 whether or not you want to testify?

24 A. I have.

25 Q. Do you want to testify in this case?

1 A. We agree that I should not.

2 Q. Okay. I understand you to say we
3 agreed, but what I need to make sure you
4 understand, this is a personal right. That I
5 expect you to talk to your lawyer about it, and
6 I expect him to counsel you on what he thinks,
7 and how things are proceeding, but you need to
8 understand that this is a personal right that
9 you choose.

10 Do you understand that?

11 A. I do understand.

12 Q. All right, and you still do not wish to
13 testify; is that correct?

14 A. May I -- can I take a second to talk to
15 my lawyer?

16 Q. Sure, absolutely, absolutely. All
17 right, sir, have you had an opportunity to talk
18 to Mr. Koger about whether or not you wish to
19 testify?

20 A. Yes, ma'am, I have.

21 Q. Are you going to testify in this case?

22 A. No, ma'am, I'm not.

23 Q. And is that your choice?

24 A. Yes.

25 Q. All right, sir, thank you. You may sit

1 down, sir. I find the defendant's decision not
2 to testify has been knowingly and intelligently
3 made after consulting with his attorney.

4 So my understanding is what we're going to
5 do, obviously, when the jury comes back after
6 lunch, I'm going to go ahead and have you
7 formally rest in front of the jury.

8 Renew our motions for the record, and we'll
9 take them on the same basis as before,
10 obviously, so you are protected for the record,
11 Mr. Koger, and we'll just go straight into
12 closing argument.

13 Otherwise, go through my jury charge very
14 quickly, that I have put together, and I also
15 received a request for jury charges from you,
16 Mr. Koger. I just have included all of them,
17 not that you have requested -- not necessarily
18 your version of them, but the standard, okay?

19 MR. KOGER: Yes.

20 CHARGE CONFERENCE

21 THE COURT: So I'll go through them. The
22 first thing I want to ask from the State is, did
23 you want me to charge hand of one/hand of all?

24 MR. THORNTON: Yes, Your Honor, that's the
25 one that I would say is relevant in this case,

1 and I didn't submit anything, because,
2 obviously, until you get the --

3 THE COURT: Right.

4 MR. THORNTON: -- evidence out, but I think
5 absolutely --

6 THE COURT: Okay.

7 MR. THORNTON: -- what this case boils down
8 to.

9 THE COURT: Okay, so I'm going to go
10 through, and it's my standard charge. I know
11 both of you have heard it before. We talk about
12 the indictment is not evidence, the presumption
13 of innocence.

14 I go through the lengthy reasonable doubt
15 charge. The duties of a jury and a Trial Judge.
16 The jury has the responsibility of finding the
17 facts. I'm the one that tells them the law.

18 I talk about direct and circumstantial
19 evidence, credibility of witnesses, expert
20 witnesses in this case. I tell them that the
21 Defendant did not testify, and they aren't to
22 talk about that. The hand of one is the hand of
23 all, mere presence.

24 And then the third-party's guilt, which I
25 think there was some testimony as to third-

1 party's guilt, and I know Mr. Koger requested
2 it, so I'm going to go ahead and do that. I
3 also tell them that there are three indictments
4 in this case, the full indictment they have as
5 to each of them. And then the first, obviously,
6 is murder, and the second one is the possession
7 of a weapon during the commission of a violent
8 crime. They're pretty straightforward,
9 everything.

10 Is there anything that you-all think is
11 missing from the State at all?

12 MR. THORNTON: I don't think that there's
13 anything missing, Judge. I would just ask --
14 and I know you said this earlier, just to
15 clarify, you're using the standard text for mere
16 presence charge?

17 THE COURT: Yup.

18 MR. THORNTON: Do you -- is there any way I
19 can get a copy of the third-party guilt one? I
20 haven't dealt with it in a while, I just wanted
21 to review it.

22 THE COURT: It's actually very, very short,
23 and you really have to look at it. It just says
24 in this case there may or may not be evidence of
25 what is termed third-party guilt. What would

1 your theory be on third-party guilt, if there's
2 someone completely different with Mr. Riley when
3 this occurred, other than your client?

4 MR. KOGER: No, Your Honor.

5 THE COURT: This is entirely his fault, is
6 that what you're saying?

7 MR. KOGER: Yes, Your Honor.

8 THE COURT: Okay. Then the third-party
9 guilt wouldn't be appropriate in this case.

10 MR. KOGER: No, ma'am.

11 THE COURT: Of charging third-party guilt.
12 That would just be mere presence, and he would
13 have to show, obviously the hand upon the hand
14 of all, that he had to aid and embed, and he had
15 to have some form of agreement.

16 MR. KOGER: Well --

17 THE COURT: So -- yeah.

18 MR. KOGER: Well, Your Honor, that's a jury
19 issue, as far as what this man is on trial for,
20 whether he participated in the crime. I know
21 there's been testimony, but that's a jury issue.

22 THE COURT: That's a mere presence charge
23 though. I mean I can tell you I understand --
24 and I can read you the third-party guilt --

25 MR. KOGER: Yes.

1 THE COURT: -- and it doesn't make sense
2 under the facts of this case.

3 MR. KOGER: Okay, read it.

4 THE COURT: In this case there may or may
5 not be evidence of what is termed third-party
6 guilt. From the testimony you've heard, there
7 may or may not be evidence that someone else may
8 be guilty of this crime.

9 And when you say someone else, that means a
10 totally different person, not in addition to.
11 And so that determination is solely and
12 exclusively for you and for the jury. It
13 doesn't make sense. It says or establishes any
14 reasonable doubt as to the identity of the
15 perpetrator. I mean that's -- it's not
16 appropriate in this case. I agree mere presence
17 is appropriate.

18 MR. KOGER: Judge.

19 THE COURT: Yeah.

20 MR. KOGER: I think the reason was, and I
21 know you have made your -- well, not made your
22 decision, but what you've decided to use here.

23 THE COURT: Uh-huh.

24 MR. KOGER: But the one I submit, can I
25 read that to the Court?

1 THE COURT: Where did you get it?

2 MR. KOGER: Huh?

3 THE COURT: Where did you get the one you
4 presented? Where did you get it?

5 MR. KOGER: I got it from a colleague of
6 mine, and it's based on the Holmes case and --

7 THE COURT: Okay.

8 MR. KOGER: -- and some other case.

9 THE COURT: Okay, what does it say again?
10 You know, hold on, let me find it because I have
11 it.

12 MR. KOGER: I came up with another case.

13 THE COURT: Here it is. Okay, go ahead.

14 MR. KOGER: Okay. The State contends that
15 there's evidence before you to indicate there's
16 someone other than him who committed the crime,
17 and that evidence would raise a reasonable doubt
18 for the State, just the same as guilt. In this
19 regard, I charge you that a defendant in a
20 criminal case has a right to rely on any
21 evidence produced at trial, to have the
22 opportunity to raise a reasonable doubt, with
23 respect to his own guilt. That prosecution has
24 the burden to prove the Defendant's guilt on any
25 evidence of the crime beyond a reasonable doubt,

1 and that the burden of proof never shifts to the
2 defendant.

3 In other words, the defendant does not have
4 to -- I'm sorry, the Defendant does not have to
5 produce evidence that proves the guilt of
6 another. And they rely on all evidence offered
7 by the other side, that creates a reasonable
8 doubt as to whether he did it.

9 In other words, there is no requirement
10 that this evidence raises a strong possibility
11 that someone, other than the defendant,
12 committed the crime. You must decide whether
13 the State has proved the defendant's guilt,
14 beyond a reasonable doubt, after considering all
15 of the evidence and the law as charged.

16 THE COURT: Mr. Koger, that's not an
17 appropriate charge. I can tell you exactly
18 where that comes from. That's whether or not
19 the question is, is whether the identity of a
20 person as a perpetrator. I can tell you that
21 third-party guilt, you called it third-party
22 guilt, and you blend it with identity, and it's
23 not appropriate in this case. They can think
24 that your client did not participate. They can
25 think that your client wasn't there at all, but

1 you don't have a specific -- when you're talking
2 third-party guilt in this case, you're talking
3 about Mr. Riley, correct?

4 MR. KOGER: That's correct.

5 THE COURT: Not that there's any question
6 in here if Mr. Riley was here or not here, so he
7 was a part of it.

8 The real question is whether or not your
9 client participated, that's really the whole
10 question in this case. I think it's pretty
11 clear from the testimony if the jury believes
12 that Mr. Riley's the one that instigated this,
13 started it, and made your client the hand of one
14 is the hand of all theory, so -- and that's not
15 appropriate for me to get into.

16 THE COURT: Thank you.

17 MR. KOGER: And, Judge, one other thing,
18 could you read the hand of one, hand of all
19 charge?

20 THE COURT: How about we just email it to
21 you? It's long, it's long.

22 MR. KOGER: Okay, thank you.

23 THE COURT: So I'll -- yeah, I'll go ahead
24 -- and she'll email you right now, okay?

25 MR. KOGER: Okay, thank you.

1 THE COURT: All right, anything else from
2 anyone?

3 MR. THORNTON: No, Your Honor.

4 THE COURT: So I'd like the lawyers to be
5 back at about 1:45ish, so we'll go ahead and be
6 ready to go.

7 Also before you leave, Morgan has prepared
8 a verdict form, and I want you to take a look at
9 it too, just to make sure it's correct.

10 For those of you in the back that are here
11 from the gallery, I want to make sure the family
12 knows.

13 When these lawyers do their closing
14 arguments, I ask that no one responds, or moves
15 around, or even comes or goes. I can also tell
16 you that when I start charging on the law, which
17 takes roughly -- will take maybe ten minutes in
18 this case, the doors are all locked.

19 So just to let you know that you won't be
20 permitted to go in or out of the courtroom,
21 while the lawyers are either arguing, or during
22 my charge, all right?

23 And the whole reason is, by law, they lock
24 it for me when I charge, because the lawyers --
25 I just don't want them to watch you when you

1 walk out the door, rather than looking at the
2 lawyers in their final arguments, okay? Yes,
3 sir.

4 MR. THORNTON: Your Honor, the only other
5 thing I would ask is, just for order purposes,
6 is Mr. Koger going to request that I go twice,
7 or just once?

8 MR. KOGER: Once, Your Honor.

9 MR. THORNTON: You said?

10 MR. KOGER: Once.

11 THE COURT: Thank you.

12 MR. KOGER: I apologize.

13 MR. THORNTON: Thank you.

14 THE COURT: Okay, anything else we need to
15 put on the record, gentlemen, before we break?

16 MR. THORNTON: Nothing from the State,
17 Judge, thank you, ma'am.

18 THE COURT: All right.

19 MR. KOGER: Nothing at this time.

20 THE COURT: All right, thank you. Okay.
21 (Lunch break.)

22 PROCEEDINGS CONTINUED

23 (Jury enters courtroom.)

24 THE COURT: Welcome back, Ladies and
25 Gentlemen, I hope you-all got a bite to eat,

1 yeah? At this time, Mr. Koger, if you would go
2 ahead and formally rest for the jury.

3 MR. KOGER: The defense rests in this case.

4 DEFENSE RESTS

5 THE COURT: Thank you, Mr. Koger.

6 Ladies and Gentlemen, now what we have to
7 do is just hear the closing arguments from the
8 lawyers, as well as I'm going to charge on the
9 law that's applicable to this case, and we are
10 going to send it to you, all right?

11 So at this time we'll go ahead and give Mr.
12 Thornton your attention, all right?

13 MR. THORNTON: Thank you, Your Honor, may
14 it please the Court.

15 THE COURT: Thank you, sir.

16 CLOSING ARGUMENT BY MR. THORNTON

17 MR. THORNTON: Mr. Koger. The hand of one
18 is the hand of all. That's a legal theory in
19 South Carolina the Judge is gonna tell you
20 about, it's going to be part of the law of this
21 case. And I'm gonna tell you a little bit about
22 it, but as we talked about it, if you'll
23 remember when we first got up here, if there's
24 anything that I say that is different than what
25 the Judge says, when it comes to the law, you

1 have to stay with what the Judge says, it's the
2 law. Just like you are the Judges of the facts,
3 she is the Judge of the law.

4 And what the law says is that if you join
5 with another in an illegal act, that each one of
6 you is responsible for the acts of all the
7 others. And the Judge said earlier that I was
8 seasoned, and that's her polite way of saying
9 I've been around for a while.

10 And before he passed away, I used to get
11 lots of, I call them pearls of wisdom from my
12 father before he passed. And one of the things
13 when I was growing up that he always used to say
14 is, you know, if you lay down with dogs, you get
15 up with fleas.

16 That's what the hand of one is the hand of
17 all is really about. That means, if you join
18 with somebody else, you are responsible for what
19 they do, and they are responsible for what you
20 do. And at its core, that's what this case is
21 about.

22 What this case isn't about is James Jackpot
23 Riley. It's about him in the sense that there
24 was testimony about what he did, there's
25 testimony about what Santana did, and the fact

1 that they did this together. Hopefully,
2 Jackpot's day will come, and it doesn't matter
3 if it's six hours, six months, six years, or six
4 days, justice has no time limit, and that time
5 has come for Santana.

6 It's time for him to answer for what he
7 did, and for what was done when he joined up
8 with Jackpot. So what do we know in this case?
9 What's the evidence? How do you know that they
10 were working together? Well, let's talk about
11 it. You know that both Santana and Jackpot
12 talked about doing the robbery.

13 How do you know that? Well, you had two
14 people that told you about it, right? Vanessa
15 Boyles got up and said there was that
16 discussion, and so did Tyquasia Lee. What else
17 do you know? "He shot first, so I shot too."
18 That's what he told Vanessa Boyles. And when
19 you're examining what a witness tells you, one
20 of the things that you're going to have to
21 figure out is, who's telling the truth? A fancy
22 word for that, and the Judge is going to talk
23 about it, is credibility. One of the ways you
24 can judge credibility is, how did the person
25 appear on the stand? For instance, if you were

1 14 years old and somebody trying to impress you
2 had talked to you about all this stuff, would
3 you have wanted to get up on this stand in front
4 of him and talk, or would you have been scared?
5 Does that make her more credible or not?

6 What about the other evidence in the case?
7 So when you're thinking about what a witness has
8 said, does it match up with other witness'
9 testimony? Does it match up with physical
10 evidence?

11 So those are the things, when you go back
12 to that jury room, that you have to think about.
13 You know that Santana, the Defendant in this
14 case, provides a phone number at the Handy
15 Dan's. How do you know that? Because it shows
16 him doing it, as Jackpot's dialing the number,
17 right? Does that appear that they are working
18 together in a common scheme to go do this
19 robbery?

20 When they get to Vanessa Boyles' daddy's
21 house, Mr. Toomer, remember he got on the stand,
22 do they leave and come back together several
23 times? Yes, according to Mr. Toomer. Does it
24 appear that they are working together at that
25 point? What about when I talked to you a minute

1 ago about, which is, "He shot first, and then I
2 shot too." Do you remember what Mr. Toomer
3 said? What did he say? He said, "I heard shots
4 from how many different guns." So if Mr. Toomer
5 hears two different guns, is it made more
6 credible that Vanessa Boyles tells you that
7 Santana says, "Jackpot shot, so I shot too," two
8 different guns. Ty Lee says that Santana tells
9 her, "Look, here's what happens.

10 Jackpot comes out, he shoots, and then he
11 shoots, he goes around and shoots the woman
12 that's in the car." And there's lots of stuff
13 that we need to look at with just this little
14 statement, right? And then he says what? That
15 they beat him in the head, hit him in the head,
16 however you want to characterize it, that he was
17 beaten in the head, because he wasn't dying
18 quick enough, he was dying too slow.

19 And I'm gonna get back to that in a minute
20 because there's an element that's required in a
21 murder called malice, and we'll talk about that
22 in a second. And then they do what? Both
23 Santana, the Defendant in this case, and Jackpot
24 move him to the backseat, right?

25 All right, now, what does the physical

1 evidence in the case tell you just looking at
2 that bit right there? Where is the male victim
3 whose DNA analyzed to be Bruce Specks? Where
4 was he found? He was found in the back seat.
5 What did he die of? Blunt force trauma, a
6 cranial hemorrhage.

7 How on earth would Ty Lee have known all of
8 that unless Santana had told her? How would she
9 know that they beat Bruce Specks in the head,
10 that matches with what the pathologist told you?
11 How would she know that the female was in the
12 front passenger seat, but they had moved him to
13 the backseat?

14 And the answer is, there's no way she could
15 have known, except for the fact that Santana
16 told her, because he couldn't keep that secret
17 to himself. Do you remember we talked earlier,
18 when I got up in front of you, about the secrets
19 that were gonna come out? Well, they came out,
20 because there's no way for Ty Lee to know any of
21 that information, unless she got it from him.

22 there's another interesting thing, Santana
23 tells her, "When we were moving him, his gun
24 falls out." Is that made or less credible by
25 the witnesses who took the stand and the other

1 evidence? Gun testimony was Bruce Specks' gun
2 found, according to Mr. Toomer, on the roadway
3 right outside of his house, when he was walking
4 to the Handy Dan's.

5 Do you remember something else that he
6 found? He found some money, right? Do you
7 remember he testified that he found some money?
8 Isn't it interesting that Santana says, "We were
9 angry, because Bruce didn't have the money on
10 him, we thought he would."

11 Well, maybe it fell out along with the gun,
12 and they just didn't see it, when it hit the
13 ground, because both were found by Michael
14 Toomer the next day. "We poured gas on it, and
15 watched it burn, until we couldn't see the
16 bodies anymore." I'm not gonna put those bodies
17 back up on the screen, you're gonna have those
18 photographs in the back.

19 Does that physical evidence match with them
20 pouring gas on it? Yes, what else matches with
21 it? Do you remember Megan Fletcher from SLED
22 that got up? What did they find on the ground
23 next to the car? Gasoline. When you are
24 thinking about what the testimony is, you have
25 to analyze everything, that's why I told you-all

1 at the very beginning, and I hope you've heard
2 it every time the Judge tells you, "Don't start
3 talking about the case yet, don't start talking
4 about the case yet." Because you've got to
5 analyze all the evidence together.

6 What else do we know? Bruce carried a bag
7 with skulls on it, and Vanessa Boyles talked
8 about that Santana had that bag, along with
9 Jackpot, and they were splitting up the weed.
10 Who else testified to that? Ty Lee.

11 And that's not even what he told her,
12 that's what she saw. Do you remember she saw
13 that Jackpot had it, and Santana went over to
14 their house, and then later on Santana, the
15 Defendant in this case, comes out with it. And
16 what else does he have? He's got that gun, the
17 broken one, the one that he then throws in the
18 river to try to hide the evidence, just like
19 they burned Bruce Specks, and burned Shantay
20 Jenkins, to try to hide what they had done.

21 Now, Ladies and Gentlemen, the Defendant in
22 this case is charged with two counts of murder,
23 and a count of possession of a weapon during the
24 commission of a violent crime. Murder is,
25 basically, the unlawful killing of another with

1 malice aforethought. And malice aforethought
2 just means that they had to have a malicious
3 intent, at the time that the killing was done.
4 What could be more malicious than pouring gas on
5 that car, and watching the bodies burn? What
6 could be more malicious than beating Bruce
7 Specks in the head, because he wasn't dying fast
8 enough? If that's not malice, Ladies and
9 Gentlemen, then malice does not exist in this
10 world.

11 All for money. This is the last chance
12 that I get to talk to you all. Mr. Koger is
13 gonna get up in a minute, and he gets to do his
14 closing argument, and this is the last chance I
15 can speak to you. And it's always concerning
16 every time I get in front of a jury, that I've
17 forgotten something, that I haven't reminded
18 them of something, and I always worry that I've
19 left something important out; but, Ladies and
20 Gentlemen, there is a mountain of evidence in
21 this case against Jonathan Nieves.

22 It is absolutely clear that he participated
23 in this, that he aided, that he abetted, that he
24 assisted, and he performed some of the worst
25 acts in this case himself. There is no question

1 in this case, Ladies and Gentlemen, that he is
2 guilty of two counts of murder, and guilty of
3 possession of a weapon, a pistol, during the
4 commission of a violent crime.

5 He puts himself there with multiple people.
6 He said, "I was there," well, he tells the
7 Police, "I wasn't there, I don't know what
8 you're talking about." Then he tells his
9 girlfriend, "Well, I was with him, but I didn't
10 do nothing," tells Vanessa Boyles, "Well, I mean
11 he shot, and then I shot, but he shot first,"
12 and then he tells Ty Lee the rest of it. Any of
13 those acts that he committed, along with Jackpot
14 make him guilty as a principal, and the Judge is
15 gonna tell you about what that means.

16 Six minutes, six days, six years, it
17 doesn't matter, there is no time limit on
18 justice, and Santana's time is up. I'd ask that
19 you return a verdict of guilty on all three
20 charges.

21 THE COURT: Mr. Koger.

22 MR. KOGER: May it please the Court.

23 THE COURT: Yes, sir.

24 CLOSING ARGUMENT BY MR. KOGER

25 MR. KOGER: Ladies and gentlemen of the

1 jury.

2 Beyond a reasonable doubt, that Defendant,
3 that the verdict that the State has, not only in
4 this case, but in every courtroom in the State,
5 and every courtroom in America, the State must
6 prove the case beyond a reasonable doubt. You
7 heard time and time again this case has been
8 pending since October 2nd, 2015.

9 As of this time right now, it's been six
10 years, six years that Mr. Nieves got his day in
11 court. Now, Solicitor Thornton wants to come
12 before you now, and he wants to put it
13 altogether, and say that you'll have no other
14 option but to find guilty for Mr. Nieves on
15 these particular charges.

16 But let's look at how we got here, and,
17 again, I agree with Solicitor Thornton that, if
18 there's something that I may leave out, then, of
19 course, you have the opportunity, you remember
20 testimony, you may have an opportunity to hear
21 the testimony again, so what we say is not
22 evidence, but that's gonna be on the record,
23 okay? Three people that we know from the Handy
24 Dan video, three people is in this case right
25 here. And we know that it is alleged that Mr.

1 Nieves was at the scene of the killing and the
2 burning.

3 It was admitted by Vanessa Boyles that she
4 was at the scene of the burning. The one person
5 who's been pointed out by several people as the
6 primary person in this whole deal, James R.
7 Riley, Jackpot. That's the third person, and
8 he's not here. And he's not here by choice, but
9 he's not here because he was never charged.
10 He's not here because he was not thoroughly
11 investigated. He's not here, because Agent
12 Brown told you, "It was my discretion not to
13 reinterview him, once I found out," you know, we
14 talked about Ms. Lee's statement, and,
15 basically, they're basing this prosecution, a
16 large part, on the Lee statement, but in that
17 Lee statement Mr. Riley was mentioned numerous
18 times.

19 Mr. Riley was mentioned as a major
20 participant. He was not reinterviewed from that
21 same statement. So they talk about the hand of
22 one is the hand of all, and you'll get that jury
23 instruction, and they want to use that of what
24 Mr. Riley allegedly did on that particular night
25 to convict Mr. Nieves, but Mr. Riley has never

1 answered any courtroom -- he has never appeared
2 in any courtroom on this case, never appeared.
3 And witness after witness that was applicable
4 to, say that Jackpot was the main one.

5 Jackpot was in the store. It's debatable
6 whether he paid for the gas or not, but he was
7 in the store. Jackpot was said from Michael
8 Toomer, if you go over some of the witness
9 testimony, Michael Toomer, "Here, I've got a .9
10 millimeter, do you want to shoot it?" Maybe at
11 that time he was trying to get Mr. Toomer's
12 prints on the gun, I don't know. "Do you want
13 to shoot it?"

14 He also offered Mr. Toomer some drugs.
15 From earlier testimony by Ms. Smalls, he fled
16 from the store, maybe his speech was slurred,
17 and he was intoxicated, okay? Then later that
18 evening Mr. Toomer said what? "I heard," and
19 Mr. Thornton mentioned it, "I heard two guns.
20 One sounded like a .9 millimeter, and another
21 gun." Okay, and another gun.

22 There has been evidence all along, up until
23 that point, to arrest and charge Jackpot Riley
24 in this particular case. Now, again, they say
25 this is, again, and they're going off the theory