

VOLUME I OF III

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Laurens County

Honorable Donald B. Hocker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TIMOTHY P. SPENCER,

APPELLANT

APPELLATE CASE NO. 2024-000685

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

DEFENSE EXHIBIT #28 (RIGHT SIDE OF BLUE TRAILBLAZER), DEFENSE EXHIBIT
#30 (LEFT FRONT QUARTER OF TRAILBLAZER)

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

IN THE COURT OF GENERAL SESSIONS

State of South Carolina,)
Plaintiff,)
v)
Timothy Paul Spencer,)
Defendant.)
_____)

2023-GS-30-1662

TRANSCRIPT OF RECORD

April 15-19, 2024
Laurens County, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Judge, and a jury

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:

Joshua L. Thomas, Deputy Solicitor
Jared Simmons, Assistant Solicitor

ATTORNEY FOR DEFENDANT:

Chelsea B. McNeill, Eighth Circuit Public Defender
Joel T. Broome, Esquire
Tristan M. Shaffer, Esquire

Tara T. Scott, CVR
Official Circuit Court Reporter

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1 Trial Day 1: April 15, 2024

2 (WHEREUPON, case called at 12:12 p.m.)

3 THE COURT: I'm going to announce the case that's being
4 called for trial, and then I will ask you questions that are
5 specifically related to the trial. Same rules apply. If I
6 ask you a question that you need to respond to, but you are
7 reluctant to do so in front of everybody, then I'll speak
8 with you privately. There will be several questions that
9 I'll ask you that I will specifically instruct you to,
10 if you need to respond to it, to do so privately. So, keep
11 keep that in mind as we as we go through this particular
12 part of the of the process.

13 The first case that's being called for trial is the
14 case of the *State of South Carolina v Timothy Paul Spencer*.
15 Mr. Spencer, would you please stand and just face the jury
16 panel for just a second or two, just so they can see you.

17 (WHEREUPON, Defendant stands.)

18 That's fine. That's all I need. Have a seat.

19 (WHEREUPON, Defendant sits.)

20 Now, Mr. Spencer has been indicted with one criminal
21 offense and I'm going to read the indictment to you in a
22 minute, but I want to go ahead and tell you right now the
23 fact that Mr. Spencer has been charged and indicted with a
24 criminal offense is not proof whatsoever of any guilt on his
25 part. The allegations contained in the indictment, it is on

1 we'll get you back out shortly.

2 (WHEREUPON, trial jury exited at 2:30 p.m.)

3 THE COURT: Okay, any exceptions to jury selection from
4 the State?

5 MR. THOMAS: In the interest of expediency, absolutely
6 not, Your Honor.

7 THE COURT: Okay, and from the Defense?

8 MS. MCNEILL: None, Your Honor.

9 THE COURT: Okay, thank you very much. All right,
10 ladies and gentlemen, I know that some of you probably are
11 glad that you were not selected, but I really hope that some
12 of you are a little disappointed that you were not selected.
13 I've talked with a lot of juries over the years and the vast
14 majority that told me that the experience was a good one,
15 that they learned some things that they did not know before
16 they got to the courthouse. So, I'm hopeful that sometime
17 in the future you'll be summoned back, either to this
18 courthouse or to another courthouse if you move, and have an
19 opportunity to sit on a jury, whether it's in the criminal
20 arena as we have here in the civil arena.

21 Now, this is Monday. I don't like to excuse the
22 remaining jury panel this early in the week. So, what I
23 want you to do, look on the cards that you were given and
24 there's a call in number. I want you to call that number
25 after six o'clock this evening, and it will give you

1 instructions on what to do. More than likely, it's going to
2 tell you to call back after six o'clock on Tuesday evening,
3 but I just don't like to excuse for the remainder of the
4 week my remaining jury panel on Monday. Okay. So, you're
5 free to go. Have a good rest of your afternoon. Get some
6 lunch, and maybe we'll see you back. Not for sure.

7 (WHEREUPON, remaining jury panel exited 2:32 p.m.)

8 THE COURT: Let's start start in the morning at 10:00.
9 I know we've got some pre-trial. Let's break to about maybe
10 four, and we do do whatever pre-trial, and so I'm going to
11 have the jury go and cut them loose for the rest of the day
12 have them back at 10:00. Y'all good with that, the State?

13 MR. THOMAS: Yes, sir.

14 THE COURT: Defense?

15 MS. MCNEILL: Yes, sir.

16 THE COURT: All right, let's bring the jury back in,
17 please.

18 (WHEREUPON, the jury entered at 2:36 p.m.)

19 THE COURT: All right, ladies and gentlemen, here's the
20 plan. I'm going to give you a few instructions. First of
21 all, we're going to start back at 10 o'clock in the morning,
22 okay? What I want you to do is get back here before 10,
23 a little bit before 10, because I will want you, when you
24 all 15 of you are together, I want you to elect your
25 foreperson. I'm going to tell you what the foreperson does

1 in just a minute. So, try to get in here if you can give
2 you enough time to do that. Say no later than a quarter to
3 10, but we'll try to get started with the case at 10
4 o'clock. And what a foreperson does, and I'm sure all 15 of
5 you would make excellent forepersons. The Foreperson wears
6 several hats. One, I need someone to communicate, or be the
7 communicator, between the jury and the court. If at any
8 time during the course of this trial or even when you begin
9 your deliberations, if there's any issue, discussion,
10 question, concern, anything, it needs to come directly to me
11 in writing and signed by the foreperson. So, I need the
12 foreperson to handle that responsibility. Secondly, I need
13 someone, and this really everybody's responsibility, but I
14 need someone to make sure all my instructions are being
15 followed. I'll give you a couple more instructions here in
16 just a minute. And thirdly, when I do give you the case to
17 begin your deliberations after all the evidence is in, the
18 arguments have been made by the lawyers, I've instructed you
19 on the law, then I need someone to get the deliberations
20 started and the deliberations organized for purposes of
21 collecting votes to eventually reach a unanimous verdict in
22 the case. So, that's the hats that a foreperson wears. If
23 the foreperson is a male, it's a foreman. If a female it's
24 a forelady, and so what I need for you to do is when you get
25 back here in the morning -- and the three alternates can

1 participate in the election of the foreperson. Decide who
2 you think would make -- and I know you don't really know
3 each other. But after talking a little bit, figure out who
4 you think would make the best foreperson. And that's who I
5 want elected. And then when that election does take place,
6 foreperson just write your name down on a piece of paper,
7 hand it to one of the bailiffs or the deputies, and they can
8 give it to me, okay?

9 Now, I've already instructed you not to begin any
10 deliberations or discussions about anything related to the
11 case among yourselves. That also applies to anyone that you
12 come into contact with after you leave the courthouse,
13 whether it's family members, friends, co-workers, anybody,
14 you can say I've been picked on a jury and leave it at that.
15 And thirdly, and I'll go into more detail on this in the
16 morning. This is very very important. If you feel the urge
17 to go on the internet or social media and do some research
18 into this case, don't do it. Don't do it. And the reason
19 why is because you're receiving information outside of this
20 courtroom and your verdict has to be based 100 percent on
21 which is brought out of this courtroom. So, while you may
22 have the urge, don't succumb to your urge, because if you
23 violate my instructions there are consequences to that. I
24 know these lawyers remember several years ago we had a case,
25 a very serious cases as this one is, and I had three jurors

1 violate those instructions. So, it is very very important.
2 Again, I'll explain more about it in detail tomorrow, but
3 don't do any of that until after this case is over with.
4 Okay, so keep all that in mind. It's real important that
5 you get a good night's rest each night because you need to
6 come into this courtroom alert and attentive. So, make sure
7 you get some good rest and have a good rest of your day, and
8 we will see you tomorrow at 10 o'clock. Okay? Thank you
9 very much.

10 And when the foreperson -- when you come back out when
11 we begin tomorrow, the foreperson will always maintain that
12 front seat right there. Your three alternates, you will
13 always maintain those three seats right there. Let me
14 explain something to you about the alternates. It's not
15 unusual during the course of a trial that has some length to
16 it like this one that illness, an emergency at home,
17 something requires me to excuse one of the 12. Well, I need
18 someone to fill those shoes, someone who has sat through the
19 entire trial up until that point in time to be able to fill
20 those shoes of the excused member of the 12. So, your role
21 is very, very important. Of course, if that doesn't happen,
22 you cannot participate in the deliberations. You can
23 participate, again, in the election of a foreperson, but not
24 in the deliberations. So, your role is very important as
25 well. Okay? All right. So, you keep your three seats,

1 foreperson keeps that front seat. Rest of you can sit
2 wherever you like. It's been my experience that jurors like
3 to kind of keep the same seat throughout the trial. You can
4 do that if you want to, but you don't have to. Okay? Have
5 a good rest of your day. We'll see you in the morning.

6 JUROR: How late does it usually go to? Until you're
7 done for the day?

8 THE COURT: Yeah, I mean, unless we just have something
9 pressing, I like to kind of stop around 5:00, 5:30, unless
10 we just have something pressing that we really need to keep
11 working on.

12 (WHEREUPON, selected jury released at 2:40 p.m.)

13 THE COURT: Do y'all want regroup about 4:00?

14 MR. SHAFFER: Yes, Your Honor. Before we go, can we get
15 an idea of what the State plans on introducing?

16 COURT REPORTER: Mr. Shaffer, can you move near a mic?

17 MR. SHAFFER: I'm so sorry. Before we go, can we get
18 an idea of what the State plans in introducing video and
19 audio wise, just so -- I know that they've given us a list
20 of what they plan on agreeing to redact, but we'd like to
21 know what they're planning on introducing and therefore
22 we're not going to argue about stuff that really doesn't
23 matter.

24 THE COURT: Why don't y'all, during the lunch break,
25 get together, and I guess you're going to need to discuss

1 that and make sure that the Defense is okay or not okay with
2 the proposed redactions.

3 MR. THOMAS: Right, Your Honor. I mean, those are --
4 I'm going to enter the exhibit as the entirety of the
5 statement minus the redactions. Now, what I publish to the
6 jury, some of it's probably not relevant, and I don't -- not
7 necessarily not relevant, but just, I don't need to publish
8 all of it. I only need to publish a little bit of it. I
9 haven't -- that's a game time decision when when I put that
10 witness up. In terms of what I intend to introduce as an
11 exhibit would be everything minus what is on this sheet as
12 being reactions.

13 THE COURT: Okay, so everything minus the redactions
14 will be into evidence, even though not necessarily all that
15 ---

16 MR. THOMAS: Published to the jury.

17 THE COURT: --- published to the jury.

18 MR. SHAFFER: Your Honor, we would object to a record
19 that shows that, like, this is the problem with this. Later
20 on, if you're on appeal, what you're looking at is State's
21 Exhibit whatever. And then it's a three hour long video,
22 but only 20 minutes of it were played. That's a problem.
23 We would like a copy of whatever they plan on publishing to
24 the jury. They can make it as whatever exhibit they want to
25 make it, but have a copy of that particular exhibit made at

1 least a Court's exhibit so that we know what's actually
2 showed to the jury as opposed to introducing a three hour
3 long video and playing 20 minutes of it.

4 MR. THOMAS: If we're concerned about what's actually
5 being shown to the jury, I'm -- having done enough appellate
6 work with Mr. Shaffer over the years, I know to make the
7 record what I'm showing and what I'm not showing of the
8 exhibit. I can make sure to do that. Again, if they have
9 other things that they don't want on the exhibit, I'm happy
10 to talk about that. Maybe I can agree to some of it. I
11 just need them to tell me that. And that's just sort of
12 where I'm at with it, Judge.

13 MR. SHAFFER: And, Your Honor, we'll have to give you a
14 list tomorrow morning if we're going through eight hours of
15 video looking for other redactions, so...

16 THE COURT: Well, I think it may be a good idea, at
17 least initially, for the Defense to know what the State
18 intends to publish to the jury, notwithstanding there's
19 going to be more that's into evidence. And then they'll
20 kind of see if there's any problems with that. And I guess
21 the defense too needs to make a determination whether these
22 redactions are suitable or not. So...

23 MR. THOMAS: I mean, and that's the thing, Judge. I
24 mean, I understand we're all sort of working through this as
25 we get to it, but I listened to the entire thing. This is

1 what I came up to be a redaction that I think is appropriate
2 to be redacted. I'm happy to, if they've got some other
3 things they want to come out that I don't think are terribly
4 harmful to my case, that I don't care if the jury hears
5 about or not, I'm happy to take those out. I just, maybe
6 they can get me a list and then we can compare our lists and
7 then I can go back through and take everything out and then
8 I can see what I plan on publishing from that.

9 THE COURT: Well, y'all, what I'm going to ask, and
10 y'all do work -- which I appreciate very much -- y'all work
11 well. And y'all try to work through this. If you run into
12 some bumps that you need my help on then, you know, I'm
13 willing to help.

14 MR. SHAFFER: And, Your Honor, because of the fact -- I
15 just -- I'm happy to work with them. I'm just -- we had a
16 hearing, like, weeks ago, where they said that they were
17 going to give us an idea of what, and they were going to
18 narrow down video and audience, and we got this
19 stuff, like, Saturday or Friday night of the redaction list.
20 We were waiting for it so that we could come up with a
21 counter redaction list. I mean, I'm not saying it's a
22 problem. I don't mind doing it. It's just, you're going
23 to, like, I think everyone's going to have to understand
24 that we're going to be here half of tomorrow trying to
25 redact stuff if we're having to go through all of the audio

1 between now and tomorrow morning to come up with redactions.

2 MR. THOMAS: And, Judge, I'm not going to get into --
3 they've also had the opportunity to get me things that they
4 wanted redacted to it and they have not. So, that's kind of
5 where -- we're both working through it as we go. So, we'll
6 get together and we'll work on it.

7 THE COURT: I know y'all will. So, just let me know if
8 you need my help. All right. We'll get back together around
9 4:00 or thereabouts.

10 (WHEREUPON, recess from 2:47 p.m.-4:10 p.m.)

11 THE COURT: We are back on the record in the State v
12 Spencer. I think Carson informed y'all that on the venue
13 issue. I've not had a chance to finish reading Dr. Shaw's
14 testimony of last month, so I need to do that. I'll rule on
15 that in the morning and also rule on the two motions for
16 suppression. I just need to do a little bit more work on
17 those. So, as I understand it, the only thing we're going to
18 do this afternoon is examine Mr. Spencer concerning
19 representation and where we are with that, correct?

20 MR. SHAFFER: That's correct, Your Honor.

21 MR. THOMAS: And I think we want to put on the record
22 those strikes for cause that we discussed at the bench. And
23 then, I guess, do we need to -- I don't -- I know we talked
24 in chambers about the venue issue, but I don't know if we
25 need to put that on the record just briefly. So, that's --

1 because I know Madam Court Reporter had numbered the
2 exhibits and everything.

3 THE COURT: All right. Let's do this. Let me go ahead
4 and talk with Mr. Spencer first and get that cleared up.
5 I'll put on the record our sidebar conference concerning
6 three challenges for cause, with respect to three jurors,
7 and then we can put on the record what we talked about in
8 chambers concerning a renewal of the Motion to Change Venue,
9 and the Defense and State can put on the record whatever
10 they want to. Mr. Spencer, I need to ask you a couple of
11 questions, so if you would stand. I'm going to have you
12 sworn in. I'm certainly not going to ask anything about the
13 case. It's just about representation, okay?

14 Madam Clerk, would you swear Mr. Spencer in?

15 (WHEREUPON, Clerk of Court swears the Defendant.)

16 THE COURT: Just remain standing, sir. I had learned
17 that at some point in time recently you had made some
18 indication to your attorneys that you were possibly
19 considering asking the Court to have them relieved. Is that
20 correct?

21 THE DEFENDANT: Yes, sir. That is correct. I've made
22 a statement concerning some conversations that we had and
23 then after, you know, debating it and seeing what is the
24 best call, I feel they will do a good job.

25 THE COURT: Okay, So you want Ms. McNeill, Mr. Broome,

1 and Mr. Shaffer, and, well, Mr. Bentley too, to remain on
2 the case?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. Up to this point, are you satisfied
5 with the services that they have rendered you in this case?

6 THE DEFENDANT: Upon further explanation of the questions
7 that I had, and I asked, and they gave me a good explanation
8 of it. Yes, sir. I am satisfied.

9 THE COURT: Well, from the Court's standpoint I can
10 tell you they have spent a lot of time on this case.
11 Certainly, I would not be aware of all the time that they
12 spent, but I am aware of a lot of the time, and they have
13 spent a lot of time. I can tell you're in good hands with
14 these lawyers, okay? Thank you, sir.

15 THE DEFENDANT: You're welcome.

16 THE COURT: Anything further along those lines?

17 MS. MCNEILL: No, sir.

18 THE COURT: Now, during the course of jury selection,
19 there were three jurors that the defense challenged for
20 cause. By the defense, the first one was Denna Griffin,
21 Juror number 109. The challenge was based upon her previous
22 working with the Sheriff's Office here, as well as a
23 relative having been murdered sometime in the past, and I
24 granted that motion to strike that juror for cause. Then
25 Juror number 303, James Tinsley, I denied the challenge.

1 The challenge was is that his -- you all correct me if I'm
2 wrong -- his son-in-law works for the Newberry Sheriff's
3 Office, which has no connection with this case. And his
4 daughter is a victim's advocate person in Newberry as well.
5 And I felt like I would not -- or I ruled that I would not
6 strike for cause. And then the third challenge was Arthur
7 Philipson, number 227. And the challenge was based upon the
8 fact that sometime previous he was employed with the
9 Sheriff's Office in Laurens. Based upon my own personal
10 recollection, I think that employment was a long time ago,
11 maybe even dating back to the '80s or '90s, and so I did not
12 strike that juror for cause. Am I pretty accurate as far as
13 what we did at sidebar, State?

14 MR. THOMAS: Your Honor, I think the only thing for
15 number 303 I think you just had it reversed. His daughter
16 is a victim advocate in Laurens County. His daughter-in-law
17 and his son works for the police department I think. Other
18 than that, you're right. And we also -- I think we had a
19 sidebar -- I don't know what's the -- number 150. The one
20 that -- the Facebook friends with Lauren Powers. I don't
21 know if that was on the record or not.

22 THE COURT: Right. We had that on the record.

23 MR. THOMAS: It is? We're good.

24 THE COURT: Anything to add to this Mr. Broome or Ms.
25 McNeill?

1 MS. MCNEILL: No, sir.

2 THE COURT: All right. Now, the third issue is what we
3 discussed in chambers this morning concerning a renewal of
4 the Motion to Change Venue that was made, I guess, last
5 month as well. Mr. Shaffer, I'll hear from you first, and
6 then get whatever response the State wants to make.

7 MR. SHAFFER: Yes, Your Honor. We've made the CAD
8 report an Exhibit. At the time we made that motion, quite
9 honestly, we had not reviewed the CAD report which had been
10 provided by the State. Whenever we reviewed it, it
11 indicated that the body would have been stiff. If the body
12 was stiff at the time that these individuals found the body,
13 it would have put, based off of the testimony that would be
14 a sign of rigor mortis. Rigor mortis would have been, I
15 think, 36 hours after time of death. So, if it was stiff at
16 the time they found the body, it's likely that the death
17 would have happened within 36 hours of that, which would've
18 basically, kind of, defeated the State's theory about maybe
19 being in Laurens when the death occurred.

20 THE COURT: All right. Solicitor Thomas?

21 MR. THOMAS: And again, Your Honor, just looking at
22 that exhibit, the CAD report that he put in, that statement
23 he's referencing, is from the individuals who found the
24 body. I'm assuming it's one of the Holly's, Brian or his
25 uncle, Henry maybe. Not sure who is talking to dispatch

1 when they say that, but I think a layperson's -- I know
2 Brian Holly is going to come testify. He's a -- he runs a
3 produce stand. I don't know that his definition -- when he
4 says body is stiff, we just don't know what that means. I
5 think that's too speculative to make that argument. He's
6 obviously not an expert in rigor. So, him not being able to
7 explain what that means, him not being an expert in that,
8 that is just sort of speculative from here, especially
9 compared to all the other evidence that the State presented
10 at other hearing that the crime would have occurred in
11 Laurens County. I think if it comes out at trial and
12 there's something they can maybe bring this up again,
13 certainly at the DV stage, but I think for purposes now your
14 prior ruling is correct and I don't think this changes
15 anything.

16 THE COURT: Well, I do want to just refresh my
17 recollection of Dr. Shaw's testimony, so I'll read that
18 transcript and then I'll rule on that as well as the other
19 matters in the morning. All right. Anything for this
20 afternoon, further from the State?

21 MR. THOMAS: No, Your Honor. I know Ms. McNeill
22 provided me -- we've given them a list of the pictures we
23 intend to introduce. She has shown, we can stipulate to a
24 bunch of them. There are a few that they have objections
25 to. I just need to get them numbered so that we can refer

1 to them in the morning on the record. Get Madam Court
2 Reporter to do all that. I think a lot of them are pictures
3 from the autopsy of the body. A lot of them I can agree to
4 take out. I've found a little diagram here. I think what
5 I'm going to do instead of putting those pictures in I can
6 just get Dr. Shaw to fill out a diagram as we go. His is
7 very messy that he did for his record, but I think I can
8 print a new one. I'm going to blow this up, get it printed.
9 I think we can do it that way, so that should take care of
10 some of them. The other ones that they still have an
11 objection to we can -- I'll get those numbered in the
12 morning. We can take that up in the morning along with, I
13 think, any video stuff. Mr. Shaffer and I are going to try
14 to get the video stuff worked out. I think that's sort of
15 where we're at with things. I'll put that.

16 (WHEREUPON, off the record discussion.)

17 THE COURT: In talking with the Court Reporter, what she
18 has done is she started over numbering exhibits. She hasn't
19 continued it from the pre-trial exhibits. So, she's
20 starting over. So, the CAD report is Court's number 1, and
21 anything the State puts in and the Defense puts in, will
22 start over, 1 on down.

23 MR. THOMAS: Yeah, and I think they did. They marked as
24 Exhibits -- as Court's Exhibits. I don't know if the Defense
25 did it, or if Your Honor did it, the two emails you sent.

1 The one after the first hearing that was about -- in
2 reference to issues with the affidavits and then your ruling
3 from the second hearing. Those emails you sent.

4 THE COURT: They can be marked as Court's exhibits, but
5 I made sure that they were put in the court file every time
6 I sent an email out.

7 MR. THOMAS: I think we're good. I'm good with them
8 being exhibits for this. I think that works.

9 COURT REPORTER: I have marked the emails Court's 1 and
10 Court's 2, and then the CAD is Court's 3.

11 THE COURT: All right. Very good. Thank you. All right.
12 Anything from the Defense for this afternoon?

13 MS. MCNEILL: No, Your Honor. I just wanted to make
14 sure. I didn't -- I was paying attention to what I'm doing
15 over here and trying to listen to Solicitor Josh Thomas.
16 Did you say that I have not provided the numbers to you yet?

17 THE COURT: No, you did. I've got them. I've got
18 them. And I looked at them. That's what we talked about.
19 I looked at some of them. Some of them I'm going to agree
20 to take out, I've just got to figure out which ones.

21 THE COURT: All right, so let's, if we can, say 9:15 in
22 the morning we'll get back together and flesh out whatever
23 we need to do and then move forward. That's assuming that I
24 deny the Motion for a Change of Venue. Thank you. Y'all have
25 a good afternoon.

1 (WHEREUPON, recess for the evening at 4:15 p.m.)

2 Trial Day 2: April 16, 2024

3 THE COURT: We're back on the record this morning. In
4 just a minute, I'll make my ruling on the motion to change
5 venue renewed, as well as the two motions to suppress. As
6 far as any other pretrial matters, I know we may have some
7 issues concerning pictures. I was just presented with a
8 notebook from the defense concerning proposed redactions in
9 an interview. If there's any pre-trial that we need to look
10 at right now, okay, that's fine. Otherwise, if it can wait,
11 my preference is just go ahead, let's get the jury out at
12 10, and we'll get started and then deal with the other pre
13 -trial matters as they come up or when we have a time to.
14 So, is there anything pre-trial that we need to deal with
15 before we bring the jury out?

16 Mr. SHAFFER: Your Honor, obviously there was some
17 mistake. Have you viewed the videos yet? So, you've viewed
18 all, like, eight hours of audio and video recordings?

19 THE COURT: No, I've not watched any interviews. I
20 didn't know we even had or that the Court was given
21 interviews.

22 Mr. SHAFFER: I think that the idea was that Josh was
23 going to narrow it down. That was my interpretation. Maybe
24 I'm wrong. That he was going to narrow them down and then
25 you were going to view them for the Denno matter, which I

1 understand we're not really raising the Denno matter.
2 However, so it's probably not necessary right this moment
3 for you to view that for a Denno ruling or anything like
4 that, but we do have -- we do have a whole bunch of
5 redactions. If the State's planning on introducing into
6 evidence eight hours worth of recording on this thing, which
7 is probably about, maybe it's not eight hours. Maybe it's
8 more like six hours, but -- or five hours. If the State's
9 planning on introducing them, before they get introduced, we
10 need to make sure our objections are on record.

11 I provided that notebook, which I'd like to make a
12 Court's exhibit, but that's going to be the -- I don't care
13 what part they stop and start on, but I want the parts that
14 are highlighted in that notebook to be cut out.

15 THE COURT: Right. And that's why I just mentioned
16 that I was given the notebook, and at some point in time I
17 will certainly review the highlighted portions, which is the
18 defense request to redact. And, of course, I don't think
19 the State has had an opportunity to look at that as either
20 and maybe we may not have a lot of disagreement. Then again,
21 we might. I don't know. But suffice it to say, I have not
22 reviewed anything related to any interviews done of Mr.
23 Spencer.

24 Mr. SHAFFER: Okay. Then, Your Honor, there are a
25 couple things we need to bring up before we actually start

1 the trial of the case. In addition to your -- we would like
2 to sequester all non-expert witnesses, except, obviously,
3 the investigators on both sides, and the victims.

4 THE COURT: All right.

5 Mr. THOMAS: The only -- Judge, so victims -- so, I've
6 got her mother and her cousin, who will be witnesses, but
7 they will be my first two witnesses. So, I don't know if
8 you want to just send one of them out when the other is
9 there, but they I would argue that they are the victim's
10 family and they are entitled to be here.

11 Mr. SHAFFER: Your Honor, we're not objecting based on

12 THE COURT: Well, you know, typically if sequestration
13 is requested, I'd go along with that. I just have to rely
14 on the lawyers to make the determination what witnesses are
15 in the courtroom, those who are in the courtroom who are not
16 witnesses, because I certainly would not know. So, I'm
17 going to order sequestration. Certainly the two family
18 members can stay and just leave it up to you guys as far as
19 who you have.

20 Mr. THOMAS: The only thing on that, Your Honor, would
21 be Mr. Spencer's live-in girlfriend, Ms. Atkins was on their
22 witness list. She was on mine, but I spelled it "Athens"
23 not "Atkins". So, she was on their witness list. She's in
24 the courtroom right now. I don't care if she's in here, but
25 if she's going to testify later in their case or something,

1 we'll raise that issue then.

2 THE COURT: Sure. Okay.

3 Mr. THOMAS: Just to put it on the record she's in here
4 now.

5 Mr. SHAFFER: And, Your Honor, and just so I'm clear, I
6 want to make sure that we're fine with our experts being in
7 there whenever the other experts testify.

8 Mr. THOMAS: Yeah, I have no objection. I think that's
9 a fair game. I think that's allowed by the rules.

10 THE COURT: Sure.

11 Mr. SHAFFER: And Your Honor, we would like to move to
12 suppress any statement made by the State or generalized
13 information about his alleged gambling problem or financial
14 troubles. And I'd like to hand up a ---

15 THE COURT: And I caught wind of something about that,
16 and Solicitor, is it the State's intent to try to get into
17 some alleged gambling issue that Mr. Spencer has?

18 Mr. THOMAS: Your Honor, part and parcel of this
19 obviously is that the victim, after she was murdered, a
20 \$2,500 transaction was taken out of her account into by Mr.
21 Spencer's HVAC company. He himself says in his interviews
22 with them that he had been at the casino gambling the
23 morning when she called him. So, the State's position
24 obviously going forward is going to be she called him. He's
25 at the casino gambling. She calls him. He goes to her

1 house. He kills her. He takes \$2,500 from her. I think
2 the fact that he gambles, the fact that he goes to the
3 casino is part and parcel. It's res gestae of this crime.
4 It goes to elements. It goes to the identity of him as the
5 perpetrator. So, I don't think it's a 404 issue at all.

6 THE COURT: Well, why don't we do this? Since that is in
7 his interview and we're going to have to deal with his
8 interview, why don't we just deal with that when we deal
9 with his interview?

10 Mr. SHAFFER: As long as the State is okay with not
11 bringing up in their opening statement that he has gambling
12 problems or money issues.

13 Mr. SIMMONS: Judge, the only thing that I plan on
14 bringing up is that he was at a casino in North Carolina.
15 I'm not making any statements that he has a gambling problem
16 in opening. Just the location.

17 Mr. SHAFFER: And, Your Honor, actually, we don't
18 object to the casino. We think that the casino is fine.
19 We're going to hand up a case for your review in this time
20 period. It's, sort of, an even-handed case because of the
21 fact that it cuts both ways. It says that certain things
22 can come in, certain things can't come in, and I highlighted
23 the things that can't come in in red and highlighted the
24 things that can come in green. Basically, it says that
25 generalized drug habit, this is dealing with drugs not

1 gambling, but it says that a drug habit, if it's the drugs
2 that are directly related to the time of the crime, are
3 admissible and a generalized drug habit is not admissible.

4 THE COURT: Right. Well, again, we will deal with this
5 -- since it's not contested that in the State's opening
6 they can mention that Mr. Spencer was at a casino. And
7 then as far as getting into a gambling problem or gambling
8 issue, we'll just deal with that when we deal with the
9 overall interview.

10 Mr. THOMAS: And speaking to the interview, Your Honor,
11 I have provided the defense with, again, I gave them on
12 Saturday a list of proposed redactions, what I believed to
13 be stuff that needs to come out. I provided Your Honor a
14 copy of that. There's copies in the Clerk's file. I gave
15 them this morning a copy of what I proposed to publish to
16 the jury. Again, the State would submit everything is in
17 evidence, but I'm going to publish what's in here in this
18 list. I provided Your Honor a copy of that. I gave them a
19 copy of it. I can -- because I did just throw it on their
20 table this morning. So, Your Honor has those. So, when
21 you're reviewing it you can look at those things and see
22 what is going to get published. I'm not sure. Obviously, I
23 haven't had time to look at their transcript or review it
24 for accuracy. I don't know what's in it. I haven't looked
25 to see what they want redacted, because I just got that this

1 morning. So, we can work on that during a break.

2 THE COURT: Well, here's my preference is that -- and
3 it may turn out that some of the requested redactions by the
4 Defense is already proposed to be redacted by the State.
5 And so, I think probably I would first ask lawyers to review
6 and just see and whittle it down to what is still in
7 dispute. What the Defense wants redacted, what the State
8 wants in, and then I can look and make the necessary
9 determination. So, I'm going to ask that y'all kind of look
10 at this further before I get into it.

11 Mr. SHAFFER: Thank you, Your Honor.

12 THE COURT: That just makes more sense to me.

13 Mr. SHAFFER: There is a hearsay statement that I also
14 would like to move to suppress on hearsay and maybe
15 confrontation clause as well. It's the -- there's a
16 statement that comes up throughout the interview and in body
17 camera and in through, I guess, family witnesses which is
18 statements related to what the victim relayed to them prior
19 to the date of, or prior to her disappearance. We've moved
20 to suppress any statements made by the victim.

21 THE COURT: Well, let me just stop you there for just a
22 second. As far as the interview, we're not going to deal
23 with anything related to the interview right now. And if
24 you're saying that in the interview, there's some potential
25 hearsay statements, then I will deal with that at the

1 appropriate time.

2 Mr. SHAFFER: And, Your Honor, here's the thing. This
3 is what I'm saying. I think it's coming out through
4 witnesses as well, but statements that the victim said to
5 somebody, unless they can fit it within hearsay exceptions,
6 should not be included in their opening statement.

7 THE COURT: Well, again, I don't know what Solicitor
8 Simmons plans to argue in opening or not.

9 Mr. THOMAS: Two steps to that process, Your Honor.
10 Number one, whatever he argues in opening, if we don't prove
11 it then, then that's for them to hammer us with in closing
12 hold over our heads. Number two, that statement is going to
13 be the victim's mother spoke to her that morning on the
14 phone. She's going to say that she told me she was waiting
15 on the HVAC man to come. That is under 803(1) -- 803(3).
16 That is a statement of her present then existing state of
17 mind. I would cite State v Griffin, 339 S.C. 74. Basically
18 that's her saying that -- the victim saying I was waiting on
19 someone to come work on my HVAC. She doesn't name Mr.
20 Spencer specifically. She just says, I'm waiting on someone
21 to come fix my HVAC. It's admissible under that hearsay
22 exception, under that case law, and quite frankly, Judge,
23 they keep raising this issue about venue and oh, this could
24 have happened in Anderson County. It's relevant to my case,
25 because I've got to prove that she was planning on staying

1 at her house, not planning on going somewhere else. So,
2 that's why it's admissible.

3 THE COURT: All right ---

4 Mr. SHAFFER: We ---

5 Mr. THOMAS: We can cross that bridge when we get to
6 it.

7 THE COURT: Wait a minute. (BANGS GAVEL) Y'all hold on
8 a minute, please. Listen to me. Let's get the jury out.
9 Let's get my preliminary comments made. Y'all do your
10 opening, and then if we have an issue with respect to the
11 first witness or second witness, then we'll send the jury
12 out and we'll deal with that. Okay? I want to get this
13 jury out. Let's at least get started in some fashion. So,
14 we're not going to talk anymore about the interview and
15 we'll get to that at the appropriate time.

16 Mr. SHAFFER: We are -- we're -- understand that right
17 now I'm not arguing with you. I'm saying that I'm moving to
18 strike any reference to that statement being said in their
19 openings.

20 THE COURT: Right, and we'll deal with that after the
21 opening. We'll send the jury back out. It's the first
22 witness for the State, so I need to make a ruling on that
23 and y'all put on the record what you need to and then I'll
24 make a ruling.

25 Mr. SHAFFER: Your Honor, I'm asking that it be

1 stricken from that opening.

2 THE COURT: Well, and Solicitor Simmons, were you
3 planning to argue in your opening statement this alleged
4 statement made to the mom by the victim?

5 Mr. SIMMONS: Your Honor, the only thing that I'm
6 mentioning about it is that B.J., the victim in this case,
7 was having problems with her heat. I'm not saying who it
8 came from, how it was said, but that's all I'm referencing.

9 Mr. SHAFFER: I'm okay with that.

10 THE COURT: Yeah, sure. Yeah, yeah, that's certainly
11 not a problem. Okay, all right. Let me go ahead and put on
12 the record my ruling with respect to the renewed motion to
13 change venue, and then also the two motions to suppress that
14 have previously been made. All right, concerning the renewed
15 motion to change venue, I have read Dr. Shaw's testimony
16 that was taken in a pre-trial virtual hearing sometime last
17 month. I don't remember the date. And I'm just going to
18 kind of paraphrase what he said in his testimony. Number
19 one, time of death, very difficult and complicated to
20 determine. Number two, there are a lot of variables that go
21 into determining when and how rigor mortis occurs. Three,
22 temperature is a major factor. Four, there was no evidence
23 as to decomposition or liver mortis except what was
24 determined at the autopsy. Five, he could not say to a
25 reasonable degree of certainty when death occurred. Six, he

1 could not say it was at least a day and a half before body
2 found that death occurred. Number seven, could not give a
3 range as to time of death. Eight, he said it was possible.
4 death occurred on the ninth, also possible death occurred on
5 the thirteenth.

6 For me to rely on Dr. Shaw to determine that death
7 occurred in Anderson and not Laurens, or vice versa, Laurens
8 and not Anderson, it would be based totally on speculation.
9 I think it's important to note too, and I know the basis for
10 the renewal was that the CAD report shows that somebody --
11 unknown who -- somebody, presumably a lay person, said that
12 the body was stiff, but we don't know to what extent. There
13 was not a medical diagnosis made concerning the body. So, my
14 order to deny the motion to change venue remains the same.

15 All right, secondly, the two motions to suppress. One
16 concerning the cell phone data from the Defendant's two cell
17 phones. I think the Drayton case -- this case is on all
18 fours with the Drayton case, which allowed the search
19 warrant in the Drayton case to be upheld. There was
20 certainly sufficient underlying facts in the bench warrant
21 (SIC) and affidavit -- search warrant and affidavit -- to
22 establish probable cause. All, again, based upon the Drayton
23 case, and I will deny that motion to suppress.

24 Now, the other the other motion is a little trickier.
25 Defense maintains that Officer Blackmon intentionally or

1 recklessly omitted information in the search warrant
2 affidavit to mislead the Court by not including information
3 about witnessing a blue Chevy Envoy at the victim's home,
4 the Defendant not owning an Envoy, and the Defendant owning
5 a Chevy Trailblazer which appeared to be inoperable. I
6 mean, there's no question that to find an officer recklessly
7 or intentionally misleading the Court, that's a pretty high
8 bar to get over, and I can't make that determination that
9 Officer Blackmon did that. I think it's important, and I
10 think we should give consideration to the fact, that
11 Wilkie's search warrant and affidavit was prepared at the
12 same time as Blackmon's search warrant and affidavit, and it
13 was presented to the Court at the same time. Wilkie's
14 affidavit does contain information concerning the Envoy
15 Trailblazer, et cetera, et cetera. So, I do find that the
16 warrant -- I mean the search warrant -- concerning the GPS
17 tracking information there was sufficient probable cause or
18 sufficient information concerning the Trailblazer and the
19 Envoy, not necessarily being material to the validity of
20 that search warrant.

21 I do find, however, for whatever it's worth, that the
22 defense does have standing to challenge this search warrant,
23 because the search warrant will be -- or the information
24 gleaned from the search warrant would potentially be used
25 against the Defendant. So, based upon that, I am denying

1 that motion to suppress as well.

2 All right. With all that said, anything further before
3 we bring the jury out? State?

4 Mr. THOMAS: Nothing further from the State, Your
5 Honor.

6 THE COURT: Defense?

7 Mr. SHAFFER: Your Honor, there's something that came
8 up last week that I neglected to bring up yesterday. I
9 brought it up to the State. While my client was at the jail
10 a couple weeks ago, I believe it was right around the --
11 right before the March 15 hearing. It was March 12. The
12 Laurens County SWAT team apparently did a raid at the jail
13 and went through legal work of not just this client, but
14 multiple people, including taking some legal work out of
15 their stuff, including attorney-client stuff. At least one
16 of those officers involved is related to this case.

17 We would ask that the State be compelled to at least
18 produce any video footage of this, and then any inventory
19 from what all was taken from these people so that we can
20 look and figure out whether or not this is a Quattlebaum
21 issue or not, where it would require some sort of exclusion
22 of certain people from the prosecution.

23 THE COURT: Let me ask, is the State familiar with the
24 SWAT team going in the detention center on March 12, and if
25 so, what was the purpose for that?

1 Mr. THOMAS: I don't know what date it was, Your Honor.
2 That's information that I think I just received. Maybe it
3 was in the email I sent. I, when Mr. Shaffer brought that
4 to my attention, I called the jail administrator, Ms.
5 Lawson. She said that they did a shakedown on Mr. Spencer's
6 cell block, standard routine practice. She was on leave
7 while it happened, so she didn't know the details of it, but
8 she said that that was Lieutenant Ridings was the one that
9 directed that. She said that the only thing that Mr.
10 Spencer had complained to her about being taken was some
11 socks and some t-shirts that were taken from him because
12 they believed they were contraband. Mr. Shaffer pointed out
13 that the SWAT team was involved and his thing about one of
14 the witnesses in our case is the commander of the SWAT team
15 is accurate. Logan Kanipe, at the Sheriff's Office,
16 commands the SWAT team. So, I called Officer Kanipe. He
17 said that he wasn't there that day because he was out at the
18 hospital with another SWAT team member who had an episode
19 after a training exercise. But what had happened was the
20 SWAT team was over at the jail to do a walkthrough, just as
21 a preliminary like this is if we have a critical incident,
22 this is the layout of the jail. This is the doors, that sort
23 of thing. While they were there, the jail administrator
24 straighter said let's go ahead and we're shaking down this
25 block. Y'all help us with it. Mr. Kanipe pointed out to me

1 that no one has mentioned to him that they went through
2 anything in Mr. Spencer's block or in his room legal
3 related, but if they did, it was probably because Ms. Atkins
4 had sent him -- previously she had sent him pornography
5 using stationery and letterhead that she had gotten from a
6 lawyer's office in Georgia. So, they probably may have gone
7 through his legal stuff, but I don't know. I spoke with
8 Officer Farmer, who is the second-in-command of the SWAT
9 team. He was there. He does not recall -- he can correct me
10 if I'm wrong, but he doesn't recall anything specific about
11 Mr. Spencer going through his cell or anything. So, I have
12 done my due diligence to make sure there is no -- that this
13 is frivolous and there's no validity to this claim, and
14 that's kind of where I'm at, Judge.

15 THE COURT: Well, you know, when you mentioned SWAT
16 team, you know, you don't think of a SWAT team going in and
17 -- I mean, I know that shakedowns are done, you know, in
18 jail facilities, looking for contraband and, you know, that
19 sort of thing, but you just don't think it in terms of a
20 SWAT team going inside the jail doing that shakedown.

21 Mr. THOMAS: I think, from the conversation I had with
22 Officer Kanipe, that was not their plan or their intent. It
23 was just something that they got roped into while they were
24 over there.

25 Mr. SHAFFER: And, Your Honor, here would be my issue.

1 I've heard from two different -- or heard about two
2 different inmates, including my client, who had books
3 confiscated, legal books, and individual legal paperwork.
4 Their actual documents from their attorney. I just want an
5 inventory a video so that I can look and see what all was
6 taking so I can validate whether or not there's a claim.
7 I'm not saying that there is a claim or there isn't, I'm
8 just asking them to try to produce that so that we can
9 actually evaluate it and take a look. It seems like if they
10 took a bunch of stuff, including books, from people that
11 there would be some inventory somewhere of that, what they
12 seized. I mean, generally

13 THE COURT: Solicitor, are you aware of any
14 surveillance video being done while this shakedown was being
15 accomplished?

16 Mr. THOMAS: Your Honor, I think because he mentioned
17 Quattlebaum, I guess I do need to put that on record. I
18 have no knowledge outside of what I have just told the Court
19 about what went on here. I haven't gotten any videos. I
20 haven't asked for them. I haven't gotten any inventories or
21 anything like that. I don't know if those things exist,
22 but in my mind, I think obviously what we're saying here,
23 this is far afield of the issues that are involved in this
24 case. I think we're just-- I understand this is maybe like
25 an Eighth Amendment argument, a 1983 thing. All the case

1 law I found on it was in that context, not in the criminal
2 context. I think we're just far afield of the issues in
3 this case.

4 THE COURT: Well, I'm not going to allow this to
5 interfere with us moving forward. I will ask my good friend
6 here, Officer Farmer, if you would just, during breaks or
7 whenever you can, can you just look into it to see if there
8 was any video and if there was any inventory done of
9 whatever may have been confiscated from Mr. Spencer's cell.
10 If you would do that for the Court, and then we'll kind of
11 go from there.

12 Mr. SHAFFER: Thank you, Your Honor. Joel just pointed
13 out to me the fact that there definitely is surveillance
14 video in the jail, in the cell blocks.

15 THE COURT: Well, Officer Farmer is going to check on
16 that and we'll see what comes up. All right, let's bring
17 the jury out, please.

18 (WHEREUPON, Jury enters at 10:12 a.m.)

19 THE COURT: Good morning, ladies and gentlemen. Are you
20 ready to get to work? Madam Forelady, you've been elected
21 as foreperson of this jury?

22 MADAM FORELADY: Yes, sir.

23 THE COURT: I'm sure you'll do a fine job. And your
24 name, ma'am?

25 MADAM FORELADY: Olivia. Olivia Patton.

1 THE COURT: Okay, Ms. Patton. Madam Clerk, would you
2 swear the trial jury in, please?

3 (WHEREUPON, Clerk of Court administers oath to jury.)

4 THE COURT: Ladies and gentlemen, I'm going to make a
5 few preliminary comments to you and then the lawyers will
6 make their opening arguments to you. It's very important
7 that in performing your duties efficiently and
8 conscientiously that you remain alert and attentive at all
9 times throughout. I'm going to ask that there's no talking
10 in the courtroom, especially while I'm talking. Thank you.
11 So you need to be alert and attentive.

12 One main reason for that is that I don't allow note
13 taking. Some judges allow juries to take notes. I have
14 found that jurors are paying more attention to the note
15 taking than actually listening to what is being brought out
16 on the witness stand or maybe something that the lawyers are
17 saying. So, at the end of this case, whenever that it may
18 be, collectively, you'll have a really good memory of what
19 has taken place. Individually, certainly you're not going to
20 be able to remember everything, but collectively you will.
21 So, that's why it's really important to be alert and
22 attentive throughout this trial. I try to take as many
23 breaks as we can. Oftentimes, we have legal issues that
24 come up where I have to send you out of the courtroom into
25 the jury room. That will happen a lot. It's just one of

1 those things. So, hopefully you can get some break and some
2 rest from sitting in here while the trial is going on.

3 And it's very important that you not come to some quick
4 judgment in this case. Keep an open mind from now until the
5 end of the case when all of the evidence has been presented
6 to you, the lawyers make their closing arguments, and then I
7 will instruct you the law that you are to use in this case.

8 You and I have different functions to perform. You are
9 the judges of the facts. You determine what has happened in
10 this case. I can't tell you what the facts are. It's for
11 you to determine that. But equally important, I'm the sole
12 judge of the law. You can't tell me what the law is. So,
13 we have separate responsibilities. You determine the facts.
14 I determine the law. And I will give you the law that you
15 are to apply to the facts as you find them.

16 Also, keep in mind that the burden is on the State of
17 South Carolina to prove this case beyond a reasonable doubt.
18 Beyond a reasonable doubt that's a legal term that I'll
19 fully explain to you at the end of the case. The lawyers
20 may touch on that in their arguments, but this burden is on
21 the State. Mr. Spencer and his attorneys have no burden to
22 prove, whatsoever. They do not have to prove him innocent.
23 The State has to prove him guilty beyond a reasonable doubt.
24 That is their task that they have in this case. You should
25 keep that in mind as we go through this trial as well.

1 Also, I mentioned to you yesterday, it's really,
2 really important that you not go on the internet or social
3 media and try to come up with information about this case.
4 Your verdict in this case, a unanimous verdict in this case,
5 has to be based one hundred percent on what's brought out in
6 this courtroom. And if you're out doing research on your
7 own, while chances are that information probably will be
8 false or misleading information. It's information that is
9 not presented in this courtroom for the benefit of all
10 fifteen of you. Okay? So, don't go on the internet or social
11 media during this case. I think I mentioned to you
12 yesterday that unfortunately I had a case in this courtroom
13 several years ago where three jurors violated that
14 instruction. We were able to catch it in time. Thank
15 goodness. And certainly there were consequences involved
16 with their decision to violate my instructions. Okay?

17 As I told you yesterday, this is going to be a lengthy
18 case. There's a lot of work that has been put into this
19 case by both sides. There'll be a lot presented to you. And
20 again, that may go into next week. We don't know that yet.
21 It's too early to tell. It's just Tuesday. I know these
22 fine lawyers and I told you yesterday we've got some
23 excellent lawyers in this case on both sides, and they're
24 going to do their very best to present, have this case
25 presented to you the very best that it can. And once again,

1 I will have to take breaks for me to deal with some legal
2 issues. I know one right now, that after opening arguments
3 are made, we'll need to take a break because there is a
4 legal issue that I need to address with the lawyer. So be
5 patient with us, we're trying to do the best job that we can
6 and it's just part of the process where things maybe move a
7 lot slower than we all would like, that's just a part of it.

8 Okay? All right. Thank you very much. Is the State ready
9 to present its opening argument?

10 Mr. SIMMONS: Yes, Your Honor. May it please the Court.

11 THE COURT: Yes, sir.

12 OPENING STATEMENTS

13 BY Mr. SIMMONS:

14 Where's Billie Jean? Where's the trash can? Where's
15 Timothy Spencer? Billie Jean lived an exemplary life, but
16 the last moments of her life was in her living room -- was
17 in her living room, bloodied, a scarf wrapped around her
18 neck and the life squeezed from her. The person holding that
19 scarf was Timothy Paul Spencer. He goes outside, he grabs
20 the trash can, he rolls it in, and he stuffs her body into
21 it. He puts that trash can in the back of his truck, then
22 drives off. He makes his way to Honea Path. He takes
23 \$2,500 from her account while she's still in the back of
24 that trash can. And then her body is left in Anderson
25 County at an abandoned house.

1 The Defendant is charged with murder. In South
2 Carolina, that means killing any person with malice
3 aforethought. Again, my name is Jared Simmons. I know Mr.
4 Thomas introduced me at the beginning. Mr. Thomas and I, we
5 represent the State of South Carolina. And we have the honor
6 of presenting this case to you today.

7 As Judge Hocker stated, we have the burden of proof.
8 And what that burden is, as he stated, is proof beyond a
9 reasonable doubt. That's the highest burden that we have in
10 the criminal justice system here. And what that means,
11 ladies and gentlemen, it's not proof beyond any and all
12 doubt, but it's proof that will leave you firmly convinced
13 and we gladly accept that burden.

14 Barbara McCoy, that's Billie Jean's mom. The last time
15 she spoke with her was December 9, 2021. Billie Jean's
16 house was cold, her heat wasn't working, and they tried to
17 call her over and over. Kathy Warren, her cousin, tried
18 calling her over, and over, and over. And eventually her
19 phone started going to voice mail. They went over the next
20 day, that's December 10, 2021. They found it odd her door
21 was locked. They couldn't get inside. They didn't have a
22 spare key. She left it unlocked. So, they got concerned.
23 They called the Laurens County Sheriff's Office to come out
24 for help. One of the first officers on scene is Officer
25 Kelly Rivera. She has a little punch tool. She goes up to

1 the house, the back door. There's some glass on the door.
2 She uses the punch tool, breaks it open, reaches in, opens
3 the door. It's dark in there, a little cold. She yells,
4 "Billie Jean, Billie Jean," but nobody came. The house was
5 empty. Ms. McCoy came in. She uses a cane trying to get
6 around. In the living room, there's a blanket on the floor.
7 She tries to push it out of the way with the cane and tried
8 to walk by. And that's when Officer Kelly Rivera sees spots
9 on the floor, large red spots. She believes it to be blood.
10 They start looking around the house, trying to find any
11 information that they can locate Billie Jean. Where is
12 Billie Jean?

13 They didn't find a cell phone in the house. They
14 didn't find a pocketbook, and they didn't find her cell
15 phone. They didn't find her pocketbook. They couldn't find
16 her keys. The reason I bring that up, is because her car
17 was sitting out front unlocked. Well, investigators arrived
18 on scene. Investigator Joey Pittman, he's the lead
19 investigator in this case, he started looking around. He
20 noticed outside -- it's in Fountain Inn. It's on the Laurens
21 County side of Fountain Inn. And there's no large trash
22 can. Where's her trash can at? Trying to figure out how
23 she takes her trash out. He starts looking into it a little
24 bit more. Billie Jean likes to keep notes of user names,
25 passwords, accounts that she has. She has it all written

1 down. And one of those is Powell's trash company. It's not
2 Powell's trash company anymore. They've changed names.
3 They were bought out, but Investigator Pittman called them.
4 She had an account with them. They issued her a 95 gallon
5 trash can. You know, the ones that roll. Well, he found
6 that odd. He made notes of it. He continued his
7 investigation.

8 Law enforcement also went around to neighbor's houses.
9 Where's Billie Jean? So, they went across the street. It's
10 on Fairview, around Tullyton Drive, and went across the
11 street. The person who lives over there is Ernesto Ramos.
12 Investigator Pittman went over there. He noticed that they
13 had Google Nest cameras on the front porch, on the side of
14 the house. It's kind of like Ring, if you're not familiar
15 with Google Nest. But they started talking to him.
16 Investigator Logan Kanipe went out there later. They
17 started just reviewing videos.

18 Well, she was reporting missing on December 10, so they
19 start from there and move back. Investigator Kanipe maybe
20 saw something on December 9, at night. It's kind of late,
21 it's dark, it's hard to see. Well, they provide that
22 information, they're still working off of it. They leave,
23 but instead of getting the cameras from Ernesto, they get it
24 from Google. They just get all the information from Google
25 December 9, December 10, and then the investigators are

1 going to start looking at that in more detail at a later
2 time. When they did, they saw on December 9, around 12:30,
3 a dark black pickup truck pulling out of her driveway.

4 On December 14, 2021, Billie Jean's body was found in
5 Anderson County. You'll hear from Brian Holley. He was
6 walking through a property that they were about to purchase,
7 doing a last walk through. That was at 110 Cumming Spring
8 Road in Anderson, South Carolina. He was walking through.
9 He was going through the barn area, walked out, and he saw a
10 blanket laying there. He walked over to the blanket, folded
11 it open, and there was Billie Jean.

12 He called the law enforcement and Anderson County
13 Sheriff's Office came out that time, started processing the
14 scene, and one thing they noticed was the grass was pushed
15 down, like something was drug or rolled down through it.
16 They processed that scene. The Coroner's office came out.
17 They took her body. Dr. Kyle Shaw, you'll hear from him.
18 He's a pathologist. He does autopsies in Abbeville County,
19 but he works for other counties too. He assists, he aids,
20 and he had the opportunity to perform the autopsy on Billie
21 Jean.

22 What happened to her? Well, he's going to tell you
23 that she had blunt trauma to her head, and ligature asphyxia
24 around her neck. Well, while that was going on, law
25 enforcement had a break in the case. One of the last

1 transactions on Billie Jean's account was \$2,500 to Spence's
2 HVAC. Well, they started looking into it more and they found
3 a suspect, Timothy Paul Spencer, the Defendant in this case.
4 They found an address for Spence's HVAC. They went out to
5 it. It's on Tullyton (SIC) Drive in Anderson County and
6 there they found a home, and that's where the Defendant and
7 his girlfriend lived.

8 They started talking to him. He knows B.J. That's what
9 he references her as. He knows B.J. He's done some work
10 for her on her air the previous summer. He was going to
11 start working on her heat that winter. He uses a home
12 warranty company. That's how he gets jobs. So, that's how
13 he got this job.

14 Well, he said he didn't go over to Billie Jean's house
15 any time recently, definitely wasn't December 9, 2021. He
16 also stated that he did give her a call on that day though.
17 He said that he was trying to plan out purchasing parts for
18 her. He didn't go over there, he was just asking for some
19 money so he can purchase parts and go over there at a later
20 time. Well, law enforcement continued their investigation.
21 Investigator Pittman was continually searching for this
22 trash can. Where is this trash can? Where could it be?
23 Well, he was looking on the side of the road. He was driving
24 everywhere between Laurens and possibly Anderson. Just
25 looking wherever he could. He was looking over bridges. He

1 was going to trash dumps. He was trying to find this trash
2 can.

3 Well, he was about to call it a day. Just can't find
4 this trash can, but I'm going to stop -- he's going to stop
5 at Cleveland Road. That's around Michelin Plant in Anderson,
6 and there's a bridge there. He gets out. He looks over.
7 There's a trash can, a black, ninety-five-gallon trash can.
8 On the side of it, it says Powell's. Well, he calls
9 Anderson County out to process this. Officer Christopher
10 Pridemore comes out. He starts taking pictures of this
11 trash can. He collects it. He opens it up. He believes that
12 there's blood inside of it, so he takes a swab for testing
13 later. Well, a swab was sent to SLED. As Judge Hocker
14 mentioned earlier, that's the South Carolina Law Enforcement
15 Division. And Donna Money, she's an analyst there, one of
16 the jobs she has is testing DNA, and she took blood from the
17 autopsy and that sample from the trash can, and they tested
18 it. She's going to testify that's very likely Billie Jean's
19 blood.

20 During their investigation, law enforcement dug deeper.
21 The Defendant drives a black Dodge Ram. That's his work
22 truck. That's what he said he was driving. He said on
23 December 9 that he was actually at a casino that morning in
24 North Carolina. He wasn't here. He wasn't in South
25 Carolina then. Well, law enforcement gets search warrants.

1 They get his GPS records off of his truck. The reason
2 that's important is he purchased this truck from Easley
3 Family Auto. Still owes money on it, and this company
4 really wants to know where their truck is while they're
5 making payments. Well, they get it and they collect it.
6 And while they're doing that, they also get cell phone
7 records for the Defendant's work phone and cell phone
8 records for Billie Jean's phone. They collect all of that.
9 They put it together. This is -- where was Timothy Spencer.

10 They sent all these records off to SLED. The special
11 agent is Brett Aukland. He performs maps, he goes through
12 it, and he starts piecing all this together for us. And
13 what he found was that the Defendant was, in fact, at a
14 casino in North Carolina that morning. But after he left
15 that casino, he went straight to Billie Jean's house in
16 Fountain Inn. Well, that's where his truck was. His phone
17 calls he made to her on the way was on the way there. And
18 Billie Jean's phone, that phone was located from those maps
19 at her house before 11:30, just pinging at those house. And
20 then after 12:30, after we saw the black car leave, after
21 12:30, those pings started moving to different locations.
22 Billie Jean's cell phone wasn't at her house anymore. He'll
23 testify that those pings were in Honea Path. Those pings
24 started making their way further into Anderson at Tullyton
25 Pointe, or Trump Pointe, where the Defendant's house is,

1 about 2:30. And after that, the truck has points at Cumming
2 Spring Road at about 5:00. That's where B.J.'s body was
3 found. This truck has points at Cleveland Road. That's
4 where the trash can was found.

5 Ladies and gentlemen, as the judge said, you are the
6 judges of the facts in this case. At the end of this case,
7 you'll hear from Mr. Thomas, who's going to come up and
8 present the closing arguments to you. At the end of this
9 case, you will have an opportunity to reach a verdict and we
10 are going to ask that you find the Defendant guilty of
11 murder. Thank you.

12 THE COURT: Thank you, Solicitor. Defense, Ms.
13 McNeill, are you're going to do the opening?

14 MS. MCNEILL: Yes, sir.

15 THE COURT: You may proceed.

16 MS. MCNEILL: Good morning. My name is Chelsea McNeill.
17 I introduced myself yesterday. I am one of the lawyers who
18 has the privilege of representing Mr. Timothy Paul Spencer.
19 Mr. Spencer?

20 (WHEREUPON, Defendant stands.)

21 And I want you to see Mr. Spencer, because y'all are
22 sitting so far away from him, you only have a good view of
23 the prosecution. This is Mr. Timothy Paul Spencer, whose
24 life is in your hands. You know, yesterday, when we picked
25 a jury, y'all saw how time consuming all of that was. You

1 saw how each side, the State and the Defense, took our time
2 in selecting each and every one of you. You also saw us
3 excusing a bunch of jurors, me more than the State did. And
4 that's because I didn't feel like I could trust them like I
5 can trust you guys to be fair and impartial, to have an open
6 mind about this case.

7 Now, Solicitor Simmons just stood up here and talked to
8 you guys about how Mr. Spencer is guilty of this horrific
9 crime. He has pleaded not guilty to this crime. And now
10 he's on trial for his life. Mr. Spencer, you can go ahead
11 and sit down.

12 (WHEREUPON, Defendant sits down.)

13 Now, the State told you a version of what their side of
14 the story is. They think that Mr. Spencer went to -- I'm
15 going to call her B.J., her name is Billie Jean. She went
16 by B.J., is my understanding -- that he went to her house at
17 11:30, around 11:30 in the morning, to go over there and
18 service her HVAC system and that he was there for about an
19 hour. And during that hour time frame, they're saying that
20 Mr. Spencer, who you just saw up close and personal,
21 bludgeoned her head and strangled her to death. Then
22 they're saying that he took her body, single-handedly, and
23 put it in one of those trash cans that you take to the end
24 of your driveway to be picked up once a week. And that, by
25 himself, he then pulled that trash can up and put it in his

1 work pickup truck. That is a lot of activity going on in
2 one hour from one man doing that all by himself.

3 Then they're saying that after he put the trash can in
4 the bed of his pickup truck -- in broad daylight by the way,
5 -- and I don't know if you know where this incident location
6 is in Fountain Inn that we mentioned, but Billie Jean, her
7 house was on the corner of a busy road and her driveway goes
8 into the side of her house. Not the front, but the side.
9 That's where her car was parked and that's where, you know,
10 everybody parked. So, in broad daylight, after an hour,
11 they're saying that he pulled away. Mr. Simmons said that
12 there was a witness that saw the truck leaving the property.
13 What the witness didn't see, however, was some strange setup
14 with a garbage can with a body in it, sitting in the back of
15 the pickup truck in broad daylight. They saw the pickup
16 truck leaving, but they didn't see that.

17 I'm going to say something that I feel vulnerable about
18 telling you guys, and I'm going to admit that. I'm going to
19 admit to you that Mr. Spencer lied to the police. He lied
20 to the police when they arrested him at his home, and then
21 he lied to them again when he was interrogated. What he
22 lied about was being at her house, period. At first, he
23 denied it. He denied being there. Why did he do that?
24 Imagine being at your home on some calm Tuesday evening.
25 You're with your family. You're eating dinner, and you're

1 sitting on your couch, and you see about, I don't know,
2 between 15 and 25 cops flood your front yard and bang on
3 your door. Think about how overwhelming and terrifying that
4 would be to have that many police officers show up at your
5 house. I know I would be scared to death. They go in, they
6 start talking to him, telling him, you know, asking him
7 questions about Ms. Billie Jean, saying, you know, you were
8 the last person to see her alive. We knew that because of
9 her bank account records and blah, blah, blah. And he
10 panicked, thinking, I'm the last person to see this woman,
11 a customer of mine, alive? I'm terrified. I wasn't even
12 near that body. People lie for all different reasons. But
13 you have to understand the circumstances under which he
14 lied. Twenty cops in your house. I mean, that would be so
15 scary and overwhelming.

16 So, let's go back to some of his actions on the ninth,
17 the day that Ms. Billie Jean Cross went missing. He was
18 called out there to do a service. My understanding is that
19 Billie Jean had a home warranty program called House Pro or
20 House Call, something like that. When you need some help,
21 you call your home warranty system, they dispatch that call
22 out, and then Mr. Spencer got the call, left the casino,
23 went to her house, was there for an hour. He was there to
24 measure for a new HVAC system. Specifically, this is a
25 trailer, so I don't really know a whole lot about HVAC

1 systems, but I've come to be a slight expert in them at this
2 point. But this thing was inside of her house. It wasn't
3 outside of her house, okay. And it's in like, a closet
4 area. He was there. He had to take measurements. He had
5 to order a new system, plus a filtration system which is
6 another part, and so that comes to about \$2,500.

7 After he leaves the house in broad daylight, with his
8 pickup truck, where the witness saw him leave, with no body
9 in the trash can, he then goes to Honea Path Plaza. Now, I
10 don't know if any of y'all are familiar with Honea Path
11 Plaza. It's where -- it's like one of those strip mall
12 sections with a huge parking lot. And there's a Dollar
13 General there. There's a big pharmacy there. There's like
14 a Chinese restaurant there. I think there's also a Subway.
15 So, there's a lot of businesses. There's like an O'Reilly's
16 auto parts store there. There's a lot of businesses that
17 share this parking lot.

18 They are claiming that Tim drove his truck there at
19 some point, in broad daylight, with a body in a trash can in
20 the back of his pickup truck and no one sees this in
21 this busy parking lot, this busy shopping complex at Honea
22 Path Plaza. To me that just seems bizarre. I think that
23 someone would have probably seen a dead body in a trash can
24 in the middle of the day in this very busy parking lot.

25 So, he stops there for a bit and then he goes on home.

1 Now, I usually never read from any piece of paper, but I
2 want to make sure that I set this whole thing up for you
3 guys so you know when to look out for. So, they have three
4 different technology data point references. They have GPS
5 on his truck, they have his cell phone, and they have her
6 cell phone. So, that's three different sources, right?
7 Okay. But what is the difference between the sources?
8 Well, I'll tell you. GPS on a truck, that's hitting off of
9 satellite dishes, okay, in the atmosphere. Those are, you
10 know, those are going to tell you where you are through the
11 satellite system. Then you have cell phone towers. And
12 that tower -- I'm going to try to describe this for you.
13 The cell phone tower, think of it as a triangle, okay? It's
14 got three sides to it, the cell phone tower does. Each of
15 those sides is called the face. All right, so if I am you,
16 sir, and you're using cell phone and this is the tower,
17 you're going to ping on this side of the cell phone tower
18 because you're facing that face of the tower. Now, if the
19 person over here uses a cell phone, they would not be
20 pinging on this side. They would be pinging on this side,
21 even though it's the same tower. But what's interesting is
22 the confidence level of the accuracy of the cell phone tower
23 data, okay?

24 Because the cell phone tower data has such low
25 confidence reliability levels for timing advance -- it's

1 called, like, a timing advance records. And you're going to
2 hear that term, timing advance records. And that is from
3 T-Mobile, which is her cell phone, okay? It says T-Mobile,
4 when they issued these cell phone records, they also issued
5 a document, and the document on its face, on its face,
6 creates reasonable doubt. It says, "Please exercise caution
7 in using these records for investigative or prosecutorial
8 purposes." T-Mobile won't even come up here and testify
9 about the reliability of their records. Why is that?
10 Because like I said, if you're pinging off of one face, that
11 tower information, the timing advance records, cannot tell
12 you, the jury, the fact finders in this case, can't say if
13 the cell phone user was 10 feet away from that base, that
14 cell phone tower, or 10 miles away. They can't tell you
15 that. Cannot pinpoint where you are. And that's really
16 important because -- and the State always likes to say we
17 have the burden of proof, you know, it's reasonable doubt
18 not, you know, not the absence of all doubt. Just a
19 reasonable doubt. Okay, which is true, but in a serious
20 situation like Mr. Tim Spencer is in where his life is in
21 your hands, don't you think that this case deserves, if it's
22 going to be a conviction, for y'all to be firmly convinced
23 that you don't hesitate to act? That's how you would find
24 him guilty. But on the face of the T-Mobile records
25 documents themselves that the State is relying on to help

1 convict, to try and convict Mr. Spencer, the document even
2 says it's not reliable and to use caution for investigative
3 and prosecutorial purposes. Caution is reasonable doubt.
4 That is it.

5 Now, you know, Mr. Simmons stood up here and kept
6 saying things like, "Where could it be?" That was his
7 tagline. Where could it be? Where could Ms. Billie Jean
8 be? Where could Mr. Spencer be? Where could the trash can
9 be? Well, I have some taglines of my own. He talked about
10 how bloody B.J. was, and that there was blood inside of her
11 house. When those experts get up on this witness stand
12 right here and testify, which means telling you what they
13 have personal knowledge of regarding this situation, where
14 could it be, is what I want you to think to yourself when
15 you hear these DNA experts. Where could Mr. Spencer's DNA
16 be? It's not on Billie Jean. It's not on the scarf that
17 was wrapped around her neck. It's not under her
18 fingernails. You know, if somebody was attacking you, you
19 might scratch and get their DNA under your fingernails.
20 It's not there. It's nowhere in her home, and her DNA is
21 not anywhere found on his truck. Isn't that interesting?
22 So, if he did all of the things that they say he did, coming
23 in, bludgeoning her in his head, hitting her so hard it
24 causes a hemorrhage, strangling her with a scarf so tight
25 that, as Mr. Simmons stated, the pathologist said something

1 like he couldn't even fit fingers down because the scarf was
2 so tight. If all of that happened, if he's pulling her body
3 up, putting it in a trash can, and then pulling the trash
4 can up and putting it in his truck, in broad daylight, where
5 no witnesses see this trash can in his truck, not at the
6 scene of Billie Jean's house, and not at Honea Path Plaza,
7 where there's a lot of people there. And also, nowhere --
8 there's, like, a elementary school that's near where Ms.
9 Billie Jean was found. It's actually like an intersection
10 and there's a busy road on the side where there's an
11 elementary school just down the road from this field with
12 this old farmhouse where Ms. Billie Jean was found. No one
13 saw Mr. Spencer pull a trash can and roll it through that
14 field and drop the body off. No one saw that either. So,
15 you've got none of her DNA found in his truck. You have
16 none of his DNA found anywhere on her body. Anywhere. It's
17 just so odd. It's just so odd. And I've been working on
18 this case for a couple years now, and my brain is just
19 racking and racking and racking and thinking, somebody would
20 have seen that. DNA would be somewhere. No fingerprints
21 either, by the way. No fingerprints.

22 The other thing is, law enforcement. You heard Mr.
23 Simmons say that, you know, the field that Ms. Billie Jean
24 Cross was found in was grown up, and that it looked like
25 somebody had pushed some of that grass by dragging a trash

1 can. Well, they also saw tire tread marks at that scene and
2 they did an impression on them. Guess what? Where could it
3 be? Where could be the vehicle that made those impressions,
4 because it didn't come back to Mr. Spencer's truck that they
5 tested. Didn't come back there.

6 There's also another important factor here. The crime
7 scene was tainted. You're going to hear about that. You're
8 going to hear about what was done to preserve the crime
9 scene. Well, when they initially went out for the call with
10 Billie Jean Cross's family called law enforcement and they
11 go out to the house and they do some preliminary stuff and
12 they see this spot that they think is blood on the carpet.
13 There's footage of people, specifically an elderly woman,
14 walking right through this bloody area where there's a
15 blanket found. They didn't even preserve the crime scene.
16 They had people all up in it, tainting it.

17 So, another point is one of the officers, I think it
18 was Officer Logan Kanipe, he went out and interviewed some
19 neighbors of Billie Jean's. And when he interviewed one of
20 the neighbors, guess what he saw? He saw a vehicle in Ms.
21 Billie Jean's driveway. I think he said a blue Envoy, if
22 I'm not mistaken. He saw a vehicle in her driveway and he
23 remembered it because he thought it was super odd because no
24 one ever went over to her house that late. It was right
25 around like 10:00 to 10:30 p.m. So, then you have this

1 truck, or this car, Blue Envoy, that's randomly sitting in
2 her driveway and then it's so strange to the neighbor. You
3 know your neighbor's patterns for the most part, right? You
4 know their vehicles that are around. You see a strange one
5 10, 10:30 at night, the same night she went missing? That's
6 kind of weird.

7 So, just to recap. Where could it be? Where could it
8 be? Where is the DNA? Where are the fingerprints? Where
9 are the tire treads coming from? What about that strange
10 vehicle that the witness saw 10, 10:30 at night the night
11 that she went missing? They never followed up with that guy
12 They never followed up. They went out there. They
13 interviewed him once, and that was it. That was it. They
14 didn't do any followup investigation on this mystery vehicle

15 Again, remember that triangle cell phone tower. It has
16 a low confidence level. That's why T-Mobile won't come in
17 here and testify to it. Low confidence level, I think, is
18 like 300 plus meters starting out. Remember, you cannot
19 tell if you are ten feet, or -- not you, but the cell phone
20 tower face cannot tell us if you are ten feet in front of it
21 or ten miles in front of it. And on the face of the
22 records, again, it says, "Please exercise caution in using
23 these records for investigative or prosecutorial purposes."
24 Caution. How can the State leave you firmly convinced of Mr.
25 Spencer's guilt if what they're relying on says it's not

1 even reliable to an extent, and that they should use
2 caution. Caution is reasonable doubt.

3 This is going to be a hard fought trial. You guys,
4 remember, are also Mr. Timothy Paul Spencer's jury. You are
5 his jury. You're the State's jury, but you're his jury too.
6 Think of all the work we did yesterday putting in, pouring
7 that work into selecting each and every one of you, because
8 collectively, his life, his life is in y'all's hands.
9 Reasonable doubt is very real. It's something that causes
10 you to hesitate to act. If something that they're relying
11 on is saying using caution, that is screaming reasonable
12 doubt to you guys, and I would ask that you find him not
13 guilty at the end. Thank you for listening to me.

14 THE COURT: Thank you, Ms. McNeill. Ladies and
15 gentlemen, we've got a legal issue that I need to take up
16 with the lawyers. This will be a good time maybe for a
17 little short morning break. So, I'm going to ask that you
18 go back to the jury room and remember no discussion among
19 yourselves about this case, and we'll get you back out
20 shortly.

21 (WHEREUPON, Jury exited courtroom at 10:58 a.m.)

22 THE COURT: There's one bit of proposed testimony from
23 the State's first witness that the Defense objects to.
24 Solicitor, can you tell me what you intend -- just this bit
25 of testimony that's being objected to by the Defense, can

1 you, kind of, tell me what it is?

2 MR. THOMAS: Yes, Your Honor. So ---

3 MR. SHAFFER: Can we approach, Your Honor?

4

5 (WHEREUPON, Sidebar off the record.)

6 THE COURT: We are back on the record. I just need to
7 go ahead and hear what is being objected to, so I can make a
8 ruling before this first witness testifies. Solicitor
9 Thomas, you want to tell me about it?

10 MS. THOMAS: Your Honor, Barbara McCoy is our first
11 witness. She is the mother of the deceased victim in this
12 case. I'm going to ask her did she speak to Billie Jean the
13 morning of December 9, 2021, and she's going to say yes, and
14 then I'm going to ask her what was Billie Jean doing that
15 day, and then she's going to tell me some version of Billie
16 Jean was waiting on the HVAC man to come fix her heat. I
17 guess I'll let him argue what's objectionable about that. I
18 can explain to you. I mean the State's position is Rule
19 803(3) allows for admission of statements of the Declarant's
20 state of mind, such as intent or plan. I cited to Your
21 Honor State v Griffin, 339 S.C. 74. That's a case where the
22 statement was the victim told someone she was going to meet
23 the Defendant that day, and it was the day that she was
24 killed. The Court said that is admissible as a statement of
25 her intent or plan. And again, as I said earlier, Your

1 Honor, the statement, "I'm waiting for the HVAC man to
2 come", implies she's at her house, not that she's somewhere
3 else. They're arguing that she was killed in Anderson
4 County. You know, I've got to disprove that she wouldn't
5 have left and gone to Anderson County. So, that sort of
6 goes to that as well.

7 THE COURT: Give me that case again. I'm certainly
8 familiar with 8033. Give me that case again. It's State
9 versus Griffin, G-r-i-f-f-i-n. It's 339 S.C. 74. It's a 2000
10 case from the Supreme Court.

11 MR. SHAFFER: Your Honor, my objection is not that she
12 was waiting in the HVAC man. If the limitation of the
13 testimony is she was planning an HVAC man coming, I don't
14 have a problem with that. I do have a problem with her
15 saying that she was waiting in the HVAC man to fix her unit,
16 because the fixing of the unit part would be hearsay, but
17 then hearsay likely it would also be -- there's a case out
18 there that -- I don't have it printed, because I printed
19 8031 stuff before I printed 8033 stuff, because I thought
20 that we're going to argue 8031 as well.

21 There's a case called State v Tennant, and what it is,
22 it's T-e-n-n-a-n-t, and it's 394 S.C. 5, and what it does is
23 that it cites to the rules of, or the interpretation of
24 Federal Rules of Evidence, which is what our rules of
25 evidence obviously are based on. And one of the things it

1 says is that it says the purpose of the exclusion of 8033 is
2 to avoid the virtual destruction of hearsay rule which would
3 otherwise result in allowing state-of-mind provable by
4 hearsay statements to serve as a basis for an inference of
5 the happening of the event and what the -- the state of --
6 which produces state of mind. Okay? What it's saying is
7 that -- it says the advisory committee consequently while
8 the present state of mind doctrine is admissible as a
9 exception, the reason for the Declarant's state of mind is
10 not. Okay? So, why -- the reasoning behind her state of
11 mind, that isn't a thing. It's not a plan. Her plan was to
12 stay there, which is what's included in 8033. A plan is
13 okay. The fact that she was sitting there waiting on the
14 HVAC guy to come is completely fine. But once you go beyond
15 that as to what was going to happen when the HVAC man came,
16 that is beyond the scope of the rule. That is going into
17 what could have happened afterwards.

18 And, first of all, she doesn't have a ability to
19 testify to what was going to happen when the HVAC man came,
20 not of her own independent recollection. Second of all, you
21 like, I think she can say she was waiting on the HVAC man,
22 because that goes to her plan for the day. Her plan for the
23 day was to wait for the HVAC man. Not that the HVAC man was
24 actually going to fix her air conditioning.

25 THE COURT: Well, you know, what kind of confuses me is

1 really what's the difference? One, I'm waiting on the HVAC
2 man to come, versus I'm waiting on the HVAC man to come and
3 fix my unit. Why would an HVAC man come other than to do
4 work at the house?

5 MR. SHAFFER: Maybe ---

6 THE COURT: So, I don't see where there's a difference
7 there. I'm going to allow it under 8033, and if she is to
8 say more than just coming, if she said to fix my unit, I
9 just don't see the distinction there.

10 MR. SHAFFER: Your Honor -- Your Honor, can I explain --
11 --

12 THE COURT: Wait a minute. Wait a minute. I'll get
13 back to you. Solicitor?

14 MR. THOMAS: And I would just say that extra part of
15 it, to fix my unit. I mean, that would be based on her, the
16 victim, saying my unit is broken, which would -- that would
17 fit under 8011 that's a present sense impression. I'm
18 sitting in my house. It's cold. The HVAC is not working, so
19 ---

20 MR. SHAFFER: And, Your Honor, now I have to argue ---

21 THE COURT: Wait a minute. Make sure, Mr. Fox News, at
22 any time the jury is out of the courtroom, the camera cannot
23 be on. Okay? Only when the jury is in. That is when the
24 trial is going on. Thank you, sir. All right, Mr. Shaffer.

25 MR. SHAFFER: Your Honor, I could explain the

1 distinction, and we're sort of -- I -- I'm coming back to
2 this, but we're kind of at a disadvantage, Your Honor,
3 because of the fact that you don't know how the evidence is
4 going to progress. Here's the thing. What Ms. McNeill said
5 in her opening, or what I believe was said, was that he came
6 out there to do additional measurements. That's not to fix
7 the equipment. They're going to present a whole bunch of
8 stuff in a video from -- and I'm not trying to make their
9 case for them, but they're going to try to present, I would
10 think, I haven't looked at their time stamps of what they
11 planned on presenting, but based off of yesterday them
12 claiming that they're going to introduce the entire thing,
13 included in that is what would be needed for him to actually
14 replace the HVAC unit, which would include going there with
15 a trailer and having another individual with him. Those
16 things did not happen, Your Honor. That's not our defense.
17 That's the reason it makes a difference. It does make a
18 difference, Your Honor. There's a huge difference between
19 she was waiting on the HVAC man and she was waiting on the
20 HVAC man to replace her unit, because it changes a bunch of
21 stuff. If you look at the statement that they presented
22 pre-trial, it changes a bunch of stuff about how the
23 evidence is going to come out in this case. And to their
24 point that this is going to be 8031 issue, that second part
25 of the statement, I think Josh just said is 8031. It's not,

1 under Hendricks. You have to find actual -- there's a rule
2 for applying 8031, and one of those rules is that the person
3 hearing it has to actually physically perceive it from
4 happening. That is under Hendrix, which is 408 S.C. 525.
5 That's the 2014 case from the Court of Appeals. However,
6 it's favorably cited later on by the Supreme Court in
7 Prather, which is 429 S.C. 583 Your Honor, there's, like, a
8 test you have to apply in order to say 8031, and Josh is
9 saying that is not 8031, Your Honor. You would have to
10 apply the test. To say it's 8033, you'd have to go to a
11 plan. Your Honor, I'm not trying to argue your ruling, but
12 there is a huge difference since you brought up. There's a
13 massive difference in the case.

14 THE COURT: Yeah, well, and I'm not so certain as far
15 as how to consider Ms. McNeill's opening. I can assure you
16 that even though Solicitor Simmons' opening was very good,
17 and Ms. McNeill's opening was very good, I am not going to
18 allow opening arguments to factor in at all and any rulings
19 that I make. Again, I'm not so certain why you alluded to
20 Ms. McNeill's opening, but be that as it may, openings were
21 excellent, but I'm not going to consider those. Last,
22 mention, quick.

23 MR. THOMAS: Oh no, I had -- I was just waiting. I'm
24 good. I agree with your ruling, not going to argue with
25 that.

1 THE COURT: Yeah, I don't see the distinction. We
2 disagree ---

3 MR. SHAFFER: Your Honor ---

4 THE COURT: --- but I don't see the distinction. I'm
5 going to allow it in under 803.

6 MR. SHAFFER: Your Honor, because of the fact you
7 haven't had a chance to actually view the video and the
8 transcript, I would like to point you in the direction of
9 something, in the transcript, which makes a huge difference.
10 From the recording that they're planning on getting in, that
11 makes a huge difference. There is a giant distinction
12 between the HVAC man coming and the HVAC man replacing her
13 furnace.

14 THE COURT: I mean, if the interview of Mr. Spencer
15 indicates a different purpose for coming, well, that's just
16 where evidence contradicts. I mean, I don't know why I have
17 to look at another source of evidence to make a ruling on
18 what this first witness, the mom, can say or not say. I
19 mean, if you can point out that the interview of Mr. Spencer
20 contradicts what the mom claims that the victim said, well
21 then, so be it. Let the jury make a determination as far as
22 what is correct and what is not correct.

23 MR. SHAFFER: I'm not trying to argue. I'm trying to
24 get -- I'm trying to answer your question about the
25 distinction between the two. I'm saying that the second

Barbara McCoy: Direct Examination

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1 half of that does not fall within a plan under 8031, Your
2 Honor, or 8033.

3 THE COURT: So noted. All right let's take a short
4 little break and then get the jury back in.

5 (WHEREUPON, there was a break from 11:11 a.m. to 11:25
6 a.m. Jury in courtroom to resume at 11:26 a.m.)

7 THE COURT: Is the State ready to call it's first
8 witness?

9 MR. THOMAS: Your Honor, the State's first witness is
10 Barbara McCoy.

11 THE COURT: All right. If you'll assist Ms. McCoy, and
12 I understand she's just going to be right in front of the
13 witness stand.

14 (WHEREUPON, Barbara McCoy, having first been duly sworn,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. THOMAS:

18 Q Ms. McCoy, how do you know Billie Jean Cross?

19 A What's that?

20 Q How do you know Billie Jean Cross?

21 A She was and she is my daughter.

22 Q And I know we talked early. I'm just going to ask you
23 a couple real short questions. Did you talk to B.J. the
24 morning of December 9, 2021?

25 A Yes, I did.

1 Q Okay. What was she doing that day?

2 A She was eating her breakfast and waiting for a
3 repairman to come and work on her heating system.

4 THE COURT: Ms. McCoy, if you could speak up just a
5 little louder or maybe kind of speak in the direction of the
6 microphone, that may help me hear you a little better. All
7 right. Ask that question again, Solicitor, if you would, and
8 then Ms. McCoy, repeat that question -- or answer rather.

9 Q Ms. McCoy, what was B.J. doing in the morning of
10 December 9, 2021?

11 A She was eating her breakfast and waiting for a
12 repairman to come and work ---

13 MR. BROOME: Objection, Your Honor.

14 A --- on her heating system.

15 MR. BROOME: Hearsay.

16 THE COURT: Okay, so noted. You may answer, ma'am.

17 MR. THOMAS: And just -- I'll repeat that.

18 Q You said she was waiting on someone to come work on her
19 HVAC?

20 A Uh-huh.

21 Q I'm going to show you State's Exhibit Number 1. Do you
22 recognize that?

23 A Yes, I do.

24 Q What is that?

25 A It was a comfort that was in my daughter's bedroom.

1 Q So, this was B.J.'s comfort?

2 A Yes.

3 MR. THOMAS: Your Honor, at this time I'd move State's
4 Number 1 into evidence. I think this was on the list that
5 we didn't have any objections to.

6 MR. BROOME: No objection, Your Honor.

7 THE COURT: All right, no objection. You say that's 1?

8 MR. THOMAS: State's Number 1, Your Honor.

9 THE COURT: Okay, State's Number 1 into evidence for
10 the State.

11 Q So, Ms. McCoy, this was B.J.'s comforter?

12 A Yes.

13 MR. THOMAS: That's all the questions I've got for you.
14 Thank you so much for being here. All right, I'll let you -
15 - I'm sorry. I'll let you answer any questions Mr. Broome
16 has.

17 THE COURT: Okay, all right. Does the Defense have any
18 questions?

19 MR. BROOME: Just a few, Your Honor.

20 THE COURT: Sure.

21 CROSS-EXAMINATION

22 BY MR. BROOME:

23 Q I'll be very brief, Ms. McCoy. My name is Joel Broome.
24 I represent Mr. Spencer.

25 A I have trouble with my hearing.

1 Q I will speak up. If you can't hear me, just tell me
2 again I and I will speak up. Okay, ma'am? Do you remember
3 going to B.J.'s house on December the 10th when y'all called
4 the police?

5 A Yes, I do.

6 Q Do you remember that Officer Rivera let you inside of
7 Ms. Cross's house, your daughter's house? Do you remember
8 that?

9 A There was a lady officer that came up there.

10 Q Yes, ma'am. And do you remember being in the house
11 with Kathy Warren?

12 A Yes. And I was -- they were in the house and I was
13 walking up the ramp to go in the house. And they met me and
14 said there's no need to come in. There's nobody here. So,
15 you don't remember going in the house? Do you remember
16 going in the house and sitting down, or do you not remember
17 that? They told me not to come in because there was nobody
18 there.

19 Q I understand.

20 A And I just I started crying. That's all I've done for
21 the last three months.

22 Q I understand. May I approach the witness, Your Honor?

23 THE COURT: You sure can.

24 MR. BROOME: Ms. Cross (SIC), I want to show you what's
25 been marked as Defendant's Exhibit number 3 at this point.

1 MR. THOMAS: No objection to any of these photos, Your
2 Honor.

3 Q Can you take a look at Defense Number 3? That's a
4 photograph. Do you recognize what that is a photograph of?

5 A Yes, I do.

6 Q Is that ---

7 A This was made on the day -- not on the 9th, on the
8 10th.

9 Q On the 10th when the police came, right?

10 A We came down there -- that was on the 10th. We came
11 down in the morning, and I was sitting in the chair in there
12 and this is Kathy, and this was the rug that was on the
13 floor.

14 Q And you're the one that found that rug. Looking at
15 Defense Number 3. You found the rug, that blue packing
16 quilt. Is that right? Back when the police officer was
17 there?

18 A The lady officer asked me if my daughter had a
19 nosebleed, and I said I never knew her to have a nosebleed.
20 And she picked the rug up, and held it up, and she said this
21 is blood.

22 Q I understand. Do you remember walking -- is that you
23 and the picture that we're looking at here, Defendant's
24 Exhibit Number 3?

25 A Right here.

1 Q Yes, ma'am, right there in the back. Is that you in
2 the kitchen?

3 A Yes.

4 Q And the lady on the phone, is that Kathy Warren?

5 A Yes, it was.

6 Q And that was the day that y'all called the police to
7 come and check on your daughter, correct?

8 A Yes.

9 Q And I want to show you, well, is that a fair and
10 accurate representation of Mrs. Cross' home, your daughter's
11 home, back on December 10?

12 A Yes.

13 Q Does it look like Mrs. Cross' home?

14 A Uh-huh.

15 Q Yes?

16 A That rug was spread out and she picked it up and found
17 that, and she said this is blood and I -- sir, I'll be
18 honest. I think I went into shock.

19 Q I understand.

20 MR. BROOME: Your Honor, I think at this time I would
21 move to introduce Defendant's Number 3.

22 THE COURT: Yes, Defendant's Number 3 into evidence
23 without objection.

24 MR. BROOME: Thank you.

25 Q Again, Ms. McCoy, I'm going to show you what's been

1 marked as Defendants Exhibit Number 2. Is that okay with
2 you?

3 A Okay.

4 Q It's a picture. I'm going to hand that to you. Do you
5 recognize that picture?

6 A Yes. That's me sitting back there, because I couldn't
7 get around without, you know, this.

8 Q A cane or a wheelchair?

9 A Uh-huh.

10 Q Does that look like -- that's Ms. Cross' house? That's
11 your daughter's house, correct?

12 A Yes.

13 Q And that's you sitting in the kitchen, resting,
14 correct?

15 A That's me.

16 Q And that's -- the female officer, she's the one who let
17 you in?

18 A She's the one -- she's the one that broke the door
19 window.

20 Q She broke that glass, because the door was locked
21 right?

22 A Uh-huh.

23 Q And she let y'all walk on in there in you daughter's
24 house and sit down and move around, correct?

25 A Yeah.

1 Q Is that a fair and accurate representation of -- does
2 that look like Mrs. Cross's, your daughter's, house back on
3 December 10, 2021?

4 A Yes.

5 MR. BROOME: Your Honor, at this time I'd move into
6 evidence.

7 THE COURT: Defendant's 2 into evidence for the Defense
8 without objection.

9 Q Last picture I'm going to show you. This is marked as
10 Defendant's Exhibit Number 1. I'm going to hand this to
11 you, Ms. Cross (SIC). That's another picture. Do you see
12 the blue packing quilt laying on the floor there in
13 Defendant's Number 1?

14 A That's that same rug.

15 Q Yes, ma'am. That's the same blue packing quilt. Do you
16 recognize that from the other two pictures we just looked
17 at?

18 A I recognize that rug.

19 Q Yes, ma'am. The quilt. The blue rug.

20 A Uh-huh.

21 Q That's what you're referencing. Is -- do you see the
22 person walking through the quilt right there?

23 A That's me.

24 Q That's what I wanted to ask you. I wanted to make sure
25 that was you. That's you in that picture, correct, ma'am?

1 A Yes. I could hold the banisters around the door and
2 walk that way, and I was walking over to that chair.

3 Q To go sit down in that chair, right?

4 A Uh-huh.

5 Q Yes, ma'am.

6 MR. BROOME: Your Honor, at this time I'd move Defense
7 Number 1.

8 THE COURT: All right. Defendant's 1 into evidence for
9 the Defense.

10 Q And I'm going to get you out of here, Mrs. McCoy. So,
11 do you remember being in B.J.'s house that day when the
12 female officer broke the glass and let y'all in looking for
13 her, right?

14 A We were there from the time we got down there until
15 about 10:30 or 11 o'clock that night.

16 Q Okay, so y'all were in the house that evening until ---

17 A They put me in a chair, and I got up and walked around
18 one time, but I sat in that chair.

19 Q And you stayed there for -- other officers showed up on
20 scene after the first ---

21 A Until the other officers came in.

22 Q And they let you stay in the house. Is that right?

23 Yes.

24 A Yes. I didn't move around. I didn't go out of that
25 room.

1 Q Right. And then the other officers -- after the other
2 officers showed up later that day, they let Kathy Warren
3 stay in the house too. Is that correct?

4 A Yes.

5 Q Do you remember cleaning up some of the glass that the
6 officer had broken? Does that ring a bell to you? Sweeping
7 up some of that glass that was on the floor?

8 A I don't remember any glass on the floor.

9 Q Do you remember when she broke the glass with her
10 little tool, so she could reach in and unlock the door? The
11 officer?

12 A Yeah, I remember them cleaning that up.

13 MR. BROOME: Okay. Thank you. Thank you. Beg the
14 Court's indulgence.

15 THE COURT: Sure.

16 MR. BROOME: No further questions.

17 THE COURT: Any redirect, Solicitor?

18 MR. THOMAS: Nothing from the State, Your Honor. Thank
19 you, Ms. McCoy.

20 THE COURT: All right. Ms. Lindsey, can you assist her,
21 please?

22 MR. THOMAS: Judge, our next witness is going to be
23 Kathy Warren. We're going to undo our little station here.
24 The State calls Kathy Warren.

25 THE COURT: Come around, please, ma'am.

Kathy Warren-Direct Examination

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1 WHEREUPON, Kathy Warren, having first been
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. THOMAS:

5 Q Good morning, Ms. Warren.

6 A Good morning.

7 Q How do you know B.J. Cross?

8 A She was my cousin.

9 Q And how long have you known her?

10 A Since she was born in 1963.

11 Q What did B.J. do for a living?

12 A She was disabled at the time she died.

13 Q What did she do prior to that?

14 A She did some office work and customer service. She
15 worked in a bank part-time, had a craft store that she
16 worked in part-time, and she was a paralegal.

17 Q And before she did all that, did she have any service
18 to our country?

19 A Yes, she was in the Army.

20 Q How long was she in the Army? Do you know?

21 A She did four years active duty, and four years reserve.

22 Q Where did B.J. live?

23 A She lived in Fountain Inn on Fairview Road.

24 Q How long did she live there?

25 A Since 2011.

- 1 Q Where did she live before that?
- 2 A She lived in Minnesota and in Canada.
- 3 Q So, kind of all over the place?
- 4 A Well, yes. For her husband's work.
- 5 Q You said her husband. Was her husband still living?
- 6 A No, he passed away in 2015.
- 7 Q So, who all did she live at that house?
- 8 A Just -- she lived there with her animals.
- 9 Q Did you have a chance to go to her house on December 9,
- 10 2021?
- 11 A Not the 9th. The 10th.
- 12 Q December 10th, okay.
- 13 A Yes, yes, we ---
- 14 Q You went on the morning of the 10th?
- 15 A Yeah, about midday, morning, late morning.
- 16 Q Why did -- who did you go with?
- 17 A Her mother, Ms. McCoy.
- 18 Q Why did y'all go over there?
- 19 A We couldn't get her on the phone and we'd been -- she
- 20 had tried all day the day before, and then I started trying,
- 21 and we never could get an answer, kept getting her voice
- 22 mail.
- 23 Q When you got there, was her car there?
- 24 A Her car was, yes, in the driveway.
- 25 Q Was her door locked?

- 1 A Yes, it was locked.
- 2 Q What was odd about her door being locked?
- 3 A She normally left it unlocked if she knew someone was
- 4 coming. With being disabled, she had a hard time getting to
- 5 the door if somebody knocked. And it would take a while, so
- 6 she just left it unlocked.
- 7 Q So did you ask the deputy to break into the house?
- 8 A Yes, we did.
- 9 Q And when you got inside the house, what was the house
- 10 like inside?
- 11 A Everything was -- looked normal. Didn't appear to be
- 12 anything out of order.
- 13 Q Other than what we've just saw.
- 14 A Right. That blanket. That blanket was in the floor.
- 15 Q Was it -- what was the temperature like inside?
- 16 A It was very cold.
- 17 Q I'm not going to show you those. You were just in the
- 18 courtroom when those Defense exhibits were published, but
- 19 that's what the inside of the house looked like?
- 20 A Yes, that's what it looked like.
- 21 Q The officer let y'all, sort of, hang out in there?
- 22 A We looked. We walked through the house, you know
- 23 looking for her to see if maybe she was in the bedroom or
- 24 something, and then we were looking for a cat, but other
- 25 than that we -- she had us sit down and just stay out of the

1 way.

2 Q I'm just going to show you. I know you looked at this
3 already. This is not evidence right now, but I'm just going
4 to show you. It's been pre-marked as State's Number 2.

5 A Yes.

6 Q Do you recognize it?

7 A I do.

8 Q And those are your initials on it?

9 A Absolutely.

10 Q Where you to listened to it the other day?

11 A Yes. Yes.

12 Q Whose voice is that on this disc?

13 A Billie Jean's.

14 Q And that's just foundational stuff. We'll do that
15 later.

16 A Okay.

17 Q That's all I have. So, a couple last questions. Just a
18 couple of housekeeping things. Do you know B.J.'s phone
19 number?

20 A I wrote it down, if I can look at my note.

21 Q Yeah, if you need to refresh.

22 A I got it off of my phone, 218-616-0060.

23 Q And that's the phone number that y'all were trying to
24 reach her on that day?

25 A Yes, that was the only phone number she had.

Kathy Warren-Cross-Examination

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1 Q And do you know Ms. Barbara's phone number?

2 A I do. 864-963-0746.

3 Q And is that the only phone she's got?

4 A Yes.

5 Q And it's your understanding that none of you had been
6 able to get in touch with her?

7 A No, we had not.

8 MR. THOMAS: Thank you so much, Ms. Warren. I'll let
9 you answer any questions Mr. Broome has.

10 THE COURT: Any cross-examination?

11 MR. BROOME: Yes, sir. Good morning, Ms. Warren.

12 WITNESS: Good morning.

13 CROSS-EXAMINATION

14 BY MR. BROOME:

15 Q My understanding is that when you showed up to B.J.'s
16 house in the 10th with Officer Rivera, that female officer,
17 eventually Ms. Rivera let you and Ms. McCoy in the house,
18 correct?

19 A Yes. She told me not to come in until she let me come
20 in.

21 Q Until she let you come in?

22 A Yeah. Right.

23 Q But she eventually let you come in?

24 A Yes, eventually she did.

25 Q And she let you walk around inside the house, looking

1 for B.J.?

2 A Yes. We did walk around looking for her.

3 Q And she let you sit down in the house?

4 A Yes.

5 Q And stand up in the house, correct?

6 A Yeah, we sat in the dining room.

7 Q Sat in the dining room?

8 A Uh-huh, yes.

9 Q At some point y'all had found, I believe it was Ms.
10 McCoy, who found the blue quilt, which I'm going to pick up
11 on. Let me show you Defense Number 3.

12 A I don't know which ---

13 Q Do you recognize this picture?

14 A Yes. I don't -- yes. I don't know which one of us saw
15 it first, but we did see it.

16 Q You don't remember who saw it first?

17 A I don't know which one of us saw it first, no.

18 Q And originally it was not -- that blue -- kind of a
19 blue packing quilt.

20 A That's what it looked like to me.

21 Q And that blue packing quilt was on top of the blood
22 spot, correct?

23 A Yes. Yes, I believe it was, yes.

24 Q And either you or Ms. McCoy, kind of, picked it up
25 thinking isn't that strange sitting here.

Kathy Warren-Cross-Examination

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1 A I don't know if I -- to be honest I don't know if
2 either one -- who picked it up.

3 Q Sure. I understand.

4 A Just moving it out of the way, because it was in the
5 middle of the floor.

6 Q Right.

7 A Where we were trying to go through to her bedroom.

8 Q Correct, and when you did that, you didn't have any
9 gloves or anything on. Isn't that correct?

10 A No.

11 Q And Officer Rivera saw that happen and, I guess, she
12 took a picture of y'all in the house, right?

13 A I guess.

14 Q At any point well, after y'all were in the house for an
15 hour or so ---

16 A Yes.

17 Q --- at some point, other officers started to arrive on
18 the scene.

19 A Yes, they did.

20 Q And do you remember how many officers showed up?

21 A I don't know. There were several.

22 Q Yeah, a lot, probably --

23 A A lot, a lot, actually.

24 Q --- six plus, or something like that.

25 A Probably.

1 Q And when they showed up, they continued to let y'all
2 stay in the house.

3 A We sat there in the dining room.

4 Q In the dining room?

5 A Yes.

6 Q While they were looking for whatever they were looking
7 for?

8 A They were doing whatever they were doing.

9 Q Do you remember when the officer first arrived she had
10 that little punching tool to knock out the glass?

11 A Yes.

12 Q Do you remember Ms. McCoy having to sweep that up and
13 you telling her not to do it?

14 A I vaguely remember that.

15 Q Right. And she was also concerned with the cat.

16 A Right. She was afraid the cat was going to get hurt.

17 Q The cat was jumping through things.

18 A Well, the cat was was just wandering around.

19 Q Wandering around. And Ms. McCoy was kind of wandering
20 around after -- looking for the cat a little bit.

21 A She was worried the cat.

22 Q Right. And so, y'all were out at that house sitting
23 there, even as more officers showed up, y'all continued to
24 sit in B.J.'s house, right?

25 A Yes, we stayed there.

Kathy Warren-Cross-Examination

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- 1 Q And y'all were out there for hours in the house,
2 correct?
- 3 A Yes. Several hours.
- 4 Q Now, the last thing I want to talk about is that B.J.
5 had a -- she had two walkers, right?
- 6 A Yes.
- 7 Q And they're kind of -- they have wheels on them, right?
- 8 A Yes.
- 9 Q She would, kind of, push and ---
- 10 A Yes.
- 11 Q --- to, kind of, help her out?
- 12 A Yes.
- 13 Q And she had one that she kept in the house?
- 14 A Yes.
- 15 Q And then she had one in the trunk of her vehicle?
- 16 A Yes.
- 17 Q And you pointed out to the police, hey, she's got --
18 she keeps a walker in her vehicle?
- 19 A Yes.
- 20 Q And eventually, it's your understanding the police
21 searched the back of the vehicle, the trunk specifically?
- 22 A The trunk, yes.
- 23 Q And the walker was missing from ---
- 24 A Yes.
- 25 Q --- the trunk. Is that right?

1 A That's correct.

2 Q And did you show the officers, or discuss the walker
3 with them that night on the 10th?

4 A Yes. I'm sure we did. Yes.

5 Q Do you remember the officer you told that to?

6 A No, I don't know which one it was.

7 Q I don't blame you. Okay.

8 A There were so many. I don't know who was who.

9 MR. BROOME: One second. Beg the Court's indulgence.

10 THE COURT: Sure.

11 MR. BROOME: I don't have any further questions right
12 now.

13 THE COURT: Any redirect?

14 REDIRECT EXAMINATION

15 BY MR. THOMAS:

16 Q Ms. Warren, after -- correct me if I'm wrong, but it
17 seems like law enforcement sort of figured out there was
18 more to this. And so, that's when they made you, sort of,
19 stay in that ---

20 A Yes. They told us just to sit there. Stay out of the
21 way, basically.

22 Q And so, once they did that, did y'all touch anything or
23 mess with anything?

24 A No, I think we stayed right there in the dining room.

25 MR. THOMAS: Thank you so much. I appreciate it.

Kelly Rivera-Direct Examination

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1 That's all the questions I have.

2 THE COURT: You may step down, ma'am. Thank you. Okay,
3 next witness for the State.

4 MR. SHAFFER: Your Honor, can we approach?

5 (WHEREUPON, sidebar off the record.)

6 THE COURT: The State can call its next witness.

7 MR. SIMMONS: The State calls Kelly Rivera.

8 WHEREUPON, Kelly Rivera, having first
9 been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. SIMMONS:

12 Q Ms. Rivera, can you state your name for the record?

13 A Kelly Rivera.

14 THE COURT: Spell your last name.

15 WITNESS: R-i-v-e-r-a. Rivera.

16 Q Ms. Rivera, where do you work currently?

17 A South Carolina Department of Probation Pardon ---

18 THE COURT: Okay, you're going to need to get -- does
19 that microphone amplify? Did we ever get that fixed? Okay,
20 get a little closer to the microphone, please ma'am. All
21 right. There you go. All right, ask again, please,
22 Solicitor.

23 Q Where do you currently work?

24 A South Carolina Department of Probation Pardon and
25 Parole.

1 Q And how long have you been with them?

2 A Going on two years.

3 Q Where did you work previous to probation?

4 A Laurens. I'm sorry, can you repeat that?

5 Q Yeah, where did you work previous to working at the
6 probation office?

7 A Laurens County Sheriff's Office.

8 Q And how long did you work at the Laurens County
9 Sheriff's Office?

10 A Two years, I want to say.

11 Q What time frame was that? Do you remember?

12 A I believe it was 2018 to 2022.

13 THE COURT: Okay, Ms. Rivera, you're going to have to
14 speak up, please, ma'am. I know you're evidently
15 soft-spoken. I understand that, but we've all got to hear
16 you, and so I need you to speak up, please.

17 Q All right. And at the Laurens County Sheriff's Office,
18 what did you do there? What was your responsibilities?

19 A I was a Sheriff's Officer. I responded to calls,
20 completed traffic stops.

21 Q And on December 10, 2021, what were you doing that day?

22 A I was on shift for the patrolling.

23 Q Did you get a call for service that day?

24 A Yes. Yes, sir.

25 Q And just regarding this case, right?

- 1 A Yes.
- 2 Q And what kind of call for service was it? What were
- 3 you out there for?
- 4 A The call came out as family couldn't hold of an elderly
- 5 female. It was the victim.
- 6 Q Okay. And when you arrived, what address was that?
- 7 Where were you?
- 8 A I do not remember the address. I know it was in
- 9 Fountain Inn.
- 10 Q Okay. And if you had your report, would that refresh
- 11 your memory?
- 12 A Yeah.
- 13 (WHEREUPON, witness was handed document.)
- 14 Q And did you have an opportunity to refresh your memory?
- 15 A Yeah.
- 16 Q What's the address?
- 17 A [REDACTED].
- 18 Q What county is that in?
- 19 A Laurens County.
- 20 Q And what other road is next to [REDACTED]?
- 21 There's another road, kind of, butted up next to it.
- 22 A (NO RESPONSE)
- 23 Q Tullyton Drive?
- 24 A (NO RESPONSE)
- 25 Q If you don't remember, that's fine. When you arrived

1 there, who did you meet? Do you remember?

2 A Yes, I met the victim's mother. I believe her name is

3 Billie. No, I'm sorry. Barbara. Ms. Barbara and her

4 cousin, Kathy.

5 Q Ms. Kathy Warren?

6 A Yes.

7 Q Okay. And did you have on a body cam that day?

8 A Yes, sir.

9 Q And I'm showing you what's been marked for
10 identification purposes as State's Exhibit 3. Have you had
11 an opportunity to review that disk?

12 A Yes sir.

13 Q What is on that disk?

14 A It is the interaction that I had with the complainant
15 and the cousin.

16 Q It's your body cam video?

17 A Yes.

18 Q And is that a fair and accurate representation of what
19 you saw that day?

20 A Yes, sir.

21 MR. SIMMONS: Your Honor, the State would introduce
22 State's Exhibit 3 into evidence.

23 MR. SHAFFER: Based on our previous discussion.

24 THE COURT: Without objection, except what what was
25 noted on the record, Number 3 into evidence for the State.

Kelly Rivera-Direct Examination

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1 MR. SIMMONS: Thank you, Your Honor.

2 MR. SHAFFER: And just for clarification, at this time,
3 are they publishing the entire version of that exhibit?

4 THE COURT: Well, I don't know. Solicitor Simmons, are you
5 going to publish the entire exhibit?

6 MR. SHAFFER: Pursuant to what we've talked about.

7 MR. SIMMONS: No, Your Honor. I do believe that we
8 gave them a document listing the time frames, and I'll
9 discuss that once we start.

10 THE COURT: So just a portion of her video will be
11 published in the jury. Ladies and gentlemen, it is my
12 understanding that there will be no sound to the video as it
13 is being played to you. Place no significance to the fact
14 that there is no sound, so it's all visual.

15 MR. SIMMONS: And Judge, just for the record, I started
16 it about 15 minutes and 56 seconds into the video, for the
17 record.

18 THE COURT: Okay. Very good.

19 (WHEREUPON, Exhibit published to the jury.)

20 Q Ms. Rivera, what are you doing right here?

21 A The back door to the mobile home where the victim left
22 at was locked. So we were trying to get inside the house.
23 So I used the hole puncher.

24 THE COURT: Ms. Rivera, I'm not fussing at you, okay,
25 but we've got to be able to hear you. Not only me, but the

1 Court Reporter and all these lawyers in this courtroom, as
2 well as the jury. So you just need to make a conscientious
3 effort to speak louder than you normally do.

4 WITNESS: Yes, sir.

5 Q Can you repeat that? I'm sorry.

6 A Yes. So, the back door to the mobile home was locked,
7 which they use mainly for entrance to the house. So, I used
8 my hole puncher to shatter the corner of the glass and
9 access entry to the home.

10 Q Are there any lights on this house?

11 A I'm sorry. Any what?

12 Q Are there any lights on when you went in?

13 A Not in any of the rooms. Just the kitchen one.

14 Q And what are you currently doing in this video?

15 A I was trying to see if I -- just flashing, trying to
16 see, I could see the victim maybe possibly laying on the
17 floor or if anybody was inside the house at that point.

18 Q I know it's muted, but were you talking? Were you
19 calling out something?

20 A Yes. I was calling for her name. I was calling her
21 name out to see.

22 Q This room right here. What did this room appear to be
23 to you?

24 A Her master bedroom.

25 Q And why did you think that was her master bedroom?

Kelly Rivera-Direct Examination

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- 1 A When I went into the house I asked Ms. Kathy where her
2 master bedroom was at, and she advised me that this was her
3 master bedroom.
- 4 Q Okay. And where are you currently looking in this
5 video?
- 6 A The master bathroom.
- 7 Q And where were you looking just now?
- 8 A The master closet.
- 9 Q And right there on the floor, what does that appear to
10 be in the middle of the living room?
- 11 A It's a blue quilt.
- 12 Q And how does it look? Does it look spread out?
- 13 A It was spread out on the floor.
- 14 Q And who is that currently standing in the door?
- 15 A The victim's mother.
- 16 Q Did you look at all the rooms in the house?
- 17 A Yes, sir.
- 18 Q And who did you find in the house, anybody?
- 19 A No, sir.
- 20 Q And then, what's on the bed right there?
- 21 A Her PJ's.
- 22 Q And sheets?
- 23 A And sheets.
- 24 Q And what are you currently doing?
- 25 A I was calling dispatch to check if we had been out

1 there. What was the last time we had been out there.

2 Q And at this point, you still had no information on
3 where Billie Jean was?

4 A No, sir.

5 Q And what's happening in this video right now?

6 A Ms. Barbara picked up the quilt. She was trying to
7 walk, and it was in her way.

8 COURT REPORTER: I could not hear her answer.

9 THE COURT: Repeat your answer, Ms. Rivera.

10 WITNESS: Ms. Barbara, she picked up a corner of the
11 quilt, because she was trying to walk by, and it was in her
12 way.

13 Q After she moved that blanket away, what did you
14 notice?

15 A There was a dark spot on the carpet.

16 Q And what are you doing currently?

17 A I was flashing my flash light over to make sure I
18 could see right, and then I was going to take a picture.

19 MR. SIMMONS: Judge, I'm just going to stop the video
20 right now at about 25 minutes and 31 seconds. That's what I
21 plan on publishing.

22 THE COURT: All right, so noted

23 COURT REPORTER: Judge, can we look on the speaker and
24 see if there is a volume button we can turn up?

25 MR. THOMAS: There is a control here. They installed it

Kelly Rivera-Direct Examination

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1 this morning, Judge.

2 THE COURT: Oh, okay, I didn't know that.

3 WITNESS: Test.

4 COURT REPORTER: Much better.

5 THE COURT: Better to be too loud than not loud enough.

6 Q Officer Rivera, I am showing you what's marked for
7 identification as State's Exhibits 4, 5, and 6. Can you
8 identify this for me

9 A Number 4, it's a picture of the victim's car and her
10 home. Exhibit 5, it's the front of the house, of the
11 victim's, front of the house, and Exhibit 6 is the back
12 entrance to the victim's house.

13 Q That's a fair and accurate representation of what you
14 saw that day?

15 A Yes, sir.

16 MR. SIMMONS: All right. The State's moves State's
17 Exhibits 4, 5, and 6 into evidence.

18 THE COURT: And what says the Defense?

19 MR. SHAFFER: No objection.

20 THE COURT: Without objection, 4, 5, and 6 in evidence
21 for the State.

22 Q So, Officer Rivera, what is State's Exhibit 5? What is
23 this a picture of?

24 A It's the front entrance to the victim's house.

25 Q Okay, and did you make entrance at this door?

- 1 A No, sir.
- 2 Q State's Exhibit 4, what is this?
- 3 A That is the victim's car and the side of the victim's
- 4 house.
- 5 Q Okay, and that's your car?
- 6 A Yes. Yes, sir.
- 7 Q And then State's Exhibit 6. What is this?
- 8 A The back entrance to the house, and that is where I
- 9 made entrance through.
- 10 Q Okay, and that's what we saw in the video?
- 11 A Yes, sir.
- 12 Q And it was this window right here? That's the one you
- 13 broke?
- 14 A Yes, sir.
- 15 Q And what is this connected to the porch?
- 16 A The -- her ramp. She, the victim, used a walker.
- 17 Q Thank you. I am showing you State's Exhibit nine,
- 18 10, 11, and 12. What are those?
- 19 A These are pictures of the blue quilt that was found in
- 20 the victim's living room.
- 21 Q And that was after Ms. McCoy moved it, right?
- 22 A Yes, sir.
- 23 Q And that's a fair and accurate representation of what
- 24 you saw that day?
- 25 A Yes, sir.

Kelly Rivera-Direct Examination

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1 MR. SIMMONS: The State moves those items into evidence,
2 Your Honor.

3 THE COURT: Okay, what says the Defense?

4 MR. SHAFFER: No objection.

5 THE COURT: Without objection, 9 through 12 into
6 evidence for the State.

7 Q It was a little hard to see in the video, so these
8 pictures are going to help. It might clear that up a little
9 bit. State's Exhibit 9. What is that?

10 A That is the blue quilt found in the living room.

11 Q I know it's a small glare on it, but all those pictures
12 can -- what are -- what's on the floor here and here?

13 A What appeared to us to be blood.

14 Q So, Exhibit 10 is just a different angle?

15 A Yes, sir.

16 Q Same spots here and here?

17 A Yes, sir.

18 Q This is State's Exhibit 11. At this point, you're just
19 getting a little bit closer?

20 A Yes, sir.

21 Q All right, and I know it's hard to see right here, but
22 in this area, this is the hallway. Do you see that?

23 A Yes, sir.

24 Q And what did you believe these markings to be?

25 A Drag marks.

1 THE COURT: What was her answer? I didn't hear it.

2 WITNESS: Drag marks.

3 Q And State's Exhibit 12, that's just a close up picture?

4 A Yes, sir.

5 Q Of what?

6 A Of the blue quilt with what appeared to us to be blood
7 stain.

8 Q And I'm showing you State's Exhibit 13, 7, and 9. Can
9 you identify those numbers and just kind of explain what
10 they are?

11 A Exhibit number 7. You can't really see it, but it's
12 supposed to be the drag marks that I saw. Exhibit Number 8
13 is another angle of the drag marks, and Exhibit 13 is the
14 victim's bed with the sheet and her PJs.

15 Q And those are a fair and accurate representation of
16 what you saw that day?

17 A Yes, sir.

18 MR. SIMMONS: The State moves 13, 7, and 8 into
19 evidence.

20 THE COURT: 13, 7, and 8?

21 MR. SIMMONS: Yes, Your Honor.

22 THE COURT: Okay. I had written down 9. My bad. What
23 says the Defense?

24 MR. SHAFFER: No objection.

25 THE COURT: Without objection, 7, 8, and 13, in evidence

Kelly Rivera-Direct Examination

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1 for the State.

2 Q State's Exhibit 7 is seven right here. What are we
3 looking at?

4 A Can I get closer to the...

5 Q Yeah, as long as you speak up.

6 A If you look closely, it's supposed to -- you kind of
7 see the shadows of the drag marks.

8 Q And where is this at in the house? I know it's kind of
9 hard to see, but...

10 A The livingroom is further up, and this is around the
11 kitchen area.

12 Q Okay, so we'll move the picture down a little bit. I
13 think that the glare up there -- and that's the ---

14 A The blue quilt.

15 Q And how far did those marks go?

16 A To the back entrance of the house.

17 Q State Exhibit 8. What is this picture of?

18 A The drag marks from the carpet onto the flooring. I
19 couldn't get a better angle to the back entrance, but when I
20 got there, you could see the drag marks to the back
21 entrance.

22 Q Okay, and that's the back of the house?

23 A Yes.

24 Q All right. And it's the same hallway?

25 A Yes, sir.

1 Q Different angle?

2 A Yes, sir.

3 Q State's Exhibit Number 13. Where was this again?

4 A That is the victim's bed with the sheets and the PJ.

5 Q When you were in there, did you notice the temperature
6 in there?

7 A It was cold.

8 Q And what is on this bed again?

9 A The bed sheets. We did not see no blanket

10 Q And while you're looking through the house, what were
11 you trying to find?

12 A I was hoping to find the victim in the house.

13 Q Did you find any personal items that she may have?

14 Like sell phone, keys, something like that?

15 A No. Her pocketbook, her car keys, and cell phone were
16 missing.

17 Q And you, kind of, looked throughout the house?

18 A Yes, sir.

19 Q And at what point did you call other officers?

20 BAILIFF: Your Honor, one of the jurors needs to be
21 excused.

22 THE COURT: All right. Let's just everybody go back to
23 the jury room for just a moment and we'll start back
24 shortly. Get her some water, Mr. Bolt.

25 (WHEREUPON, jury exited courtroom at 12:22 p.m.)

Kelly Rivera-Cross-Examination

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1 THE COURT: After this witness is a good time to break
2 or do you have another witness that you need to put up
3 before lunch?

4 MR. THOMAS: I think the next witness after this one is
5 probably going to be pretty lengthy. It's going to be the
6 guy who did the crime scene work here.

7 THE COURT: So we'll probably break after this witness
8 for lunch.

9 (WHEREUPON, off the record from 12:30-12:35 p.m.)

10 THE COURT: All right, Solicitor, you may continue.

11 MR. SIMMONS: Thank you, Your Honor.

12 Q Officer Rivera, at what point did you call other
13 officers on scene?

14 A When we noticed the dark spots, when the quilt was
15 picked up.

16 Q Do you remember who eventually came out there?

17 A I called my Sergeant, Williams, and investigators came
18 out after that.

19 MR. SIMMONS: Beg the Court's indulgence.

20 THE COURT: Sure.

21 MR. SIMMONS: Your Honor, no further questions.

22 THE COURT: Cross examination?

23 CROSS-EXAMINATION

24 BY MR. SHAFFER:

25 Q Officer Rivera, when did you start at the Laurens

1 County Sheriff's Office?

2 A I believe...

3 Q It doesn't have to be exact. Just a year.

4 A I believe it was 2019.

5 Q Do you remember around what month?

6 A No.

7 Q Whenever you started there, were you a patrol deputy
8 initially?

9 A Yes.

10 Q Okay. And should I call you Agent, because you're a
11 probation agent now, right?

12 A Yes, sir.

13 Q Should I call you Agent or Rivera?

14 A Rivera is fine.

15 Q Okay, all right. So, tell me about the job of patrol
16 deputy. In general, what do you do?

17 A We mainly respond to calls. That could include
18 anything and everything.

19 Q Was that your first job in law enforcement?

20 A No.

21 Q Okay. Where did you work before that?

22 A Fountain Inn Police Department.

23 Q And how long had you been at Fountain Inn?

24 A I was there for about a year and a half too.

25 Q Okay. So, and did you do patrol there as well?

Kelly Rivera-Cross-Examination

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1 A Yes, sir.

2 Q Okay. So, generally, you've gone to the police academy,
3 correct?

4 A Yes, sir.

5 Q In Columbia. And that program, it gives you general
6 training. Not specific training, but generalized training on
7 how to be a patrol officer, correct?

8 A Yes, sir.

9 Q And it also gives you generalized training and laws
10 that get followed, correct?

11 A Yes, sir.

12 Q And it gives you generalized training on real basics of
13 evidence collection and preservation, correct?

14 A Yes, sir.

15 Q Okay. And it gives you training and things like
16 documenting evidence that is collected and things like that?

17 A Yes.

18 Q I know it's real general for the initial officer
19 training.

20 A Yes.

21 Q So, you had gone for training like that, and then
22 whenever you got to Fountain Inn, you would have ridden with
23 a...

24 A Field Training Officer.

25 Q There you go. Field Training Officer. You would have

1 ridden with a Field Training Officer in Fountain Inn,

2 correct?

3 A Yes.

4 Q Okay. And at that you would have gotten a lot of

5 on-the-job training on how to do certain things, correct?

6 A Yes.

7 Q Whenever you arrived there on 12/10/2021, this

8 certainly was not the first crime scene you'd ever arrived

9 at, correct?

10 A No, sir.

11 Q Okay, you had been to crime scenes in the past,

12 correct?

13 A Yes, sir.

14 Q Okay. Had you ever been the first officer to arrive at

15 other crime scenes?

16 A Yes, sir.

17 Q Okay. Now, whenever you are the first officer to

18 arrive at a crime scene -- well, I'll say this. Initially,

19 when you arrived, you didn't think it was a crime scene.

20 Is that fair to say?

21 A Yes, sir.

22 Q Once you found the blood, you figured out it was a

23 crime scene, correct?

24 A Yes.

25 Q Okay. But whenever you are the first responding officer

Kelly Rivera-Cross-Examination

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1 at a crime scene, there are certain policies you're supposed
2 to follow, correct?

3 A Yeah.

4 Q Okay. Do you recall receiving, whenever you went to
5 work for the Laurens County Sheriff's Office, a copy of the
6 policy and procedure manual basically for deputies? I'm not
7 sure if it's called the -- I'm not sure what it's called.
8 It's a manual with a bunch of policies and procedures. Do
9 you recall receiving that?

10 A Yes.

11 Q And in the back of that, there's a whole bunch of
12 things called general orders and directives, correct?

13 A (NON-VERBAL RESPONSE)

14 THE COURT: You need to verbally respond, ma'am.

15 A I believe so, yes.

16 Q Okay. And those general orders and directives, whenever
17 they're included in the back of a manual, they're in effect
18 until such a time as they are overruled, correct?

19 A Yes.

20 Q Okay. And that's part of the standard operating
21 procedure of officers with the Laurens's County Sheriff's
22 Office to follow those general directives, correct?

23 A Yes.

24 Q Okay. I want to refer to, specifically, and you're
25 going to have no idea likely what I'm talking about, but I'm

1 going to refer to General Directive 480.1, which was in
2 effect at 8/27/2019. Do you recall off the top of your head
3 what that General Directive says?

4 A No.

5 Q That's a fair thing to say. If I handed you that
6 General Directive, do you think it would help refresh your
7 recollection as to what that general directive says?

8 A Yes.

9 Q Okay. I promise you one thing, I'm not going to ask
10 you about anything other than what's on the first page.

11 A Okay.

12 Q If you don't mind, tell us what General Directive 480.1
13 from 8/272019 says about what the first officer on the scene
14 should do.

15 A Do you want me to read the whole page?

16 Q You don't have to read the whole page.

17 A Which section do you want me to read?

18 A There's an underlined section and that's really the
19 part that I'm asking you about. What does the underlined
20 section say?

21 A A.1 states, "The scene of a crime must be secured as
22 soon as possible to prevent the loss of evidence. It is the
23 responsibility of the first officer at the scene of a crime
24 to secure and protect the scene from all non-essential
25 personnel to prevent the loss of evidence. The offender,

Kelly Rivera-Cross-Examination

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1 the officer securing a major crime scene, will initiate a
2 log listing the time, name and reason for all the personnel
3 who entered the crime scene.

4 Q Okay. Now as we discussed, this initially was not a
5 crime scene whenever you first got there and you didn't know
6 it was a crime scene, right?

7 A Yes.

8 Q But, if you don't mind, Mr. Bentley, pull up 15:15:38,
9 I believe is the time. Now, 15:15:30 that's where you
10 indicated, at this point she lifted up the blanket and you
11 noticed the red spot which you indicated was likely blood on
12 it, correct?

13 A Yes sir.

14 Q So, from this point forward you know that this is a
15 crime scene, correct?

16 A Yes, sir.

17 Q Okay, and at this point forward did you -- do you --
18 well, at what point did you tell non-essential personnel to
19 leave the crime scene?

20 A I do not.

21 Q Okay. At what point did you secure the crime scene
22 with crime scene tape?

23 A I did not.

24 Q Okay. At what point did you initiate a crime scene
25 log?

1 A I do not recall.

2 Q Okay. Did you initiate the crime scene ---

3 A I do not recall.

4 Q This crime scene, it's fair to say Laurens County
5 as soon as you notice the blood, Laurens County knew that --
6 Sheriff's Office essentially knew it was a crime scene,
7 correct?

8 A Yes, sir.

9 Q Okay. And you're not sure when they actually secured it
10 or anything like that?

11 A No, sir.

12 Q This video -- well how about this? We'll play State's
13 3 from this point until the end of it. There's a cat in
14 this, correct?

15 A Yes, sir.

16 Q The cat's walking around? The cat's walking near the
17 bloodstain, correct?

18 A Yes.

19 Q They're taking a picture of the cat walking through the
20 bloodstain right there, correct?

21 A (NO RESPONSE)

22 Q I don't know if you actually took the picture ---

23 A Yeah.

24 Q --- but your camera, right? Now the victim's mother is
25 walking through the area, correct?

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1 A Yes.

2 Q At any point did you secure them and say that they had
3 to stay in the kitchen?

4 A I did tell Ms. Barbara. Ms. Barbara was trying to
5 clean up, and touch here and there, and she was advised to
6 just stop touching things.

7 Q But she stayed in the house, correct?

8 A Yes.

9 Q You said she was trying to clean up. She actually
10 pulled out a broom and a dustpan, correct?

11 A Yes, due to the cat, yes.

12 Q Okay, so she pulled out a broom and dustpan at some
13 point and started essentially ---

14 A Trying. Attempting.

15 Q --- to sweep up. And you told her no, don't do that,
16 correct?

17 A Yes.

18 Q Is it fair to say that the house was cluttered a little
19 bit?

20 A Yes.

21 Q Some of the rooms were more cluttered than others,
22 obviously, right?

23 A Yes.

24 Q One of the rooms in particular, one of the bedrooms,
25 there was a lot of stuff near a window, correct?

1 A Which room specifically?

2 Q I'll show you in just a second.

3 MR. THOMAS: Judge, can we, just for the record, let
4 Mr. Shaffer know what parts we're publishing since that
5 wasn't part of Mr. Simmons' presentation.

6 MR. SHAFFER: Oh, I was publishing until the end of the
7 video, but that's -- Yeah, I was publishing from the stop
8 point until the end.

9 THE COURT: You started at 15 ---

10 MR. SHAFFER: 15:30, I believe.

11 THE COURT: 15:30 to the end. So noted.

12 Q I think I just missed what I was planning on asking you
13 about. A second ago -- you don't have to back it up. A
14 second ago, is that where she grabbed a broom? I don't know
15 if this is where she's grabbing the broom.

16 A Right there.

17 Q I'll go ahead and stop it there instead of playing to
18 the end. That's 15:25:09 or so, something like that, where I
19 stopped it. But even the last couple of minutes on this
20 particular computer file is not the extent of all of your
21 video from that day, correct?

22 A I believe so, yeah.

23 Q You don't recall being out there for another hour plus?

24 A Yes.

25 Q Okay. And there's additional video from that, more than

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1 likely, right?

2 A Yes.

3 Q Okay. You just haven't reviewed it for today, correct?

4 A Yes.

5 Q And that's not part of the State's Exhibit, right?

6 A Yes.

7 Q Okay. So, there's more of that hour additional that you
8 were out there afterwards. During that time period, the
9 two, the family members of the victim were essentially not
10 just in the kitchen, correct? They were in the house
11 walking around occasionally?

12 A Yes.

13 Q So, they were coming throughout the crime scene,
14 correct?

15 A Yes.

16 Q And it's fair to say that, during that time period,
17 they weren't ever told and excluded and said, "You can't
18 come in this house. It's a crime scene."

19 A No.

20 Q And during that time period, from your recollection, it
21 was never secured with tape or anything like that?

22 A No.

23 Q I'm going to show you two still shots.

24 (WHEREUPON, two photos were marked as Defendant's
25 Exhibit 4 for identification.)

1 Q I'm going to show you what's been marked as Defendant's
2 Exhibit 4 for ID purposes at this time.

3 MR. SIMMONS: I have no objection.

4 MR. SHAFFER: We'll move that in as Defendant's Exhibit
5 4.

6 THE COURT: Without objection, 4 for the Defense.

7 Q I'm showing you Defendant's Exhibit 4. Does this appear
8 to be a screen shot from your body camera?

9 A Yes.

10 Q Okay. And this is one of the, what would have been a
11 bedroom in the trailer, correct?

12 A Yes.

13 Q And in that, it's fairly cluttered, correct?

14 A Yes.

15 Q And there's a window in that bedroom, correct?

16 A Yes.

17 Q Does that appear -- and it may not be the best picture,
18 but does that appear to be a blind that's fallen halfway
19 down?

20 A Yes.

21 Q Okay. And just so we're clear, your job, on the scene
22 as the initial responding officer, was not to do
23 fingerprints or, you know, CSI stuff, swab for DNA, or
24 anything like that, right?

25 A Right.

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1 Q Okay. That would have been for an investigator who
2 would have come later, correct?

3 A Yes.

4 Q You may not know this, but when did that investigator
5 actually show up?

6 A I don't remember.

7 Q It's okay. We'll ask a different witness. Now, I'm
8 going to show you Defendant's Exhibit 5, which is --
9 Defendant's Exhibit 5. Does that appear to be a screen shot
10 from your video?

11 A Yes.

12 Q And that shows the Defendant's (SIC) mother with a
13 broom, correct?

14 A Yes.

15 Q Is it fair to say that you did not secure the scene as
16 soon as possible to prevent loss of evidence?

17 A Yes.

18 Q Is it fair to say that that would have been one of your
19 responsibilities?

20 A Yes, sir.

21 Q Is it fair to say that one of your responsibilities was
22 also to eliminate non-essential personnel from the scene?

23 A Yes, sir.

24 Q And that's to prevent the ---

25 THE COURT: You need to give a verbal answer instead of

1 Uh-huh, please.

2 WITNESS: Yes, sir.

3 Q Thank you. And that was also to prevent the loss of
4 evidence, correct?

5 A Yes, sir.

6 Q And it's fair to say you did not do that, correct?

7 A Yes, sir.

8 Q And it's fair to say that you do not recall whether or
9 not you initiated a crime scene long.

10 A Yes, sir.

11 Q But it is fair to say that there was no crime scene
12 tape up whenever you left that day.

13 A I don't recall.

14 Q Okay. Did you put up any crime scene tape before you
15 left that day?

16 A No, sir.

17 MR. SHAFFER: Thank you. No further questions.

18 THE COURT: Any redirect, Solicitor?

19 MR. SIMMONS: Yes, sir.

20 REDIRECT EXAMINATION

21 BY MR. SIMMONS:

22 Q Why did you not put them outside?

23 A I'm sorry?

24 Q Why did you not put Barbara and Kathy outside?

25 A Well, that's the mother and the cousin. They're

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1 usually always there.

2 Q And was it hard to get that old -- sweet old lady, keep
3 her out?

4 A Yes. She was extremely concerned about her daughter.

5 MR. SIMMONS: Beg the Court's indulgence. No further
6 questions, Your Honor.

7 THE COURT: You can just step down, ma'am. Thank you.
8 I'm sorry. Any recross?

9 MR. SHAFFER: Yes.

10 RECROSS EXAMINATION

11 BY MR. SHAFFER:

12 Q Does General Order 480.1 from 8/27/19 have any
13 exceptions for little old ladies?

14 A No.

15 MR. SHAFFER: Thank you.

16 THE COURT: Now you can step down, ma'am. Okay, ladies
17 and gentlemen, it's a little after 1:00. I think this will
18 be a good time to break for lunch. We'll be back here at
19 2:30. And I want you to do a favor for me. If you decide
20 that you're going to eat lunch in a local restaurant, keep
21 your juror badge visible. The reason for that is that there
22 may be some of the family members, maybe some lawyers, maybe
23 some of witnesses in the case, that may be at that same
24 restaurant. They may not recognize you or may not even know
25 that you're on the jury. And certainly, if they're

1 discussing the case, I don't want you to overhear whatever
2 they may be saying. But if you have your juror button
3 visible and they look at you and they'll know you're on the
4 jury, and hopefully they will keep their voices down if they
5 are talking about the case. Do that for me if you decide to
6 go to a local restaurant. Have a good lunch. I'll see you
7 back at 2:30.

8 (WHEREUPON, the jury exited the courtroom at 1:03 p.m.)

9 THE COURT: All right. Hold it down, please. Solicitor
10 Simmons, you have something for the record?

11 MR. SIMMONS: Yes, Your Honor. I just wanted to note
12 for the record that when we were talking about time stamps,
13 the State's time stamps were of the video itself. The
14 Defense's time stamps are from the time stamp on the video.
15 They're separate, so I just want to make sure the record is
16 clear.

17 THE COURT: Okay, all right, very good. Thank you.

18 MR. SHAFFER: Your Honor, we've mentioned this at the
19 bench, and I know what you mean whenever you say, "So
20 noted", whenever there's an objection, and Joel knows what
21 you mean, and the State knows what you mean, but I was at a
22 conference where Bob Dudek said that that's not a ruling on
23 the record, which I respect Bob, so that's the reason I'm
24 going to say clearly ---

25 THE COURT: Bob who?

1 MR. SHAFFER: Bob Dudek from Appellate Defense.

2 THE COURT: Oh.

3 MR. SHAFFER: He said that it was not a -- that you need
4 to preserve it better than just -- actually have him rule on
5 it. So, I know that you meant that, and I just wanted to
6 confirm that that's what you meant.

7 THE COURT: Right. Well, I have to respectfully
8 disagree with him, because if I put my ruling on the record
9 in front of the jury, the same ruling that I make with the
10 jury out, there may be times where we don't want the jury to
11 hear that.

12 MR. SHAFFER: Yes.

13 THE COURT: So, I mean, I can try to maybe clear it up
14 a little bit more, so you feel more comfortable with the
15 record. But when you argued outside the presence of the
16 jury is hearsay, I overruled your objection. Mr. Broome
17 stands up says, "I object. Hearsay." I think it's pretty
18 clear that it's in line with what I already ruled.

1 MR. SHAFFER: I agree with you ---

2 THE COURT: I'm not arguing with you, but I have to be
3 careful as far as what we say before this jury.

4 MR. SHAFFER: I went, I guess, 14 years of practicing
5 law thinking the exact same thing, and I went to a
6 conference I was, like, oh, I didn't know that.

7 THE COURT: Thank you. Y'all have a good lunch.

8 (WHEREUPON, a lunch recess held from 1:03-2:40 p.m.)

9 THE COURT: One thing I want to mention to the family,
10 both sides, when we break for lunch or break for the evening
11 and the jury is parading out, please keep your seats. Once
12 they are out, then you are free to exit the courtroom, but
13 while they're parading out, this is at a lunch break and in
14 the evening. Just keep your seats, both sides, okay? Thank
15 you. All right. Are we ready for the jury? State?

16 MR. THOMAS: Yes, sir. Are we good to stand when they
17 come in?

18 THE COURT: You know, that's whatever you want to. I
19 always stand when they come in. I know some lawyers do. You
20 know, it's whatever you feel like you want to do. Are you
21 ready for the jury?

22 MR. THOMAS: Yes, sir, Your Honor.

23 THE COURT: Is the Defense ready?

24 MR. BROOME: Yes, sir.

25 THE COURT: All right let's bring the jury out, Mr.

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1 Bolt.

2 (WHEREUPON, the jury entered at 2:43 p.m.)

3 If you have a seat, please say your name. Please say your
4 last name for the room.

5 THE COURT: Solicitor, are you ready to call your next
6 witness?

7 MR. SIMMONS: Yes, Your Honor. The State calls Robbie
8 Haupfear.

9 WHEREUPON, Robbie Haupfear, having
10 first been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SIMMONS:

13 Q Mr. Haupfear, what do you do?

14 A Currently, I'm employed with the Clinton Police
15 Department as a School Resource Officer.

16 Q How long have you been with them?

17 A Since February of this year.

18 Q What did you do previous to working in Clinton?

19 A The last two years I was employed with Presbyterian
20 College's Police Department as a training officer.

21 Q And before that?

22 A I worked for the Laurens County Sheriff's Office.

23 Q And how long did you work for Laurens County?

24 A I was with Laurens for 23 years.

25 Q And how long have you been a law enforcement officer

1 all together?

2 A 28 years.

3 Q And in all of these jobs and roles that you've had,
4 have, at the Sheriff's Office specifically, what were your
5 duties there?

6 A The last job I had at the Sheriff's Office, I was a
7 Crime Scene Investigator.

8 Q And what kind of training experience did you get to
9 become a Crime Scene Investigator?

10 A To begin with, I had over 200 hours of training in fire
11 investigation, processing scenes, crime scenes. I also had
12 40 hours of training through a company called Sirchie
13 Forensics in crime scene processing. I had classes and
14 training at the South Carolina Criminal Justice Academy in
15 tire wear, footwear impressions, and also latent prints,
16 fingerprint examination, and comparison.

17 Q And were you trained in any other testing or things
18 like that?

19 A I was also the AFIS examiner, which is Automated
20 Fingerprint Identification System examiner.

21 Q And how did you get involved in this case?

22 A I was called to the scene on December 10.

23 Q And on December 10, 2021, what were you called out for?

24 A I was called because there had been a large amount of
25 blood found inside the residence and called to document,

1 photograph the scene.

2 Q And what did you do when you arrived at that scene?

3 A To begin with I spoke to the investigators on scene
4 then I started photographing the outside of the residence
5 and then photographed the inside.

6 Q Where was that residence at again?

7 A Off of Fairview Road in Fountain Inn.

8 Q Okay. Is that -- what county?

9 A Laurens County.

10 Q And you said you were taking pictures?

11 A Yes, sir.

12 Q Okay. So, on December 10, just kind of explain what
13 you did, what your process was, and what you were thinking
14 you were working on at that point?

15 A To begin with, I always start on the outside of the
16 residence. Take pictures all the way around the residence.
17 I moved inside the residence, photographing as I went
18 through the residence. Photographed a large amount of blood
19 that was in the floor. I also took a sample of the blood
20 and tested it with a presumptive blood test kit that tested
21 positive for human blood.

22 Q What kind of test is that?

23 A It's called the Hexagon OBTI test.

24 Q And how does that work?

25 A You take a sample of the suspected blood, put it inside

1 a little vial that has a reagent inside that reacts with the
2 hemoglobin in blood. Then you have another test kit, or test
3 strip, that you put the liquid on. It reads the test kit.
4 It would give you one line to let you know that the test is
5 working. If it gives you two lines, it tells you that it's
6 positive for human blood, or the presence of human blood.

7 Q And I'm showing you State's Exhibit 11. This is already
8 in evidence. Is this where you got that sample from?

9 A Yes, sir.

10 Q And what else did you do while you were on scene on
11 December 10?

12 A I helped the other investigators, kind of, search the
13 residence to see if we could figure out anything or any
14 reason why Ms. Cross was not there.

15 Q And did you find anything to try to help locate her at
16 that point?

17 A No, sir.

18 Q What did you do after you finished up taking pictures
19 and doing those tests?

20 A Once I was done, I think I, along with the other
21 officers, cleared the residence.

22 Q And after you left, was there anybody else in there?

23 A No, sir.

24 Q And what did you do to, kind of, contain the scene at
25 that point?

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1 A The rear door, the back door of the residence, was
2 locked and secured.

3 Q All right. And then you went back to that residence on
4 another day?

5 A Yes, sir.

6 Q When did you go back?

7 A December 14.

8 Q And why did you go back there again?

9 A I was called and notified that Ms. Cross's body had
10 been located in Anderson County, and was requested to go
11 back and further process the residence.

12 Q Why didn't you do that kind of processing the first
13 time?

14 A The first night on the 10th we did not know what type
15 of incident we were dealing with. So, didn't know which
16 test or which -- how much further processing needed to be
17 done that night.

18 Q And then when you went back on December 14, what kind
19 of processing did you do at that point?

20 A Again, photograph -- did more photographs, and then I
21 used a chemical called Luminol, which tests for the presence
22 of also blood, or blood spatter, as well.

23 Q And you've had training in that?

24 A Yes, sir.

25 Q And know how it works?

1 A Yes, sir.

2 Q And how does the Luminol work? Can you describe that
3 process?

4 A It also reacts with properties in blood, not necessary
5 just blood in general. It reacts florescent blue when it is
6 positive for blood.

7 Q And how do you do that? Do you spray it? Do you pour
8 it? How does the process work?

9 A The process I used, you have to mix powder with water
10 and then spray it in a pump spray bottle.

11 Q Okay. You did that at this residence?

12 A Yes, sir.

13 Q Did you find anything from that?

14 A Yes, sir.

15 MR. SIMMONS: Beg the Court's indulgence.

16 THE COURT: Sure.

17 MR. BROOME: No objection.

18 THE COURT: What numbers are those, Solicitor Simmons?

19 MR. SIMMONS: Your Honor, these are going to be State's
20 Exhibits 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27.

21 THE COURT: And that's without objection, Mr. Broome?

22 MR. BROOME: That's correct.

23 THE COURT: All right. Without objection, 18 through 27
24 into evidence for the State.

25 MR. SIMMONS: Thank you, Your Honor.

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1 Q Exhibit 18. Tell the jury what this is.

2 A As you come into the residence to the back door, you
3 kind of turn left. There's a wall separating the kitchen
4 and the living room. This is at the base of that wall.

5 This is the entrance into the kitchen. Coming from the back
6 door towards the living room area.

7 Q Mr. Haupfear, there's a pointer up there.

8 A Oh, I'm sorry.

9 Q If you can use that, it might be easier, so you don't
10 have to get so far away from the microphone.

11 A Yeah, and then the little blue fluorescent mark is the
12 reaction, the Luminol that I used.

13 Q And I'm showing you State's Exhibit 7 that is already
14 into evidence. Can you point to, kind of, where that was?

15 A It would be right, right in here. This wall, the base
16 of this wall.

17 Q All right. State's Exhibit 19. Where's that at?

18 A That is the -- there is a, like, half wall or bar area
19 across from that wall. That is at the base of it as well and
20 the reaction.

21 Q And I'm going to show you State's Exhibit 7 again.

22 Just, kind of, where is that?

23 A That would be the brown side of the -- the opposite
24 side of where the wall is.

25 MR. SIMMONS: Judge, we're having spots come up in the

1 screen here. And if you don't mind, if I can just go there
2 and kind of try to...

3 THE COURT: Yeah, sure. Do what you need to do.

4 Q And there were other locations that you used this
5 Luminol?

6 A Yes, sir.

7 Q All right. State's Exhibit Number 20. What is that?

8 A That is the top of the bar area -- the bar beside the
9 wall.

10 Q Okay, and what is that a picture of? I'm just trying
11 to understand.

12 A It's like a lamp, a tulip lamp.

13 Q Okay. And did you use the Luminol on that?

14 A Yes, sir.

15 Q I'm showing you State's Exhibit 21. What is that a
16 picture of right there?

17 A That is the same lamp and the reaction of the Luminol
18 in the areas.

19 Q And the State's Exhibit 22. What is this?

20 A That is also the base of the lamp and then the top part
21 of the the bar.

22 Q Okay. And why -- it's blue here.

23 A Yes.

24 Q I'll point to it. Why is it not blue there?

25 A Because I only sprayed the lamp part, and then I added

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- 1 more. I sprayed again. Yes, sir.
- 2 Q Okay.
- 3 A Continued.
- 4 Q And State's Exhibit Number 23 is the same area?
- 5 A Yes, sir. It's a little further down from the lamp, but
- 6 it's the same area. The top of the bar.
- 7 Q About how far away are these spots from the edge of
- 8 that bar, approximately?
- 9 A Maybe a foot, foot and a half, or so.
- 10 Q And after you did these tests, and used the Luminol,
- 11 what else did you do to process the scene?
- 12 A Another investigator showed up on scene and helped me
- 13 process the scene for fingerprints.
- 14 Q And how does that process work?
- 15 A We use some type of powder, iron powder, volcanic
- 16 powder, and a dust to dust the area.
- 17 Q And when you do the powder to dust, how does that come
- 18 off? How do you get that off?
- 19 A The powder will stick with the inside the oils of the
- 20 fingerprints that are left, and then we lift it with lifting
- 21 tape.
- 22 Q And I'm showing you State's Exhibit Number 24. What is
- 23 that?
- 24 A That is two fingerprints that we located.
- 25 Q Where is this located?

1 A It's on the back door, back part, back side of the
2 residence, on the inside of the door.

3 Q Where you go in?

4 A Yes, sir.

5 Q And is this in the middle of that process? Is that
6 what you're doing?

7 A Yes, sir. It was -- the figure -- the photograph -- the
8 tape is on top of the print before we lifted it.

9 Q All right. What do you do after this? You took a
10 picture of it. How does that work?

11 A Once we lift it off the tape we put it on a white index
12 card and then label it; who took the print, where it
13 was taken to date, and as well as the case number.

14 Q And then State's Number 25. What is that?

15 A That is also another fingerprint that was recovered in
16 the same area.

17 Q And State's Number 26 -- or 27. I apologize. Where is
18 this at?

19 A That is on the breaker box inside the house, just
20 inside of the back door where you come in.

21 Q And why would you take fingerprints -- or why would you
22 attempt to take fingerprints here?

23 A We were dusting pretty much anything in the area.

24 Q And number 26, number 26, what is that?

25 A That's the inside of the breaker box door, or panel.

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1 Q And how do fingerprints work? How are they left?

2 A When you touch something, the oil of the ridges of your
3 finger, you leave the oil over the ridge on the surface.

4 Q And in your experience as a law enforcement officer,
5 how often do these fingerprints -- how often are they good?

6 A In my experience, it's probably 30 percent of the time.

7 Q And did you attempt to test these fingerprints?

8 A Yes, sir. I ran them through our AFIS system with no
9 matches.

10 Q And what kind of training do you have on fingerprints?

11 A I have attended another 40-hour class with fingerprint
12 identification and comparison, as well as a 40-hour class to
13 operate the AFIS system.

14 Q And did you get any results from this?

15 A No, sir. We didn't.

16 Q And then, at some point after you finished processing
17 this scene, did you have an opportunity to take more
18 pictures of different evidence?

19 A Yes, sir.

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

21 THE COURT: Sure.

22 MR. SIMMONS: Your Honor, the State is planning on
23 introducing State's Exhibits 28, 29, and 30.

24 MR. BROOME: No.

25 THE COURT: All right, without objections, 28 through

1 30 for the State into evidence.

2 Q Officer Haupfear, I'm showing you what's been entered
3 as States Exhibit Number 28. What is this?

4 A That is a vehicle that was recovered from Anderson
5 County that belongs to Mr. Spencer.

6 Q And about when did you take these pictures?

7 A I don't remember the exact date, but it was a couple of
8 days after the autopsy.

9 Q And States Exhibit Number 29. Can you explain what
10 this is?

11 A They're gauges used in the heating and air unit, or air
12 business.

13 Q Are you familiar with these?

14 A Yes.

15 Q And State's Exhibit Number 30. Can you tell the jury
16 what that is?

17 A That's a check that I located inside the truck that I
18 photographed.

19 Q And on that check, what is that all about?

20 A It has Ms. -- the name of -- I don't want -- rephrase
21 the question.

22 Q Who's the checker made out to?

23 A It's made out to Spencer HVAC.

24 Q Can you can you make out that signature?

25 A Billie Jean Cross.

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1 Q The top left?

2 Q Yes. Listed as her.

3 MR. SIMMONS: Your Honor, the State is introducing
4 State's Exhibit Number 16 into evidence. It's just the
5 physical check in the picture.

6 THE COURT: 16, any objection, Mr. Broome?

7 MR. BROOME: No, Your Honor.

8 THE COURT: Thank you. 16 into evidence for the State.

9 Q And this -- the reason I have the pictures is obviously
10 there's going to be glare on this. But this is the check
11 that you found in that truck?

12 A Yes, sir. It is.

13 Q And it's all the same markings from the picture that
14 you saw?

15 A Yes, sir.

16 Q And in the same manner it was in before?

17 A Yes, sir.

18 Q Now, I wanted to go back. When you were processing
19 Billie Jean's house, were there are other items in that
20 house that was being collected other than just doing these
21 tests, and samples, and pictures?

22 A Yes, sir.

23 Q What else was pulled from that house?

24 A I think one of the other the other investigators
25 located a book of checks inside the residence.

1 Q Do you remember who was there with you?

2 A Captain Wilkie was there and I think Lieutenant
3 Blackmon.

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

5 THE COURT: Sure.

6 MR. SIMMONS: The State introduces State's Exhibit
7 Number 17 into evidence.

8 THE COURT: 17, what says Defense?

9 MR. BROOME: No objection, Your Honor.

10 Q Mr. Haupfear, I'm going to hand this to you just
11 because it's kind of hard to see on this glare. Can you
12 describe what that is?

13 A That's the booklet of checks that was recovered from
14 Ms. Cross's residence.

15 Q And what's the bank account for that?

16 A It's Harland Clark.

17 Q There's gloves and a knife up there. Do you want to
18 open it, just so you can kind of look at that a little bit
19 better.

20 A The checks on the inside are Ms. Billie Jean Cross's.

21 Q Is that similar to the the check that you found in the
22 truck?

23 A Yes, sir.

24 Q Did you have an opportunity to go to Anderson County in
25 this case?

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- 1 A Yes, I did.
- 2 Q Or, I guess, Abbeville actually. What did you do in
- 3 Abbeville County?
- 4 A I didn't respond to Abbeville. I responded to Anderson
- 5 during the autopsy.
- 6 Q Okay.
- 7 A I'm sorry.
- 8 Q And at that autopsy, what was your role there? What
- 9 did you do?
- 10 A I was there to basically retrieve any evidence that
- 11 Anderson County crime scene investigators retrieved.
- 12 Q And were you in the same room as them?
- 13 A No, I was just outside of the room. The room was kind
- 14 of small, but there was a large window and I could see the
- 15 whole -- the entire autopsy.
- 16 Q And you saw it through another room?
- 17 A Yes, sir.
- 18 Q And you were able -- you stayed there the whole time?
- 19 A Yes, sir. I did.
- 20 Q What were you able to observe during the autopsy?
- 21 A I observed them complete the entire autopsy. I
- 22 observed them obtain blood from Ms. Cross for a DNA card,
- 23 and also when they removed a scarf around Ms. Cross's neck.
- 24 Q And after they removed that blood, what did you observe
- 25 them do with it?

1 A They placed it on what we call a DNA card for testing
2 and placed it inside a manilla envelope.

3 Q And what happened with that manilla envelope after you
4 witnessed that?

5 A They placed it inside an evidence bag and it was turned
6 over to me.

7 Q And at that point, what did you do after you collected
8 all that?

9 A Once I collected it, it was -- the evidence was placed
10 in my vehicle and brought back to Laurens and given to our
11 evidence custodian.

12 Q I am showing you for identification purposes State's
13 Exhibit Number 15. What is that again?

14 A That is the manilla envelope that the DNA card was
15 placed inside of.

16 Q And that's the physical card that you received?

17 A Yes, sir.

18 Q And how do you know that that's the card you received?

19 A It is inside a sealed evidence bag where it was signed
20 over from Investigator Blackwell to me, and then from me to
21 our evidence.

22 Q Okay, and it's just a card. That's all you know about
23 it, other than a sample being on it?

24 A Yes. Yeah, there is a blood sample on it from -- taken
25 from Ms. Cross.

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1 Q So, that's the physical card you received?

2 A Yes, there's everything that's in here. Yes, sir.

3 Q And is that a fair and accurate representation about,
4 kind of, what you took that day?

5 A Yes, sir.

6 Q It's essentially the same condition?

7 A Yes, sir. It is.

8 Q What kind of bag is that in?

9 A It's just in a plastic sealed evidence bag.

10 MR. SIMMONS: Your Honor, the State intends to introduce
11 State's Exhibit -- what number is it?

12 WITNESS: 15.

13 MR. SIMMONS: 15 into evidence.

14 MR. BROOME: Judge, I would object. I don't think
15 they've laid a proper foundation to introduce the -- there's
16 a Investigator Blackwell who he received that from, so I
17 think the chain is improper at this point.

18 THE COURT: Okay, so is there another officer involved
19 in the chain other than Officer Haupfear?

20 MR. SIMMONS: Your Honor, I can maybe get the witness to
21 possibly testify who was present at that autopsy. Maybe that
22 will clear things up.

23 THE COURT: Do that, and then make your offer again and
24 we'll see what see what the Defense has to say.

25 Q Officer Haupfear, who all was present at the autopsy

1 when you were there?

2 A Officer, or Investigator Blackwell was there, was the
3 crime scene investigator inside the autopsy room, the one
4 collecting these items.

5 Q And the the Coroner's Office, they were there?

6 A Yes, as well as the pathologist.

7 Q And you saw -- how many people did you say touched
8 that?

9 A Just one.

10 Q After they touched it, where did it go?

11 A It went to me, inside the bag.

12 MR. SIMMONS: Your Honor, the State intends to
13 introduce State's Exhibit 15 into evidence based on Mr.
14 Haupfear observing all this go down and taking that into
15 evidence from himself too.

16 MR. BROOME: Same objection, Your Honor.

17 THE COURT: Sir?

18 MR. BROOME: Same objection as earlier.

19 THE COURT: All right, so he's testified that the --
20 and you correct me if I'm wrong -- that the blood was drawn
21 at the autopsy and put in the specialized bag, card,
22 whatever. And then the pathologist handed it to Officer
23 Haupfear, and then he puts it into evidence. Is that what
24 he testified to, Solicitor?

25 MR. SIMMONS: That's what I heard him testify to.

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1 THE COURT: And you're objecting, Mr. Broome, to some
2 sort of chain of custody?

3 MR. BROOME: Yes, Your Honor. That's just my general
4 objection, chain of custody. I think it'd be proper to fill
5 in the blanks with Investigator or Officer Blackwell. I
6 know Officer Haupfear testified. I know what he testified
7 to.

8 THE COURT: Yeah.

9 MR. BROOME: But that's my objection, for the record.

10 THE COURT: Well, based upon his testimony, I'm going to
11 overrule the objection and allow it into evidence. I didn't
12 hear him say that Officer Blackwell had any involvement with
13 it, other than just viewing the autopsy as he did.

14 MR. BROOME: I would just note that on the actual bag
15 it's listed that Officer Blackwell received the sample and
16 given to Investigator Haupfear.

17 THE COURT: Is that correct, Officer Haupfear?

18 MR. BROOME: Maybe I misread that.

19 WITNESS: No, sir, on the bag it has -- it was -- I
20 received it from him, and then I placed it into evidence.

21 THE COURT: You received it from Blackwell?

22 WITNESS: Yes, sir.

23 THE COURT: Okay, well, I think probably then, I assume
24 Blackwell is going to be called at some point in time. I
25 mean, if he's objecting to a chain of custody, if he's

1 making that argument, Blackwell is involved, might need to
2 call Blackwell. All right, let me ask this, Officer
3 Haupfear. Did you see this envelope with the blood sample
4 the whole time, even though Blackwell may have had his hands
5 on it momentarily?

6 WITNESS: Yes.

7 THE COURT: Did you see it from start to finish?

8 WITNESS: Yes, sir. He took the sample, placed it in
9 the envelope, put it in the bag, and then handed it.

10 THE COURT: Handed it to you. And you saw all that
11 happen?

12 WITNESS: Yes, sir. I did.

13 THE COURT: Okay, I'm going to overrule the objection.
14 I'll allow it into evidence.

15 Q And just to clarify though. Who was performing the
16 autopsy?

17 A It is the Anderson County pathologist. I'm not sure of
18 the name.

19 Q Okay, but that doctor? It is a doctor?

20 A Yes, sir.

21 Q He's the one who actually took the sample?

22 A Yes, sir.

23 Q And then he ---

24 A Handed it to Blackwell. Yes, sir.

25 Q He handed it to Blackwell?

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- 1 A Yes, sir.
- 2 Q And then Blackwell ---
- 3 A Blackwell handed it to me. Yes, sir.
- 4 Q We were, kind of, all over the place with that, but
- 5 what else did you see removed from her body?
- 6 A They removed a scarf that was around the victim's neck.
- 7 Q The State is handing the witness State's Exhibit Number
- 8 14. THE COURT: Okay.
- 9 Q What is that, Officer Haupfear?
- 10 A That is the bag, the way the scarf was prepared inside
- 11 the autopsy room and handed to me.
- 12 Q And you witnessed that process?
- 13 A Yes, sir.
- 14 Q And what what color was that item?
- 15 A Honestly, I can't remember.
- 16 Q But you witnessed the whole process?
- 17 A Yes, sir.
- 18 Q How did they get it off of her neck?
- 19 A I think -- I'm not sure if they could untie it, or they
- 20 had to cut part of it to get it off, because it was wrapped
- 21 pretty tight.
- 22 Q And looking at that, is that substantially the same
- 23 condition that you received it in?
- 24 A The bag. Yes, sir.
- 25 Q And that whole process -- they bagged it or did you bag

1 it?

2 A They bagged it. Yes, sir.

3 Q And then what happened after they bagged it?

4 A They handed it to me and, kind of, placed most of the
5 evidence on the box, and I took possession of it.

6 MR. SIMMONS: Your Honor, at this point, the State
7 intends to introduce the State's Exhibit Number 14 in
8 evidence.

9 MR. BROOME: Beg the Court's indulgence.

10 THE COURT: Sure.

11 MR. BROOME: No objection, Your Honor.

12 THE COURT: Okay, without objection, Number 14 into
13 evidence. That is a scarf, Solicitor? Is that's right?

14 MR. SIMMONS: Yes, Your Honor.

15 THE COURT: All right. Into evidence, 14 for the State.

16 Q And with both of these items, the scarf, State's number
17 14, and the DNA card, what did you do with those items?

18 A Again, once I received them and left the autopsy, they
19 were placed in my vehicle and brought back to the Sheriff's
20 Office and given to our evidence custodian.

21 Q And that was the last time that you dealt with those?

22 A Yes, sir.

23 MR. SIMMONS: Beg the Court's indulgence.

24 THE COURT: Sure.

25 MR. SIMMONS: No further questions at this time.

1 THE COURT: All right. Any cross-examination?

2 MR. BROOME: Your Honor, I have a matter of law. May I
3 approach?

4 THE COURT: All right. Ladies and gentlemen, I have a
5 legal issue that -- do you just want to come up to the
6 bench, or do you want to send the jury out?

7 MR. BROOME: We can probably send the jury out.

8 THE COURT: All right. Ladies and gentlemen, I've got a
9 legal issue to deal with the attorneys. I will get you back
10 in shortly, okay?

11 (WHEREUPON, the jury exited the courtroom at 3:16 p.m.)

12 THE COURT: Okay, Mr. Broome.

13 MR. BROOME: Thank you, Your Honor. I didn't want to
14 do this in front of the jury, but I'd like to proffer
15 testimony from Investigator Haupfear. My understanding is
16 that he was -- we subpoenaed his personnel file. My
17 understanding is that he was fired from the Sheriff's Office
18 -- sorry, given the option to either be fired or given the
19 option to resign from the Sheriff's Office based on an
20 underlying pill addiction that he may have been suffering
21 from back on December 10th through the 14th, 15th, 16th of
22 these days.

23 THE COURT: You say it's an underlying condition?

24 MR. BROOME: Addiction.

25 THE COURT: Oh, addiction. I'm sorry.

1 MR. BROOME: Yes, sir. Pill addiction. So, that was my
2 understanding. So, I wanted a proffer testimony regarding
3 that and see if the Court -- go ahead.

4 THE COURT: What would be the position of the State?
5 Probably what I would do is allow the testimony to be
6 proffered, and then make a ruling of whether or not,
7 assuming the defense wants that in, whether or not it comes
8 in. But does the State have a position on this request?

9 MR. SIMMONS: Your Honor, I don't have a personnel file
10 to review on what they have for that. I would like a copy
11 of it, if they could provide me a copy.

12 THE COURT: Okay, all right.

13 MR. SIMMONS: The State would object to any of that
14 testimony coming in.

15 THE COURT: Okay, all right. Well, let me ask you
16 this. So, you've not seen the personnel file?

17 MR. SIMMONS: I personally have not, Judge.

18 THE COURT: Okay, all right. I assume Mr. Broome has,
19 because he has some knowledge about wanting to question
20 Officer Haupfear.

21 MR. BROOME: It's actually not in the personnel file.
22 It's not in the personnel file. We subpoenaed the personnel
23 file, because we had knowledge that that was the case, and
24 we would like to question him about that. One, because of
25 the underlying issue. Two, the fact that we subpoenaed the

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1 personnel file and it is absent. So, that's why I want to
2 question him.

3 THE COURT: Just make sure I understand. You had some
4 prior knowledge of some sort about Officer Haupfear. You
5 wanted to confirm it in the personnel file. You got the
6 personnel file. Nothing is in there.

7 MR. BROOME: Correct.

8 THE COURT: So, you want the opportunity to examine him
9 about whatever.

10 MR. BROOME: Yes, sir.

11 THE COURT: Okay. All right. I will allow you to do
12 that. And so, since Mr. Broome says the personnel file has
13 nothing in it, so you're not -- at least with respect to
14 that you're not at any disadvantage. So, go ahead, Mr.
15 Broome.

16 MR. BROOME: Thank you, Your Honor.

17 EXAMINATION (IN CAMERA)

18 BY MR. BROOME:

19 Q Investigator Haupfear, I'm sorry I have to ask these
20 questions of you.

21 A It's okay.

22 Q Is that the case, that you were you were given the
23 option of either resigning from the Sheriff's Office or
24 being fired because of a controlled substance addiction, be
25 it pills, or something of that nature.

1 A That part is not true. I resigned on my own. I will
2 tell you, I did have an issue with prescription medication,
3 something that I had been on for a very long time. I seen
4 the issue that it was causing, and I went to my department
5 to ask for assistance to get off of them.

6 Q What time period did you go to your department and ask
7 for assistance?

8 A It was sometime in February.

9 Q Of this year?

10 A No, sir. February '22.

11 Q Okay, so February of '22. Is that correct?

12 A Yes, sir.

13 Q So, you would have been suffering from that addiction,
14 or that issue, during this time in December of 2021. Is that
15 fair?

16 A I was prescribed medication. I was on it at that time.
17 Yes, sir.

18 Q Okay. And the medication -- it was an issue with
19 prescription medication around and prior to December 9th and
20 10th, 2021.

21 A Yeah. I'd been on it for about fourteen years.

22 Q And you reported that? Who was your supervisor that
23 you reported it to?

24 A Lieutenant Blackmon.

25 Q Lieutenant Blackmon? So, he was aware of that in

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1 February of '23?

2 A Yeah, and that was the day I ---

3 Q Sorry, '22?

4 A That was the day I went to the -- and started my issue
5 with getting the help. Yes, sir.

6 Q And they gave you some help after that and they took
7 you off the force for a bit in February?

8 A I was put on leave, but I was getting paid, and I was
9 never fired, and I was never terminated. I made the decision
10 to leave the department.

11 Q When did you decide to leave?

12 A It was in May of '22.

13 Q Of '22?

14 A Yes, sir.

15 Q Okay, one second. What medication was it?

16 A It was Tramadol.

17 Q Tramadol?

18 A Yes, sir.

19 Q What kind of effects did Tramadol have on you?

20 A No, it was a pain medication. I was just starting to
21 take too many of them at one time.

22 Q When you took too many Tramadol, what kind of effect
23 did that have on you?

24 A Usually it didn't. Honestly, it had no effect, because
25 I had been on it so long. That's why I was taking what I

1 was taking.

2 Q Okay, so you're saying that it had no effect, and even
3 though it had no effect, you went to -- you still went to
4 your -- or went to Investigator Blackmon and told him about
5 the issue?

6 A Because of what I -- the amount I was taking. Yes,
7 sir. I had been on them too long and could not get off of
8 them myself, so I sought help from my department.

9 Q Understood. And when you say, "Took too many," how
10 many on a daily basis were -- how many was too many?

11 A I was taking eight to ten a day.

12 Q Understood.

13 MR. BROOME: Beg the Court's indulgence.

14 Q And that would have been eight to ten a day back in
15 December of 2021, correct?

16 A Yes, sir.

17 Q Okay. Understood. And having decided to leave the
18 Sheriff's Office in May of '22?

19 A Yes, sir.

20 Q Did you then go from there to Clinton Police
21 Department?

22 A Presbyterian College.

23 Q And that was still while you were seeking treatment?

24 A No, sir. I was done with it. I was released to come
25 back to work to the Sheriff's Office, was actually offered

1 another position within the Sheriff's Office, but decided to
2 still leave the Sheriff's Office.

3 Q So, you decided in that three-month period or so you
4 were on leave and getting help and everything, after that
5 was over you decided on your own to go to Clinton? To PC.

6 A To PC. Yes, sir.

7 Q To what now?

8 A To go to Presbyterian College.

9 Q I'm sorry. I misunderstood you. You went to PC.

10 A There were also some other underlying personal issues
11 dealing with my marriage but, I mean, that has nothing to do
12 with this part.

13 Q I agree with that.

14 MR. BROOME: Beg the Court's indulgence.

15 THE COURT: Sure.

16 Q Okay, last question, and then I'll leave it alone. Do
17 you remember how many milligrams you were prescribed?

18 A It was 50.

19 Q 50?

20 A Yes.

21 Q 50 per pill?

22 A Yes, sir.

23 Q Okay, so 400 to 500 milligrams a day?

24 A Roughly. Yes, sir.

25 MR. BROOME: That's all the questions I have. Sorry I

1 have to ask you.

2 WITNESS: It's all right.

3 THE COURT: Solicitor, do you have any questions along
4 this line of Officer Haupfear?

5 MR. SIMMONS: I think briefly, Judge.

6 EXAMINATION (IN CAMERA)

7 BY MR. SIMMONS:

8 Q Officer Haupfear, did this addiction affect you in this
9 case specifically?

10 A No, sir.

11 Q And you were honest with them about your issues?

12 A Yes, sir.

13 Q They didn't come to you, and you didn't lie about it?

14 A No, sir. I saw where it was going and leading, the
15 problems it was causing, and went to my department to get
16 help.

17 MR. SIMMONS: Judge, I think that's all the questions I
18 have.

19 THE COURT: All right, thank you. Anything further
20 along this line?

21 MR. BROOME: No questions. No, sir. Thank you.

22 THE COURT: All right. Ready for the jury to come back
23 out? We're in cross-examination of Officer Haupfear,
24 correct?

25 MR. BROOME: Yes, sir. I just need to ask the Court if

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1 I'm allowed to, based upon that testimony, allowed to get
2 into that subject matter. I think it's proper
3 cross-examination.

4 THE COURT: The only evidence that we have, as far as
5 this addiction, is his statement that did not affect him or
6 affect him in this case. So, with what we have right now,
7 I'm not going to allow you to cross-examine him on it. You
8 know, if we had a doctor come in and say, you know, somebody
9 taking 8 to 10 Tramadol a day, 50 milligram, yeah, you
10 wouldn't be able to do a law enforcement job. You know,
11 then that may have some, you know, some bearing on the
12 matter, but the only the only thing before us right now is
13 his admission that this addiction did not have any effect on
14 him.

15 MR. BROOME: Yes. I just -- not to argue, but I just
16 wanted to distinguish that, because that is subjective. And
17 we have a little bit of objectivity in there, because his
18 testimony was that his doctor gave him -- the prescription
19 was for 50 milligrams. He was taking way more than that.
20 So, his subjective opinion of "I'm fine", on one hand he's
21 saying, "I'm fine," and on the other hand he's saying
22 apparently I'm so fine that he had to go seek help out. So,
23 he's taking -- the doctor is giving him a prescribed dosage,
24 he's taking excess -- way excess of that. I don't think
25 it's burden shifting. I can't get a doctor to come in and

1 testify to that. I think it's proper impeachment testimony,
2 because it goes to the integrity of this investigation.
3 Probably should have been disclosed under *Kyles v Whitley*.
4 Probably should have been disclosed under Brady. It is
5 Brady material, because it's relevant to how this
6 investigation and crime scene collection was done.

7 And just for the record, I believe it's a Whitley
8 issue, because Whitley says that they have an affirmative
9 duty to seek that information out, even if they claim they
10 don't know about it. So, I believe that I should be
11 allowed, just noting for the record, to cross-examine him,
12 because we get such wide latitude on cross-examination and
13 it goes into how it may have affected him. And I think he
14 can say, "No, it's fine." I think I can question him on it
15 and he can say, "No, I was totally fine." I think that's
16 proper for the jury if he wants to disagree, but I think I
17 should be allowed to cross-examine him on that issue,
18 because he is admitting that that's an issue for him.

19 WITNESS: I'm sorry. Can I -- I'm sorry.

20 THE COURT: But I think what it's going to, by allowing
21 you to ask him about this, then it's -- and I know why you
22 want to, because you want to affect -- not affect, but
23 attack in some manner, his credibility. I understand. I'd
24 do the same thing if I were you. But it would be asking the
25 jury to speculate that, in fact, exceeding a prescription

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1 would affect his ability to do his job. And we don't have
2 any evidence to do away with any speculation. So, I think,
3 you know, again, I realize, you know, me saying, you know,
4 have a doctor come in and testify. I understand the
5 practicalities of all that, but I think what you're doing is
6 seeking speculation at best, and I'm not going to allow it.
7 You've got the record protected. We've got his testimony on
8 the record in camera. We've got your position as far as
9 wanting to examine him before the jury, but I'm not going to
10 allow it.

11 MR. BROOME: Thank you, Your Honor.

12 THE COURT: All right. Okay. Let's bring the jury
13 back in.

14 MR. SHAFFER: Your Honor, can we approach while the
15 jury is out?

16 THE COURT: Sure.

17 (WHEREUPON, sidebar held on the record.)

18 MR. SHAFFER: At the appropriate time, we would like to
19 put on the record the fact that we were unaware to actually
20 call a doctor up until the point -- we didn't know to go see
21 him or anything like that. We just -- we generally -- so,
22 that's the reason that we would like to put that on the
23 record. We didn't know it. And we just addressed the
24 argument there, if possible.

25 THE COURT: Well, go ahead and put it on the record now

1 while we've got the jury out. Mr. Bolt, take them back,
2 please.

3 COURT REPORTER: I did take that sidebar on the record.
4 I was on the record. I could hear that sidebar.

5 THE COURT: Good. Thank you. So, y'all are protected on
6 the record.

7 MR. SHAFFER: Thank you, Your Honor.

8 (WHEREUPON, the jury entered the courtroom at 3:29 p.m.)

9 THE COURT: Mr. Broome, have you got any cross-
10 examination?

11 MR. BROOME: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. BROOME:

14 Q Officer Haupfear, you testified that back in December
15 of 2021, you were the Laurens County Crime Scene
16 Investigator?

17 A Yes, sir.

18 Q Or the CSI person, correct?

19 A Yes, sir.

20 Q Now, one of the most important parts in crime scene
21 investigation is making sure that the crime scene is
22 preserved.

23 A Yes, sir.

24 Q And to do that, one of the things that you were trained
25 on, and other officers are trained on, is that the first

1 responding officer at the scene of a crime must secure the
2 scene of the crime as soon as possible, right?

3 A If you know it is a crime scene. Yes, sir.

4 Q How long have you been a police officer for?

5 A 28 years.

6 Q How many?

7 A 28.

8 Q 28 years. And you've responded to hundreds of crime
9 scenes, correct?

10 A Quite a few of them. Yes, sir.

11 Q Some of them are small, and some of them have been big
12 like this case. Correct?

13 A Yes, sir.

14 Q Now, sometimes in cases you don't know that a case is
15 going to be -- a scene is a crime scene right away.

16 A No, sir. You don't.

17 Q But eventually things become -- often times things
18 become obvious to you at the scene, correct?

19 A They can be. Yes, sir.

20 Q Such as, if you have a missing person, a person who's
21 been missing for 24 hours, and you get to the scene and
22 she's not there at her house and there's blood on the ground
23 in the carpet. Would those be things that might lead you to
24 go, we've got a missing person to maybe a serious crime has
25 happened?

1 A It could. Yes, sir.

2 Q At that point it would be a good time to maybe stop and
3 secure the scene.

4 A If you thought that was what was happening. Yes, sir.

5 Q If you found blood at the scene, at someone's home who
6 had been missing for 24 hours, it would be a good idea at
7 that point to stop what you were doing and secure the crime
8 scene, correct?

9 A It could be. Yes, sir.

10 Q Well, it would be, correct? Under the Sheriff's Office
11 policy.

12 A Under the policy. Yes, sir.

13 Q And being the CSI investigator for the Sheriff's
14 Office, how long were you the investigator there for?

15 A I was an investigator for about five years. The last
16 year and couple of months I was the crime scene.

17 Q And you're familiar with -- you were trained at the
18 Sheriff's Office with collection and preservation of
19 evidence, correct?

20 A Not at the Sheriff's Office, but I've had training in
21 collection. Yes, sir.

22 Q You had policies at the Sheriff's Office ---

23 A Yes, sir.

24 Q --- that were given to you for you to read and comply
25 with. Correct?

- 1 A Yes, sir.
- 2 Q There was a directive number in place ---
- 3 MR. BROOME: May I approach the witness, Your Honor?
- 4 THE COURT: Yes.
- 5 Q Do you recognize that document?
- 6 A Yes, sir.
- 7 Q And is that a Laurens County Sheriff's Office policy
- 8 regarding preservation and collection of evidence?
- 9 A Unless it's changed over the last two years. Yes, sir.
- 10 Q And on the first page, can you read that out to the
- 11 jury?
- 12 A It says, "It must be secured as soon as possible to
- 13 prevent the loss of evidence. It is the responsibility of
- 14 the first officer at the scene of a crime to secure and
- 15 protect the scene from all non-essential personnel to
- 16 prevent the loss of evidence. The officer securing a major
- 17 crime scene will initiate a log listing the title, name and
- 18 reason for all personnel who entered the crime scene."
- 19 Q So, what that's saying is, the first officer who gets
- 20 there determines it's a crime scene should set a perimeter
- 21 and keep anyone that's, like, a civilian out of the crime
- 22 scene, right?
- 23 A If they believe it is a true crime scene. Yes, sir.
- 24 Q Let's pretend that they believe it's a true crime
- 25 scene.

1 A Yes, sir.

2 Q Okay. They have made that determination that an
3 officer arrives and they have found blood on the floor of a
4 missing person.

5 A Yes, sir.

6 Q Home of a missing person, okay? At that point, let's
7 pretend that that officer has said it's a crime scene,
8 right? Best practice, according to your policy, would be to
9 exclude family and friends, correct?

10 A Yes, sir.

11 Q And any other non-essential personnel, correct?

12 A Yes.

13 Q And the reason for that is obvious, and that is so the
14 crime scene does not become contaminated, correct?

15 A Yes, sir.

16 Q And what -- the main overarching goal there is to
17 prevent the loss. Not just contamination, but prevent the
18 loss and destruction of evidence, correct?

19 A Yes, sir.

20 Q Very important evidence, such as fingerprint evidence,
21 correct?

22 A Yes, sir.

23 Q And DNA evidence, correct?

24 A Yes, sir.

25 Q And not just fingerprints and DNA, which are super

1 important, but if some person is walking around in there,
2 they might move something, correct?

3 A That is possible.

4 Q From A to B, right?

5 A It's possible.

6 Q And maybe this object that I just moved, a criminal, or
7 a killer, or killers may have moved, and now we don't know
8 how it got there, correct?

9 A Yes, sir.

10 Q You want to not disturb the scene as much as possible
11 at the scene of a crime, correct?

12 A Yes, sir.

13 Q And back when you were summoned to the scene on
14 December 10, your understanding was that we have a crime
15 scene here, because we have a missing person with blood on
16 their carpet, correct?

17 A Well, I was told that they could not find Ms. Cross and
18 there was blood on the floor. Yes, sir.

19 Q Did it dawn on you, at any point, on December 10, 2021.
20 2021, that maybe something -- this might be a crime scene?

21 A It dawned on me.

22 Q On December 10, 2021.

23 A It crossed my mind. Yes, sir.

24 Q Okay. When did it cross your mind?

25 A At some point during -- while I was photographing and

1 processing. Yes, sir.

2 Q And that's the -- I asked this question about the first
3 responder responsibilities, but also that is your job, as
4 well, as the crime scene investigator, correct? Is to keep
5 the crime secure.

6 A My job was to process the scene and document the scene.

7 Q Well, and also to keep the -- as the crime scene
8 investigator, do you think it would be -- is it the Laurens
9 County policy to keep civilians and non-essential persons --
10 -

11 A Yes, sir.

12 Q --- out of the scene while ---

13 A Out of the scene. I'm sorry. I misunderstood your
14 question.

15 Q So, you would keep them out of the scene ---

16 A Yes, sir.

17 Q -- while you were processing it, correct?

18 A Yes, sir.

19 Q And when you arrived on the scene on December 10, you
20 noticed that Ms. Cross's mother, Barbara McCoy, and her
21 cousin, Kathy Warren, were present, correct?

22 A Yes, sir. They were.

23 Q And you had your camera with you when you showed up,
24 correct?

25 A Yes, sir.

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- 1 Q And you took some pictures on the 10th?
- 2 A Yes, sir.
- 3 Q I'm just going to show you State's Exhibit Number 9
- 4 already in evidence. Do you recognize that picture?
- 5 A Yes, sir.
- 6 Q And you took that picture?
- 7 A I did.
- 8 Q And in this, can you -- Yeah.
- 9 A I'm sorry. Yeah, I'm sorry.
- 10 Q You took this picture, correct?
- 11 A Yes, sir.
- 12 Q Who's this person in the kitchen?
- 13 A It's one of the family members. I can't identify which
- 14 one, but it was one of them.
- 15 Q So, after you showed up to the scene as the crime
- 16 scene investigator to process the scene, you let the family
- 17 stay and sit in the kitchen, correct?
- 18 A There were other investigators talking to them. So,
- 19 yes, sir.
- 20 Q You let them in there.
- 21 A I didn't. I let them stay. Yes, sir.
- 22 Q You let them stay in there, correct?
- 23 A Yes, sir.
- 24 Q And who took the picture of this person?
- 25 A It's hard to identify. I would probably say

1 Investigator Staton. Just looking at the --

2 Q Just looking at the ---

3 A The body. Yes, sir.

4 Q Now one good way to secure the scene beyond kicking
5 out, excluding all the non-essential personnel or civilians
6 would be to seal off the scene eventually with crime tape,
7 crime scene tape. You've done that in other cases,
8 correct?

9 A If it was outside. Yes, sir.

10 Q It could be done inside as well, correct?

11 A Yes.

12 Q And what I mean by that is, earlier you testified that,
13 I think your testimony was you were the last person to leave
14 Ms. Cross's house on the 10th. Does that sound right?

15 A No, there was a group of us that left. We all left
16 together. Yes, sir.

17 Q Okay, at that point she was still missing?

18 A Yes, sir.

19 Q And her body hadn't been found?

20 A No, sir.

21 Q But y'all made the determination, this is a crime
22 scene, correct?

23 A We determined something happened, but yeah.

24 Q Just something?

25 A Well, wasn't sure what type of incident it was.

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1 Q But not knowing if she were alive or not, or okay, you
2 left the scene of her house without securing her property,
3 correct? Without securing the door.

4 A The door was locked when we left, yes.

5 Q Did you keep any protective -- one of the things that
6 you can do is the crime scene, the technician or
7 investigator is, keep a protective seal on the outside of
8 the door, correct?

9 A Yes, sir.

10 Q And the reason for that is, hey, I'm leaving. I don't
11 know what's going on here. This lady could be missing. We
12 may find her deceased later. But if anyone that's a
13 criminal who should be at the scene returns through a door
14 or a window, and they open it, that seal will be broken,
15 correct?

16 A Yes, sir.

17 Q And then you would know someone has been back to the
18 scene of this crime.

19 A Yes, sir.

20 Q Correct?

21 A Yes.

22 Q And that would be another fact, piece of evidence, part
23 of your investigation, correct?

24 A Yes.

25 Q Now, another very important thing we touched on earlier

1 is creating a crime scene log. And that is important so you
2 know every person who went inside and outside of that scene,
3 correct?

4 A Yes, sir.

5 Q And you know what time they went in, and what time they
6 left, correct?

7 A Yes, sir.

8 Q Okay. And that way you can explain, well, if you find
9 a fingerprint here that we don't know who's it is, well,
10 we know that Investigator Pittman went in there, and
11 Investigator Wilkie went in there, and Investigator Kanipe
12 went in there. So, we can maybe rule them out because they
13 went in there at that time, right?

14 A Yes, sir.

15 Q Now, you have a lot of responsibilities, and I think
16 the Solicitor talked about this. In your training you take
17 photographs, correct?

18 A Yes, sir.

19 Q And take crime scene sketching, correct?

20 A Yes, sir. I do.

21 Q You're trained in how to collect evidence, right?

22 A Yes, sir.

23 Q How to preserve DNA evidence?

24 A Yes.

25 Q And all that. And on December 10, when you and the

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1 gang left and did not seal the house up, you got a call that
2 you testified earlier to that Ms. Cross's body had been
3 found, right?

4 A On the -- I believe the 14th.

5 Q On the 14th. And then that's when you decided to go
6 back and actually process the scene, right?

7 A I was asked to go back and further process it, yes.

8 Q Because back on the 10th, you had -- you took some
9 pictures of the scene, right?

10 A Yes.

11 Q And you testified about taking -- well, I don't think
12 you testified about that. But you had a fingerprint testing
13 kit with you on the 10th, correct?

14 A Yes, sir.

15 Q And you did not exclude all non-essential personnel,
16 and you did not dust the doors or the windows for
17 fingerprints.

18 A No, sir, we didn't.

19 Q That was not done for four days.

20 A Yes, sir.

21 Q So, for four days -- oh, you said you locked the door
22 when you left.

23 A I'm pretty sure it was locked. Yes, sir.

24 Q And there was no seal or tape or anything on the door?

25 A No, sir.

1 Q But you remember that Officer Rivera had punched that
2 glass?

3 A It was broke. Yes, sir.

4 Q So, in fact, it really wasn't sealed up and someone
5 could have gone in there and opened the door.

6 A They could have. Yes, sir.

7 Q In fact, that's what Investigator Wilkie and
8 Investigator Blackman did on December the 13th. They went
9 back out to the house to execute a search warrant and it was
10 unlocked. Did you know that?

11 A No, sir. I wasn't involved on the 13th.

12 Q I want to show you a picture. State's Exhibit 4. It's
13 already in evidence. Do you recognize that picture?

14 A It's of the house. Yes, sir.

15 Q Did you take that picture?

16 A If it's taken, evidently I did and I was there. I
17 didn't remember going on 13.

18 Q No, sorry.

19 A I'm sorry.

20 Q You misunderstood me. I may have said 13.

21 A Yeah, I'm sorry. Yeah.

22 Q On the 14th.

23 A Yes, sir. That's a picture. I took it outside the
24 residence.

25 Q And we can see in this picture here that there is no

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- 1 crime scene tape or ---
- 2 A No, sir. There's not.
- 3 Q --- anything that's up there.
- 4 A No, sir.
- 5 Q Did you check the windows to see if they were locked or
- 6 unlocked back on December the 10th?
- 7 A No, sir. I did not.
- 8 Q Would that have been something that you could have
- 9 done?
- 10 A We could have. Yes, sir.
- 11 Q Did you attempt to dust for fingerprints around any of
- 12 the windows on December 10th?
- 13 A No, sir.
- 14 Q Is that something that you could have done?
- 15 A We could have. Yes, sir.
- 16 Q Is that something that you should have done?
- 17 A Looking -- the situation, we could have done it, but we
- 18 didn't do it.
- 19 Q You should not have done it? Is that your answer?
- 20 A I didn't say that. No, sir.
- 21 Q The question was, should you have done it?
- 22 A Hindsight, we may should have, but we didn't.
- 23 Q And you had this blood stain on the carpet?
- 24 A Yes, sir.
- 25 Q Fair inference is that it was probably Ms. Cross's,

1 correct?

2 A At the time, I didn't know, but yeah. Yes, sir. It
3 could have been.

4 Q That's also a good inference, is that you didn't know
5 whose it was, correct?

6 A No, sir.

7 Q You knew she was missing, and it could have been her
8 blood, correct?

9 A Yes, sir.

10 Q It could have been someone else's blood.

11 A Could have.

12 Q Could have been someone who broke into her home's
13 blood. Right?

14 A Could have.

15 Q And so, on December 10, you left the blood that was on
16 that carpet when you locked up with the gang and left. You
17 left that bloody stain on the carpet.

18 A No, sir. The 10th, I took a sample of the blood when I
19 tested it with the hexagon test and determined it was human
20 blood.

21 Q You tested it for blood?

22 A Yeah, there was a sample taken also.

23 Q You took a sample of it, but you didn't actually remove
24 the carpet --

25 A No, sir.

- 1 Q --- until the body was found, right?
- 2 A Yes.
- 3 Q It took four days. You've got an unsecured house.
- 4 Correct?
- 5 A Yes, sir.
- 6 Q For four days. We've got potentially open windows,
- 7 correct?
- 8 A Yes, sir.
- 9 Q And we've got -- we know that we have some fingerprint
- 10 evidence found, because you found some on the 15th -- or the
- 11 14th; correct?
- 12 A Yes, sir.
- 13 Q So, access to the house and you've left a big, huge
- 14 piece of evidence sitting there in the carpet, correct?
- 15 A We did.
- 16 Q And then you decided on the 14th, Eh, I probably should
- 17 cut this out and send it off and put it into evidence.
- 18 Right?
- 19 A Yes, sir.
- 20 Q Now, on December the 14th, you testified that you are
- 21 an AFIS examiner, correct?
- 22 A Yes, sir.
- 23 Q I don't know if the jury knows what that is, because I
- 24 didn't know what it was for a long time. Why don't you tell
- 25 them. What is an AFIS examiner?

1 A I'll tell you. It's the Automated Fingerprint
2 Identification System.

3 Q Okay. You may have said it earlier ---

4 A Yeah.

5 Q --- and I missed it. And so, that is basically a big
6 central database, correct?

7 A Yes.

8 Q For fingerprints.

9 A For finger -- yes, sir.

10 Q And it helps law enforcement out, because it's a very
11 easy tool for you all to use to quickly find a suspect,
12 right?

13 A Yeah, it's a little bit more complicated, but yes,
14 sir. But essentially.

15 Q Well, essentially what it is.

16 A Yeah, if it does give you some -- there's a couple more
17 steps you have to take to determine, but yeah. It's an easy
18 tool.

19 Q Because once the body was found, once Ms. Cross's body
20 was found on the 14th, obviously you're looking for the
21 killer or killers, correct?

22 A I wasn't, but yes, sir. Investigators were.

23 Q That's -- the investigators were, and you were part of
24 the team, correct?

25 A Yes, sir.

1 Q You were looking for evidence of who had been inside
2 the house.

3 A Inside the residence. Yes, sir.

4 Q Because, at that point, now we're really feeling like
5 something bad could have happened to her in that house,
6 correct?

7 A Yes, sir.

8 Q And so, that's when you finally decided to go back out
9 there and do all the processing that you didn't do on the
10 10th, right?

11 A Yes.

12 Q In fact, you found a bunch of usable prints, latent
13 prints.

14 A The ones that were pictured. Yes, sir.

15 Q Yes, sir. Mr. Simmons showed the jury that earlier,
16 right?

17 A Yes, sir. We did.

18 Q And latent prints. We've all got -- can you, kind of,
19 explain to the jury what latent prints and how we have them?

20 A There are the ridges inside of your finger, going to
21 your fingers. Every person's fingerprints are different.
22 Nobody's -- no two are the same.

23 Q Yeah, and so latent just means not -- it's like,
24 invisible,
25 right?

- 1 A Yes.
- 2 Q Because we're all walking around and putting our --
- 3 when we put our hands on wood, we're leaving our ---
- 4 A Yes. You leave them every time you touch something.
- 5 Yes, sir.
- 6 Q Right. And so flat surfaces are good areas ---
- 7 A Yes, sir.
- 8 Q --- to look for them. Flat metal, like doors, are good
- 9 places to look for them.
- 10 A Yes, sir.
- 11 Q Glass is perfect, right?
- 12 A It is. Yes, sir.
- 13 Q Especially on, like, the inside of the house, because
- 14 it's not exposed to the elements.
- 15 A Yes, sir.
- 16 Q Right? And so, you testified under direct that you
- 17 found seven prints. Well, you found prints, and you found
- 18 seven, correct?
- 19 A I think that's correct, yes.
- 20 Q And each print, you put that tape on, you put the
- 21 powder down, and you put the piece of tape on it, rip the
- 22 tape off, and put it on a card.
- 23 A Yes, sir. And you send it off to AFIS to see if there
- 24 are any prints. If those prints match anyone in the system.
- 25 A Yes, sir.

1 Q Now, your report says -- claimed that there were no
2 matches down at AFIS.

3 A No, sir.

4 Q All right. Did you bring your AFIS report with you?

5 A No, sir. The system we had did not print that AFIS
6 report. So, no, sir.

7 Q One thing that you can do, one thing that you're
8 supposed to do, if I can -- as a crime scene investigator,
9 now that you've found prints, is you want to be able to rule
10 people out, correct?

11 A Yes, sir.

12 Q Because if you run through AFIS and there's no hits,
13 well, it could be someone who lived in the house, right?

14 A It could. Yes, sir.

15 Q And you could have run them through something called
16 IAFIS. Do you know what IAFIS is?

17 A Yes, sir.

18 Q Tell the jury what IAFIS is.

19 A It's a different database that AFIS has to run them.
20 I'm not that familiar with it, but I understand. It's just
21 a different database, yeah.

22 Q It's the national FBI database, is my understanding of
23 it.

24 A Yeah, I ran them through the sate system. Yes, sir.

25 Q My understanding is that is how Anderson County

1 identified Ms. Coss's body. Is that your understanding?

2 A I wasn't told that, no. I'm not sure.

3 Q You don't have any personal knowledge of that?

4 A No, sir, I do not.

5 Q But one of the things that policies tell you to do is

6 when you find a known substance, when you find a sample,

7 DNA, could be soil, could be fingerprints, you want to

8 collect a known standard to compare it to, right?

9 A That's normal practice. Yes, sir.

10 Q Well, that's actually what the policy says, correct?

11 A Yes.

12 Q I'm going to show you the page. I'm just going to show

13 it from here. Subsection D. So, in subsection D, that is

14 for the collection of known standards, and a known standard,

15 just means, like it implies.

16 A You know who it is, yes.

17 Q You know who it is, right? And so, what does your

18 policy say about collecting known standards?

19 A It says, the following types of physical evidence.

20 Trace evidence are collected from a crime scene. A known

21 standard sample will if available, be collected for

22 comparison. Blood, DNA, fingerprints. That's what was

23 underlined.

24 Q It says it must be collected, correct?

25 A It says a known standard -- a known sample will, if

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1 available, be collected. I don't see where it says must,
2 I'm sorry.

3 Q I apologize. You've got it in front of you, so ---

4 A Unless I missed it.

5 Q You've got it in front of you, so I'm going to trust
6 you. It says will if available, right?

7 A Yes, sir.

8 Q Now, you knew, when you found those prints on the 14th
9 that a lot of people had been in the house.

10 A Investigators and the two family members. Yes, sir.

11 Q Because, again, you didn't know whose prints those were
12 on the 14th, correct?

13 A No, sir.

14 Q So the reason you have that policy is to rule out
15 people like Barbara McCoy, correct?

16 A Yes, sir.

17 Q And you want to rule out people like Kathy Warren,
18 correct?

19 A Yes.

20 Q Because you knew when you showed up to the house on
21 December 10 that they were in the house and had access to
22 the house, correct?

23 A Yes, sir.

24 Q They had access to the front door, correct?

25 A The back door. Yes, sir.

- 1 Q Or the back door. Right?
- 2 A Yes, sir.
- 3 Q And although we know that the officers have already
- 4 been -- what's the right word -- screened, and they're not
- 5 going to be an AFIS. But you still want to know, hey, I've
- 6 got these officers who have potentially touched items at the
- 7 scene on December 10, and I need to compare this known
- 8 fingerprint to their fingerprints, so I can rule them out,
- 9 correct?
- 10 A Yes.
- 11 Q And you have not.
- 12 A We did not.
- 13 Q You never did those things.
- 14 A No, sir. We did not.
- 15 Q So, we've got these mystery fingerprints. And that was
- 16 December 15th -- 14, 2021.
- 17 A Yes, sir.
- 18 Q And today is April the 16th. So, I've got 853 days.
- 19 853 days that you could have -- you could've stopped this
- 20 trial. You could have ruled out Barbara McCoy, correct?
- 21 A Could have. Yes, sir.
- 22 Q Could have ruled ut Kathy Warren.
- 23 A Yes, sir.
- 24 Q Could have ruled out any of the officers involved with
- 25 the scene? Correct?

Robbie Haupfear-Cross-Examination

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- 1 A Yes, sir.
- 2 Q Any of Ms. Cross's friends who may have been there?
- 3 A Yes, sir.
- 4 Q Any other business workers who had been there? We
- 5 could have ruled them out, correct?
- 6 A Possibly. Yes, sir.
- 7 Q You had information that Ms. Cross used a walker,
- 8 correct?
- 9 A I believe so. Yes, sir.
- 10 Q It had wheels on it.
- 11 A Yes, sir.
- 12 Q Right? Because she was disabled, is my understanding.
- 13 A Yes, sir.
- 14 Q And you knew, through the course of your investigation
- 15 that Ms. Cross had two walkers, correct?
- 16 A I believe that's correct, yes, sir.
- 17 Q And you understood that she had one in the house and
- 18 one in the trunk of her car.
- 19 A I think that's right. Yes, sir.
- 20 Q Does that sound good?
- 21 A I believe that's correct. Yes, sir.
- 22 Q And through the course of the investigation, you
- 23 understood and learned that the walker in her car, in the
- 24 trunk, was missing, correct?
- 25 A I never searched the car, so I don't know if it -- I

1 don't...

2 Q Did you have knowledge that the walker was missing, was
3 my question, from the trunk?

4 A To be honest, I can't remember honestly.

5 Q Not sure?

6 A Yes. I'm not sure.

7 Q But you never searched it?

8 A No, sir.

9 Q Correct?

10 A No, sir.

11 Q To your knowledge, as a criminal -- as the CSI, or
12 crime scene investigator, did anyone search and dust the
13 trunk of Billie Jean's car for fingerprints?

14 A I never did, but I'm not sure if another investigator
15 did. I can't remember.

16 Q Let's assume that you had information, and you knew
17 that she had this second walker in her trunk and it was
18 missing. Okay?

19 A Yes, sir.

20 Q And just assume that you actually did know that. Okay?
21 That's something that should have been done. What should
22 have been done is to dust the area, that metal component of
23 the trunk area, to see if the killer or killers, whoever had
24 taken her from the scene, had left their prints on the car;
25 correct?

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- 1 A Yes, you could have fingerprinted the car. Yes, sir.
- 2 Q To your knowledge, that was not done, correct?
- 3 A I can't remember honestly. No, sir.
- 4 A You don't remember if anyone dusted for fingerprint on
- 5 the handle of the trunk, right?
- 6 A No, sir.
- 7 Q You don't remember if anyone dusted for prints on the
- 8 actual trunk itself, where you might could have closed it
- 9 back down?
- 10 A I can't honestly remember. No, sir.
- 11 Q Did anyone, as the lead crime investigator, do you have
- 12 any knowledge if anyone processed that vehicle?
- 13 A No, sir. I do not.
- 14 Q I want to talk to you about the windows in Ms. Cross's
- 15 house. Now, you took a bunch of pictures that Mr. Simmons
- 16 showed you. Do you remember that?
- 17 A Yes, sir.
- 18 Q I'm going to show you what's been marked as Defense
- 19 Exhibit 6 for ID purposes only right now.
- 20 MR. BROOME: May I approach, Your Honor?
- 21 THE COURT: Sure.
- 22 Q Robbie, do you recognize that picture?
- 23 A Yes, sir. That's one of the bedrooms in the house. A
- 24 picture I took.
- 25 Q Okay. Is that a fair and accurate -- you took that on

1 the 14th; correct?

2 A I believe so, yes.

3 Q That's right?

4 A Yes, sir.

5 Q That's a fair and accurate representation of Ms.

6 Cross's house on the 14th.

7 A Yes, sir.

8 MR. BROOME: Your Honor, at this time, I would move to

9 introduce Defense 6 into evidence.

10 MR. SIMMONS: No objection, Your Honor.

11 THE COURT: Without objection, 6 for Defense.

12 Q Okay, so this is a picture of a room in Mrs. Cross's

13 house, correct?

14 A Yes, sir.

15 Q And this window, you can see the blinds are all torn

16 down, or they're hanging loose, correct?

17 A Yes, sir.

18 Q Okay. Did you check that door to see if it was locked

19 or not? That window to see if it was locked or unlocked?

20 A No, sir, I did not.

21 Q Did you dust that area for prints?

22 A No, sir. We did not.

23 Q One thing I wanted to ask you about, talk about. The

24 State asked you about Luminol earlier on direct.

25 A Yes.

1 Q Now, as you received training -- and that's just a
2 reagent, it reacts. You're looking for a reaction to see if
3 that spray could possibly be blood.

4 A Yes, sir.

5 Q And really what it's doing is not reacting to -- the
6 chemical Luminol is reacting to hemoglobin.

7 A Yes, sir.

8 Q And we're really not even -- it's looking for
9 hemoglobin.

10 A Yes, sir.

11 Q Not necessarily blood. There is a difference, right?

12 A Yeah.

13 Q And hemoglobin is full of iron.

14 A It is.

15 Q Right? Because earlier you testified that fingerprint
16 dust kits are full of iron as well. There's iron in
17 fingerprint ---

18 A It's -- some of it is. Most of it is, like, volcanic
19 ash or...

20 Q And with Luminol, because it's looking -- it has iron
21 in it, other items like fingerprint dust kit, or other
22 things that have iron in it, Luminol is known for creating
23 false positives, correct?

24 A Yes, sir.

25 Q You think it's blood, but it's not blood.

1 A Yes.

2 Q Okay. And so, for example, thinking about that, bloody
3 carpet that we found, right? Did you spray the Luminol on
4 that?

5 A I sprayed the outside edges, yes.

6 Q Outside edges, okay. But you collected that on the
7 15th, eventually, and took it off to SLED.

8 A The 14th. I'm sorry. You said 15th.

9 Q Thank you.

10 A I'm sorry.

11 Q There are a lot of dates. On the 14th, that second time
12 you went out there, you sent it off.

13 A It was placed into evidence. I'm not sure if it was
14 stopped or not, I think. - Yes, sir. - You don't know if it
15 was sent.

16 Q Not sure what happened with it.

17 A Yes, sir.

18 Q So you don't know if they sent it -- if anyone else
19 sent it to SLED for testing.

20 A I do not. No, sir.

21 Q Okay. Now, you testified on direct about -- bear with
22 me. There are a lot of pictures. Luminol spraying on this
23 green lamp.

24 A Yes, sir.

25 Q Let me find it.

Robbie Haupfear-Cross-Examination

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- 1 A I think it's towards the bottom.
- 2 Q It's at the bottom? Thank you.
- 3 A I think so.
- 4 Q I'm going to show you State's 20, already in evidence.
- 5 This is what we -- Mr. Simmons asked you about that earlier,
- 6 right?
- 7 A Yes, sir.
- 8 Q And you testified that in State's 20, you sprayed it,
- 9 and the black light, you know, lit up with, like, a black
- 10 light?
- 11 A Yeah, it doesn't use a black light. It luminesces
- 12 itself blue.
- 13 Q Like, a black light poster. I'm aging myself. I'm aging
- 14 myself. People don't know what that is anymore.
- 15 A I do.
- 16 Q All right. This lamp, you did not take that, and
- 17 collect this lamp, and actually place it into evidence?
- 18 A No, sir. I did not.
- 19 Q Is that something that you could have done?
- 20 A Could have. Yes, sir.
- 21 MR. BROOME: Beg the Court's indulgence.
- 22 THE COURT: Sure.
- 23 Q You testified under direct about State's 16, a check,
- 24 that you took a picture of.
- 25 A Yes, sir.

- 1 Q Do you remember taking a picture of it?
- 2 A Yes, sir.
- 3 Q Do you remember the date that you took the picture of
- 4 the check?
- 5 A It was a couple of days after the autopsy. I don't
- 6 remember the exact date.
- 7 Q Sometime December of 2021, correct?
- 8 A Yes, sir.
- 9 Q So, you didn't collect the check, did you?
- 10 A No, sir.
- 11 Q You waited until -- I'm going to show you State's 16.
- 12 You waited until April 2 -- well, someone else collect the
- 13 check?
- 14 A Yes, sir.
- 15 Q On April 2, 2024. Is that the date on that?
- 16 A That's the date. Yes, sir. And that was collected by
- 17 Butch Kimbrell?
- 18 A Yes, sir.
- 19 Q He's one of the evidence custodians?
- 20 A Yes, sir. He is.
- 21 Q And it took him about a year to collect that check.
- 22 A I can't answer that question why.
- 23 Q I didn't ask why.
- 24 A I mean, yeah. It was that time frame.
- 25 Q It took him two and a half years? Does that sound

1 right?

2 A Yes, sir.

3 MR. BROOME: Your Honor, may I approach real quick?

4 THE COURT: Sure.

5 (WHEREUPON, the following sidebar was held on the
6 record, out of the hearing of the jury.)

7 MR. BROOME: Your Honor, I think that we need to renew
8 our objections on the record. I would renew my objection
9 about the Tramadol issue. So, that's why I wanted to bring
10 up as a sidebar, because I think it goes to his credibility
11 and his integrity.

12 THE COURT: Your request is renewed on the record. Still
13 denied.

14 MR. BROOME: Thank you, Your Honor.

15 (WHEREUPON, trial resumed.)

16 THE COURT: Any further cross, Mr. Broome?

17 MR. BROOME: No, sir.

18 THE COURT: Redirect, Solicitor?

19 MR. SIMMONS: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. SIMMONS:

22 Q When you get matches from AFIS, how do those matches
23 work?

24 A AFIS works on a numerical system. It will give, if
25 it's a close match to the print that you're running, the

1 higher the value of the number. Once, if the number reaches
2 a certain threshold, I would print the fingerprint card, the
3 actual card that you're fingerprinting with, and then
4 compare the print that was lifted with the fingerprint card
5 to match it.

6 Q You testified earlier that you didn't get a hit in this
7 case.

8 A No, sir.

9 Q It was a pretty low probability on trying to get a hit
10 on those fingerprints?

11 A Yes, sir.

12 Q And then if you did get a hit, what do you do, in your
13 training and experience, with those fingerprints?

14 A If I get, the value is high enough, I would, just like
15 I said, I would print the fingerprint card. It would allow
16 me to access that. And then I would visually, with a
17 magnifying glass, compare the lifted print with the
18 fingerprint card to make a positive match.

19 Q All right. And then, let's go back to the Luminol and
20 the fingerprint dusting. You testified that there's some
21 iron in the dust for the fingerprints?

22 A Yes, sir.

23 Q So, essentially, you'd have to pick one or the other?
24 Would you spray Luminol on a fingerprint?

25 A No, sir. I used the Luminol first in this instance,

Robbie Haupfear-Redirect Examination

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1 and then I dusted.

2 Q If you want to go try to lift a fingerprint on a
3 different location, would you then spray Luminol on top of
4 that?

5 A No, sir. No, sir. We wouldn't.

6 Q And regarding that check, after you took that picture,
7 where did you leave that check?

8 A I left it in the black Dodge Ram.

9 Q And where was that black Dodge Ram located?

10 A It was in the evidence impound lot in the Sheriff's
11 Office.

12 Q And where is that located?

13 A It's at the Johnson Detention Center on Templeton Road.

14 Q And what's around it?

15 A It's a pretty high chain-link fence with barbed wire at
16 the top.

17 Q That's State's Number 28. Is that the very tall chain-
18 link fence?

19 A Yes, sir. That's it.

20 Q What's at the top of that?

21 A Barbed wire.

22 MR. SIMMONS: No further questions, Judge.

23 THE COURT: Anything in recross?

24 MR. BROOME: Briefly, just on the fingerprint stuff.

25 RE CROSS-EXAMINATION

1 BY MR. BROOME:

2 Q On redirect, Mr. Simmons just asked you about that AFIS
3 search.

4 A Yes, sir.

5 Q It's true that AFIS, there should be a log of your
6 inquiry, or your search, in AFIS, correct?

7 A There is. Yes, sir.

8 Q And did you -- that log should be available, correct?

9 A If you can get into my login screen. Yes, sir. It
10 should be.

11 Q Did you attempt to get into the log since December
12 2021?

13 A No, sir. I have not.

14 Q In preparation for this trial?

15 A I have not.

16 Q Okay, and in fact, AFIS, once you search or put a
17 search in there through AFIS for a print, it continually
18 runs.

19 A Yes, sir, it does.

20 Q Looking at the prints. And it will notify you obviously
21 if it finds ---

22 A Yes, sir. I think there is a section you can let it
23 continue to run or stop it. Yes, sir.

24 Q And I asked you -- last question. I asked you this a
25 little bit earlier on cross. You haven't checked AFIS?

Brian Holley-Direct Examination

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1 A No, sir. I have not.

2 MR. BROOME: Thank you, Your Honor.

3 THE COURT: You can step down, sir. Thank you. You are
4 free to leave the courthouse. You're more than welcome to
5 remain with us, sir. All right, ladies and gentlemen, we're
6 going to take a short afternoon break. Go back to the jury
7 room and take your break and we'll get you back out shortly,
8 okay?

9 (WHEREUPON, the jury exited the courtroom at 4:11 p.m.
10 and a recess was held from 4:11 p.m. to 4:30 p.m. The jury
11 entered the courtroom to resume at 4:32 p.m.)

12 THE COURT: Is the State ready to call the next witness?

13 MR. THOMAS: Your Honor, the State's next witness is
14 Brian Holley.

15 WHEREUPON, Brian Holley, having first been
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. THOMAS:

19 Q Mr. Holley, where do you live?

20 A Iva.

21 THE COURT: Sit a little closer to the microphone, Mr.
22 Holley. If you would, please, sir. Thank you.

23 WITNESS: Anderson County.

24 Q If you could, pull that microphone a little closer to
25 you. All right, so you live in Anderson County?

- 1 A Yes.
- 2 Q Do you own some property in Starr?
- 3 A No, my uncle does.
- 4 Q Your uncle?
- 5 A Yeah.
- 6 Q And what's his name?
- 7 A Henry Holley.
- 8 Q Where is that property?
- 9 A It's 110 Cumming Spring Road in Starr.
- 10 Q And had y'all -- when did y'all -- when did he buy that
- 11 property?
- 12 A The closing day was December 15.
- 13 Q So, did y'all do a walk-through on that property on
- 14 December 14 before you bought it?
- 15 A Yes.
- 16 Q And that was 2021?
- 17 A Yes.
- 18 Q Sorry. Why were y'all there? I know I just said it,
- 19 but just tell the jury.
- 20 A We were measuring the perimeter of the house.
- 21 Q And was that to just sort of figure out how much bush
- 22 hogging need to be done?
- 23 A Just square footage. Yeah, just square footage.
- 24 Q Was it pretty overgrown with brush?
- 25 A Oh gosh, yeah.

1 Q There was a house on that property?

2 A Yes.

3 Q Was it in good repair? Disrepair?

4 A Decent shape. It was just a property that was grewed up
5 like a jungle.

6 Q While y'all were there that day on 14th, did y'all
7 notice anything in the woods, or in the woods there by the
8 house?

9 A Initially I didn't, but when we come out, yeah.

10 Q What did y'all see there?

11 A Well, Henry had walked over and there was a blanket and
12 he pulled the bottom corner and exposed a foot and a little
13 part of a leg. So, he called me over there and asked me if
14 it was a body. And I thought it was a mannequin. It was
15 just, what we could see was just a small portion and it was
16 just real white. And so yeah, that's when we found...

17 Q And what did you do after you found that?

18 A Called 911.

19 Q Did you do anything with with the body that was there?
20 You just backed out immediately and called 911?.

21 A Yeah.

22 Q Did anybody go over there mess with it while y'all were
23 there? Other than what you just described, the two of you?

24 A Yeah, no. The 911 operator made me pull the blanket
25 back, but other than that no. Nobody else touched anything.

1 Q And when y'all walked back in there, did you go back in
2 there on foot?

3 A Yeah.

4 Q So, just walking through there.

5 A Yeah.

6 MR. THOMAS: That's all the questions I have for you,
7 Mr. Holley. Thank you so much. I'll let you answer
8 anything Defense counsel may have.

9 CROSS-EXAMINATION

10 BY MR. BROOME:

11 Q Hey, Mr. Holley, Joel Broome. We spoke on the phone a
12 couple of weeks ago. When you went out and when y'all found
13 the body, you pulled the blanket back to confirm, or maybe
14 your uncle did. Is that right?

15 A I pulled it.

16 Q You pulled it back.

17 A Yeah.

18 Q And then you never touched the body. You never touched
19 the scarf or the clothing or anything.

20 A No, no, no.

21 Q And your -- is it your Uncle Henry?

22 A Yes.

23 Q He never touched -- you never saw him touch --

24 A No, no.

25 Q --- the scarf on the body, correct?

Bryce Jackson-Direct Examination

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1 A No.

2 Q Or any clothing, right?

3 A No.

4 MR. BROOME: That's all the questions I have.

5 THE COURT: Okay, you can step down, sir. Thank you.

6 All right. Who have you got next, Solicitor?

7 MR. THOMAS: Your Honor, the State's next witness is
8 Bryce Jackson.

9 WHEREUPON, Bryce Jackson, having first
10 been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. THOMAS:

13 Q Deputy Jackson, where do you work?

14 A I work for the Anderson County Sheriff's Office.

15 Q What's your job there?

16 A I'm a Sheriff's Deputy.

17 Q What unit are you assigned to?

18 A I work on road patrol.

19 Q What are your, sort of, day-to-day duties on that job?

20 A Respond to calls for service, for the most part.

21 Q Did you have an opportunity to respond for a call of
22 service on December 14, 2021?

23 A Yes, sir.

24 Q And was that at Cumming Spring Road in -- is that Starr
25 or Iva?

Bryce Jackson-Direct Examination

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1 A It's Starr.

2 Q You went to that scene?

3 A Yes, sir.

4 Q Why did you get dispatched there?

5 A It was dispatched as a cardiac arrest.

6 Q When you got there, who was there?

7 A I believe it was the two complainants. I don't
8 remember their name.

9 THE COURT: Officer Jackson, can you speak up just a
10 little bit louder? Thank you, sir.

11 WITNESS: Yes, sir.

12 Q So, the two complainants, I think did y'all call EMS
13 out as well?

14 A They were dispatched, but they were canceled before
15 they arrived on scene.

16 Q And why did they get canceled?

17 A To protect the integrity of the crime scene. We figured
18 the fewest amount of people that were there was better for
19 evidence preservation.

20 Q So you, I think, when you say crime scene, what did you
21 locate when you got there?

22 A A deceased female who appeared to not have died from
23 natural causes to the best of my knowledge at the time.

24 Q I think in your report you wrote that you confirmed
25 that she was, in fact, deceased.

Bryce Jackson-Direct Examination

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- 1 A Yes, sir.
- 2 Q What did you do once you confirmed she was deceased?
- 3 A Myself and the other two deputies that were on scene,
- 4 Deputy McAllen and Master Deputy Mauldin, we walked back up
- 5 to the roadway. We made sure the two complainants were also
- 6 back in the roadway, so there was nobody around the body or
- 7 the scene. We put up crime scene tape. We notified our
- 8 supervisor, and I believe our supervisor notified detectives
- 9 to respond, and they, in turn, notified forensics and we
- 10 just stayed outside of the tape that we had put up and
- 11 waited for them.
- 12 Q Did you have on a body cam that day?
- 13 A Yes, sir.
- 14 Q Let me show you what's been marked as State's 31. Do
- 15 you recognize that?
- 16 A Yes, sir.
- 17 Q What's on that disk?
- 18 A It's my body camera footage from the incident.
- 19 Q Is that a true and accurate depiction of your
- 20 interactions that day, what you did that day?
- 21 A Yes, sir.
- 22 MR. THOMAS: Your Honor, at this time, the State would
- 23 like to move 31 into evidence.
- 24 THE COURT: What says the Defense?
- 25 MR. BROOME: Beg the Court's indulgence.

1 MS. MCNEILL: Your Honor, we just need about one minute.

2 THE COURT: Sure.

3 MS. MCNEILL: To view something on the video.

4 THE COURT: I think we can all be at ease if you need a
5 minute. Just everybody be at ease for a moment.

6 MR. SHAFFER: Your Honor, may we approach?

7 THE COURT: Sure.

8 (WHEREUPON, the following sidebar was held out of the
9 hearing of the jury.)

10 MR. SHAFFER: Your Honor, we have an objection to the
11 part that they want to play and probably would have an
12 objection to some stuff that they're moving to introduce,
13 but it's not published so that's the problem.

14 THE COURT: Would you not have a right, subject to
15 whatever objection that they make with this witness, is to
16 play these other parts?

17 MR. SHAFFER: Their exhibit, the part that they want to
18 publish, we would have no objection to it, but the problem
19 is there is another 20 minutes of it that we don't want into
20 evidence. But I don't know how we can do that.

21 MR. THOMAS: We can do what we did with the other
22 exhibit and don't send it back to the jury.

23 THE COURT: Right. And then why can't we stipulate on
24 the record that what is in evidence is only a portion of it
25 is being published and then, if for some reason, the jury

Bryce Jackson-Direct Examination

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1 would want to watch it then we can come back here, and we'll
2 show it. And we will write on the envelope "Do not send back
3 to the jury". So, let's go ahead and do it, and then we'll
4 put on the record that there is more on the CD than what is
5 being published that is in evidence.

6 (WHEREUPON, trial resumed.)

7 THE COURT: Okay, subject to what we have discussed at
8 sidebar, is there any objection?

9 MR. SHAFFER: No, Your Honor.

10 THE COURT: All right. And Solicitor, approximately
11 how long is the part of the video that is being published?

12 MR. THOMAS: Your Honor, it's two minutes and 45
13 seconds.

14 THE COURT: Okay. All right. Okay. Very good.

15 MR. THOMAS: And again, Your Honor, we're playing this
16 without volume pursuant to our bench conference.

17 THE COURT: Two minutes and 45 seconds, I think you
18 said?

19 MR. THOMAS: Yes, sir.

20 (WHEREUPON, a portion of State's Exhibit 31 published
21 to the jury.)

22 Q Deputy Jackson, you said EMS showed up, but you ended
23 up calling them off?

24 A Yes, sir.

25 Q That's who's standing there?

1 A The gentleman in the khaki pants, I believe, is a
2 paramedic for Anderson County. Yes, sir.

3 Q And then the other ones are the Holley's, the
4 individuals that called you?

5 A Yes, sir.

6 Q And again, y'all roped that scene off and turned it
7 over to investigations when they got there.

8 A Yes, sir. We put up crime scene tape, started a crime
9 scene log, and waited for the investigators and forensics.

10 MR. THOMAS: Thank you very much. Please answer any
11 questions Defense counsel has.

12 THE COURT: Any cross-examination?

13 CROSS-EXAMINATION

14 BY MR. BROOME:

15 Q I noticed that you put on some latex gloves before you
16 touched the blanket and the body, correct?

17 A Yes, sir.

18 Q And you never actually touched the clothing or the body
19 or anything like that?

20 A I checked for a carotid pulse, and then I laid the
21 blanket back over when I didn't find one.

22 Q Got you. I was going to finish. Sorry. Without a
23 glove on, because I saw you put that glove on. You never
24 touched the body without a glove on, to your knowledge,
25 correct? You had that glove on.

Bryce Jackson-Cross-Examination

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1 A In the clip depicted. Yes, sir. I did walk back down
2 there when the detectives got there, but I did not touch the
3 body with any un-gloved hands.

4 MR. BROOME: Okay. Thank you.

5 THE COURT: Thank you, Officer. You can step down. 31,
6 which is the body cam video, has been moved into evidence
7 without objection per what is on the record from our sidebar
8 conference.

9 MR. THOMAS: That's correct, Your Honor. We -- I think
10 we wrote on it the timestamps.

11 THE COURT: We got it, sure. We got it. All right, was
12 there another witness for today? I can't remember.

13 MR. THOMAS: That was the last, I think, because we
14 discussed the next one will be lengthy.

15 THE COURT: Okay. All right. All right, ladies and
16 gentlemen, we're going to go ahead and take our evening
17 break and we'll start back in the morning at 9:30. So, make
18 sure that you prompt. Let me mention one thing, you know,
19 at the outset, when I talked to you a little bit before the
20 lawyers made the opening arguments and I mentioned I don't
21 allow note-taking. Now, there is nothing wrong when you go
22 home in the evening if you want to take your own personal
23 notes. Don't show them to anybody. Don't discuss it with
24 anybody, but just for your own, kind of, record keeping and
25 keeping your thoughts straight you're more than welcome to

1 do that as long as those notes are left at home and not out
2 for anybody to see. You can do that. You don't have to,
3 but I have, over the years, been requesting that, and that's
4 perfectly fine. So long as they're not brought to the
5 courthouse, not brought to the jury room, and not shown or
6 discussed with anybody, you can do that if you so choose,
7 okay? That would be your call. All right. Get some good
8 rest tonight, and be ready to come back to work at 9:30 in
9 the morning. Have a good evening. Thank you.

10 MS. MCNEILL: Judge Hocker, would you please admonish
11 the jury not to watch the news tonight.

12 THE COURT: Yeah. Try to stay away from the news,
13 because we have had Fox news. And I don't know what they
14 intend to do, but stay away from any news while this case is
15 going on. Stay away from any newspapers, any news media
16 sources. Just stay away from that and just be careful about
17 that. Okay. All right. Have a good evening. See you in
18 the morning.

19 (WHEREUPON, the jury exited the courtroom for the day
20 at 4:51 p.m.)

21 TRIAL DAY 3: April 17, 2024

22 (WHEREUPON, the jury entered the courtroom at 10:08
23 a.m.)

24 THE COURT: Good morning, ladies and gentlemen. I hope
25 you're doing well. I had some other matters to deal with

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1 unrelated to this case, and that's why we were not able to
2 start at 9:30 this morning. The plan is, as I understand
3 it, the State's first witness for the morning. They'll put
4 that witness up. We have some legal issues related to that
5 first witness. So, we'll have to take a break in the middle
6 of that witness's testimony to deal with those with those
7 legal issues. But that's that's the plan. So, Solicitor,
8 call your first witness for today.

9 MR. THOMAS: Your Honor, the State calls Ross Ables to
10 the stand.

11 WHEREUPON, Ross Ables, having first
12 been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. THOMAS:

15 Q Investigated Ables, how do you spell your last name?

16 A A-b-l-e-s.

17 Q And Investigator Ables, where do you work at?

18 A Currently, I am a Deputy Corner in Anderson County.

19 Q And before that, what did you do?

20 A I was a crime scene investigator for Anderson County
21 Sheriff's Office.

22 Q And as a crime scene investigator, what sort of, I
23 guess, education and training do you have to have to be a
24 crime scene investigator?

25 A So essentially, just basic photography type classes,

1 fingerprint comparison and recognition, a little bit of
2 crime scene. A lot of what we get in Anderson is on the
3 job.

4 Q If you could, there's a button on that mic on your
5 right.

6 A There we go.

7 Q So, how long were you a crime scene investigator?

8 A Roughly six years.

9 Q And during the course of that time, the rough estimate
10 how many crimes scenes have you worked?

11 A Probably well over 200, probably more.

12 Q And just as sort of a, I guess, how do you get involved
13 in a case? How do you get it called out to a scene?

14 A Typically, we either get a phone call from our dispatch
15 or typically in some cases where detectives are involved or
16 a large scenes will get dispatched via our supervisor for
17 the day.

18 Q Did you get dispatched to a crime scene on December 14,
19 2021?

20 A I did.

21 Q And where was that crime scene?

22 A That was on Cumming Spring Road in the Starr-Iva area.

23 Q So, kind of, where in Anderson, near Starr?

24 A Yes.

25 Q I guess it's -- I guess Highway 81 and then Bill

1 Mouchet Road I think.

2 A Correct. Correct. Cumming Spring Road runs off 81 South
3 and it's a very rural area.

4 Q So, what were the cross streets you were at that day?

5 A The main road would be 81 South and then Cumming Spring
6 and then Bill Mouchet Road.

7 Q What did you do when you got to that scene?

8 A So, when I got there, I met with one of the detectives,
9 Detective Brandon Hamm, who had a search warrant for the
10 incident location.

11 Q Was the scene roped off?

12 A Yes, it was.

13 Q What's the first thing you do after you get there? So,
14 are you get briefed, I guess, by the investigators on the
15 scene?

16 A Essentially, yeah, we get a kind of a breakdown of
17 what's going on, what's been found so far. And then after
18 that, we start with a search warrant, by photographing it
19 and moving forward.

20 Q So, step one is photographs?

21 A Correct.

22 MR. THOMAS: Your Honor, I don't know if we want to
23 take that break now. I know I told you it would be pretty
24 quick.

25 THE COURT: All right. It went a little bit quicker

1 than than I originally thought. Ladies and gentlemen, the
2 legal issues I told you about has come up a little quicker
3 than I had anticipated. That's okay. So, I'm going to ask
4 for your patience and go back to the jury room. Hopefully we
5 can get it resolved soon.

6 (WHEREUPON, the jury exited courtroom at 10:12 a.m.)

7 THE COURT: Okay, Solicitor.

8 MR. THOMAS: Your Honor, I've got State's Exhibits 32
9 through 56 that I intend to introduce through this
10 investigator, as well as State's Exhibit 58. All of those
11 are photographs. Speaking with Ms. McNeil, I gave them a
12 copy of all this stuff beforehand and I believe she has
13 objections to State's Exhibit 54 and State's Exhibit 53.

14 THE COURT: Before I hear arguments, before I look at
15 the photographs, I just want to make sure 32 to 56 and 58 is
16 what the State is offering into evidence, and and the
17 Defense objects to 53 and 54. Is that correct?

18 MS. MCNEILL: That's correct.

19 THE COURT: Okay. All right. So, I guess give me two
20 stacks, Solicitor. Give me the ones not objected to, and
21 then the two photographs that are objected to. Let me just
22 take a look at them and then I'll hear argument from both
23 sides.

24 MR. THOMAS: These are the ones that are not objected
25 to.

1 THE COURT: Okay. And I assume all these photographs
2 would be what Officer Ables took.

3 MR. THOMAS: He looked through them yesterday, Your
4 Honor, and there may be one that the Coroner's Office took,
5 but he can say he was there when it was done and it is
6 accurate. I guess for the record, all of the pictures have
7 Bates stamps at the bottom of them. That's sort of how we
8 organized it. So I think the one that says Coroner's Office
9 would be the last one.

10 THE COURT: Ms. McNeill, can you hand me the two that
11 you objected to, or Solicitor, either one, it doesn't
12 matter?

13 MS. MCNEILL: Yes, sir, and actually I'm going to
14 withdraw my objection to State's Exhibit 55, that has a
15 Bates stamp of ACSO Cumming Spring Road 000153. It's a
16 picture of Ms. Cross wrapped up in a purple blanket in the
17 field, and she's being moved onto a white tarp. The reason
18 I'm withdrawing that objection is ---

19 THE COURT: Okay, I didn't know -- I thought only 53
20 and 54 were objected to, but you say originally you objected
21 to 55.

22 MR. THOMAS: Did I call the numbers out wrong?

23 MS. MCNEILL: It's State's 54, I have an objection to.
24 State's Exhibit 55, I originally had an objection to. I'm
25 withdrawing my objection.

1 THE COURT: Okay, so it was not 53, it was 54 and 55
2 originally, and now we're just down to one.

3 MS. MCNEILL: Yes, sir.

4 THE COURT: Okay, all right, all right. Let me take a
5 look at 54 real quick, Ms. McNeill. Thank you. Ms. McNeill,
6 your objection to 54 is what?

7 MS. MCNEILL: Judge, it's a close-up picture of Ms.
8 Cross's neck that has a scarf wrapped around it. When she
9 was initially found, somebody had obviously pulled back that
10 blanket in order to take that picture. So, honestly,
11 it's -- I think it's a pretty grotesque picture for her to
12 like at close-up of her chin and, like, the debris from tree
13 branches and leaves all over her, and it's also a redundant
14 photo. There's several photos like this that they're trying
15 to get in, which I did not object to, but I find this one to
16 be just a little too personal and a little too prejudicial.

17 THE COURT: Okay, help me a little bit. Orient me to
18 what I'm looking at. I don't see the ---

19 MS. MCNEILL: What you're looking at, Judge, is a
20 close-up picture that was taken off of Cumming Springs Road
21 by the Anderson County.

22 THE COURT: Now, do any of the other photographs show
23 the scarf around the neck?

24 MS. MCNEILL: There's going to be plenty of them at the
25 ---

1 THE COURT: The autopsy photographs.

2 MR. THOMAS: Well, she's also raised objections to
3 those.

4 MS. MCNEILL: Right.

5 THE COURT: Okay. Well, it would seem like to me that,
6 of course I haven't seen the autopsy photographs, but since
7 -- one of the -- we've got blunt force trauma, but I think
8 what Dr. Shaw testified to in pre-trial, that the
9 strangulation would have been the actual, more likely the
10 cause of death. So, I think the State would be entitled to,
11 at some point, entitled to at least one photograph showing
12 the scarf around the neck.

13 MS. MCNEILL: Well, if that's the case, then I'd prefer
14 this is the photograph that they get in. And my objections
15 to the autopsy photographs are much stronger than this one
16 anyway.

17 THE COURT: Well, I guess probably then what I would
18 need to do is, kind of, take a look at the autopsy
19 photographs too.

20 MR. THOMAS: I can show you, Your Honor to State's 85.
21 I haven't marked these, which ones were objected to yet.
22 85, 94, and 82 are the pictures from the autopsy which are -
23 - which would come in through Dr. Shaw. They are his
24 pictures. Right. One of them is not his picture, but he's
25 in it. He can identify it.

1 THE COURT: Okay. Well, and typically what I do too, I
2 know we're, kind of, going a little bit further on than
3 where we're at right now with respect to the crime scene
4 photographs. But a lot of times, before I make a ruling
5 whether or not autopsy photographs come in, hear from the
6 pathologist to determine whether or not the pathologist
7 needs photographs in order to support his testimony, or aid
8 in his testimony, as to the manner and cause of death.

9 MR. THOMAS: So, I think, just speaking with Ms.
10 McNeil, the ones from the autopsy that she has no objection
11 to is State's 82, which I'll hand to Your Honor. It's just
12 the back side of the scarf showing where it's wrapped up
13 around her neck. She does, however, have objections to
14 State's 85 and 94, which those are just shots of basically
15 the doctor cutting the scarf off. He would testify that he
16 had to -- it was very difficult. It was on there very
17 tightly. That would just demonstrate how tight it was. 94,
18 same thing, just showing it when it was cut off.

19 THE COURT: All right, well, let me just see those.

20 MR. THOMAS: And I think that was -- and Your Honor is
21 on the right track. That is the purpose of those pictures
22 that the State is seeking introduced them, is to show how
23 tightly the scarf was wrapped around her neck, and that's
24 going to be our theory of the case is that she was strangled
25 to death, obviously.

1 THE COURT: Yeah, well, again, you know, what I
2 typically do if the pathologist says I need these pictures
3 in order to aid and explain and support my testimony
4 concerning the autopsy and the manner and cause of death,
5 then more likely I would allow these in, but I don't want to
6 say yes one hundred percent until I hear from the
7 pathologist.

8 MR. THOMAS: I understand, and we've actually went
9 through -- there were several other pictures in there that I
10 had that she had objections to. I actually pulled them out.
11 We're going to get the pathologist to just diagram several
12 of the injuries and make the diagram an exhibit. So,
13 there's still going to be some objections to that, but I
14 think just piggybacking off what we're doing here.
15 Obviously, the picture that Detective Ables took, we intend
16 to introduce that to show that the scarf was wrapped around
17 her neck that tightly when they found her body. That would
18 be the purpose of the pictures in his testimony. And again,
19 the stuff with the pathologist we can lay the foundation for
20 him at the appropriate time.

21 THE COURT: All right. Well, Solicitor, would you
22 anticipate Dr. Shaw testifying that these photographs are
23 necessary to aid and support and explain his testimony?

24 MR. THOMAS: I would hope that he would, Your Honor. I
25 told him to be here early so that we could go over them with

1 him and so I can figure out which ones I need to pull out
2 because they might not be. That's kind of where we're at.
3 Now, when we were sitting, when we went and met with him, he
4 did fill those up and explain to them why it was important
5 and everything, but whether that's going to be his testimony
6 or not. I don't want to tell you one thing and then it be
7 different.

8 THE COURT: Well ---

9 MR. THOMAS: --- and again, just as far as her 403
10 objections, again, her objection is that it's more
11 prejudicial than probative. I don't think that there's
12 anything in that picture. I tried to select the one that
13 had the least amount of gore on it. It's the least gory.
14 There's not a lot of blood. There's some debris on it, but
15 I think, again, there's been this argument about what time
16 her body was placed there when she was dead. I think the
17 debris probably goes to showing that the body had been there
18 for a little while, because debris falls on it. I think
19 there's the probative value of that picture, Your Honor, is
20 not substantially outweighed by its prejudicial effect.

21 THE COURT: Yeah, well, you know, I would think because
22 the theory of the State's case is that she died as a result
23 of strangulation and evidence going towards that, whether
24 it's photographs or otherwise. Certainly, I believe the
25 probative value would outweigh any unfair prejudice to the

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1 Defense. So -- go ahead, Ms. McNeill.

2 MS. MCNEILL: I just want to make sure I'm on the same
3 page with Your Honor. To be clear, you're only talking
4 about this specific photo, which is State's 55. You're not
5 already pre, like, deciding about the Coroner's autopsy
6 photos.

7 THE COURT: Right. Right. 54 is the one that's in
8 dispute. Not 55.

9 MS. MCNEILL: That's correct.

10 MR. THOMAS: And again, so, she -- her cumulative
11 objection is, I think, premature. She may have a good
12 cumulative objection to the pathologist photos, if that
13 comes in. Since the pathologists photos are not in, they're
14 premature.

15 THE COURT: Right, and I'm not making a ruling as to the
16 autopsy photographs, even though I'm just stating generally
17 what I do. And I'm not going to say that in this case I'm
18 going to do what I generally do. So, I'm not making a
19 ruling as to the autopsy, but I will allow 54 in.

20 MS. MCNEILL: Thank you, Your Honor.

21 THE COURT: My understanding is 32 through 56, and 58
22 in. And the only one that was objected to by the Defense
23 was 54, which I'm allowing in. And certainly all rights are
24 reserved by the Defense concerning it and all other
25 photographs that may come into play. All right, are we

1 ready for the jury?

2 MR. THOMAS: The State is ready, Your Honor.

3 MR. BROOME: Yes, Your Honor.

4 THE COURT: Okay, thank you. Let's bring jury out.

5 (WHEREUPON, the jury entered the courtroom at 10:25 a.m.)

6 THE COURT: Solicitor, do you want to proceed?

7 DIRECT EXAMINATION

8 BY MR. THOMAS:

9 Q Investigator Ables, you said you took several pictures
10 there on the scene on Cumming Spring?

11 A Yes, that's correct.

12 Q I'm going to show you what has been marked as State's
13 55 through -- I'm sorry -- State's 32 through 56, and also
14 State's 58. I'm going to let you flip through those and see
15 if you can remember them.

16 A Yes, except for the last one.

17 Q Except for that last one, those are all pictures that
18 you took?

19 A Correct.

20 Q And what are those pictures of?

21 A It's all of the incident location.

22 Q That last one, State's 58, is that also from the
23 incident location?

24 A Sorry, which one? 58?

25 Q Yes, 58.

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1 A It appears to be. Yes.

2 Q Do all of those pictures truly and accurately depict
3 the scene that you saw out there that day?

4 A Yes.

5 MR. THOMAS: Your Honor, at this time the State would
6 move 32-58 into evidence.

7 THE COURT: Okay. And what is previously put on the
8 record, I deny the one request that Defense made.

9 MR. BROOME: Subject to the previous objections, Your
10 Honor.

11 Q State's 32. All right, what are we looking at on
12 State's 32?

13 A So, you're looking at the incident location is to the
14 left and we're all on Cumming Spring Road with 81 South to
15 the back there.

16 Q If you want to, let me see. All right, there's a
17 pointer right there. If that helps you out. All right, so
18 what is this road right here?

19 A So, that is Cumming Spring.

20 Q And which way are we facing? Like, which -- you said
21 there's two roads basically.

22 A Yes, so back here behind everybody is going to be 81
23 South.

24 Q And then behind --

25 MR. THOMAS: Beg the Court's indulgence.

1 Q -- And then behind where that picture is, what would be
2 behind that person taking the photograph?

3 A So, it would be me taking the photograph, so behind me
4 would be Bill Mouchet Road.

5 Q And then State's 33, is that just moving a little bit
6 closer?

7 A Same thing, just a little bit closer, yes.

8 Q Where are those people gathered, like generally?

9 A So, on Cumming Spring Road, so just in front of
10 everything.

11 Q Is that sort of where you guys went in to get to the
12 body?

13 A That's correct. It was kind of just a meeting area.

14 Q Path of ingress and egress, I guess.

15 A Correct.

16 Q State's 34, is that just a different angle coming back
17 from 81?

18 A That's correct, so taking this photograph, it would be,
19 81 South would be to my back, and the location is to the
20 right.

21 Q And then 35. What's that? Just getting a little closer?

22 A Same thing, yes, that's correct.

23 Q And we talked a second ago about where everyone was
24 standing, sort of that ingress and egress. Is that --
25 where's that at in this picture?

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1 A So, this would be standing on Cumming Spring.

2 Obviously, you see the house there to the right and it's
3 kind of the direction of where the body was found. Just
4 kind of showing the growth and everything.

5 Q And then, I'm going to skip a little bit. Just looking
6 at 38 and 39. Is this just showing you, I think 38, that's
7 just the different angle of that growth?

8 A That's correct. All these are just overall photographs
9 as we kind of just move in to where the location of the body
10 was.

11 Q And then 39, that's just moving closer. I guess, could
12 you just point out to us where, just generally in that
13 picture, where the body would be. I know you can't see the
14 body, but just in general.

15 A Yeah, it should be somewhere in that general area just
16 further back, obviously.

17 Q So, coming back out to Cumming Spring Road, what are we
18 looking at on State's 37?

19 A Essentially what we're photographing there is just all
20 the overgrowth and you see some of the grass how it's kind
21 of pushed down a little bit.

22 Q Could you point that out for the jury?

23 A Yeah, so you see the grass pushed down here and here,
24 obviously the overgrowth.

25 Q And so then a closer picture of that?

1 A Yeah, that's correct. You see here some of the grass
2 has kind of been pushed down.

3 Q Pushed down. Is that from people walking through or is
4 that ---

5 A It could be. Yes.

6 Q It could also be from pulling something through there?

7 A Correct.

8 Q And then I guess from there you walked back into closer
9 to where the body was?

10 A Correct. We keep moving in.

11 Q So, I know it's kind of hard to see on these, but where
12 -- can you tell about where the body is?

13 A Should be somewhere around in here, because that's the
14 little shed there.

15 Q So, 42, getting a little closer.

16 A Yeah. Same thing. There's the little shed. It should be
17 over here somewhere.

18 Q 43. I think it's kind of hard to make out.

19 A Yeah, it's a lot of overgrowth. So, it should be, I
20 believe, somewhere right in there.

21 Q That's where you remember it being?

22 A Correct.

23 Q Again, we're losing the little color and fidelity on
24 these. This doesn't exactly match what you saw, but we're

25 getting a little closer there on 44. I think 45 might be the

- 1 first one where I can see it over here. Can you see?
- 2 A Yes, I can see it.
- 3 Q Could you point that out to the jury?
- 4 A In this one you can see the body laying right here.
- 5 Q So, that's what 46 is. You're now zooming in on it?
- 6 A Correct. Zooming in right here.
- 7 Q So, going back to 46. I guess, is there another sort
- 8 of, I don't know if a path might be the right word, but you
- 9 can sort of see Bill Mouchet Road from there, right?
- 10 A Correct, It should be back up that way.
- 11 Q Can you see the body in that picture?
- 12 A Yeah, that's it right here.
- 13 Q And then so that's a closer up of that.
- 14 A Correct.
- 15 Q And then zooming in. Is that what State's 49. It's
- 16 just a closer up from where you're standing.
- 17 A Yes, sir.
- 18 Q Did you notice anything, in terms of the brush and the
- 19 growth that was there, that looked to be disturbed to you as
- 20 you're going towards the body?
- 21 A Yeah, just a little bit.
- 22 Q Let me show you State's 50. What did you do? What is
- 23 State's 50?
- 24 A So basically here we're just showing there's -- it's
- 25 kind of hard to see it on this photograph. Scrape marks on

1 this vine here. I think you should have another. Yeah,
2 there you go.

3 Q All right, and so you took a close up of those. That's
4 what State's 51 is.

5 A Yes, that's correct.

6 Q All right, can you point those out to the jury?

7 A Yes, so you can see the scrape marks there and there.

8 Q And then, I believe her body was located in -- that's
9 what State's 52 is. It's just a picture of her body?

10 A Correct.

11 Q What stood out to you about, I guess, the condition of
12 her body when you found it, in terms of what she was wearing
13 and what may have been on her?

14 A Well, I mean, obviously we hadn't gotten to the
15 examination of looking at the body yet, but you can tell she
16 doesn't have the appropriate clothing for the environment.

17 Q Did she have anything around her neck?

18 A Correct. She had a scarf, if I remember right.

19 Q Did it appear to be, like, you would wear a scarf, like
20 normally to stay warm or did it would appear to be wrapped?
21 How did it appear to be wrapped around her neck?

22 A In a way to restrict airflow.

23 Q Did you take a photograph of that?

24 A I did.

25 Q State's 54. Is that what we're looking at there?

- 1 A Yes.
- 2 Q I see her body was wrapped in a blanket there. I may
- 3 skip ahead a little bit. Let me come back to that. All
- 4 right. State's 55. I know we talked about Bill Mouchet
- 5 Road. State's 55, what are we looking at there?
- 6 A So, essentially looking at Cumming Spring here and then
- 7 Bill Mouchet Road. Just kind of another angle.
- 8 Q Where would the body be at?
- 9 A So it would actually be more over here, or this way.
- 10 Q So that's, again, just the scene sort of showing you
- 11 the intersection of Bill Mouchet and Cumming Spring.
- 12 A Correct.
- 13 Q All right. Ms. Cross's body, what happened to her body?
- 14 Who took her body away?
- 15 A The corner's office.
- 16 Q Do they bag them up before they go?
- 17 A Yes, they handle that.
- 18 Q And then, so that's a photograph of ---
- 19 A Yeah, you can see they've actually got the chain of
- 20 custody secured.
- 21 Q So State's 58 is just her body secured. Going to back
- 22 up a couple things here. State's 55, what are we looking at
- 23 there?
- 24 A That would be the comforter that she's wrapped up in.
- 25 Q What color is that comforter?

1 A It's a purple color.

2 Q Do you remember what brand that was in State's 56.

3 Would that help you?

4 A Yeah, it's a Conrad. Yeah, Lauren Conrad.

5 Q What happened to that blanket, or that comforter? I'm
6 sorry.

7 A Essentially, we wrapped it up and took it back to our
8 office and hung it up to dry because it was wet. You can't
9 package it wet.

10 Q So you collected that comforter?

11 A That's correct.

12 Q Put it in evidence after it dried out?

13 A I did.

14 Q I'll show you State's 57. Are there evidence tags on
15 there that indicate what that is?

16 A Yes.

17 Q Can you -- without opening it up, can you peer inside
18 there and tell me what it is?

19 A It appears to be the purple comforter.

20 Q That's the comforter you collected?

21 A It appears to be.

22 MR. THOMAS: At this time, Your Honor, the State would
23 move 57 into evidence.

24 MR. BROOME: Without objection.

25 THE COURT: Without objection, 57 into evidence for the

1 State.

2 Q So in addition to processing the scene, taking those
3 photographs, collecting all that evidence, is that the
4 extent of your involvement in this case?

5 A That is correct.

6 MR. THOMAS: Thank you very much, Investigator Ables.
7 I will let you answer any questions the Defense has.

8 THE COURT: Mr. Broome.

9 MR. BROOME: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. BROOME:

12 Q Good morning. How are you today?

13 A Good, sir. How are you?

14 Q I'm great.

15 A Good.

16 Q One of the things that you talked about taking
17 photographs on direct, correct?

18 A Yes, sir.

19 Q And you talked about examining the body.

20 A Yes, sir.

21 Q You took a bunch of pictures of the body that you
22 found, right?

23 A Quite a few. Yes, sir.

24 Q We've already seen a couple of them. Do you remember
25 taking pictures of her limbs and her hands?

1 A I don't. I really don't remember. I know the coroner's
2 office would've, because they take photographs as well.

3 Q I'm going to show you Defendant's 7 and 8.

4 MR. BROOME: May I approach?

5 THE COURT: Sure.

6 Q Will you take a look at Defendant's 7 and 8 and tell me
7 if you recognize those pictures.

8 A Yes.

9 Q Are those pictures of the victim's hands with some
10 jewelry on them?

11 A It appears to be. Yeah.

12 Q Does that seem to be? Take your time.

13 A Yeah, I took so many photographs. I mean, we typically
14 take several hundred. I probably would have been. It
15 appears to be, obviously not my hands. More than likely the
16 Coroner's, but that was in my file of the photographs.

17 Q I think there might be -- the exhibit number may have
18 covered them up, but there may have been -- On the bottom
19 corner, if you look in the bottom, is there -- I have 8 in
20 my hand and you're looking at 7. But it should say ACSO
21 Cumming Spring Road.

22 A Yes, sir.

23 Q Does that help you?

24 A Yes, sir.

25 Q Okay. Does that seem like you would have probably

1 taken this picture?

2 A Yes, sir.

3 Q Just trying to help you out.

4 A Thank you.

5 Q Is that a fair and accurate representation of the
6 victim's hands back on Cumming Spring Road on December 14,
7 2021?

8 A Yes, sir.

9 MR. BROOME: Your Honor, at this time I'd move Defense
10 7 and 8 into evidence.

11 MR. SIMMONS: No objection.

12 THE COURT: 7 and 8 into evidence for the Defense.

13 Q And just looking here. I think this is Defendant's 7.
14 We've got a ring on her left -- I think that's her left
15 hand, correct?

16 A That would be her left hand. Yes, that's number 8.

17 Q Some jewelry on that that you can see was left on her
18 hand, correct?

19 A Correct. Yes, sir.

20 Q And did y'all take that at all?

21 A No, sir.

22 Q Okay, and let me show you Defendant's number 8, next
23 picture.

24 A That was actually number 8.

25 Q Sorry. Thank you for clarifying. So, that was number 8

1 we were looking at. And now let me show you Defendant's
2 Number 7. This would be her right hand, correct?

3 A Correct.

4 Q And we have on her right index finger and her right
5 ring finger some jewelry?

6 A Correct.

7 Q And did you take that off the hand?

8 A No, sir.

9 Q Now, other things you did on the scene were that you
10 went looking for tire impressions at the scene, correct?

11 A We did collect some, yes.

12 Q And can you explain to the jury what tire impressions
13 are?

14 A Basically it's the impression that your tread leaves
15 from a tire.

16 Q The difference between, like, a tire impression, maybe
17 like a skid mark might be, what you're looking for is that
18 impression into like a soft surface, like mud or dirt or
19 soil?

20 A That's correct.

21 Q And you found some tire impressions at the scene there
22 that you took cast moldings of; is that correct?

23 A Yes, sir.

24 Q And that can be helpful for law enforcement. The idea
25 is to take this unknown tire impression and try to compare

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1 it to a known tire impression, correct?

2 A If it's a good cast. Yes, sir.

3 Q If you have a good cast. And you would do that -- would
4 you do that at Anderson County or would you take that
5 impression and send it to the South Carolina Law Enforcement
6 Division?

7 A We would take that and send it off.

8 Q Send it off for further analysis?

9 A Yes, sir.

10 Q Now, as your experience as crime scene investigator,
11 how long have you been a crime scene investigator?

12 A Six years.

13 Q Six years. Your experience during those six years, you
14 sent off, I'm sure, several cast impressions to SLED for
15 analysis, correct?

16 A I do not. I do not send them off. That's sent at the
17 request of the detective whose case it is. They coordinate
18 that with our evidence division.

19 Q Fair enough. Better question is you would submit them
20 in evidence and maybe the investigator would then submit it
21 off to analysis, right?

22 A Yes, sir.

23 Q Okay, but you're aware that's done in a lot of cases,
24 correct?

25 A Most of the time. Yes, sir.

1 Q I'm going to show you what's been marked as Defendant's
2 9, 10, and 11.

3 MR. BROOME: May I approach?

4 THE COURT: Yes.

5 Q Can you take a look at those and tell me if you
6 recognize them.

7 A Yes, sir.

8 Q And looking at Defendant's Number 9, what are we
9 looking at?

10 A So, essentially it's an impression that we had found on
11 the scene.

12 Q Tire impression?

13 A Yes, sir.

14 Q And the next one, we'll look at Defendant's Number 10.
15 10. What do we have in that picture?

16 A So, it's just a more of an overall picture showing
17 which you can see the yellow placard beside that impression.
18 This just kind of gives you an overall view of it and the
19 location.

20 Q Of the location?

21 A Yes.

22 Q And that's a picture that you took?

23 A Yes.

24 Q And let's look at Defendant's Number 11.

25 A Yes.

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- 1 Q And is that what is in your hand right there?
- 2 A Yes.
- 3 Q What are we looking at?
- 4 A Same thing, just another view of it.
- 5 Q Bird's eye view directly over placard number three?
- 6 A Three. Yes, sir.
- 7 Q Can I get those back?
- 8 A Absolutely.
- 9 MR. THOMAS: No objections, Your Honor.
- 10 THE COURT: All right. 9, 10, and 11 in evidence for the
- 11 Defense.
- 12 Q Looking at Defendant's Number 10 here, Investigator
- 13 Ables. Do you recognize this picture?
- 14 A Yes, sir.
- 15 Q And this is a picture you took at Cumming Spring Road,
- 16 correct?
- 17 A Yes, sir. That's where I'm standing.
- 18 Q And that's the abandoned property in the background
- 19 that we're looking at, right?
- 20 A Correct.
- 21 Q And back there later on through that brush, as you've
- 22 already testified to, that's where the body was found.
- 23 A Yes, sir.
- 24 Q That little tiny yellow thing is a placard, correct?
- 25 A Correct.

1 Q You all use that so you can find, when you find
2 evidence, you can go back and find it later and also orient
3 yourself to where things are; correct?

4 A It is used to mark things of possible evidentiary
5 value.

6 Q I'm going to show you now Defendant's Number 9. Okay,
7 this is a close-up picture of placard number 3. This is a
8 tire impression that you found at the scene?

9 A Yes, sir.

10 Q And I see -- what is the point here with the ruler?

11 A So, it's just kind of to scale it and get, you know,
12 measurements if it's needed. Just to kind of give you a view
13 of the size of it.

14 Q Frame of reference.

15 A Correct.

16 Q So that you know exactly what it is to scale right.

17 A Correct.

18 Q And you took a bunch of pictures, but I'm also going to
19 show you Defendant's Number 9. That's a different one. I'm
20 going to show you Defendant's 11. This is a different angle
21 of the tire impression that was left on the property,
22 correct?

23 A Yes, sir.

24 Q And that's identified by placard number three, correct?

25 A Yes, sir.

1 Q All right. And you would have taken these pictures and
2 you would have sent them and submitted them to evidence
3 afterwards?

4 A Correct. All the pictures go into a -- on a server in
5 evidence.

6 Q And like I asked you earlier, you testified about you
7 don't really send pictures of the moldings directly to the
8 SLED, but you would give that and submit that to the
9 evidence custodian, correct?

10 A It is -- the way it works is when we come back to our
11 office, we download all the pictures to a case file that's
12 on a secure server.

13 Q And then another detective will make the decision to
14 send it to SLED for analysis?

15 A Yes. Yeah, if they do -- if they send the pictures
16 off, yes.

17 Q If they send the pictures off and the molding.

18 A Correct. Yes, sir.

19 Q Are you aware that that was done in this case?

20 A To my knowledge, I do not know.

21 Q You're not sure it was done with that?

22 A No, sir.

23 Q Now, one of the things, when you -- when the body was
24 found, it was a Jane Doe, correct? Initially.

25 A Yeah, I think initially, yes.

1 Q You didn't know who it was initially, right?

2 A I did not know.

3 Q And I think you all were probably quickly trying to
4 figure out who the person -- who the lady was, correct?

5 A Correct.

6 Q And one of the main quickest ways to do that would be
7 you would take fingerprints from the body, correct?

8 A Correct.

9 Q And I think you did that in this case. Does that sound
10 right?

11 A Yes, that's correct.

12 Q You're just going to take the hands and you get those
13 known fingerprints off of them?

14 A We took -- I don't remember which digit, but we did
15 take a fingerprint.

16 Q Did it digital?

17 A No. No, sir. So, the way we did it, we have a latent
18 print examiner, so what we did was actually printed her,
19 rolled her thumb, sent it in to our latent print examiner
20 who was working. She was able to scan it, and do her magic,
21 and she was able to identify her that way.

22 Q And my understanding was that initially, the
23 fingerprints that were sent in off the body -- you all have
24 something called AFIS, correct?

25 A Correct.

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1 Q Automated Fingerprint Identification System, right?

2 A Correct.

3 Q And there's a local, like a South Carolina AFIS,
4 correct?

5 A I'm not -- I'm not a -- I'm not a latent print
6 examiner. I'm not familiar with that system. I don't have
7 anything to do with it.

8 Q Okay, you don't know if the local versus the national?

9 A No, sir. I don't touch it. No, sir.

10 Q Understood. A couple things. Now, you were in Anderson
11 for a couple of years, right?

12 A I was at the Sheriff's Office total for about seven. I
13 was in forensics for six. Yes, sir.

14 Q That Cumming Spring Road runs into Highway 81 in
15 Anderson?

16 A Yes, sir.

17 Q I know we're all from Laurens, so we're not familiar
18 with your neck of the woods, but there is -- right when you
19 go from Cumming Spring Road back to Highway 81 and turn into
20 a busy four-lane intersection, correct?

21 A Yes, sir.

22 Q Did you come in off Interstate Exit 9 this morning when
23 you came in or did you go the back way?

24 A I came the back way through Hickory Tavern and all
25 that.

1 Q Understood. You came through Hickory Tavern?

2 A Yeah.

3 Q Okay, but there is a busy four-lane road on Highway 81,
4 right?

5 A Yes, sir.

6 Q Do you know that from your experience working for
7 Anderson?

8 A Yes, sir.

9 Q A lot of traffic goes through that area?

10 A Yes, sir.

11 MR. BROOME: Investigator Ables, give me one second. Beg
12 the Court's indulgence.

13 THE COURT: Sure.

14 MR. BROOME: That's all the questions I have.

15 THE COURT: Solicitor, do you have any redirect?

16 MR. THOMAS: A few things, Your Honor.

17 THE COURT: Sure.

18 REDIRECT EXAMINATION

19 BY MR. THOMAS:

20 Q First question, Investigator Ables, talking about tire
21 castings. Is that like -- is that like anything else?

22 You've got to have enough detail in it to get a result?

23 A That's correct. Good detail and very little debris and
24 whatnot in it.

25 Q In your experience, how often does that work out for

1 you that you get something back from that?

2 MR. BROOME: Your Honor, I would object to this. He's
3 not qualified.

4 THE COURT: Okay. Repeat that question again, and don't
5 answer, Officer.

6 MR. THOMAS: I was asking him how frequent it is for him
7 to get a result back from a tire casting that he takes, a
8 match.

9 THE COURT: Okay. And your objection, Mr. Broome, is
10 that he's not qualified?

11 MR. BROOME: Yes, he doesn't have enough -- he's not
12 laid the foundation as an expert witness. He can't qualify
13 to basically what they're trying to get out of him, which is
14 essentially that he has sufficient evidence to make an
15 analysis of determination. Earlier his testimony was he had
16 to send that to SLED for analysis by an expert.

17 THE COURT: Well, I don't think the Solicitor is asking
18 for an expert opinion. I think he's just asking how often,
19 or how long does it take if a tire impression cast is sent
20 to SLED for analysis, how often does the results come back?
21 Was that the question?

22 MR. THOMAS: I think he can talk about his experience
23 of, you know, it happens frequently, not frequently. That's
24 not --

25 THE COURT: He's asking for time factor, from what I

1 understand.

2 MR. BROOME: How long it takes to get to SLED is
3 different than how often do you get sufficient results, I
4 think was the question.

5 MR. THOMAS: How often do you get a match from SLED?
6 Let's go with that.

7 THE COURT: Okay, I don't think it's asking for an
8 expert opinion. And he's just, whatever experience that he
9 has -- he's just -- whatever SLED has done. So, I don't
10 think it requires an expert opinion. I'll overrule it. Go
11 ahead and repeat that question again.

12 Q How often do you get a match back from SLED?

13 A Once again, I don't handle the castings once they go
14 out of my possession, so they go and get turned into
15 evidence and they handle it. I don't ever see them.

16 Q So, he's not involved with that, so that's -- no harm,
17 no foul, right?

18 Q We talked about how close Highway 81 is to this scene.
19 I'm going to put State's 32 back up. Where in State's 32 is
20 Highway 81?

21 A So you can see this, once again, it's way up here a
22 little ways. There's another telephone pole there. It's
23 probably a good, I don't know, 50, 75 feet from there,
24 you'll have the roadway.

25 Q So, where this crime scene is, isn't right along

1 Highway 81?

2 A No, I mean, it's right off 81, but it's not -- not that
3 close.

4 Q And Bill Mouchet Road is right behind you?

5 A That's correct.

6 Q Is that a main highway? Is that a busy road?

7 A No, it's not.

8 Q And again, showing you State's 35. I think you talked
9 about -- I know you may not have talked about this, but part
10 of what you did was take measurements, right?

11 A Yeah, that's correct.

12 Q Do you remember about how far off of the road the body
13 was located?

14 A I think it was approx -- I really don't remember. I'd
15 probably have to pull my supplemental.

16 Q Yeah, if I showed you your measurements, would that,
17 maybe refresh your recollection?

18 A Yes, sir.

19 Q Again, I know you calculated. Sort of triangulated.
20 But just roughly, how far off of the road was her body?

21 A So, I've got approximately about 67 and 68 feet head
22 and foot.

23 Q So, about 30 yards?

24 A Yeah, from Bill Mouchet. Yes, sir.

25 Q And it's in that brush?

1 A Yes, sir.

2 MR. THOMAS: No further questions. Thank you.

3 THE COURT: Anything on recross?

4 MR. BROOME: No, Your Honor.

5 THE COURT: You can step down, sir.

6 WITNESS: Thank you, sir.

7 MR. THOMAS: Your Honor, the State's next witness is
8 going to be Detective Cash. He's the one that we may
9 have...

10 THE COURT: Well, this will probably be a good time to
11 go ahead and deal with the legal issues involved there, and
12 we can also have a morning break. So, ladies and gentlemen,
13 I'm going to ask that you go back to the jury room, take a
14 break, and then we'll get you back out shortly.

15 (WHEREUPON, jury exited courtroom at 10:57 a.m.)

16 THE COURT: Go ahead and provide to me the -- as I
17 understand it, there are two separate portions of one of the
18 two interviews with Mr. Spencer that is in dispute. Is that
19 correct? Two?

20 MS. MCNEILL: I think that there's actually an audio
21 recording that was taken at Mr. Spencer's house when law
22 enforcement showed up to arrest him.

23 THE COURT: Okay, that was just audio, no body cam or
24 anything like that?

25 MS. MCNEILL: Right, and then there's also a video with

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1 audio of Mr. Spencer's interrogation at the Anderson County
2 Sheriff's Office, and then there's a third interrogation
3 video with audio that was taken at the Greenville County
4 Detention Center, where he's in a jumpsuit, to be served
5 with outstanding Greenville warrants.

6 THE COURT: Okay, all right. So with respect, let's
7 just take them one at a time. The audio at Mr. Spencer's
8 home, is there any disagreement there?

9 MR. SHAFFER: Yes, Your --- No, Your Honor, not with
10 the audio.

11 THE COURT: Right.

12 MR. SHAFFER: Not based off the fact that the
13 redactions they're making and with the understanding that
14 initially they said that they were only going to publish
15 certain parts of it. We're actually limiting the exhibit
16 that's going to be in evidence to the time frames that we
17 agreed to.

18 MR. THOMAS: If I can run and copy this for Your Honor,
19 I'm going to give it to you now.

20 THE COURT: All right. But suffice it to say, no
21 dispute as far as the -- for the audio at the home.

22 MR. SHAFFER: That's correct, Your Honor. Based off of
23 our agreement. Just for the record, this is not the same
24 audio that would have been produced pre-trial.

25 MR. THOMAS: So, for that -- and I guess so the record

1 is clear. State's pre-trial Exhibit Number 1, I believe,
2 was USB drives with all of those statements on them. So,
3 that is in the record, the complete statements. So, these
4 time stamps that are on this sheet that I've handed Your
5 Honor to make a hard record are referring to the time stamps
6 that will be on that exhibit. Because what's going to happen
7 is when we break the clips up and stuff, the time stamps are
8 going to be different. But this is what we're talking about
9 on the pre-trial exhibit.

10 THE COURT: Well, I'm just trying to understand what I
11 need to look at, and what I don't need to look at. And I
12 don't need to concern myself with the audio at the home.
13 Okay. Now, is the interview, which was videotaped at the
14 Anderson Sheriff's Office. How many portions of that in
15 dispute that I need to look at?

16 MR. THOMAS: There is a one-minute portion, roughly one
17 -minute portion from 01:06:25 to 01:07:02. The Defendant is
18 objecting to 01:12:29 to 01:13:07 and then 01:15:22 to
19 01:15:24, so a couple seconds. And that's based on his
20 transcript.

21 MR. SHAFFER: And I can tell you the pages of the
22 transcript.

23 THE COURT: Okay, give me the notebook that you gave us
24 yesterday. Are you going to give me page numbers in that
25 notebook?

1 MR. SHAFFER: Yes, Your Honor. The first one that we're
2 going to talk about is from 60, page 60.

3 THE COURT: Page 60.

4 MR. SHAFFER: Of what would be the second section of
5 that notebook, which I'm not sure if we've actually marked
6 that as a Court's Exhibit.

7 THE COURT: We have not yet, and we need to. Let's do
8 this. Everybody be at ease for a few seconds. Just
9 everybody hold their thoughts.

10 (WHEREUPON, there was a brief pause in the trial.)

11 THE COURT: Let's go ahead and get that marked. I
12 guess that's going to be Court's Exhibit Number ---

13 COURT REPORTER: Court's Exhibit Number 4.

14 THE COURT: What are 1, 2, and 3?

15 COURT REPORTER: Court's 1 and 2 are the e-mail
16 rulings, and Number 3 is the call log from Anderson.

17 THE COURT: Okay, page 60, beginning with line 10
18 through what?

19 MR. SHAFFER: That would be to 61, line 3.

20 THE COURT: Okay, page 60, line 10 to page 61, line 3,
21 All right, the second in dispute, as far as the Anderson
22 interview?

23 MR. SHAFFER: It will be page 68, line 13 through 69
24 line 5.

25 THE COURT: And the next one in the Anderson interview.

1 MR. SHAFFER: That will be 72, lines 18 and 19.

2 THE COURT: Wait a minutes. Page 72, line 18 and 19. All
3 right. Anything else as far as the Anderson interview in
4 dispute?

5 MR. SHAFFER: There's nothing else.

6 THE COURT: All right and so we'll go now, I guess to
7 the Greenville interview.

8 MR. SHAFFER: And, Your Honor the Greenville interview,
9 the State is still on the fence about whether or not they're
10 going to use it. And that will be a fairly long thing and
11 they would use it on Friday.

12 MR. THOMAS: We would put that in through Investigator
13 Pittman, who would be towards the end.

14 THE COURT: We'll just hold off on that. So, I've
15 actually got three separate portions, if you want to call it
16 that, to have to look at. All right. I'm going to go back
17 in chambers. Y'all have a break and I'll take a look at
18 that.

19 MR. SHAFFER: Your Honor, can I -- let me express why
20 I'm objecting.

21 THE COURT: Well, what I want to do is let me look at
22 it first, and then I'll hear argument from both sides. I'll
23 better understand your argument once I -- and you want it
24 out, and you want it in. Let me look at it first, okay? -

25 MR. THOMAS: And Your Honor, I'm actually fine with the

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1 transcript, because the transcript is fairly accurate, so
2 I'm good with the transcript.

3 (WHEREUPON, off the record 11:08-11:24 a.m.)

4 THE COURT: We are back on the record. Let me hear from
5 the lawyers concerning the three portions of the Anderson
6 County interview that are still in dispute. Mr. Shaffer, do
7 you want to go first?

8 MR. SHAFFER: Your Honor, the primary objection I have
9 to these portions is where they're talking about the Cash
10 App he received from Angie, which was his girlfriend at the
11 time. I don't really have a problem with the fact that he
12 received a Cash App. I don't have a problem with the fact
13 that he went to a casino that day. What I do have a problem
14 with is the fact that by introducing this, essentially what
15 you're going to prove is that he lied to his girlfriend
16 about the reason for why he was asking for that Cash App.
17 That's what I don't want, and I think it's not relevant. I
18 think that those portions of it, and we can probably let a
19 little bit of this into it. I don't have a problem with the
20 fact that there's a Cash App, like I said, or the fact
21 there's an ATM. But the problem I have is the fact that he
22 got it specifically from his girlfriend, which will lead
23 them to be able to say later on in the case that he lied to
24 his girlfriend about why he got the Cash App. So, I would
25 object to any reference to the Cash App coming from Angie in

1 those sections. And we could probably include a lot of
2 those sections, just not that part.

3 THE COURT: All right, let me ask this, Solicitor. Is
4 the purpose for the State wanting these three excerpts in is
5 to show some sort of dishonesty between Mr. Spencer with
6 respect to Angie?

7 MR. THOMAS: No, Judge. The purpose for this is to show
8 that Mr. Spencer was running through, burning through money
9 at the casino that day, and that therefore he had motive to
10 take the -- to kill Ms. Cross and take \$2,500 from her,
11 which he did. And again, I think the Sharon View records, I
12 think, are probably coming in evidence anyway, which show
13 the Cash App transaction. So, I think this would also
14 bolster that evidence as well, in terms of the reliability
15 and credibility of that evidence.

16 THE COURT: All right. Okay. All right.

17 MR. THOMAS: So, not for any 404 purposes, but for
18 motive and identity.

19 THE COURT: I know that there will be some evidence, I
20 think, coming in with respect to money taken out of Mrs.
21 Cross's account. So, are -- just trying to get my arms
22 around this. You're wanting to show okay, Mr. Spencer. You
23 took "x" number of dollars out of Ms. Cross's account to
24 fuel your gambling, and then you're taking money from
25 Angie's Cash App to continue to fuel your gambling. Is that,

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1 kind of, a simplistic way of defining the State's position
2 on this?

3 MR. THOMAS: I think it's more to show that he has no
4 money. If you look at those Sharon View accounts, both of
5 them are in the red. The First Citizen's account we have is
6 in the red. It's to show that he has no money and he's
7 burning his money gambling, so he has to get money from
8 Angie. And then even after he gets the money from Angie,
9 that transaction occurs. It looks like there's a \$413 Cash
10 App transaction on the 9th. He then takes \$365.00 out of
11 ATM, \$3.00 out of the ATM, transfers some of it around. So,
12 on the 9th, his closing balance is zero. And then he takes
13 another withdrawal. So, I do need to correct that. He has
14 a zero balance in that one account. So, again, on the 9th,
15 he has a zero balance on this account. He has a negative
16 balance on the First Citizen's account, even after Angie has
17 sent him money. Therefore, kills Ms. Cross, takes her
18 \$2,500.

19 MR. SHAFFER: Your Honor, here's what I don't get about
20 this. It is a 404 issue. It's a 403 issue and I will make
21 an objection as well. What I don't get about this is why
22 the fact that Angie sent him the money is, in any way,
23 relevant whenever they have a bank record showing that he's
24 a zero balance. I don't see why the fact that Angie sending
25 him money is probative of anything. And the prejudicial

1 effect of the fact that he lies to this lady to get her to
2 send him money is a lot higher than any probative value,
3 considering the fact that they're getting in bank records. I
4 don't think they have a real good objection for why they
5 can't get it in his bank records.

6 THE COURT: I mean, I can see -- to some extent I can
7 see okay, Mr. Spencer, you took that \$2,500 from Ms. Cross's
8 account to, you know, fuel your gambling, but from him
9 needing more money, so he goes to Angie and gets more money
10 from Angie. I'm just not seeing the connection of the cash
11 out.

12 MR. THOMAS: Your Honor, the Cash App would have been
13 before he took the money from Ms. Cross.

14 THE COURT: Oh, okay. Well then, I'm going to not allow
15 that in, those three portions in.

16 MR. THOMAS: We will redact 01:06:25 through 01:07:02.

17 MR. SHAFFER: And the other ones are basically the
18 same.

19 THE COURT: Yeah, since it was before, then I mean, I
20 think that further supports my ruling. So, I'm going to
21 grant Defense motion. We did all this argument without your
22 co-counsel here, Mr. Shaffer.

23 MR. SHAFFER: It's fine, Your Honor.

24 MR. THOMAS: I think the argument is slightly different
25 for the 01:12:29 to 01:13:07. I mean, maybe that last, you

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1 know -- out of an abundance of caution, I'm going to
2 interpret your ruling as redact that as well. Let's do that.
3 Now, the other different one is going to be, those are the
4 only -- that's all.

5 THE COURT: So, just so I'm clear, and the record is
6 clear, page 60, line 10 to page 61, line 3. Page 68,
7 line 13 to page 69, line 5. Page 72 line 18 and 19. Those
8 will be redacted.

9 MR. THOMAS: Yes and Your Honor that's 1:06:25 to
10 1:07:02, 1:12:29 to 1:13:07 and 1:15:22 through 1:15:24.

11 THE COURT: So long as you can match up those times
12 with the page number and line in the transcript. As long as
13 you can do that, then you're good.

14 MR. THOMAS: Mr. Simmons is processing that right now.

15 THE COURT: Do we want to wait for him to finish that
16 before we put up Detective Cash, or how you want to do it?

17 MR. THOMAS: We can, Your Honor. The initial statement
18 is fairly early. I think, for the record, Your Honor,
19 they're telling me they're waving any Denno objections.

20 THE COURT: Sir?

21 MR. SHAFFER: We're not raising any Denno argument. Even
22 though we did the hearing, we're not raising any argument.

23 MR. THOMAS: Also, just while we're here on the record
24 before the jury comes in, so we don't have to send them back
25 out. I'm going to move to evidence his two cell phones.

1 State's Exhibit 60 and 65. I'm going to present those in
2 front of Detective Cash.

3 THE COURT: What I will do when jury is back in when
4 it's time to play the interviews I will find for the record
5 per agreement that the statements made by Mr. Spencer were
6 voluntarily made and that Miranda was complied with, so that
7 will be consistent with, you know, my charge includes that
8 since I have found that the statement was voluntarily made
9 and Miranda complied with, but they are the ultimate
10 determination.

11 MR. THOMAS: I don't know if we need to be on the
12 record for this, but that's, I mean, I was sort of bouncing
13 that back and forth because you know we used to we used to
14 have to prove voluntariness as part of case and now there's
15 that new case out that says that's not ---

16 THE COURT: Right.

17 MR. THOMAS: I'm still going to put the Miranda forms
18 and all that into evidence.

19 THE COURT: Sure, that's fine, that's fine.

20 MR. THOMAS: That's sort of how I've always done it.

21 THE COURT: The Defense has the right to stipulate to the
22 voluntariness and the compliance with Miranda.

23 MR. THOMAS: Your Honor, just so the record is clear,
24 what we're going to do, Mr. Simmons is going to put those
25 finished documents, those finished audio and video files,

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1 onto a jump drive, because that's how we usually play those
2 on the board anyway. I'm going to go ahead and move the
3 exhibits in through Detective Cash just in front of the
4 jury. The disks that are currently in these packages have
5 the full statements on it with no redactions. I'll burn
6 those to a disk at our next break and I'll replace them and
7 I'll just put that on the record that we've done that so
8 that's clear.

9 THE COURT: Very good. Thank you.

10 MR. THOMAS: It's going to be 63 and 64.

11 (WHEREUPON, jury entered the courtroom at 11:53 a.m.)

12 THE COURT: Thank you, ladies and gentlemen, we got
13 through what we had to get through, so we're ready to start
14 back up. Thank you for your patience. Solicitor, call your
15 next witness.

16 MR. THOMAS: The State calls Kendall Cash.

17 WHEREUPON, Kendall Cash, having
18 first been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. THOMAS:

21 Q Investigator Cash, where do you work?

22 A I work for the Anderson County Sheriff's Office.

23 Q What do you do there?

24 A Currently I'm a Sergeant in the Investigations Division
25 over the Special Victims Unit.

1 Q And what, I guess, what's your day-to-day role there?

2 What's your -- what does an investigator do?

3 A So I supervise all the child and adult sex crimes,
4 homicide investigations, and I actively work cold case
5 homicide investigations.

6 Q And just what does an investigator do normally, like
7 what's your general day-to-day?

8 A You're assigned cases. You go out in the field and make
9 contact with witnesses, victim, suspects, and work a case
10 from beginning to end.

11 Q And what kind of education, training, experience do you
12 have? I guess, what kind of education and training do you
13 have to be an investigator?

14 A I have a master's degree from Anderson University's
15 Command College for Law Enforcement. I have advanced and
16 basic homicide investigation ---

17 MR. SHAFFER: Your Honor, we're having a little trouble
18 hearing.

19 THE COURT: Okay, is that microphone on?

20 WITNESS: Oh, I think it is now.

21 Q So education and training?

22 A Yes, sir. I have a master's degree from Anderson
23 University's Command College for law enforcement. I have
24 basic and advanced certifications in homicide investigations
25 from the Southeastern Investigative Group.

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1 They train law enforcement throughout the lower part of
2 America. I have a supervision degree from ---

3 THE COURT: They're still having problems. I know,
4 Solicitor, you adjusted the volume yesterday. Maybe you
5 need to check it to see.

6 THE COURT: Somebody has monkeyed with it, Your Honor.

7 COURT REPORTER: Just speak louder and project.

8 WITNESS: Is that better?

9 THE COURT: Let's try it again.

10 MR. THOMAS: Your Honor, there's a red flashing light,
11 so I wonder if the technology is quitting on us. If you pull
12 it a little closer to you, I think it works a little better.
13 And there's a little, I don't know, the jury is distracted
14 by that background. Are we good?

15 Q Where were we. You've got a bunch of training and a
16 bunch of certifications to be an investigator. How long
17 have you been an investigator?

18 A About six and a half years.

19 Q Before that, you just rode patrol?

20 A Yes, sir.

21 Q All right. Well, let's skip ahead then. Were you
22 working as an investigator on December 14, 2021?

23 A I was.

24 Q And did you get called out to a scene on Cumming Spring
25 Road in Anderson?

1 A I did.

2 Q Describe for us that area where Cumming Spring Road is.

3 A So it would be going south toward Georgia on 81 South
4 in Anderson County. It would be in the Iva-Starr area of
5 Anderson County. Cumming Spring Road, 110 will be on the
6 left off of 81 South. That area was overgrown and vegetation
7 was overgrown. It's a house that was for sale. Last person
8 who lived in it was around 2007.

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

10 THE COURT: The last person that lived in this house in
11 the area where the body was found was 2007.

12 MR. SHAFFER: Your Honor, I don't think that he can
13 testify about that.

14 THE COURT: Well, does it really matter.

15 MR. SHAFFER: It doesn't really matter, however it is
16 hearsay, Your Honor.

17 THE COURT: Okay. Don't testify to what somebody told
18 you as far as the last occupant of the house on this
19 property.

20 MR. THOMAS: I will note, Your Honor, that I believe
21 Mr. Holley said they were purchasing the property. So,
22 we're good on that.

23 Q Anyway, you said the property was overgrown.

24 A Yes, sir.

25 Q The pictures that we saw from Investigator Ables

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1 earlier, that depicts, sort of, what the scene looked like
2 there?

3 A Yes, sir.

4 Q Basically what we would call an abandoned house.

5 A I would say so.

6 Q What did you do when you got to that scene?

7 A The first thing I did was make contact with the
8 original responding deputies who were already there before I
9 got there. I called my supervision at the time, Sergeant
10 Call and Lieutenant Russell, with Anderson County Sheriff's
11 Office Investigations Division. Made sure the crime scene
12 tape is up and then try to find witnesses, get them
13 separated and start interviewing witnesses or complainants.

14 Q So, that's usually -- would those be your sort of your
15 first steps in any investigation like this?

16 A Yes, sir.

17 Q Based on all that, did you guys have a suspect or any
18 person of interest at that time?

19 A Not at that time.

20 Q Without telling me how, did y'all eventually develop a
21 suspect or a person of interest, I guess, is a better word?

22 A Eventually, yes.

23 Q And who was that?

24 A The Defendant in the courtroom to my left is Timothy
25 Paul Spencer.

1 Q Once you develop that information, what did you do?

2 A Do you want me to --

3 Q As far as contacting Mr. Spencer.

4 A We went back to the Sheriff's Office from 110 Cumming
5 Spring Road to make contact with the detectives coming from
6 Laurens County. And they had some information about some
7 work that had been done for the victim's residence in
8 Fountain Inn at -- I can't remember, maybe Tullyton Drive, I
9 think was the address. And that led them in their
10 investigation to the Spence's HVAC business. And Ms. Billie
11 Jean Cross had work done on her house for a furnace. And it
12 was through ---

13 MR. SHAFFER: Objection, your Honor. This is all
14 hearsay. I mean, he doesn't have personal knowledge of this.

15 MR. THOMAS: I think we can move along from it, Your
16 Honor.

17 THE COURT: He's going to move along.

18 Q Anyway, so did y'all eventually go to Mr. Spencer's
19 house?

20 A We did.

21 Q And where was his house at?

22 A It was [REDACTED].

23 Q And that's in Anderson County?

24 A It is in Anderson County.

25 Q About how far is Trump Pointe from Cumming Spring Road?

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1 A It's not exact, but I would say ten to fifteen minutes
2 of a drive.

3 Q So, a short drive?

4 A It's not too long.

5 Q When you arrived at his house, who all was there?

6 A Besides law enforcement, it would have been just
7 Timothy and Angie Atkins.

8 Q Did you speak with Mr. Spencer on scene there at his
9 house that night?

10 A I did.

11 Q And before you spoke to him, did you advise him of what
12 we would generally we call them Miranda Rights. Did you go
13 over those with him?

14 A Yes, I did.

15 Q I'm going to show you State's 59.

16 MR. SHAFFER: No objection, Your Honor.

17 THE COURT: State's 59 into evidence for the State.

18 Q What is State's 59?

19 A That is a photocopy of the Miranda card I keep in my my
20 wallet when I work.

21 Q And you would have read him his rights off of that?

22 A Yes, I would have.

23 Q Just generally, just read us generally what that is.

24 A It's just a Miranda warning. It's a card that has

25 Clemson University Police on the front, and then on the back

1 it has a Miranda warning. It's number one, you have the
2 right to remain silent. Anything you say can and will be
3 used against you in a court of law. You have the right to
4 talk to a lawyer and have him or her present with you while
5 you're being questioned. If you cannot afford to hire a
6 lawyer one would be appointed to represent you before any
7 questioning if you wish. You can decide at any time to
8 exercise these rights and not answer any questions or make
9 any statements. And it has the word "waiver" at the bottom,
10 and underneath that it says, do you understand each of these
11 rights as I've explained to you? Having these rights in
12 mind, do you wish to talk to us now?

13 Q And after explaining that, did he seem to understand
14 all that when you were talking to him about it?

15 A He did.

16 Q After informing him of those, did he agree to speak
17 with you there?

18 A He did.

19 Q While y'all were there, I'm going to, kind of, jump
20 around so we can come back and play that statement, but did
21 you ask him about any electronic devices he may have?

22 A I did.

23 Q What did you ask for or from him?

24 A It would have been a question of we asked whether he
25 had devices, like a cell phone, something like that, and if

- 1 we could look through those devices he had.
- 2 Q And did he tell you that he did have cell phones?
- 3 A He did.
- 4 Q How many?
- 5 A Two.
- 6 Q And what did he use those two cell phones for? What's
- 7 the difference in the two?
- 8 A One was personal and one was for work.
- 9 Q Did you ask for permission to basically search those
- 10 cell phones to go through them to dump them?
- 11 A Yes.
- 12 Q Did he give you permission for that?
- 13 A Yes. He told us we could pull up anything we wanted.
- 14 Q Where was -- let's start with his personal cell phone.
- 15 Where was his personal cell phone located?
- 16 A The personal cell phone was in his pocket, on his
- 17 person.
- 18 Q Okay. So, you took that from him while you were there
- 19 with him?
- 20 A Yes.
- 21 Q Where was his work cell phone?
- 22 A That was somewhere located in the residence.
- 23 A How did you end up getting that?
- 24 A He asked Angie on scene to get that for us and she did.
- 25 Q So, if I show you -- I'm going to show you starting

1 with -- you can look at and tell me. State's number 60.

2 What is State's number 60?

3 A State's Number 60 is under our case number in Anderson
4 Barcode 1217968. It's a Motorola smart phone in case. It's
5 a Moto G phone which would be his personal phone on his
6 person that we got from him.

7 Q So, that's the actual phone. You opened that up
8 earlier and looked at it.

9 A Yes.

10 Q So you confirmed that's the phone you took off of him?

11 A Yes.

12 MR. THOMAS: Your Honor, at this time the State would
13 move 60 into evidence.

14 MR. SHAFFER: Without objection.

15 THE COURT: Without objection, 60 into evidence.

16 Q I'm going to show you State's 65. What is that?

17 A That is under our same case number for Anderson,
18 barcode 1217967. It's a Motorola smartphone in a bluish in
19 color phone case. It's a Moto E, which would be his work
20 cell phone taken from the residence.

21 Q And that's the cell phone y'all got from him that
22 night?

23 A Yes.

24 MR. THOMAS: At this time, Your Honor, the State would
25 move 65 into evidence.

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1 MR. SHAFFER: No objection.

2 THE COURT: Without objection, 65 into evidence for the
3 State.

4 Q Did you have any kind of recording device with you
5 while you were there at Trump Pointe with him?

6 A I did. It's the standard issue. Anderson County
7 Sheriff's Office gives detectives a recording device once
8 they're promoted to investigations.

9 Q Did you record your conversation with him that evening?

10 A I did, in full duration.

11 Q All right, so let me show you State's 64. What is State
12 64?

13 A State's 64 is a CDR disk of my interview, recorded
14 interview with him that night at Trump Pointe.

15 MR. THOMAS: Your Honor, at this time, subject to what
16 we discussed earlier, the State would move 64 into evidence.

17 MR. SHAFFER: No objection.

18 THE COURT: Without objection, 64 into evidence for the
19 State. Solicitor, about how long is this audio interview
20 roughly?

21 MR. THOMAS: 14 minutes. No, the audio is about 28,
22 about 29 minutes.

23 THE COURT: All right. If anyone on the jury has a hard
24 just raise your hand, okay?

25 (WHEREUPON, a portion of Exhibit 64 was published to

1 the jury.)

2 Q Detective Cash, that audio, you said you recorded that
3 on a handheld recorder?

4 A Yes.

5 Q Just had it in your pocket. Is that why it's kind of
6 scratchy?

7 A Yeah.

8 Q Because of the, I guess, the quality of that audio
9 wasn't great, did y'all have another opportunity to speak
10 with Mr. Spencer?

11 A We did.

12 Q Where was that?

13 A That was at the Anderson County Sheriff's Office.

14 Q So you went back to the Sheriff's Office and had, I
15 guess, a more formal interview in there?

16 A We did.

17 Q Prior to that interview, did you go over his Miranda
18 rights with him again?

19 A Yes, I did.

20 Q Let me show you State's 61.

21 MR. SHAFFER: No objection, Your Honor, and we'll
22 stipulate that the -- as we discussed, we're stipulating to
23 the statement being voluntary and Miranda being compliant.

24 MR. THOMAS: Let me just cover two hurdles then.

25 Q State's 61. Y'all spoke with him on the 14th at the

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1 Anderson Sheriff's Office?

2 A Yes, we did.

3 Q And you advised him of his Miranda rights, he signed
4 the form waiving them?

5 A Yes, he did.

6 MR. THOMAS: The State would move 61 into evidence.

7 THE COURT: Okay, into evidence for the State.

8 Q And you spoke to him again on the 16th as well at a
9 different location?

10 A Yes.

11 Q He waived his rights and spoke to you then as well?

12 A He did.

13 Q 62 is the Miranda form from that one?

14 A Yes.

15 MR. THOMAS: 62 into evidence.

16 THE COURT: Okay, 62 into evidence.

17 Q Showing you State's 63. What is State's 63?

18 A State 63 is a DVD-R disk of our interview with Timothy
19 Spencer at the Anderson County Sheriff's Office.

20 Q And that accurately represents the interview y'all did
21 with him there?

22 A Yes.

23 Mr. THOMAS: Your Honor, I'd move 63 into evidence at
24 this time.

25 MR. SHAFFER: Pursuant to our agreements and objections,

1 Your Honor.

2 MR. THOMAS: That's the lengthy one.

3 THE COURT: Right. 63 into evidence. Ladies and
4 gentlemen, it's been stipulated to, and the Court so finds,
5 that the three interviews or statements made by the
6 Defendant in the three interviews were voluntarily made by
7 him and that Miranda was complied with. And I'll charge you
8 this at the end of the case. The ultimate decision
9 concerning the voluntariness of the Defendant's statements
10 rests with you, but the Court so finds, insofar as it being
11 admitted into evidence, based upon the stipulation from the
12 attorneys that the statements made in the three interviews
13 were voluntarily made by the Defendant. And that Miranda
14 was complied with. Miranda being, you have a right to
15 remain silent, you have a right to a lawyer as Detective
16 Cash explained earlier, okay? Now, with that said, we're
17 going to go ahead and take our lunch break because the next
18 interview is going to be a little longer than this first
19 interview as I understand it. So, this will be a good time
20 to break for lunch. Be back at 2:00 and we'll push forward.
21 Have a good lunch. Remember about if you're at a local
22 restaurant, have your juror badge visible. Have a good
23 lunch and see you back at 2:00. I ask the families to remain
24 until the jury exits the courtroom.

25 (WHEREUPON, the jury exited the courtroom. A lunch

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1 recess was held from 12:07 p.m. - 2:15 p.m.)

2 THE COURT: I hope you had a good lunch, ladies and
3 gentlemen. We're ready to get back to work. We're in the
4 middle of Officer Cash's direct testimony. Solicitor.

5 DIRECT EXAMINATION

6 BY MR. THOMAS:

7 Q Detective Cash before we broke for lunch, we talked
8 about an interview conducted with Mr. Spencer. This was --
9 where was this at again?

10 A This would be at the Anderson County Sheriff's Office.

11 Q And just to be clear, he was not under arrest for
12 murder at this time.

13 A No, he was not.

14 (WHEREUPON, Exhibit published to jury.)

15 Q Detective Cash, I know there's a lot going on in those
16 Statements. I just want to back track and ask you a couple
17 things that he said. What vehicle did he tell you he was
18 driving to the casino that day?

19 A It was a black truck.

20 Q And when you went out to his house, was there a black
21 truck there?

22 A There was.

23 Q What kind of truck was it?

24 A It's a Dodge Ram.

25 Q I also think you had an opportunity in that truck there

1 were some bank records or some checks in that truck. What
2 bank did he bank with?

3 A I believe it was First Citizens.

4 Q Going back to this Statement, he said, where did he
5 tell you he was at when the victim called him initially?

6 A Trying to recall.

7 Q He said he missed a phone call from her. Do you
8 remember where he said he was?

9 A I can't remember.

10 Q It was just a couple of long statements. Do you
11 remember him saying he was at the casino and she called, or
12 driving back from the casino?

13 A Yes, yes.

14 Q Something in that area?

15 A Yes.

16 Q And then where did he say he was when he called her
17 back?

18 A I think he said he was near 221 in like Chesnee area.

19 Q So Chesnee, Gaffney that area?

20 A Yeah.

21 Q And how did he tell you she paid him for whatever work
22 he said she owed him?

23 A She wrote a check. I believe.

24 Q How did he say she paid him for the new stuff? If you
25 don't remember the name of the app, you just -- it's fine.

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1 A It was -- I know it's not choice home. It was a home
2 source pro or ---

3 Q House Call Pro?

4 A Yeah.

5 Q And did he ever admit to y'all in that statement that
6 he went to her residence that day?

7 A No.

8 Q But he did admit to you that he went to her house. He
9 told you that he went to her house a few weeks ago to do
10 some measurements?

11 A Yes.

12 Q And he was able to provide you -- would you say he was
13 able to provide you a lot of details about what he did on
14 December 9?

15 A Yes, I would say he provided a lot of detail.

16 Q Did he have that much detail to give you about what he
17 did when you asked him about December 10?

18 A No.

19 Q Following up on these interviews, I know one of the
20 things he said to you was that he went to a relative's house
21 in Clemson. Did you ever go to try and see if you could
22 contact anyone there?

23 A Yes, we went that night.

24 Q Were you able to get in touch with everybody? Did you
25 ever find anybody there who will talk to you about this?

1 A No. We left a business card on the front door, knocked
2 several times. Nobody came to the door, and I still haven't
3 heard from anybody from that residence.

4 Q Did you have an opportunity to interview Ms. Angie that
5 lived with him?

6 A Yes.

7 Q Without going into anything she told you, after you
8 interviewed her, did she give you any further information
9 about -- that you felt like was relevant to where he was
10 that day or what he was doing? Was she able to offer you
11 any information about what he was doing that day?

12 A She could not provide too much ---

13 MR. SHAFFER: Objection, hearsay.

14 THE COURT: Well, he's not quoting what she said, so...

15 MR. THOMAS: Yeah, and I think what I'm getting at is
16 why didn't he follow up with anything she was told him?

17 THE COURT: I think the question was, did she provide
18 any information as far as what Mr. Spencer did that day?
19 And I think he started to say no, but I'm not trying to
20 answer for Detective Cash.

21 MR. THOMAS: That's the end of that inquiry for me.

22 THE COURT: What was your answer to that, Detective
23 Cash?

24 WITNESS: There was no detail provided.

25 THE COURT: Okay, that would not be hearsay. I overrule

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1 the objection.

2 Q Do you remember what the next break in your case was?

3 A So, that was the night of December 14. I believe it
4 would been the next day.

5 Q What was that?

6 A Laurens County had asked for permission to come into
7 Anderson County to search for a trash can.

8 Q Did they locate trash can idea?

9 A They did.

10 Q Do you remember the company that the trash can belong
11 to?

12 A It was Powell's.

13 Q Where did they locate that trash can?

14 A That was on Cleveland Road near Richland Drive, I
15 believe, or Road.

16 Q As the crow flies, how far away would you say that is
17 from Mr. Spencer's residence on Trump Pointe?

18 A I would say a quarter of a mile.

19 THE COURT: How far did you say? I'm sorry?

20 WITNESS: About a quarter of a mile.

21 Q Drive time, how far away?

22 A Less than a minute, minute 30.

23 Q Basically around the corner?

24 A Yes, sir.

25 Q I know we talked about it briefly before lunch, but you

1 went with Detective Pittman and conducted the third
2 interview with Mr. Spencer.

3 A Yes, we did.

4 Q We'll talk to Detective Pittman about that, but
5 needless to say, he voluntarily talked to you during that
6 third interview as well?

7 A He did.

8 Q Did you ever get an opportunity to review any GPS
9 records from his truck?

10 A I don't recall reviewing. I know I did. I can't recall
11 it in my mind right now, actually seeing it. But I know I
12 received them, because I followed the coordinates that I
13 received.

14 Q So you went back through and followed his path?

15 A I did.

16 Q And again, without going into what that information is,
17 you went to that -- you went to that -- based on that
18 information, you went to you went to Cumming Spring Road?

19 A Yes.

20 Q And you went to Cleveland Drive?

21 A Yes.

22 Q While you were following up on the truck GPS?

23 A Yes.

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

25 THE COURT: Sure.

Kendall Cash-Cross-Examination

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1 MR. THOMAS: Detective Cash, I appreciate your time
2 today. I'll let you answer any questions the Defense may
3 have.

4 THE COURT: Mr. Shaffer, do you anticipate your cross-
5 examination to be rather lengthy?

6 MR. SHAFFER: More than 30 minutes.

7 THE COURT: Okay, let's go ahead and take a short
8 afternoon break, because we've been at it now for about
9 about an hour, almost close to an hour and a half. So,
10 let's take a short afternoon break and get you back in and
11 we'll proceed forward.

12 (WHEREUPON, the jury exited at 3:24 p.m. and a break
13 was held. The jury entered the courtroom at 3:43 p.m.)

14 CROSS-EXAMINATION

15 BY MR. SHAFFER:

16 Q Is it Sergeant Cash or Investigator Cash?

17 A It's Sergeant Cash now.

18 Q Sergeant Cash. Because you're actually an investigative
19 supervisor, correct?

20 A Yes, sir.

21 Q Because of the fact that this investigation was done
22 through Laurens primarily, but then Anderson assisted,
23 correct?

24 A Yes, sir.

25 Q You're the primary person for Anderson, correct?

1 A Yes, sir.

2 Q Kind of like the co-lead investigator along with Mr.
3 Pittman right?

4 A Yes, sir.

5 Q Okay, and that's why you're at counsel table and
6 everything like that, right?

7 A Yes, sir.

8 Q Okay. I'm going to bring you back where you said that
9 when you found the body, there was a question asked about
10 whether or not you had a person of interest at that time.
11 Now, can you tell me the difference between a person of
12 interest, and a suspect, and a Defendant?

13 A I can start at the end. The Defendant would be the one
14 that is charged, obviously, in the courtroom today. A
15 person of interest would be somebody we would be looking at
16 for one reason or another, like in this case, but he started
17 out as a person of interest. A suspect would be we have
18 more than that. We're not to probable cause yet, but that's
19 the way this is going. That's the way it's leading.

20 Q And you said initially you didn't have a person of
21 interest. You ended up having a suspect once Laurens got
22 involved, right, or when Laurens contacted you?

23 A Yes, sir.

24 Q Okay, but -- and I'm not asking you what anyone said,
25 okay, but whenever people in that community found out that

1 that y'all had found the body of a lady, there were several
2 people who came forward with potential persons of interest
3 that you excluded, right?

4 A Yes, sir.

5 Q Okay. But for one reason or another, you excluded them,
6 in your opinion, they were not in any way involved in this,
7 right?

8 A Yes, sir.

9 Q There were actually, I guess, three people in two
10 different situations that people said may be a person of
11 interest, but you excluded those people as being involved,
12 right?

13 A I think -- and the way I remember it from the report
14 was there were a couple of people they have identified as
15 the victim walking around on surveillance camera, but we did
16 exclude those people as being Ms. Cross.

17 Q Okay, and there was also, well, hearsay works two ways.
18 I can't very well ask you too much about that, but there
19 were at least two people who reported to you that there may
20 have been a different person of interest, right?

21 A Yes, sir.

22 Q Okay. Now, when you got to the crime scene you there's
23 things in your report about getting past the tape and
24 walking through the tape.

25 A Yes, sir.

1 Q Tell us why the tape is important to the crime scene.

2 A So the tape, you know, when we first arrived, the tape
3 is important to keep civilians away from the crime scene,
4 and not just civilians, but other people who were not
5 involved in the investigation who were law enforcement at
6 EMS or the coroner's office at that point in time, away from
7 the crime scene. So, when I'm walking through the crime
8 scene originally, initially, I walked with Deputy Jackson,
9 Bryce Jackson, and he showed me where the body was located.
10 We pulled the blanket back and then put it back and walked
11 back out. And that's what we did.

12 Q And that tape, obviously, was put up by the initial
13 responding deputies of Anderson County who wanted to make
14 sure that crime scene was preserved, right?

15 A Yes, sir.

16 Q Okay, and that's sort of like standard 101. You get to
17 a big crime scene, that's what you do, right?

18 A That should always be done, yes.

19 Q And I'm going to ask you a couple things about some
20 tire impressions. As an investigator, your job's not
21 necessarily to collect tire impressions, right?

22 A No, that would not be my role.

23 Q Y'all have crime scene investigators in Anderson County
24 that do that, correct?

25 A Yes, sir.

1 Q And your job is not to analyze the actual tire
2 impressions, right?

3 A It's not.

4 Q That's the job of people like the expert at SLED to do,
5 right?

6 A Yes, sir.

7 Q Okay. But whenever someone from crime scene is out
8 there taking a tire impression, or marking pieces of
9 evidence in your crime scene, you generally have an idea of
10 where those things are right?

11 A Generally, yes.

12 Q Okay. Now, I'm going to show you Defendant's 12. This
13 has been moved into evidence already. Defendant's 12, what
14 are those little yellow things?

15 A Just evidence placards, marking a piece of evidence
16 that we would find, maybe or maybe not prudent, to the case
17 we're investigating.

18 Q And there's three of them in that, correct?

19 A Yes, sir.

20 Q Okay, and then there's that crime scene that we talked
21 about, right?

22 A Yes, sir.

23 Q That's that yellow line. And that's the roadway right
24 there, near where the body was found, correct?

25 A Yes, sir.

1 Q And the body would have been found. If you don't mind,
2 look at that board behind you. Can you orient us generally
3 to where the body would have been found, in comparison to
4 those?

5 A It would have been off. And I can't tell you, I
6 generalize this, but this is the house. It would have been
7 to the left of the house, back in the woods. I think we
8 said about 67 feet off the roadway to the left here.

9 Q Okay. Now, I'm going to show you Defendant's 13 first.
10 And it's sort of hard to see, but right in that little
11 corner there, there's a 1. Does that correspond to that 1
12 placard from the previous picture?

13 A Just to clarify, sir, are you talking about this here?

14 Q Yes, sir. It's covered up by where we took a screen
15 shot.

16 A I can assume it's number one. I can't really make out
17 the number, but I would assumed that's a one.

18 Q Okay. It looks about like where it would have been,
19 where the one placard would have been in Defendant's 12,
20 right?

21 A Yes, sir.

22 Q And I'm going to show you Defendant's 9. I'm sorry, I
23 need to look at the number in the back of that. It's 46.
24 Defendant's 9. Does that appear to be the 3 placard from
25 Defendant's 12?

- 1 A Yes, sir.
- 2 Q Okay. So, we've got one, two, and three, which those
- 3 are -- one and three appear to be tire marks, correct?
- 4 A Yes, sir.
- 5 Q Okay, and then it's right over in this old home that I
- 6 think had been abandoned basically. I think that's what has
- 7 been testified to right?
- 8 A Yes.
- 9 Q Basically abandoned.
- 10 A Yes, sir.
- 11 Q And it's pointing right off the roadway there, correct?
- 12 A Yes, sir.
- 13 Q Near where the body was found?
- 14 A Yes, sir.
- 15 Q And being an investigator, do those seem like they may
- 16 have something to do with the fact that there's a body
- 17 there, correct?
- 18 A They may, yeah.
- 19 Q And that's why y'all and collected them, correct?
- 20 A Yes, sir.
- 21 Q Okay. And that's why you sent them to SLED, correct?
- 22 A Yes, sir.
- 23 Q Now, other things that were documented -- you saw that,
- 24 or were you present when nail scrapings were taken from the
- 25 victim?

1 A I documented it in my report, so -- I can't
2 specifically remember, but I believe I would have been.

3 Q But nail scrapings definitely were taken?

4 A They were. Yes, sir.

5 Q Why do you use direct people to take nail scrapings?

6 A So, we direct people to take nail scrapings for any DNA
7 or other trace evidence could be under their nails for a
8 defensive wound or any kind of attack or, you know, any
9 evidence that could be under the nails.

10 Q Okay. And like, for example, if a lady is being
11 strangled she might scratch somebody, correct?

12 A It's possible, yes.

13 Q Okay. And nail scrapings were taken to figure out if
14 there's any DNA under her fingernails, right?

15 A Yes, sir.

16 Q And sometimes whenever you have a suspect you may look
17 at them and figure out, hey, do they have any wounds on them
18 from someone defending themselves, right?

19 A Yes, sir.

20 Q And you did that in this case, right?

21 A Yes, sir.

22 Q Specifically, you did that with Mr. Spencer in this
23 case, correct?

24 A Yes, sir.

25 Q You actually took pictures of his arms, correct?

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- 1 A Yes, sir.
- 2 Q Both sides, correct?
- 3 A Uh-huh.
- 4 Q Had him lift up his shirt, correct?
- 5 A Yes, sir.
- 6 Q To make sure that you've got all of his arms and figure
- 7 out if there's any scrapings on it, correct?
- 8 A Yes, sir.
- 9 Q Did you find anything consistent with scrape marks from
- 10 nails on him?

1 A I do not -- I don't think we did, no.

2 Q This isn't the first homicide case you've testified in,
3 correct?

4 A It's the first that has went to trial.

5 Q Oh, really? Okay.

6 A Yes, sir.

7 Q It's not the first case you've testified in.

8 A Not the first case, no.

9 Q Okay. It's fair to say that a piece of evidence, like a
10 scraping on someone's arm that looks like that would likely
11 be introduced by the prosecution if it was in existence?

12 A Yes.

13 Q Now, I'm going to fast forward a little bit to the
14 incident involving where you went out to assist Laurens
15 County with locating the trash can.

16 A Okay.

17 Q Laurens County located the trash can; correct?

18 A Yes, sir.

19 Q And then you went out there, after they located it, to
20 see where it was at, correct?

21 A Yes.

22 Q And I think you testified it was a quarter of a mile as
23 the crow flies; correct?

24 A Yes, sir.

25 Q And that's obviously approximate, correct?

1 A Yes, sir.

2 Q You didn't, like, go measure it on Google Earth or
3 anything, right?

4 A No, sir.

5 Q But it's fair to say it's wooded and there's a creek in
6 between his house and where the trash can was found, right?

7 A There is, yes.

8 Q Okay, and I think the State referred to it as being
9 around the corner, but actually it's around the corner and
10 then down approximately a mile down the road, right? Eight
11 tenths of a mile.

12 A It's something around there.

13 Q Okay, so if you were driving there, you may be able to
14 get there in a minute or two if you're going, you know, 50,
15 60 miles an hour, but if you're going around a corner and
16 going down the road about an eighth of a mile, correct?

17 A You would be making a turn, yeah.

18 Q Okay. That trash can that we talked about --

19 MR. SHAFFER: Court's indulgence. Sidebar, Judge?

20 (WHEREUPON, a sidebar was held with jury present, but
21 out of the hearing of the jury.)

22 Q I'm going to show you Defendant's Exhibit 14. Feel free
23 to step down. This is the trash can, right?

24 A Yes, it is.

25 Q This is the trash can that you saw on the side of the

1 road there where Laurens County found it, but you came out
2 and saw it, right?

3 A Yes, sir.

4 MR. SHAFFER: I'd move Defendant's Exhibit 14 into
5 evidence.

6 THE COURT: Okay.

7 MR. THOMAS: It was going to be my exhibit later
8 anyway, Judge, so no objection.

9 THE COURT: Okay. Without objection, 14 for the Defense
10 and then I think it has a State sticker on it as well.

11 MR. THOMAS: It was going to be State's 78, Judge, but
12 I will just, since it's already in evidence.

13 THE COURT: Thank you.

14 Q Now, when you came out there and first made contact
15 with Mr. Spencer -- we'll go from there, okay? You said that
16 there was Mr. Spencer, Angie, his girlfriend, there and you
17 said other than law enforcement those two were there.

18 A Yes, sir.

19 Q How many law enforcement officers were out there?

20 A I would say at least eight to ten, maybe more than
21 that.

22 Q So eight to ten people came out there to arrest Mr.
23 Spencer and take him in, right?

24 A (NO VERBAL RESPONSE)

25 Q And that resulted in the conversation y'all had,

1 correct?

2 A Yes, sir.

3 Q Okay. And when y'all went out there, I think that you
4 said that -- and it's a State's Exhibit, but that there were
5 two phones given to you out there, right?

6 A Yes, sir.

7 Q And he told you to go ahead and search the phones,
8 correct?

9 A Yes, sir.

10 Q He told you to go ahead and search his truck, correct?

11 A Yes, sir.

12 Q Okay. And essentially that's the reason you all
13 searched, you all were able to search it, correct?

14 A Yes, sir.

15 Q Okay. And phones sometimes, the actual device, can have
16 evidence that's related to a crime, right?

17 A Yes, sir.

18 Q And sometimes the device themselves can store, like,
19 prior GPS location data, correct?

20 A Yes, sir.

21 Q And sometimes you have to get it through a different --
22 or you come up with location through a different source,
23 correct?

24 A Yes, sir.

25 Q And you're not an expert at phones, correct?

1 A No, sir.

2 Q Okay. There will be an expert later on, I would
3 imagine, so we'll sort of set that aside. But one reason
4 you wanted to search the phone is to look for whether or not
5 there would have been GPS information stored on the phone
6 which would have created, linked him to the phone, correct?

7 A That would be one of the reasons, yes.

8 Q And another, I mean, there's a bunch of things you can
9 get off someone's phone, correct?

10 A Yes, sir.

11 Q So, y'all took that into evidence and y'all took him
12 back to the interview room, correct?

13 A Yes, sir, and that's where -- that was the Anderson
14 County interview room that we saw on the video, correct?

15 A It was.

16 Q And, like I said, you checked his arms for scratch
17 marks, right?

18 A Yes.

19 Q And you checked his knuckles for whether or not he had
20 marks or swollen knuckles from punching somebody or anything
21 like that, right?

22 A Yes.

23 Q Okay, and you don't recall whether or not he did right
24 now, right?

25 A Whether he had marks?

1 Q Yeah.

2 A I don't remember seeing any.

3 Q Okay, and it's safe to say that if there were marks
4 that the State likely would introduce them into evidence for
5 this jury, correct?

6 A I would assume so.

7 MR. SHAFFER: Court's indulgence.

8 THE COURT: Yes.

9 Q And you may or may not remember telling Mr. Pittman
10 this, but do you remember telling Mr. Pittman something
11 about the -- before they actually got out of the scene where
12 the body was found that the path was about as wide as an
13 ATV?

14 A No, I did not tell Mr. Pittman that.

15 Q Are you aware of anyone from Anderson County Sheriff's
16 Office who did tell Mr. Pittman that?

17 A No.

18 Q Okay. Now, you also went to a convenience store and
19 looked at some surveillance video, correct?

20 A Yes, sir.

21 Q Okay, and that convenience store where you looked at
22 surveillance video, you didn't download the video, right?

23 A I can't remember. I know I looked at it. I don't know
24 if I collected it.

25 Q If I showed you a quick clip of a phone -- well, I'll

1 ask you this. Generally, or sometimes whenever you're in the
2 field and you need to look at surveillance video that you
3 can't download immediately, you'll take a picture on your
4 phone, right?

5 A Yes, sir.

6 Q And video record your phone showing the screen of the
7 monitor.

8 A Yes, sir.

9 Q If I showed you a picture of some video footage that we
10 think you actually took, do you think it would refresh your
11 recollection?

12 A Probably.

13 MR. SHAFFER: Your Honor, it may be easier if I just ask
14 him to step down and refresh his recollection.

15 THE COURT: Sure. Just step down and if you respond to
16 any questions down there, make sure you speak loud so we can
17 hear you okay.

18 WITNESS: Yes, Your Honor.

19 THE COURT: Does the State want to observe? Your call.

20 (WHEREUPON, witness steps down from stand and reviews
21 video.)

22 Q After viewing those two little clips, does that reflect
23 your recollection of whether or not you videotaped a little
24 bit of surveillance footage?

25 A Yes, I did.

1 Q And it was dark when that surveillance footage was
2 taken, correct?

3 A Yes, it was.

4 Q And you see truck lights that could be consistent with
5 the Defendant's truck, correct?

6 A Could be, yes.

7 Q But you can't really see too much else, because it's
8 dark; correct?

9 A Yes, sir.

10 Q Okay. Now, at some point --

11 MR. SHAFFER: Your Honor, can I take a quick break and
12 go grab a flash drive?

13 THE COURT Well, it shouldn't take you just a minute or
14 so, right? We'll just stay right here and wait on you.
15 How about that?

16 MR. SHAFFER: Your Honor, can I put it in a flash drive
17 that I'll introduce as a exhibit later, but not this
18 particular flash drive to save us some time?

19 THE COURT: Sure.

20 Q And those two clips, which will soon be on a flash
21 drive marked Defendant's Exhibit 15, those are pictures that
22 you took involving this case, correct?

23 A Yes, sir.

24 MR. SHAFFER: Your Honor, at this time, or once I
25 actually get a flash drive, I would move that into evidence

1 as Defendant's Exhibit 15. And I'd like permission to go
2 ahead and publish it before we --

3 THE COURT: What's the State's response to 15 -- two
4 clips of some surveillance video?

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

6 THE COURT: Sure.

7 MR. THOMAS: No objection, Your Honor.

8 THE COURT: All right, 15, once the flash drive is
9 actually produced then that will be in evidence.

10 MR. SHAFFER: Now, if you wouldn't mind, just play
11 those two videos.

12 THE COURT: Mr. Shaffer, it may be helpful if you would
13 identify the source of this, the two-clip surveillance
14 video. Are you getting to that? Okay. Good. Thank you.

15 MR. THOMAS: And Judge, I'm preparing an exhibit for
16 the jury's assistance.

17 Q If -- now, those two were from essentially down the
18 road from where the Defendant lived, correct?

19 A Yes, at the intersection of 29 South and Cleveland.

20 Q And you obviously went out there because you thought
21 you may find relevant evidence about this event, correct?

22 A Yes, sir.

23 Q And that was because of the fact that you think that he
24 may pass by there around that time period, correct?

25 A Yes, sir.

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1 Q Okay. But as we said before, it's dark and you can't
2 definitely say that's him, correct?

3 A Yes, sir.

4 Q Now, those two clips, you didn't actually download the
5 original file, correct?

6 A No.

7 Q Because it was hard to see, right?

8 A It's hard to see, and their system is a little more
9 difficult to deal with without a evidence technician.

10 Q Okay, and -- but because of the fact that it's hard to
11 see, you said this isn't -- this isn't something we
12 definitely need to get an evidence technician out here to
13 pull, correct?

14 A At that point in time, no.

15 Q Yeah. Because it's fair to say that it probably, even
16 if you had pulled it, wouldn't have provided you a whole lot
17 of information.

18 A Not at that time.

19 MR. SHAFFER: Court's indulgence.

20 THE COURT: Sure.

21 Q Like I said, I don't want you to testify to what anyone
22 else said, okay?

23 A Yes, sir.

24 Q Or what anyone else told you. But based off of your
25 investigation, the reason you initially went out there to

1 that supermarket was because of the fact that you had
2 evidence that he may have been driving by there during that
3 time?

4 A Yeah. We would have received -- I think we would have
5 received the GPS trackers at that point time for the truck.

6 Q And that was from -- that was off of a vehicle,
7 correct?

8 A It's off of a vehicle, yeah.

9 Q And that's actual GPS sending satellite from the
10 satellite to the truck, correct?

11 A Yeah.

12 Q Okay. And there will definitely be someone else later
13 who can testify about what the GPS is, right?

14 A Yes, sir.

15 MR. SHAFFER: Okay. No further questions.

16 THE COURT: Anything in redirect?

17 MR. THOMAS: I was going to work backward from that,
18 but I've got an exhibit coming. I will go ahead and ask a
19 couple of questions.

20 REDIRECT EXAMINATION

21 BY MR. THOMAS:

22 Q Detective Cash, Sergeant Cash, Mr. Shaffer asked you
23 about there being eight to 10 people there to arrest Mr.

24 Spencer. I want to be very clear. All those people showed
25 up not to -- don't tell me what he's under arrest for, but

1 it was not to arrest him for this murder. It was for a
2 different ---

3 MR. SHAFFER: Objection, Your Honor, may we approach?

4 THE COURT: Okay.

5 MR. SHAFFER: Actually, I have a matter of law.

6 THE COURT: All right, ladies and gentlemen, I have a
7 legal issue to discuss with the lawyers. So, if you'll go
8 back to the jury room and I'll get you back out shortly.

9 (WHEREUPON, the jury exited the courtroom at 4:20 p.m.)

10 THE COURT: Okay, Mr. Shaffer.

11 MR. SHAFFER: Your Honor, before I begin, just to make
12 sure I'm not saying something out of line, I would like to
13 hear back part the transcript of what I asked him related to
14 whenever they initially came out to -- I said to arrest him,
15 what I think I said was arrest him and then question him for
16 this murder. I want to make sure I said to arrest him and
17 question him for this murder before I go any further with
18 the motion that I have.

19 THE COURT: And we can do that. I think, and I may be
20 wrong. I think it's been brought out, maybe through
21 Sergeant Cash, maybe elsewhere, that he was under arrest,
22 but not under arrest for the murder of Ms. Cross. I think
23 that's what's kind of, maybe not stated exactly.

24 MR. THOMAS: So, the way I asked it on direct of him was
25 he was not under arrest for this murder charge at the time

1 you interviewed him.

2 THE COURT: Right, but it was clear that he was under
3 arrest.

4 MR. THOMAS: I worded that question that way to make
5 sure that I didn't say he was under arrest.

6 THE COURT: So what you want played is your cross-
7 examination of Sergeant Cash related to him being under
8 arrest.

9 MR. SHAFFER: Yes, Your Honor. I want to hear back
10 what I said, because I think Chelsea and Joel have different
11 views of what I said, so I want to hear back what I said.

12 THE COURT: So, depending upon what you did say, that
13 may negate whatever objection that you have?

14 MR. SHAFFER: Yes, Your Honor.

15 THE COURT: We're going to go off the record.

16 (WHEREUPON, off the record for a playback of testimony.)

17 THE COURT: Mr. Shaffer, you've had an opportunity,
18 along with the State, to review some of your questioning on
19 cross with Sergeant Cash. And so you're -- at least the
20 matter of law that you wanted to take up with the Court.
21 Where are you on that?

22 MR. SHAFFER: Your Honor, from what I want to take up,
23 I'm moving for a mistrial, and I'll explain. The State has
24 asked a question that we worked very, very, very hard to
25 keep out of the evidence in this case, the fact that he's

1 arrested is something else. The State conceded that they
2 weren't going to present certain parts of it in the audio.
3 They agreed to it. They agreed to it, because it's
4 prejudicial. They agreed to it before I agreed to it.
5 Their redactions, before I made that notebook, which is the
6 objections to things in the statement, they had already said
7 that they weren't going to play parts of it because they
8 knew it was prejudicial.

9 Your Honor, I think that, at this point, they have
10 asked a completely inappropriate question based off of that.
11 They have opened the door to the fact that he had other
12 charges out there. They let the jury know that he had other
13 charges out there. There's no way to cure that with the
14 jury to say, oh, yeah, he had other charges out there.
15 There's no way to cure that.

16 I suspect the reason that they didn't ask that question
17 the way that they did on direct is that they were upset. I
18 think the Defense team takes a position that perhaps they
19 got really upset whenever I decided to introduce their trash
20 can. And maybe that had something to do with it. I don't
21 know. But for whatever reason, I'm not saying they
22 definitely did. I'm just saying that there's some suspicion
23 on this side of the aisle that maybe that had something to
24 do with it. I'm not saying they definitely did. So, I'm
25 not saying that. So, please don't think I'm attacking

1 Josh's character. I'm not saying that. What I'm saying is
2 that this jury is unduly prejudiced at this point by saying
3 that. I think we need to retry the case. I don't think
4 that this was some sort of intentional prosecutorial
5 misconduct that would require jeopardy to attach and not be
6 able to redo the case. I do think that it something that we
7 can't get around with this particular jury.

8 THE COURT: Okay, well let me just state this again,
9 and then I'll certainly hear from you, Solicitor. And I
10 don't know if it's with Sergeant Cash, but hasn't it been
11 brought out that they go to his house in Anderson, he's
12 under arrest, not mentioned for what, but he's under arrest.
13 And then the question is asked of Sergeant Cash, "At this
14 time, he was not under arrest for the murder of Ms. Cross."
15 Hasn't that already been brought out in some fashion?

16 MR. THOMAS: Yes, Your Honor. We redacted. And I took
17 those redactions out of abundance of caution. I do not
18 believe that they are overly prejudicial. I think probably
19 it forms part of the res gestae of how they get to where
20 they're going, but that was not something we needed to worry
21 about in this case because the statement speaks for itself.
22 We asked the question on direct of Sergeant Cash, "He was
23 not under arrest for this murder charge?" I worded it that
24 way to be careful to avoid this issue. However, Mr. Shaffer
25 got up here and he said, "You were there to arrest him and

1 take him in." That implies to the jury that he was under
2 arrest for something. So, Mr. Shaffer is the one that told
3 the jury he was under arrest. I want to make sure the jury
4 knows that he wasn't under arrest, at that point in time,
5 for this murder charge. I'm simply trying to reiterate that.

6 And quite frankly, Your Honor, I'm not upset about that
7 coming in as evidence. I am upset about the potshots at my
8 professionalism. So, what I would like to do is to ask him
9 that question. I may have not worded it accurately. I used
10 the word, "charge". I probably should not have. I would
11 just like to ask him the question, Mr. Spencer was not, we
12 can just ask it the same way. Mr. Shaffer asked you if you
13 were there to arrest him and take him in. Be very clear.
14 You were not there to arrest him.

15 THE COURT: Well, what I'm going to need to have
16 specifically, before I can rule on Mr. Shaffer's motion for
17 mistrial, is I need to know exactly what was asked and
18 answered by Sergeant Cash on direct, and then was it through
19 direct testimony that he was under arrest as a result of
20 them going out to his house in Anderson. Because that's
21 what is still, kind of, in my mind that it was brought out
22 he was under arrest and then at some point in time he was
23 not under arrest for the murder of Ms. Cross. So, I need to
24 know exactly where that is in the record.

25 MR. SHAFFER: Your Honor, I'm sorry. But the part that

1 Josh just told me, or just said that I said, I actually --
2 maybe I'm completely blind or deaf. Josh was up there with
3 me. I did not hear that, so I didn't hear that up there.
4 The part that you just said.

5 MR. THOMAS: You said you were there to arrest him and
6 take him in.

7 MR. SHAFFER: Your Honor, here's the thing. And I
8 would love to hear it as well, because I want to figure it
9 out.

10 THE COURT: Let's go off the record.

11 (WHEREUPON, off the record for playback of testimony.)

12 THE COURT: All right. If I heard it correctly, the
13 question Mr. Shaffer, you asked -- okay, you need to talk
14 with them first?

15 MR. THOMAS: Yes, Your Honor. Give me just one moment.

16 THE COURT: The question that I heard you ask after
17 Sergeant Cash said, yeah, there's eight to ten officers out
18 there, maybe more. And you said, "To arrest him and take
19 him in", is what I heard you ask. You agree with that?

20 MR. SHAFFER: Yes, Your Honor, and I'm going to point
21 out something. Both those charges got dismissed. I
22 understand that doesn't go a whole lot. I think Josh is
23 probably correct I opened the door to it. It's probably
24 fairly correct. I can't very well -- I can't very well say
25 I didn't open the door to it by what I said. So, I know

1 that there's case law saying that I can't -- if I don't
2 object to something, if I open the door to something, I
3 can't move for a mistrial because of it. And as a result of
4 that, I will withdraw the mistrial motion.

5 THE COURT: Okay, all right, very good. I think you're
6 correct in doing that, Mr. Shaffer.

7 MR. THOMAS: And I will, just out of abundance of
8 caution, Your Honor, I will clear that question up and I
9 will simply ask when they get back. I just want to
10 reiterate, this will be my question, I'll say it this way.
11 "I just want to reiterate. Mr. Spencer was not placed under
12 arrest for this murder on December 9. (SIC)"

13 THE COURT: Right.

14 MR. THOMAS: Leave it at that.

15 THE COURT: December 14th. And you would be okay with
16 that?

17 MR. SHAFFER: Your Honor, I opened the door to it,
18 so...

19 THE COURT: Okay, let's see if we can wrap things up
20 with Sergeant Cash and let's see where we are after that.
21 I know you got these two other out-of-town witnesses. All
22 right, let's bring the jury in.

23 (WHEREUPON, the jury entered the courtroom at 4:40 p.m.)

24 THE COURT: We're in your redirect, Solicitor.

25 MR. SHAFFER: And I would withdraw my previous

1 objection.

2 THE COURT: Thank you, Mr. Shaffer.

3 MR. THOMAS: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. THOMAS:

6 Q Just to reiterate, Sergeant Cash, Mr. Spencer was not
7 placed under arrest for this murder charge the night of
8 December 14th.

9 A He was not.

10 Q We talked a lot about that Power Trac and where it's
11 located. I'm going to show you what's marked as State's 78
12 for identification right now. Does that look familiar to
13 you?

14 A Yes.

15 Q What is that area?

16 A That's the South part of Anderson County. I recognize
17 the Power Trac, US 29 South, Cleveland Road, Trump Pointe.

18 Q And there's, I guess, a marker for Mr. Spencer's
19 address.

20 A There's a legend on it, yeah.

21 Q Is that a true and accurate depiction of that part of
22 Anderson County?

23 A Yes.

24 MR. THOMAS: Your Honor, at this time the State moves
25 State's 78 into evidence.

1 MR. SHAFFER: No objection, Your Honor.

2 THE COURT: What number is it?

3 MR. THOMAS: 78, Your Honor.

4 THE COURT: 78, okay.

5 Q So, where on this exhibit, State's 78, is Mr. Spencer's
6 residence?

7 A So, his residence would be [REDACTED], and it
8 would -- it says right here, Trump Pointe is this little
9 half circle here, and his residence would be right around
10 the curve.

11 Q So, I guess the Google address point isn't exactly.

12 A Not exactly.

13 Q Where is that Power Trac located at?

14 A Power Trac is located right here.

15 Q Where on this map -- the creek we were talking about
16 that Mr. Shaffer asked you about. The creek where the trash
17 can was found. Where was the trash can found?

18 A It's on Cleveland. Cleveland Drive here. It's
19 confusing, because there is a Cleveland Drive and a
20 Cleveland Road. The creek is, like, halfway down.

21 Q Is there a place on that map, Richland Creek?

22 A Richland Creek is here.

23 Q And where does it run to?

24 A It would be -- it would be right here, right here.

25 Q So that's -- is that where the trash can was found?

- 1 A Yeah, it was off the side of the road.
- 2 Q So when we mentioned the creek closest to his house,
3 that's the creek closest to his house?
- 4 A Yes.
- 5 Q And that video from the Power Trac, I think you said on
6 cross-examination that it appeared to be -- it could have
7 been a black Dodge truck.
- 8 A It could have been.
- 9 Q Could also have been two different cars?
- 10 A Could have been.
- 11 Q Just hard to tell.
- 12 A Yes, sir.
- 13 Q Going back to the crime scene that you were asked
14 about. These markers Mr. Shaffer showed you a picture of a
15 marker one. There's a tire impression at marker three.
16 That's right? Is that right?
- 17 A Yes.
- 18 Q There's also a tire impression at marker one.
- 19 A Yes.
- 20 Q Because -- probably should have asked Investigator
21 Ables, but they asked you. Do you know -- he didn't cast
22 both of those, did he?
- 23 A I don't believe so.
- 24 Q He only casted number one.
- 25 A I think so.

Kendall Cash-Redirect Examination

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1 Q If I showed you -- you aren't the right person to ask
2 this, but if I showed you his report, would that refresh
3 your recollection of what he did out there?

4 A It should.

5 Q So, which one did he cast?

6 A Placard number one.

7 Q And again, talking about tire-tread impressions. How
8 many times have you ever -- how often do you get tire-tread
9 impressions?

10 MR. SHAFFER: Objection, Your Honor.

11 THE COURT: I think this was asked before. You
12 objected, and I think I overruled your objection as far as
13 how many times do you get results back from SLED. That was
14 a question.

15 MR. SHAFFER: And I think he needs to lay further
16 foundation in order to even ask that question.

17 MR. THOMAS: I'm happy to do that, Your Honor.

18 THE COURT: Do that, and let's see where we are.

19 Q Detective Cash, how many times have you done tire-tread
20 impressions? Or had a crime scene person do them for you?

21 A Half a dozen.

22 Q How many times have you gotten a SLED result back as a
23 match?

24 A Zero.

25 Q Mr. Shaffer talked to you about before you developed a

1 suspect of interest, or person of interest, or suspect, or
2 whatever that is, you had several, I guess, reports on the
3 front end of this investigation?

4 A Yes, sir.

5 Q And did you follow up on those reports?

6 A I did.

7 Q Did you follow up on all the leads you had in this
8 case?

9 A Yes.

10 Q Did you develop any evidence -- let me rephrase it this
11 way. You go where the evidence takes you, right?

12 A Yes.

13 Q And the evidence in this case didn't take you to anyone
14 else.

15 MR. SHAFFER: Objection, leading.

16 THE COURT: Okay.

17 MR. THOMAS: Did the evidence in this case take you to
18 anyone else as a suspect?

19 A No, it did not.

20 MR. THOMAS: I have no further questions.

21 THE COURT: Anything in recross?

22 MR. SHAFFER: Yes, Your Honor.

23 RECROSS-EXAMINATION

24 BY MR. SHAFFER:

25 Q Now, here as we stand in this courtroom today, the

Kendall Cash-Recross-Examination

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1 Solicitor asked you a question of that video could have been
2 two cars, right?

3 A Yes, sir.

4 Q And you said yes, it was, right?

5 A It could have.

6 Q But you said it was. It could have been two cars,
7 right?

8 A It could have been. Yes, sir.

9 Q So, as we sit here today, you think that it could have
10 been two cars, correct?

11 A Based on the way the question is worded. Yes, it could
12 have been.

13 Q Now, you obviously filmed it, so you thought it had
14 some evidentiary value, correct?

15 A Yes, sir.

16 Q And is it fair to say in a report that you actually
17 wrote, "I did observe what appeared to be a black truck that
18 looked similar to Spencer's come down Cleveland Road."

19 A Give me one second.

20 Q Page 17. I'll ask you to refresh your recollection if
21 you don't recall that. Bottom of page 17.

22 A Yes, I did write that, sir.

23 Q But you didn't write in any report that it could have
24 been two cars coming down Cleveland Road, right?

25 A No, I did not write that.

1 Q Okay. Did you have a better chance of viewing the video
2 whenever you were in person looking at that monitor than you
3 did by refreshing your recollection on the phone camera
4 picture?

5 A It would always be better to look like that, yeah.
6 Agreed.

7 Q Because it's, kind of, like a photo copy of a photo
8 copy whenever you're doing that, correct?

9 A I agree with that.

10 Q And at the time that you wrote this report, this
11 supplemental report, it would have been -- it would have
12 been back in 2021, right?

13 A Yes, sir, specifically probably December 22, 2021.

14 Q Okay. And that would have been really close in time to
15 whenever you actually viewed it that you wrote that,
16 correct?

17 A More than likely, yes, it would have been.

18 Q And you never said it could have been two cars coming
19 down there, right?

20 A I did not say that.

21 MR. SHAFFER: No further question.

22 THE COURT: You can step down, sir. Thank you.

23 All right, Solicitor, you had indicated previously that you
24 had two more witnesses that you wanted to try to get up, and
25 we can do that.

Jimmy Torrey-Direct Examination

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1 MR. SIMMONS: Yes, Your Honor.

2 THE COURT: Let's go with the first one and just see how
3 long it takes.

4 MR. SIMMONS: Yes, sir. The State calls Jimmy Torrey.

5 WHEREUPON, Jimmy Torrey, having first been
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SIMMONS:

9 Q Mr. Torrey, where do you work?

10 A Republic Services.

11 Q What do you do with Republic Services?

12 A I'm the general manager.

13 Q And how long have you been with Republic Services?

14 A 23, almost 24 years now.

15 Q And how are you involved with the Powell's Trash
16 services?

17 A So, we had bought Powell's Trash Services through an
18 acquisition in July of 2020.

19 Q When you bought Powell's, did you replace all the trash
20 cans or do you --

21 A No.

22 Q And do you keep records regarding accounts ---

23 A Yes, sir. We do.

24 Q --- specifically for Powell's trash cans?

25 A Well, we were, we have initial records from when we

1 purchased it, which was limited, and then we have our own
2 records post that position.

3 Q As the general manager, you have access to those
4 records?

5 A Yes, sir.

6 MR. SIMMONS: Your Honor, I'm showing Mr. Torrey what
7 has been identified as State's Exhibit 79. I believe I
8 already showed those to Defense.

9 MR. SHAFFER: Yes. No objection.

10 Q I'll hand you that, Mr. Torrey. What are these
11 documents?

12 A These are documents from Info Pro system. The first
13 one. The second document is from Trash Pro, which was
14 Powell's data entry system. Third the same, fourth the
15 same. The last remaining documents are from Info Pro, which
16 would have been a Republic Services database.

17 Q Okay, and all those documents came from your business?

18 A Yes, sir.

19 MR. SIMMONS: Your Honor, the State moves 79 into
20 evidence.

21 THE COURT: Okay, without objection, 79 for the State.

22 Q When did -- whose records are these for?

23 A These are for our customer, which was Billie Jean
24 Cross.

25 Q And what's the address for Ms. Billie Jean Cross there?

Jimmy Torrey-Direct Examination

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1 A [REDACTED] [REDACTED].

2 Q And this is just one of the pages from that State's
3 Exhibit 79. What is this?

4 A That is a document from Trashflow, which was a Powell's
5 database system. It also shows the address.

6 Q Okay, and what is this right here?

7 A That is a 95 gallon container.

8 THE COURT: Mr. Torrey, can you speak up just a little
9 bit, please, sir.

10 WITNESS: Sure. 95 gallon residential cart.

11 Q And did you ever collect a 95 gallon garbage can from
12 her residence?

13 A Myself?

14 Q Your company.

15 A Yes.

16 Q Do you have any records of collecting it since the
17 account closed?

18 A No, we do not.

19 MR. SIMMONS: Beg the Court's indulgence.

20 Q Mr. Torrey, this trash can is already in evidence.
21 It's Defendant's 14. Does this right here look like one of
22 your trash cans?

23 A Yes, it does.

24 MR. SIMMONS: No further questions right now.

25 THE COURT: Any cross-examination?

1 MR. SHAFFER: Just one.

2 CROSS-EXAMINATION

3 BY MR. SHAFFER:

4 Q Based off of the records that they just introduced and
5 Defendant's Exhibit 14 was Billie Jean Cross's trash can,
6 right?

7 A Can you restate the question please?

8 Q This trash can was at Billie Jean Cross's place, right?
9 And here. There's a serial number in this, right?

10 A There should be, yes.

11 Q Come down and step down and just identify this and see
12 if you can identify this, and I'll give you State's 79, and
13 I'm showing you Defendant's 14. If you don't mind, I'm
14 going to refresh your recollection of the trash can that was
15 assigned to her in Defendant's 17 -- I mean State's 79. If
16 you don't mind, take a look at the Defendant's Exhibit 14
17 and just confirm it is the same trash can that was assigned
18 to Ms. Cross.

19 A I do not have a record that it would have been.

20 Q Okay, you don't have a record that it would have been?
21 Okay. I'm showing you the second page of State's Exhibit
22 79. It's a print off. That number right there says
23 1104-1048. What is that number?

24 A That then will be the reference to this number right
25 here.

Jimmy Torrey-Cross-Examination

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1 Q Okay.

2 A Which would have been, again, Powell's database.

3 Q Okay. Based off of Powell's database and this, this
4 matches this number, correct?

5 A Correct.

6 Q So, this was the trash can that was assigned to [REDACTED]
7 [REDACTED], correct?

8 A Yes, based on this. I've not seen that number prior to
9 this, so I couldn't confirm that.

10 Q Okay, you couldn't confirm that, based off of ---

11 A Yeah, because I did not see the number on the can. I
12 apologize.

13 Q Okay, fair enough. And that address would have been
14 Billie Jean Cross's, correct?

15 A That's correct.

16 MR. SHAFFER: Thank you. No further questions.

17 THE COURT: Okay, thank you. Anything in follow up?

18 MR. SIMMONS: No, Your Honor.

19 THE COURT: Okay, you can step down and you are free to
20 leave, sir. More than welcome to remain with us if you'd
21 like.

22 MR. SIMMONS: I can call another witness if we have
23 time to.

24 THE COURT: Okay, who is the next witness?

25 MR. SIMMONS: It's Sergeant Pridemore with the Anderson

1 County Sheriff's Office.

2 THE COURT: Okay, how long is he going to take?

3 MR. SIMMONS: It wouldn't be very long.

4 THE COURT: Do you all anticipate -- I mean, I'm not
5 going to hold your feet to the fire, but you don't
6 anticipate very long on cross, Mr. Broome?

7 MR. BROOME: No, sir. It will be pretty short. It will
8 be shorter than their direct, I promise.

9 THE COURT: Okay. All right. Well, let's get him done.

10 MR. SIMMONS: Your Honor, the State calls Christopher
11 Pridemore.

12 WHEREUPON, Christopher Pridemore,
13 having first been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. SIMMONS:

16 Q Sergeant Pridemore, where do you work?

17 A I work at Anderson County Sheriff's Office.

18 Q How long have you been with them?

19 A Since 2005.

20 Q What do you do with the Andersen County Sheriff's
21 Office?

22 A I'm the Staff Sergeant of the Crime Scene Division,
23 working forensics.

24 Q You said forensics?

25 A Forensics, yes.

Charlie Pridemore-Direct Examination

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1 Q And in forensics, what do you do?

2 A Work crime scenes.

3 Q And do you process things?

4 A Yes.

5 Q Okay. And how did you become involved in this case?

6 A I received a call December 15, 2021 at 3:35 p.m. I
7 received a call from my lieutenant, Lieutenant Chris Scott.
8 He advised me that detectives from Laurens County and
9 Anderson County were at a location with a large trash can
10 they believe was involved in a homicide from Laurens County,
11 and he advised I needed to go pick the trash can up and
12 bring it back to the office to be processed. So, I got a
13 trailer, got the person that was working with me,
14 Investigator Guthrie. We went to Cleveland Road at the
15 bridge and got out with detectives. Detective Tyler Duncan
16 from Anderson County provided me with an evidence sheet for
17 the trash can and showed me where the trash can was located.
18 At that point, I took a photograph of the evidence sheet and
19 the bridge, and then the trash can as it was located.

20 MR. SIMMONS: Your honor, State's 70 through 76, I've
21 already showed the Defense. I'm just going to show these to
22 the witness.

23 THE COURT: Okay, you want to go ahead and offer them?
24 Is there any objection?

25 MR. BROOME: There's no objection.

1 THE COURT: Okay, we'll go ahead and put those in
2 evidence.

3 MR. SIMMONS: Then I'll ask that they be put in
4 evidence.

5 THE COURT: Okay, all right. 70 to 76 in evidence for
6 the State.

7 Q State's 70. Where is this at?

8 A That's the bridge on Cleveland. That's the trash can.
9 You can see the trash can laying on its side.

10 Q Okay, and that's just a guardrail between it?

11 A That's the guardrail.

12 Q And then 71, what is this?

13 A That's a view from off of the bridge down onto the
14 trash can.

15 Q All right, and then 72. Just a close up picture?

16 A Close up picture of the same thing.

17 Q And then that's going to be essentially the same trash
18 can as the one in the courtroom currently, right?

19 A Yes, says Powell's on the side.

20 Q And State's 73, that's just -- what is this?

21 A This is the trash can, that's the creek. You see dirt
22 -- excuse me. You see dirt in here and down this embankment.
23 There's no -- I'm sorry. There's no tracks, or footwear, or
24 anything that I could see coming down.

25 Q All right. And then State's 74. What were you doing

1 here?

2 A That is a shot down inside the can, and if you'll look
3 at the back, you'll see some reddish brown looking spots
4 that appeared to be blood.

5 Q Okay, and State's 75, I think that's a close up
6 picture.

7 A That's a close up of the same thing.

8 Q About how big of an area is that?

9 A About the width of a trash can. About like this. I'd
10 say, probably, maybe 6 to 8 inches maybe.

11 Q Okay, and then State's 76. Where was this taken?

12 A That is the side door to the evidence building.

13 Q And -- I don't have any more pictures to show you right
14 now. When you saw that, what did you do with this trash can
15 on Cleveland Road?

16 A We put on gloves. We went down. We collected the trash
17 can. We put it onto a trailer, tied it down. We took the
18 trash can back to the office, where you can see in that
19 picture where it's sit, and then opened it up, and then we
20 went in and noticed there was some hairs in it. So, we got
21 a sample of the hairs, and then we changed our gloves, and
22 then we got a sample of the blood that was on the inside,
23 the suspected blood.

24 Q And how did you take the sample of the blood?

25 A Well, first you change your gloves so you don't cross

1 contaminate anything, and you set it out your swab box.
2 They come pre-folded, so you can fold them up. You take the
3 swabs out. You have an ampoule of distilled water. You put
4 a drop or two on each cotton swab, and then you take that
5 swab and you put it in whatever you're getting a sample of.
6 I like to spin it and rub it up and down to get a good
7 amount on it. You put them in your swab box, and then you
8 let them dry for a couple minutes, and then you seal them
9 up.

10 Q Okay, and I'm showing you what's been marked as State's
11 Exhibit 77.

12 MR. SHAFFER: No objection.

13 THE COURT: All right, 77 into evidence for the State.

14 Q And would that be the container that you would put that
15 swab in?

16 A That would be it.

17 Q And how did you know that one was it?

18 A It has our barcode on the back side of it, and it has
19 my name on the barcode. And I placed that barcode there.

20 Q And then you put that into evidence?

21 A Yes, I entered it into evidence.

22 Q What other tests that you did on the trash can?

23 A The following day, Lieutenant Scott and I processed the
24 can for latent prints.

25 Q And again, how do latent prints work?

1 A Well, anytime you touch something, you leave behind a
2 latent print. Okay, it's basically secretions from your
3 pores. Okay, water, oil, sweat.

4 Q And you processed this trash can for prints?

5 A Yes, we did.

6 Q How did you do that?

7 A We took it apart, dismantled it, put it in -- the
8 pieces in the fuming chamber and fumed it.

9 Q And how is fuming different than --

10 A Regular powder?

11 Q Do what?

12 A How is it different from regular powder, powdering
13 something?

14 Q Yes.

15 Q Okay, regular powder works on certain surfaces really
16 really well. Fuming, what you do is, the process is simple.
17 You heat up, it's cyanoacrylate. It's a component in
18 superglue. And when you heat it up, it lets off, like, a
19 gas. And what that gas does, the fumes, it attaches to
20 moisture. So, it will go and seek out, basically seek out,
21 the moisture in a print. And then it will crystallize on
22 it, turning it, like, white so that you can see it.

23 Q And fuming it, it would do pretty much every surface
24 that the fumes can get to?

25 A Yes, yes.

1 Q Did you find any prints on the trash can?

2 A No, we did not.

3 Q Any prints at all?

4 A No.

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

6 THE COURT: Sure.

7 Q When you collect the trash can it was outside?

8 A Yes.

9 Q If something were outside in the elements are you,
10 maybe, expecting to collect anything on the outside?

11 A The chances of getting something with it being in the
12 weather, there's less than if it's, like, something inside
13 indoors. So, the environment does play a large factor in
14 that.

15 Q And then you testified that you were wearing gloves
16 when you did it?

17 A Yes.

18 Q Whiled you processed this?

19 A Yes.

20 Q So, if somebody else was wearing gloves it wouldn't
21 leave any --

22 A Oh, absolutely.

23 Q You wouldn't leave DNA behind?

24 A No, sir.

25 Q You wouldn't leave ---

Charlie Pridemore-Cross-Examination

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1 A No, sir.

2 Q Fingerprints behind?

3 A No, sir.

4 MR. SIMMONS: No further questions.

5 THE COURT: Any cross-examination, Mr. Broome?

6 MR. BROOME: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. BROOME:

9 Q You don't know how long that trash can was out there
10 when you found it, correct?

11 A No, sir.

12 Q It could have been out there for days, correct?

13 A Yes.

14 Q Could have been out there for weeks?

15 A Yes.

16 Q Could have been out there for hours?

17 A Yes, no way of knowing.

18 Q And when you did the -- it's kind of like superglue.
19 The way I think of it. You're the expert, with that powder,
20 or I'm sorry, that mist that you were talking about. What's
21 that fancy word that starts with a "c"?

22 A Cyanoacrylate.

23 THE COURT: Can you spell that for the Court Reporter?

24 WITNESS: (NON-VERBAL RESPONSE)

25 THE COURT: Maybe that was the wrong question to ask.

1 Q The Judge put you on the spot.

2 A Yes, he did.

3 Q So, the way that works, as I understand it, is you take
4 the lid off of this thing, and I'm pointing by this thing,
5 to be a little more eloquent. We're looking at ---

6 THE COURT: 14.

7 MR. BROOME: Thank you, Judge.

8 Q Defense 14 that's already in evidence. Does this look
9 like the trash can that you found that we're talking about?

10 A Yes.

11 Q And looking at your report, you took the lid off of it,
12 correct?

13 A Yes, Lieutenant Scott and I.

14 Q And the wheels off too?

15 A Wheels. Yes.

16 Q Do you know what happened to the wheels by chance? Did
17 they go anywhere else, or did you put them back on?

18 A I didn't put them back on.

19 Q You didn't put them back on?

20 A I didn't put them back on.

21 Q Who was the other guy that you were with?

22 A Lieutenant Scott.

23 Q Did he put them back on?

24 A I'm not sure if he put them back on or not.

25 Q And then, the point of that, is so you can get that

1 super glue, that mist that crystallizes on the inside too.

2 A Well, so you could fit it into the fuming chamber.

3 Q Oh, okay. So you can take the lid off to get it into
4 the chamber.

5 A Yeah, the whole -- the whole -- break down the pieces
6 and then put them in different sections.

7 Q Okay. I'm trying to visualize on my head. I've never,
8 never heard of this before, so I'm trying to imagine what
9 that chamber looks like. Probably something out of a movie.
10 But if the lid is off of it when you're processing it, then
11 that glue could get into the inside as well, correct?

12 A Yes.

13 Q And you swabbed all over for all various parts of the
14 trash can for possible DNA, correct?

15 A I did not, no.

16 Q You did not?

17 A No. I did not. The only swabs that I did were the
18 blood swabs.

19 Q There was one inside. Blood swab inside the trash can.

20 A One blood swab inside the trash can and a set of blood
21 swabs, excuse me, I think, on the outside of the trash can.

22 Q I'll come back to that. Now, you also responded to Mr.
23 Spencer's house later that day to execute as part of a
24 search warrant for his residence, correct?

25 A Yes, I believe it was Trump Pointe.

1 Q [REDACTED] ?

2 A I believe that sounds correct, yes.

3 Q And one of the things that you did there is you went
4 out there with Investigator Guthrie?

5 A Correct.

6 Q And some other officers, right? Well, probably more
7 than just you and Investigator Guthrie, correct?

8 A Yes, yes. There were several detectives from Laurens
9 County and Anderson County there.

10 Q Was Investigator Cash there as well, with the Laurens
11 County investigators, or do you remember?

12 A I don't remember.

13 Q But you remember the Laurens County investigators were
14 there?

15 A Oh, yeah. They were there. They were there, because
16 they were with our investigators.

17 Q Were they directing you on which areas to focus on, to
18 your recollection?

19 A No. No.

20 Q But nonetheless, you brought with you some Luminol or
21 some reagent with you?

22 A It's actually Bluestar.

23 Q You brought Bluestar with you?

24 A Yes, sir.

25 Q But the point of Bluestar is -- explain that to the

1 jury. They've heard a little bit about it before.

2 A Blue star, what it does is you spray it, and it has to
3 be dark. You spray it, and it reacts with the iron in the
4 blood, the hemoglobin.

5 Q Right.

6 Q So, if you can't see it with your naked eye, if you
7 spray Bluestar on it, it illuminates blue. Really bright,
8 bright blue.

9 Q Bright blue. Kind of, like, you're looking under a --

10 A Right, right.

11 Q -- black light. So, you went out there with the
12 Bluestar and you sprayed a Ford Escape that was on the
13 property?

14 A Yes, sir.

15 Q And you used Bluestar sprayed inside in the trunk area
16 of that Ford Escape that was on the property. Does that
17 sound right?

18 A Yes, sir.

19 Q And you also sprayed -- there was a black Dodge truck?

20 A Yes, sir.

21 Q Do you remember that?

22 A Yes, sir.

23 Q And you took the Bluestar and you sprayed on the inside
24 -- Well, sorry. The bed area of the truck, correct?

25 A Yes, sir.

1 Q Didn't find -- there was no Luminol hits?

2 A No. There was very -- there was very slight, but it
3 disappeared as soon -- as soon as you sprayed it, it was
4 gone. So, I took photographs trying to show that even when
5 you sprayed it, it didn't stay long. So, what I've done, is
6 I tried to wipe that area. One set of swabs from each
7 vehicle. And sent them in.

8 Q Let me get that right. So, inside an area in the bed of
9 the truck, the Dodge Ram truck, you're saying that you found
10 something that -- it hit, and then went away very quickly?

11 A No, no, no, no. It's on the truck. It was inside on
12 the driver's door near the handle, on that area of the
13 truck.

14 Q I haven't got that far yet. Okay, let's focus on that.
15 Okay. So, you said that -- you just testified that there
16 was slight Luminal on the driver's side handle, maybe, or a
17 hit. Is that what you described?

18 A Yeah, it was just barely. You could just barely see
19 some color.

20 Q Now, you wrote a report in this case, correct?

21 A Yes, yes.

22 Q And do you have that with you?

23 A Yes. Yes.

24 Q Supplemental report dated December 15, 2021, time 5:38,
25 address [REDACTED]. Is that what you have?

- 1 A Yes, sir.
- 2 Q Okay, and you're trained as a police officer to write
- 3 reports to document what you did, correct?
- 4 A Yes.
- 5 Q So you can go back later and remember what you did, is
- 6 one of the reasons, right?
- 7 A Yes, yes.
- 8 Q And one of the reasons is that you want to be able to
- 9 assist other investigators with their role in the case,
- 10 correct?
- 11 A Correct.
- 12 Q And another good reason of it is that you want to
- 13 document all the important information that you find in the
- 14 case, correct?
- 15 A Correct.
- 16 Q Anything important, evidentiary wise that you find, you
- 17 want to be able to write that down and put it into your
- 18 report, correct?
- 19 A Correct.
- 20 Q And you want your report to be truthful, correct?
- 21 A Oh, absolutely.
- 22 Q And you want it to be accurate, right?
- 23 A Yes.
- 24 Q And you want them to be complete, correct?
- 25 A Yes.

1 Q That way, if you've got Investigator Cash looking at
2 your report later, to review things without you needing to
3 go over everything with him, he can look at your report and
4 say, Hey, I know everything that Officer Pridemore did back
5 on December 15, correct?

6 A Correct.

7 Q And another reason that you would document these things
8 is because sometimes you work more than one case, correct?

9 A Yes.

10 Q For a lot of cases. right?

11 A Yes.

12 Q And you're going from point A, to point B, to point C.
13 And during that time -- well, there's a lot of time that
14 goes on between when you work a case and when you come to
15 court and have to testify, right?

16 A Yes.

17 Q Often times years, right?

18 A Years, yes.

19 Q And your memory is better back when you do something
20 than it is two and a half years later.

21 A Yes, yes.

22 Q Now, looking at your supplemental report that you have
23 in front of you, your detailed, complete and accurate
24 report. Can you read out the part in there that says that
25 you found a blue Luminol hit on the door handle that went

1 away.

2 A Oh, it's in there, but I didn't say that exactly about
3 getting a hit. All I've got in here is I did collect a set
4 of swabs from off the inside of the driver's front door near
5 the handle.

6 Q Swabs off of the handle. DNA swabs?

7 A Yes.

8 Q Nothing about the Luminol hit on the door handle?

9 A No, that part is not in here.

10 Q Did you remember that before you came to trial today,
11 or what happened?

12 A No, I did not remember that I did not remember that.

13 Q It wasn't in your report back on December 15, correct?

14 A Yeah.

15 Q All right, and now, in front of this jury, you have
16 found Luminol all of a sudden. Is that right?

17 A Yes.

18 Q Okay. Your memory has gotten better from two and a half
19 years ago. Is that what you're saying?

20 A No. What I'm saying is I failed to put that in there,
21 but looking on here, I collected swabs, and I would only
22 collect swabs if there was something there.

23 Q Did you tell any other investigators, like Investigator
24 Cash was the lead the investigator, correct?

25 A I have no idea if he was the lead investigator on that.

1 Q Did you tell your supervisor about the hit?

2 A Yes. Yes, I did.

3 Q Who was your supervisor?

4 A Chris Scott.

5 Q Chris Scott, okay. To your knowledge on this case, was
6 he, Chris Scott, in charge? To your knowledge, who was the
7 lead investigator working this particular case?

8 A Probably Tyler Duncan at that point, because I'm the
9 one that got the can from him. So, I would assume that it
10 would have been Tyler Duncan.

11 Q So, you would have told Tyler Duncan that?

12 A No, I wouldn't have said anything about it. I just
13 turned in the swabs to be sent off. I don't send them off.
14 It's up to whoever's over it to send those swabs off.

15 MR. BROOME: Beg the Court's indulgence.

16 THE COURT: Sure.

17 MR. BROOME: That's all the questions I have.

18 THE COURT: Anything in redirect?

19 MR. SIMMONS: No, Your Honor.

20 THE COURT: Okay, you can step down, sir. Thank you.

21 You're free to leave. Ladies and gentlemen, this will be a
22 good time to take a break. I wanted to try to get these
23 last two witnesses in, and that has been accomplished. So,
24 we'll start back at 9:30 in the morning. Even though we are
25 probably adjourning tonight and a little later than we

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1 normally do, we may even go a little bit later tomorrow
2 evening, so if you need to make some arrangements. I'm not
3 saying late, but a little later, so if you need to make some
4 arrangements, please do that. Get you a good night's rest.
5 You worked really hard today. I appreciate that, and we'll
6 see you at 9:30 in the morning. Have a good evening.

7 (WHEREUPON, the jury exited for the evening at 5:23 p.m.)

8 MS. MCNEILL: Judge, just for the record, we do have a
9 flash drive that we made. Defendant's 15, the flash drive.

10 THE COURT: Defendant's 15, that's right. We've got it.
11 So marked, so in evidence. Y'all have a good evening. We'll
12 see you in the morning.

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14 THE COURT: All right. We're back on record. Mr.
15 Shaffer, you mentioned something.

16 MR. SHAFFER: Your Honor, this was obtained pursuant to
17 a search warrant. Let me see. I apologize, Your Honor.
18 I've pulled up multiple things. This was a Palmetto
19 Automotive Acceptance Search warrant that was signed in
20 Greenwood by Your Honor on 12/16/21 at 2:30 p.m. Your
21 Honor, we're also, in addition to the previous arguments we
22 made, we're also challenging the warrant because at the time
23 I believe you were holding General Sessions Court in
24 Greenwood. I don't think you had -- the records were not
25 located in Greenwood. They were located in Easley, which

1 would have been Pickens County more than likely, I would
2 imagine. It was -- under the South Carolina warrant statute
3 17-13-140 it says, "Any magistrate or recorder or city judge
4 having powers of a magistrate, or any judge of any court of
5 record of the state having jurisdiction over the area where
6 the property sought is located, may issue a search warrant."
7 And it goes on to say a bunch of other things. Your Honor,
8 I've raised this argument before to you in a different case,
9 but we're arguing that the search warrant statute is not
10 valid because they would have had to go to a judge who
11 actually had jurisdiction that week in the county where the
12 stuff was seized.

13 THE COURT: Okay. All right. So noted. Denied.

14 MR. SHAFFER: Thank you, Your Honor. And, Your Honor,
15 that goes for all of the ones. There are several other
16 warrants, obviously. We're not just raising it for that
17 one. We're doing it for the cell phone company warrants.
18 Is it going to be the same ruling for those?

19 THE COURT: Got you.

20 MR. SHAFFER: Thank you.

21 THE COURT: Yes, same ruling. I'm sorry I wasn't clear.

22 MR. SHAFFER: Yeah, I knew it was going to be quick,
23 because I've raised it before and I know what your ruling is
24 going to be. Thank you.

25 MR. THOMAS: And Your Honor, I've provided you what

1 we've done. I'll tell the jury this when they get in, but
2 just for the record, a lot of the digital stuff that's going
3 to come in today is in various time zones. A lot of it's a
4 UTC time. I have done a conversion chart so that if a
5 witness needs to refer to UTC time on an exhibit and they
6 know what time it was Eastern Standard time. The chart is up
7 there for the jury review. I'm giving Your Honor a copy and
8 Defense counsel a copy. I've got a copy there and a copy on
9 the stand so they can refer to it.

10 THE COURT: Okay. All right.

11 MR. THOMAS: I'll just tell the jury that when they
12 come in.

13 THE COURT: Mr. Shaffer, you don't have any injection to
14 that?

15 MR. SHAFFER: No, Your Honor.

16 THE COURT: I think it's going to be very helpful.

17 MR. SHAFFER: I was actually saying we just need to
18 make a permanent one for every case we do.

19 MR. THOMAS: I know. I hate that I put December 9th on
20 the top of this one.

21 THE COURT: Are we ready for the jury? State?

22 MR. THOMAS: Yes, Your Honor.

23 THE COURT: Defense?

24 MR. SHAFFER: Yes, Your Honor.

25 THE COURT: Let's bring jury out.

1 (WHEREUPON, the jury entered at 9:53 a.m.)

2 THE COURT: Ladies and gentlemen, good morning. Doing
3 well, got some rest, and ready to get back to work? Is the
4 State ready for our first witness of the day?

5 MR. THOMAS: Your Honor, the State's first witness is
6 Don Kinsela.

7 WHEREUPON, Don Kinsela, having first
8 been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. THOMAS:

11 Q Mr. Kinsela, you are a businessman in the upstate.

12 A I am.

13 Q And you own a couple of businesses that are relevant
14 here. One of those is Easley Family Auto.

15 A Easley, yes, correct. Family Auto of Easley.

16 Q Family Auto of Easley.

17 A Yes.

18 Q And the other one is Palmetto Automotive Acceptance.

19 A Correct.

20 Q What is Family Auto of Easley?

21 A Family Auto of Easley is a car dealer. Palmetto
22 Automotive Acceptance is my finance company that finances
23 the cars.

24 Q So people can buy a car from you and finance it on the
25 lot?

1 A Correct.

2 THE COURT: Solicitor, check to make sure that
3 microphone is on.

4 Q So people can go to Family Auto of Easley, buy a
5 vehicle, finance it there through Palmetto Auto?

6 A Correct. We finance all of our vehicles through
7 Palmetto Auto Acceptance that we sell.

8 Q When you finance a vehicle, do you have any sort of
9 safeguards you put on it to try and make sure you can
10 recover it later if payments fall behind or something?

11 A Every car is equipped with a Advantage GPS tracking
12 device.

13 Q And that's a, I guess, we all know what a GPS is, and
14 that's something that tracks the vehicle's location?

15 A Correct.

16 Q And that's in case you need to go repossess it later?

17 A Correct. It tracks in real time.

18 Q And I guess in real time, you have the ability, from
19 your office, to log on to the system and see where the car
20 is at any time?

21 A Correct. And it will track moving and stopped. So, it
22 tracks anytime you log in.

23 Q Do you know if you, if Family Auto of Easley, ever sold
24 a vehicle to Timothy Paul Spencer?

25 A We did.

- 1 Q What kind of vehicle?
- 2 A I believe it's a 2008 Dodge Ram truck.
- 3 Q If I show you the DMV records from that, would that
- 4 help refresh your recollection?
- 5 A It would. It's been a long time ago.
- 6 Q What kind of vehicle did he purchase?
- 7 A A 2008 Dodge Ram 1500 truck.
- 8 Q It's a 2008 or 2006?
- 9 A I don't have my glasses. I'm going to say, can
- 10 somebody over there hold that? I believe it's a 6. And I'm
- 11 cheating, because I'm looking at the 10th digit of the VIN
- 12 number. So yes, it's a 6.
- 13 Q Well, and about that. What was the VIN number for that
- 14 vehicle?
- 15 A The whole VIN?
- 16 Q Or the last four.
- 17 A Yeah, it's a 9515.
- 18 Q And you said that vehicle was equipped with a tracker.
- 19 Do you know, did the trackers have some sort of unique
- 20 identifying information?
- 21 A Each tracker has their own serial number.
- 22 Q And so you, on your system, you input vehicle
- 23 information associated with the tracking number?
- 24 A Correct. We install it. We download it into the
- 25 computer tracking system, advantage website, with that

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1 tracking number. That's how we can specify what car it's
2 on.

3 Q Do you remember the serial number of the tracker that
4 was on his vehicle?

5 A I do not remember it. I know that it is on here
6 somewhere.

7 Q Well, if I show you a copy of y'all's side of it, that
8 would refresh your recollection?

9 A Yes, that is it.

10 Q What was the serial number of the tracker on his
11 vehicle?

12 A It's AG, D as in dog, G as in George, B as in boy,
13 6003669717.

14 Q I'll take all that back from you. And to this day,
15 have you ever recovered that vehicle?

16 A We have not recovered it yet, no.

17 MR. THOMAS: I don't have any further questions, Mr.
18 Kinsela. Thank you so much for being here.

19 THE COURT: Does the Defense have any cross-examination?

20 CROSS-EXAMINATION

21 BY MR. SHAFFER:

22 Q And I heard the pronunciation was Kinsela?

23 A Kinsela, correct.

24 Q And you haven't recovered the vehicle. Do you have any
25 idea where the vehicle is currently?

1 A Yes, the vehicle is located here in Laurens County. I
2 believe it would be owned by one of y'all. It's locating at
3 the ---

4 Q At the Sheriff's Office?

5 A Yeah, it's an impound yard somewhere.

6 Q So, it's been in an impound yard since 2021?

7 A Correct.

8 Q I'm sure that isn't great for you.

9 A No, we're anxiously awaiting its arrival.

10 Q Okay. But ever since 2021, you've known that the
11 vehicles there in Laurens Sheriff's Office and, once they
12 release it at some point, you think it is coming back to
13 you, correct?

14 A Correct. We hope to receive the collateral when this
15 is over.

16 Q And hopefully they will oblige you in the ability to do
17 that, correct?

18 A Correct.

19 MR. SHAFFER: Court's indulgence.

20 THE COURT: Sure.

21 Q I'm not sure if the State asked this or not, so I just
22 want to clarify and make sure. Mr. Spencer would have known
23 that y'all were tracking his truck, correct?

24 A Yes, we, by law, we have to disclose it. They sign a
25 non-tampering agreement. If they tamper with it, it's

Nathaniel Brown-Direct Examination

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1 grounds for repossession.

2 Q Okay. And that agreement also wasn't saying that you
3 would automatically hand over if the State had asked, right?

4 A Correct. Nobody can get the actual information from a
5 tracker except for myself to repossess the vehicle, or I
6 would have to be subpoenaed by the State in order to give up
7 that information.

8 Q And they actually did a search warrant?

9 A Correct. They did, yes.

10 MR. SHAFFER: No further questions.

11 THE COURT: Anything in follow up, Solicitor.

12 MR. THOMAS: No, sir.

13 THE COURT: Thank you. You can step down. You're free
14 to leave the courthouse. However, you're more than welcome
15 to remain with us if you'd like.

16 MR. THOMAS: Your Honor, the State's next witness is
17 going to be Nathaniel Brown.

18 WHEREUPON, Nathaniel Brown, having first
19 been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. THOMAS:

22 Q Mr. Brown, where do you work?

23 A I work for Connected Dealer Services.

24 Q And what does that company do?

25 A We supply GPS tracking for new car and, like, mom and

1 pop or buy here pay here type dealerships.

2 THE COURT: Mr. Brown, sit a little closer to the
3 microphone, please, sir, if you would.

4 Q And I guess, do you do that under a different trade
5 name?

6 A Yes, sir. So, Procon is the parent company. I'm an
7 employee of Connected Dealer Services and we are shared
8 services with Advantage. So, we kind of run the company.
9 I'm the director of customer support for both sides of the
10 house.

11 Q So, one of the sides of the house is the Advantage GPS
12 trackers?

13 A Yes, sir.

14 Q And explain to us, I think, just in general what
15 Advantage does.

16 A So, Advantage is for buy here pay here dealerships that
17 do in-house financing. So, therefore someone with less than
18 ideal credit is able to finance a vehicle through that
19 dealership, and the dealership is able to put a GPS tracker
20 on that vehicle to repossess their asset if need be.

21 Q And so Advantage provides those GPS trackers and that
22 ability to do that for that dealerships?

23 A Yes, sir.

24 Q Explain to us just generally how GPS works.

25 A So a GPS uses both cellular and satellite tracking to

1 send a signal from the device back to our servers.

2 Q And so just like GPS in your, like in your phone or in
3 your car, it's bouncing off satellites?

4 A Satellites and cellular. Yes, sir.

5 Q And you use that to locate the location of a vehicle at
6 any given moment?

7 A Correct.

8 Q And how long have you been doing this for this company?

9 A I've been with the company for almost six years, but
10 roughly 10 years in telematics experience.

11 Q And when you say telematics, what is that?

12 A So telematics is, kind of, just what I described. It
13 is the ability to communicate with a unit over like distance
14 through either cellular, or satellite, or the combination
15 thereof to send the signal from that unit to, like, service
16 to record that data.

17 Q So this is a pretty widespread technology?

18 A Yes, sir.

19 Q More specifically, how does an Advantage GPS tracker
20 work? How is it installed? How does it communicate, that
21 sort of thing?

22 MR. SHAFFER: Your Honor, can we -- I'm just asking, are
23 they planning on making him an expert?

24 THE COURT: I don't know what the State plans to do.

25 MR. THOMAS: Your Honor, I'm not going to offer any

1 opinion testimony from him. He's explained to me how the
2 system works because, as he's just described, he's got
3 experience using it.

4 MR. SHAFFER: I mean, I'm fine if they do. I just want
5 to know if he's giving technical scientific information,
6 I'd like to at least have a chance to voir dire him.

7 THE COURT: Well, I think by virtue of this is what he
8 does for a living with this Advantage vehicle GPS. I think
9 he can explain in basic terms how GPS works. I don't think
10 it necessarily requires that he be found to be an expert.

11 MR. SHAFFER: And I was just wondering if they were,
12 because if they were, I was going to ask him voir dire.

13 THE COURT: Sure, sure.

14 MR. THOMAS: And that's what Your Honor just said is
15 exactly what that State v Brown case said. This is not
16 expert testimony. This is something that everybody knows
17 about. I'm just laying the foundation.

18 THE COURT: Right. And I think we all have a general
19 work knowledge of what GPS, but as it relates to his job and
20 what Advantage does, I think he'd be able to ---

21 MR. SHAFFER: I was just asking the question whether
22 they were or not.

23 THE COURT: Okay.

24 MR. SHAFFER: Thank you.

25 THE COURT: You may proceed.

1 Q So where we were at is how would these trackers be
2 installed? How do they work, that sort of thing.

3 A So, there's a couple ways to install these. You can
4 either use an OBD2 installer which connects to the actual
5 OBD2 of the vehicle, or two-wire install. Advantage is
6 predominantly two-wire installs, so you have a power and a
7 ground.

8 Q So when you say OBD, you mean the little plug in there,
9 like you do diagnostic stuff with?

10 A Yes, sir.

11 Q Like a mechanic does?

12 A Uh-huh.

13 Q But yours is hard-wired in?

14 A This one is, yes.

15 Q And when you say this one, you actually -- y'all were
16 providing these tracking services for Easley Family Auto or
17 Palmetto Acceptance or Advantage?

18 A They are one of our customers. Yes, sir.

19 Q One of your customers. Okay. And did you, were you
20 monitoring a -- I think we talked about this earlier. You
21 don't actually know what the vehicle is on your end of it,
22 right?

23 A No, sir. So the device gets installed and then it's
24 usually the dealership that will pair the VIN to the actual
25 serial number itself.

1 Q So the serial number that the dealership assigns --
2 each GPS tracker has a serial number, right?

3 A Yes, sir. It's a unique serial.

4 Q And so then the dealership installs th GPS tracker and
5 they log into the system which vehicle that GPS is on.

6 A Correct.

7 Q Were you -- let me show you what's marked as State's
8 Exhibit 80?

9 MR. SHAFFER: Your Honor, it may be okay. I don't know
10 what's on 80. It's a flash drive. I'd like to actually
11 take a look at what files are on there real quick.

12 MR. THOMAS: Okay. Let me ask this question.

13 Q You brought me State's Exhibit 80 this morning.

14 A I did, Yes, sir.

15 Q What is on the State's Exhibit 80?

16 A It is the tracking data that was requested, as well as
17 the original subpoena, and then the request to have somebody
18 come and appear.

19 MR. SHAFFER: Your Honor, I think I have a right to ---

20 THE COURT: Oh, sure, yeah.

21 MR. THOMAS: I'm laying a foundation.

22 THE COURT: Right. I think he's just laying a
23 foundation as far as what's on there, and then we can
24 certainly take a break and you can take a look at it. He's
25 just laying some foundation.

1 Q Well, let's circle back around to this then. This
2 contains on it tracking information for a specific serial
3 number of tracker?

4 A Yes, sir.

5 Q Do you know what serial number that tractor is?

6 A It's the serial number that was listed that ---

7 Q I'll let you look at it. Can you tell me?

8 A Yes, sir. So, it's serial number AGDGBJ-6003660717.

9 Q And that's information you provided in response to the
10 legal process?

11 A Yes, sir.

12 MR. THOMAS: I'll let Mr. Shaffer look at it now.

13 THE COURT: I don't know how long it's going to take
14 you to take a look at it, but we can --

15 MR. SHAFFER: We may want to send the jury out.

16 THE COURT: Yeah, we'll take a short break and give you
17 an opportunity to view that. Ladies and gentlemen, we're
18 going to take a break. A little early for a morning break,
19 but we want to give the Defense an opportunity to take a
20 look at that information. So, go back to the jury room and
21 hopefully we'll get you back out soon. Thank you.

22 (WHEREUPON, the jury exited the courtroom at 10:20 a.m.
23 Off the record until 10:29 a.m.)

24 THE COURT: Is the State ready?

25 MR. THOMAS: I don't know what Mr. Shaffer may have,

1 but I have a couple more foundational questions I need to
2 ask. I don't know if I just proffer him here and see where
3 his objection goes from there.

4 MR. SHAFFER: And Your Honor, that's fine if he wants
5 to ask foundational questions.

6 THE COURT: You want to do it in camera?

7 MR. THOMAS: Let's just proffer now, see what his
8 objection is, and go from there.

9 THE COURT: Okay. All right. Okay.

10 EXAMINATION (IN CAMERA)

11 BY MR. THOMAS:

12 Q Mr. Brown, we talked before about how this is used for
13 recovery efforts. Is it usually fairly successful? Usually
14 the vehicles are where you're looking for them?

15 A Yes, sir.

16 Q How accurate is this data?

17 A If the vehicle is out in the open, and we have good
18 line of sight with satellites and everything, usually 10 to
19 30 feet.

20 Q So about 15 meters?

21 A 5 to 15 meters, give or take.

22 Q And if it's behind trees, or a hill, or something, I
23 guess that can affect it, but how badly is that affected?

24 A Not as badly as you would think. It's pretty well spot
25 on. We need a minimum of four satellites. Anything outside

Nathaniel Brown-Examination in camera

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1 of that, or above that rather, just gets that closer and
2 closer.

3 Q And again, you use the cell towers also to help narrow
4 it down.

5 A Yes, sir.

6 Q The records that are on this jump drive, those are
7 automatically generated by your system?

8 A Correct. So the data on that thumb drive is from the
9 device sending it to our server and then our server
10 recording it.

11 Q And in your experience, is the server records the data
12 that's an accurate recording of what the GPS monitor is
13 doing?

14 A Yes, sir.

15 Q And these records that are on here are a true and
16 accurate copy of the records in your server?

17 A Yes, sir.

18 MR. THOMAS: I think that's foundational stuff.

19 THE COURT: All right. Now, your objection, Mr.
20 Shaffer?

21 MR. SHAFFER: Your Honor, we'd like to renew our
22 pre-trial objections to it. However, I don't have any
23 additional new objection other than the fact to a couple of
24 his foundational questions, which were opinions about
25 whether or not GPS is -- can be affected by certain things.

1 I think that those exceed the scope of what a ordinary
2 person would know. They're opinion questions. He would need
3 to be qualified as an expert concerning those particular
4 questions. Now, if they don't want to ask those questions I
5 don't really have a problem with it.

6 MR. THOMAS: I can take those out and just ask him
7 generally, like in your experience, how accurate is this
8 data.

9 MR. SHAFFER: But we'll renew our previous objection.

10 THE COURT: Sure.

11 MR. SHAFFER: I'm assuming it's the same ruling?

12 THE COURT: Same ruling as the previous one. You've had
13 full opportunity to review the flash drive?

14 MR. SHAFFER: Yes, Your Honor.

15 MR. THOMAS: And for the record, when he testified,
16 there was the raw data, the Excel spreadsheet with data on
17 it. There was also the process that we sent him to get him
18 here. Mr. Shaffer, one of those was the search warrant, so
19 Mr. Shaffer has deleted that off of this jump drive, so it's
20 not going back to the jury. Other than that, it's what he
21 saw.

22 THE COURT: Let's have the jury back in.

23 (WHEREUPON, the jury entered at 10:34 a.m.)

24 THE COURT: Solicitor, you may proceed.

25 DIRECT EXAMINATION

1 BY MR. THOMAS:

2 Q I'll give you State's 80 back. State's 80, what's the
3 serial number for that GPS tracker?

4 A It is A as in alpha, G as in golf, D as in delta, G as
5 in golf, B as in Bravo, J as in Juliet-6003669717.

6 Q And the records on there are the GPS coordinates for
7 that GPS tracker.

8 A Yes, sir.

9 Q When we talk about coordinates, do you mean latitude
10 and longitude.

11 A Yes, sir.

12 Q And the purpose of that is for recovery of, I guess,
13 assets that people are trying to locate.

14 A Yes, sir.

15 Q In your experience, how accurate is that data?

16 A It's usually within ten to thirty feet, give or take.

17 Q And again, it's used successfully quite often to
18 recover missing assets.

19 A Yes, sir.

20 Q Those records on there, how are those generated?

21 A So it's the device was at that specific time sends that
22 data to our servers and then we record it on our servers.

23 Q And how is that data stored?

24 A It's stored offsite with our engineering team.

25 Q And that's a secure server that, I guess, that you can

1 access and get those records off of?

2 A Yes, sir.

3 Q And those records that are on there are true and
4 accurate copies of the records associated with that tracker.

5 A Yes, sir.

6 MR. THOMAS: At this time, Your Honor, the State would
7 move number 80 in to evidence.

8 THE COURT: Number 80 into evidence?

9 MR. SHAFFER: Nothing further, Your Honor.

10 THE COURT: All right, 80 into evidence for the State.

11 MR. THOMAS: No further questions. Thank you, Mr. Brown.

12 THE COURT: All right. Does the Defense have any cross-
13 examination of Mr. Brown?

14 MR. SHAFFER: Yes, Your Honor. Court's indulgence.

15 THE COURT: Take your time.

16 MR. SHAFFER: Your Honor, give me just a second. I
17 don't have Excel and the smart board.

18 MR. THOMAS: Judge, I meant to mention this earlier. We
19 put a chart over there. I have some of the things that are
20 in UTC time. We went over those. There is a conversion
21 chart, so if we're referring UTC times, we can at least know
22 what Eastern standard time is.

23 THE COURT: Okay, all right. So, ladies and gentlemen,
24 if somebody refers to UTC time, then it has been converted
25 to regular time, okay? If that makes any sense. Is that on

1 a chart, Solicitor?

2 MR. THOMAS: Yes, sir. There's a big poster board.

3 It's probably kind of hard to read if you're far away from
4 it. The witnesses have a copy in front of them and then all
5 the counsel and Your Honor have a copy.

6 THE COURT: And we can certainly provide -- I've been
7 provided a copy. So, if you can't see it on the chart, we
8 can ---

9 MR. THOMAS: Happy to run more copies.

10 THE COURT: Yeah, we can we can help you out. You need
11 to just let us know.

12 CROSS-EXAMINATION

13 BY MR. SHAFFER:

14 Q And you obviously know what UTC means, right?

15 A Yes, sir.

16 Q Tell the jury what UTC is.

17 A UTC is Universal Coordinated Time.

18 Q And that basically starts over there in England, right?

19 A Yes, sir.

20 Q And then for every time zone it sort of backs up,
21 correct?

22 A Correct. Yes, sir.

23 Q So, UTC is generally used a lot of times by computers
24 and things like that because they communicate over ---

25 A Different time zones and whatnot.

1 Q And your computer probably converts the UTC time to
2 whatever time zone you're in based off of your preferences,
3 correct?

4 A Yes, sir.

5 Q And UTC time, Daylight Saving Time obviously is not
6 practiced throughout the world, right?

7 A Correct.

8 Q And because Daylight Saving Time is not practiced
9 throughout the world, there is Eastern Daylight Time and
10 Eastern Standard Time, correct?

11 A Correct.

12 Q So depending on the time of the year, our local time,
13 is going to be either -- how many hours behind UTC?

14 A Traditionally it would be minus six, I believe.

15 THE COURT: What was your answer? I'm sorry. I didn't
16 hear it.

17 WITNESS: I believe minus six, Your Honor.

18 Q And the chart would help you out with that, right?

19 A Correct.

20 Q And so, let's go into a couple of things. One, what's
21 the model of and manufacturer of that GPS that is on that
22 vehicle?

23 A So, the model is an Aero.

24 Q I'm sorry?

25 A Aero.

1 Q Aero? Okay. And who is the manufacturer?

2 A It's manufactured in Vietnam.

3 Q You said that it gets location data through two ways,
4 or it tracks location data two ways. One, it has satellites
5 up there in the sky that coordinate where it is, right?

6 A Yes, sir.

7 Q And then it uses cellular data to send that information
8 to you guys, right?

9 A It sends it through both, so it uses both of the means
10 for the actual tracking.

11 Q Okay, so the tracking, is it sending information -- is
12 it sending information through satellites?

13 A Yes, sir.

14 Q So, it's sending information to you guys through
15 satellites?

16 A Yes, sir.

17 Q Okay, so it's transmitting, and it sends it up to where
18 it's at, and then it sends information down to you guys
19 through the satellite system.

20 A Yes, sir.

21 Q And then the information -- you guys can communicate
22 with the device through the cellular system, correct?

23 A Yes, sir.

24 Q Okay. And the 10 to 30 feet, that sounds like a GPS
25 estimation, correct? Like, 10 to 30 feet is like the

1 standard of error for a standard GPS, is that right?

2 Q That I'm not positive, sir.

3 Q Tell me this, do you know the percent or the -- are you
4 able to tell how precise the GPS data is, as opposed to the
5 cellular data?

6 A We can if we go into the -- I guess for lack of better
7 terms, the nitty gritty of the device. So, we can pull that
8 and get into SAT counts and cell counts and things like
9 that.

10 Q And what's generally more accurate?

11 A They both have to coincide with one another.

12 Q So in your device, both of them have to -- it does
13 both, and then it only records data if it's both
14 corresponding with each other, right?

15 Q In a sense. So it'll give -- if the satellite and the
16 cellular are both good, then it'll give us that location.
17 If one is less than another, then it can at least rely upon
18 the strength of the other.

19 Q But the satellite data, is it fair to say, is generally
20 more precise than the cellular data?

21 A Yes, sir.

22 Q And that's sort of what I was getting at. The
23 satellite data is more precise than the cellular data, but
24 your system is recording both, right?

25 A Yes, sir.

1 Q We can't see that in this particular spreadsheet,
2 right?

3 A No, sir.

4 Q You would have to go into the device and check it out
5 more?

6 A Yes, sir.

7 Q And the device currently is in the custody of the
8 Laurens Sheriff's Office, correct?

9 A That I do not know, sir.

10 Q Okay. To your knowledge, is the device still in the
11 vehicle?

12 A I'd have to go and check now, but as far as I know.
13 Yes, I don't believe it's been removed from the vehicle.

14 Q And if I told you that that vehicle has been sitting at
15 the Laurens Sheriff's Office for the last couple of years,
16 you wouldn't have any reason to disagree with me would you?

17 A No, sir.

18 Q The spreadsheet that we have in front of us has the
19 first column is the serial number of the device, correct?

20 A Yes, sir.

21 Q The second number is the VIN, correct?

22 A Yes, sir.

23 Q Those two are going to be the same for the entire time,
24 right?

25 A Yes, sir.

1 Q The next one is the trigger date and that actually has
2 a time, correct?

3 A Yes, sir.

4 Q And that's when whatever particular event is happening
5 in that line begins, correct?

6 A Correct.

7 Q Okay, and then you have a trigger type which is what
8 kind of event it is, correct?

9 A Yes, sir.

10 Q And then you have the latitude and longitude of the
11 device, correct?

12 A Yes, sir.

13 Q And then you have a rough approximation of where that
14 latitude and longitude is and an address, correct?

15 A Yes, sir.

16 Q So your system automatically generates all that
17 information, correct?

18 A Correct.

19 Q Okay, and from this, we can say that this device and we
20 use the conversion chart because the State has that. It has
21 this device as beginning a trip at 12:02:27 UTC, which is
22 what time? Or actually, the start of the trip is before
23 that, right? When does it leave Trump Pointe?

24 A So the trip start is at 12:02 UTC.

25 Q Okay. What time is that converted?

1 A That would be roughly 7:00 a.m.

2 Q Okay, so about 7:00 a.m. he leaves Trump Pointe in Home
3 Park, South Carolina and then the trip starts, and there's a
4 whole bunch of data points where he's moving and it's
5 sending y'all information where he's at right?

6 A Yes, sir.

7 Q And then there's a stop there right there at 13:17
8 which is what time?

9 A Roughly 8:17 a.m.

10 Q Okay, 8:17 a.m. he's stopping in Boiling Springs, and
11 then about six minutes later the trip starts again, right?

12 A Yes, sir.

13 Q And then he's moving, moving, and then there's a stop
14 in Kings Mountain, correct?

15 A Yes, sir.

16 Q Okay. And eventually, somewhere in North Carolina, he
17 starts again about, I don't know, two hours later, a little
18 bit less maybe?

19 A Yes, sir.

20 Q Okay. And he's driving back and he drives back into
21 South Carolina, correct?

22 A Yes, sir.

23 Q Then there's a stop in Fountain Inn, correct?

24 A Yes, sir.

25 Q At 16:32. 16:32 UTC time is what time?

- 1 A Roughly, 16:32, roughly 11:30 a.m.
- 2 Q Okay, 11:30. And then at 12:30, an hour later, right,
- 3 a little bit less than an hour between here and here,
- 4 correct?
- 5 A Yes, sir.
- 6 Q He starts again, and is driving until he's at Greer
- 7 Street in Honea Path, correct?
- 8 A Yes, sir.
- 9 Q And then he's there for 14 minutes, correct?
- 10 A Yes, sir.
- 11 Q And then he starts driving again, correct?
- 12 A Yes, sir.
- 13 Q And then he ends up stopping at 18:49 UTC, which is
- 14 what time?
- 15 A I believe just shy of 2:00 p.m.
- 16 THE COURT: What time, sir. I didn't hear that.
- 17 WITNESS: Just shy of 2:00 p.m., sir.
- 18 Q So, just shy of 2:00 p.m. he starts again, correct?
- 19 A Yes, sir.
- 20 Q And then there's another stop again in Trump Pointe,
- 21 correct?
- 22 A Yes, sir.
- 23 Q And what time is that?
- 24 A 2:10 p.m. sir.
- 25 Q So, at 2:10 he stops for about 14 minutes, correct?

1 Before there's a trip start again.

2 A Yes, sir.

3 Q And then there's this type that says, "OBB dad." What
4 is that?

5 A That could have been a communication from the device or
6 something we may have sent to the device.

7 Q Is there any particular reason that you would have sent
8 that communication?

9 A Potentially an automatic update.

10 Q But he's moving again, correct? The devices hasn't
11 stopped.

12 A No, it's still moving, sir.

13 Q Still moving and then there's a stop here at this
14 coordination at 20:20:38. What time is that?

15 A That is 3 p.m. sir.

16 Q If I wanted to know where this is because there's no
17 address I could just look up the GPS points on Google Earth,
18 correct?

19 A Yes, sir.

20 Q I'm just going to copy these into here and search right
21 there, and that has him down on the Georgia side of the lake
22 right?

23 A I'm not familiar with the area, sir.

24 Q Actually that's the South Carolina side, but he's only
25 starting for what, two minutes, correct?

- 1 A Yes, sir.
- 2 Q And then he's moving again, correct?
- 3 A Yes, sir.
- 4 Q And then he stops at 21:49:21, correct?
- 5 A Yes, sir.
- 6 Q What times is that in local time?
- 7 A Just shy of 5:00 p.m., sir.
- 8 Q And that has him at that point, right?
- 9 A Yes, sir.
- 10 Q Okay, and he's only there for less than five minutes,
- 11 right?
- 12 A Yes, sir.
- 13 Q He's moving again, and then he stops again at 22:16:41
- 14 at 300 Jones Road, right?
- 15 A Yes, sir.
- 16 Q And then six minutes later he's moving again, correct?
- 17 A Yes, sir.
- 18 Q And then he stops again at 22:44:45. What time is that?
- 19 A 5:45 p.m.
- 20 Q Okay. 5:45 p.m. he stops at this location. Hold that
- 21 up. Looks like he stopped maybe at a gas station, right?
- 22 A Yes, sir.
- 23 Q You don't know the area, do you?
- 24 A I do not.
- 25 Q So you can't tell me if that's a Power Trac or some

1 other gas station, right?

2 A No, sir.

3 Q But then he starts again 10 minutes later, right?

4 A Yes, sir.

5 Q He's at the gas station for about 10 minutes?

6 A It appears that way.

7 Q And then it looks like he goes three minutes down the

8 road and he's back at Trump Pointe, correct?

9 A Yes, sir.

10 Q So, he's back down here, right?

11 A Yes, sir.

12 Q Okay. And that's Trump Pointe and he's there for a good

13 long time, right? Until the next morning.

14 A Yes, sir.

15 Q All right. Now, one of the things I pointed out was a

16 stop where it recorded a stop that lasted a short two

17 minutes, right?

18 A Yes, sir.

19 Q So, it's pretty accurate in picking up when the vehicle

20 stops and when the vehicle stops, right?

21 A Yes, sir.

22 MR. SHAFFER: Court's indulgence.

23 THE COURT: Sure.

24 MR. SHAFFER: I don't have any further questions of

25 this witness.

1 THE COURT: Solicitor, do you have any redirect?

2 REDIRECT EXAMINATION

3 BY MR. THOMAS:

4 Q Mr. Brown, I'm not I'm not going to go through them
5 with you specifically, but on here -- on these records, when
6 we're talking about these different columns, we've got some
7 that say heartbeat. What does heartbeat mean?

8 A So the heartbeat is the device automatically checking
9 in every hour.

10 Q It looks like those are about an hour apart.

11 A Yes, sir.

12 Q So, when we see moving it looks like they're about two
13 minutes apart.

14 A Yes, sir.

15 Q So, while the vehicle is moving, it only takes a
16 measurement every two minutes.

17 A Correct.

18 Q So, if a vehicle stops in the middle of that two
19 minutes will it show it stopped like it does, like right
20 there?

21 A The stop is actually based off of voltage.

22 Q Okay, when you say voltage, does that mean the truck is
23 powered off when it says stopped?

24 A Yes, sir.

25 Q So if the truck is powered on, but not necessarily not

1 moving, it'll just ---

2 A You won't have a moving event, because the movement
3 event is based off of both voltage and the actual
4 accelerometer within the device moving -- or not moving, but
5 it's capturing a speed.

6 Q So let's say somebody stopped, didn't turn the truck
7 off, just left it running for less than two minutes. Would
8 that show up as a stop or would that possibly still show as
9 just moving?

10 A We actually wouldn't have anything, because there's not
11 an event to record. If it's not moving, then there's
12 nothing for the device to record off of that.

13 Q Okay, so if the truck is powered on, but not moving,
14 within that two minute period, there won't be a coordinate.

15 A There wouldn't be a movement event, no. So, that trip
16 start is the device getting power.

17 Q Okay, thank you very much.

18 MR. THOMAS: I had no further questions.

19 RECROSS-EXAMINATION

20 BY MR. SHAFFER:

21 Q What is wakeup?

22 A Say that again, sir?

23 Q What is a trigger type wakeup?

24 A Wakeup is the device being woken up.

25 Q How does the device get woken up?

1 A So that would be either the trip start or a wake up. So
2 it's basically the device is getting power.

3 Q Okay. So, we have these events; heartbeat, wakeup, trip
4 -- and I'm going from the very top. Heartbeat, wakeup, trip
5 stop, moving stop, trip start, moving. What's going on with
6 the engine or the -- is it engine powered or is it powered
7 by the fact that the key is in the ignition, like on?

8 A That could be the wakeup. So say you're turning the
9 ignition to an accessory or something that you haven't
10 actually started driving, but you've cranked the vehicle to
11 at least get power going.

12 Q So, it's hard wired. What is it hard wired in?

13 A So, it's two wires. The red wire needs to go to a 12
14 volt constant source, and then the black wire is ground.

15 Q So, it's just powered through the car's power system?

16 A Yes, sir.

17 Q How does it tell the difference between battery power
18 and the engine?

19 A So, if it's -- based off of that it's connected to a
20 constant 12 volt, so the device, if it goes below I believe
21 12.9 volts it'll go into a sleep mode, and then once you
22 crank the vehicle, that 12 volt constant will get more power
23 going through it through the battery itself or the
24 alternator.

25 Q I guess I'm getting caught up on what the difference

1 between wakeup and trip start is. Like, what would be the
2 difference like happening with the vehicle that would make
3 the difference between wakeup and trip start.

4 A So the wake up is the device is getting power and the
5 trip start as the vehicle is now actually in motion.

6 Q Okay, so when the vehicles in motion, it's going to say
7 moving, right?

8 A So the trip start is a start of that trip, and then
9 after that it will start reporting the movement events.

10 Q And then when the trip start is -- when it's no longer
11 moving -- so, like we talked about earlier. There was like a
12 two minute gap where it went from stop to trip start. I'll
13 try to find it real quick. Here we go. It's moving, at two
14 minutes later it says stop, two minutes later it says trip
15 start, and then it says a minute later it says moving.
16 What's happening there?

17 A The vehicle is in motion.

18 Q But what happens to make it stop trip start and moving
19 again.

20 A So with the stop, the vehicle came to a complete stop.
21 Ignition was turned off, and then started, and started
22 moving again.

23 Q But there's not a wakeup here.

24 A The device wasn't asleep yet.

25 Q So how long does it take for the device to go to sleep?

1 A It varies, but roughly 15 to 20 minutes give or take.

2 Q While it's powered on it's recording every two minutes,
3 correct?

4 A Say that again.

5 Q While it's powered on it's reporting to you guys every
6 two minutes.

7 A While it's moving. Yes, sir.

8 Q So anytime that it's moving is reporting every two
9 minutes exactly where it's at, right?

10 A Yes, sir.

11 MR. SHAFFER: No further questions.

12 THE COURT: You may step down, sir. Thanks you. Next
13 witness?

14 MR. SIMMONS: Yes, Your Honor. The State calls Charlie
15 Boseman.

16 WHEREUPON, Charlie Boseman, having
17 first been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SIMMONS:

20 Q Mr. Boseman, where do you currently work?

21 A I work part-time for the Anderson County Coroner's
22 Office as of last year.

23 Q In 2021, is that where you worked?

24 A Yes.

25 Q Okay, how long have you been with the Anderson County

1 Coroner's Office?

2 A Before I got on the payroll, I was there in '72, and
3 then when the new Coroner took over in '96, I joined the
4 Coroner's office permanent in '96.

5 Q And what do you do with the Coroner's office?

6 A I do senior investigation. I'm the Senior Deputy
7 Coroner. I used to be Chief, but once I got older, they
8 moved me down to Senior Deputy Coroner. So, my job is to go
9 out and investigate death whenever it's called for. We work
10 all kind of cases, you know, from homicide to car wrecks to
11 child fatalities, suicide, whatever comes up.

12 Q And murder cases?

13 A And murder cases.

14 Q What's the normal practice for the Coroner's office
15 when there is a murder investigation?

16 A Well, we try to send out at least two, the Coroner and
17 the Deputy Coroner. Sometimes two Deputy Coroners might go
18 out, but we always do it in two's. We get the call from the
19 dispatcher, and we respond to the scene where they tell us
20 to go. Once we get there, we actually document in our book
21 the time that we left the Coroner's office, or my home, and
22 the time that we arrived there. Then, after that, we
23 identify ourselves at the scene, and we talk to the lead
24 investigator or the law enforcement, policeman, or whoever,
25 the first one that was on scene, to get more and more

1 information. Ask the name, date of birth, residence, and
2 next of kin.

3 Q And after you guys process a scene, generally, what do
4 you guys do with the body?

5 A Well, once the body is processed at the scene
6 completely, we will bag the body. And we put a locked
7 zipper on it so no one can get in there, and transport it to
8 the morgue until the autopsy is scheduled, you know, to be
9 done.

10 Q And that's normal practice?

11 A That's normal. That's normal.

12 Q And on December 14, 2021, did you show up to 110
13 Cumming Spring Road in Starr?

14 A Yes, I did. I was there less than 30 minutes, but I
15 had to leave and go to another case. So, we had at least two
16 other -- we had the main Coroner and one of the leading
17 Investigative Coroners.

18 Q And you were there for about 30 minutes?

19 A About 30 minutes.

20 Q And you had an opportunity to see Billie Jean's body?

21 A Yes. I never went straight into the area where the
22 deceased was at. I could see it from a distance from where
23 I was standing, but before I could even get that chance to
24 go in, that's why I got my call to go to another scene. -

25 Q And after Ms. Billie Jean's body was bagged and moved,

1 when was the next opportunity that you observed Billie
2 Jean's body?

3 A The next time was when we did the autopsy. The body
4 was put on the autopsy table, still sealed up in the bag.
5 And then, of course, our forensic pathologist come in and he
6 does his external by taking pictures of the bag and the
7 locked label that is on it.

8 Q About when was the autopsy done?

9 A I think it was done the next day. I can't remember
10 exactly when it was done, but it was, I think, the next day.

11 Q But it was a day or two after?

12 A A day or two after, yes.

13 Q And who was all present during that autopsy?

14 A I was there. Like I said, I've been doing this for 52
15 years now. Dr. Kyle Shaw, who's the forensic pathologist.
16 Ty Blackwell, who was with the Coroner's Office. He's still
17 with the Coroner's Office. We have one lady that runs the
18 morgue for us. She was there, but she usually stays in
19 another room and do paperwork.

20 Q And was there any Laurens County officers present?

21 A Yes, yes, yes.

22 Q Do you remember who that was?

23 A No, I don't.

24 Q If I showed you a Coroner's report, or an autopsy
25 report from that day, would that help you remember?

- 1 A Yes, it would.
- 2 Q Who was present then, Mr. Boseman?
- 3 A Okay, I see my name. Ty Blackwell, Looney, Watt was
- 4 there, Neeley and Dugan is the forensic guy for the
- 5 Sheriff's Department. Dugan.
- 6 Q For Anderson?
- 7 A Yes, for Anderson. Those are about the only one I
- 8 remember, Watt and Looney.
- 9 Q Is there a Haupfear?
- 10 A Sir?
- 11 Q Is there a Haupfear?
- 12 A Yes.
- 13 Q Do you remember Haupfear being there?
- 14 A That name don't ring a bell.
- 15 Q But he's listed?
- 16 A But he's listed on here.
- 17 Q And I'm going to show you State's Exhibit 81.
- 18 A Yes.
- 19 Q What's that?
- 20 A This is the body bag. And before the deceased has left
- 21 from the scene, we always put the name of the deceased on
- 22 the body bag, plus the date of birth and date of death and
- 23 everything. And then the bag is sealed. Like on this
- 24 picture here, it's sealed. Then it's transported to the
- 25 morgue and put in the cooler until we get ready to do the

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1 autopsy, which usually be the next day. Unless it's on
2 Friday, we will have to sometimes wait until Monday morning
3 to do the case. But mostly during the weekday, usually the
4 next day.

5 Q And is that a fair and accurate representation of what
6 you saw or observed at the autopsy?

7 A Yes, sir. And this is done on all our cases. Even if
8 the bag is a black bag, we have a marker that actually can
9 write out, that you can read letters, or the name on it. So,
10 this is one of our other bags here, so it wasn't no problem
11 about reading it.

12 MR. SIMMONS: Your Honor, the State intends to introduce
13 State's Exhibit 81 into evidence.

14 MS. MCNEILL: No objection.

15 THE COURT: Without objection, 81 into evidence for the
16 State.

17 Q And this is what you were reviewing, correct?

18 A Yes.

19 Q What is that?

20 A This is the label that we use for the Coroner's Office.
21 We have a bunch of them, and we always put stickers on the
22 number to identify that's what we put on the bag. So the
23 pathologist would come in and take pictures of it, then we'd
24 cut it, and we actually would keep it. And sometimes we
25 would store it with the rest of the evidence that we have

1 with it.

2 Q And who unsealed the bag?

3 A Sir?

4 Q Who unsealed the bag?

5 A Dr. Shaw, who is the Forensic Pathologist usually is
6 the one who would cut it off with the scissors and
7 everything. I don't know who's hand is that. I cannot tell,
8 but he usually takes care of that part there.

9 Q And I am showing you what's already in evidence as
10 State's Exhibit 15, and it is the DNA card.

11 A Yes, and this is the way that we would seal it. We
12 would actually put a label on it, which it does have a label
13 on it. And sometimes, I'm not sure, but every once in a
14 while, when it's sealed like this, the pathologist would
15 come and put his name and the date on it that it was done.
16 And between he and I, if he gave me permission, I either
17 would draw the blood, or I would do the DNA card both.

18 Q All right. But in this case, who did the DNA card? Do
19 you see that on that?

20 A Let's see here. I see it right here. Ty Blackwell. Of
21 course, he was with the Coroner's office.

22 Q And he was present that day?

23 A Yes, he was.

24 Q And whose the other name is listed on that bag?

25 A We had the deceased's name on there, Billie Jean Cross.

1 Q Who did Ty Blackwell give that evidence to?

2 A Well, once all this is sealed up, we always give it to
3 the forensic guy from the Sheriff's Department.

4 Q Right, but on this bag specifically can you can you
5 read those names? It went from Ty Blackwell to who?

6 A Oh, down at the bottom here. Well, Ty was the one who
7 had signed for it, and it was given to, let's see -- that
8 (SPELLING) H-a-u-p fear guy.

9 Q Haupfear?

10 A Yeah. It was given to him.

11 Q And all of you were present during that time?

12 A Yes, we all. Yes.

13 MR. SIMMONS: No further questions.

14 THE COURT: Any examination of this witness?

15 MS. MCNEILL: Yes, sir.

16 CROSS-EXAMINATION

17 BY MS. MCNEILL:

18 Q Good morning. How are you?

19 A I'm fine. Good morning.

20 Q I just want to go over a couple of things with you.

21 You said that you arrived at the scene where the body was
22 found, is that correct?

23 A Yes, ma'am.

24 Q Okay, do you remember what time that was?

25 A No, ma'am. I'm not quite sure, but everyone was there

1 when I got there. The Coroner and the lead investigator was
2 there with the Sheriff's Department, and everyone was there.

3 Q And when -- is it my understanding that the Coroner's
4 Office goes out to more scenes where death has occurred?
5 in some fashion, and law enforcement doesn't always show up
6 to those same scenes; is that correct?

7 A That's correct. If we have a natural death, we don't
8 have law enforcement come out there. It might be the EMS
9 people, and when the 911 call comes in, that goes through
10 dispatch and they notify us now. We don't know whether it's
11 natural or what until we get there.

12 Q Okay, how do you figure out if it was a natural death?

13 A How do we know?

14 Q Yes, sir.

15 A In those kind of cases, the EMS is there. And we get
16 all our information from the EMS who give us the medical
17 history and everything, and also the time of death.

18 Q All right. And your role with the Coroner's Office is
19 different than the role of law enforcement when it comes to
20 evaluating the body that has been found initially. Is that
21 correct?

22 A Yes.

23 Q Okay, can you explain to me what the difference is that
24 the Coroner's Office does that law enforcement might not do?

25 A Well, in certain cases law enforcement usually responds

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1 to a lot of deaths, say a drug overdose for instance, but
2 they don't respond to car wrecks. Child death they will. A
3 homicide, they will, but they usually know ahead of time
4 before they even get there. The EMS is usually the first one
5 there with the first responding officer. So, and then they
6 start calling everybody else.

7 Q Who is everybody else?

8 A That would be the Coroner's Office, the county
9 Sheriff's investigators, everyone like that.

10 Q Okay. And do you have the Coroner's death investigation
11 report with you?

12 A I've got this first part, yes.

13 Q Okay. So does the Coroner's Office do things like
14 toxicology, or would that be somebody else?

15 A That comes from the Pathologist's department from doing
16 the autopsy.

17 Q When you arrived on scene, what did you observe
18 happening to Ms. Billie Jean Cross's body at that time?

19 A Well, when I got to the scene, I was told it was a
20 homicide. And I wasn't the first Coroner there, so there's
21 other ones there. And I started trying to get all the
22 information as how the body was found, and who found it, and
23 everything else. But like I said, I was there like less
24 than 30 minutes and then I got another call of a natural
25 death somewhere else. So, I had to leave.

1 Q Okay. But you did observe Ms. Billie Jean Cross's body
2 in the overgrown field?

3 A Yes, ma'am. I did. I was on the side of the road, but
4 I could see where she was laying at. Yes.

5 Q Okay. Did you ever get a close-up view of her body
6 when you were there on scene?

7 A No, ma'am. I did not. I did not get very close-up
8 scene. But I was at the autopsy when it was scheduled to be
9 done.

10 Q So, maybe you can answer this question, I'm not sure.
11 But when you viewed Ms. Cross's body, she had clothes on,
12 correct?

13 A Yes.

14 Q Okay, and she arrived to the morgue with those clothes
15 on, right?

16 A She was in a body bag.

17 Q In a body bath, okay. Would she have been clothed or
18 unclothed at that point?

19 A She should be clothed.

20 Q Okay, and when you observed her body, you observed her
21 clothing that we established. Did you observe her socks by
22 chance, that were on her feet?

23 A Well, once the body -- Dr. Shaw, who is the Forensic
24 Pathologist there, once he opened the bag, he started doing
25 what we call an external exam. That means he'd take more

1 pictures of everything before the body is even touched.

2 That means clothing, wounds, whatever is there. And after

3 we finished everything, he did take that part there, and

4 then we started undressing her, but I --

5 Q So, it would be Dr. Shaw who could answer?

6 A He can answer those questions for you. Yes, he can.

7 Q When you arrived, or when the Coroner's Office arrived

8 at the scene for Ms. Billie Jean Cross, do you know if

9 anybody there from the Coroner's Office checked her body

10 temperature?

11 A No, ma'am. I couldn't tell you that.

12 Q Do you remember if her body was stiff, or if it was

13 limp?

14 A I can't tell you that either.

15 Q Can you explain to us what rigor mortis is?

16 A Yeah, it's the stiffening of the body once it's laid

17 there for a certain period of time. It usually lasts about

18 12 hours, and then after 12, it starts coming out, really

19 about 36 hours. And then it would just completely go limp

20 and everything. Livor mortis is when the blood is settling

21 in one position, like the position that the person might

22 have died in, which would be, say, the back or the side, or

23 the front part. It's well-fixed by time -- within a 12-hour

24 period.

25 Q So when you say a 12-hour period, you're saying that it

1 takes 12 hours from the time of death for the body to become
2 stiff?

3 A It all depends with the temperature on the outside.
4 If it's colder, it's different. When it's warmer, it's
5 still different. You know, the body decomposes faster during
6 the summer time than the winter. So during the winter, it's
7 more like a slow process. But if we receive the body and we
8 got it in the morgue, it's usually completely rigor mortis.

9 Q And then, so when it's in rigor mortis, it stays that
10 way for approximately 12 hours?

11 A 12 hours, yeah. 12 hours. It began to loosen up.

12 Q Okay, so it takes 12 hours for the body to stiffen and
13 then 12 hours for it to, kind of, come out. Is that correct?

14 A We estimate after 12 hours, it's a few hours later, we
15 look at between 12 and 36 hours.

16 Q 12 and 36 hours?

17 A Yes.

18 Q Would law enforcement ever take a body temperature from
19 a body found in a field like that?

20 A That I really don't know. We at the Coroner go to our
21 scenes where it's a natural or an accident, and we would
22 take core temperature. The forensic guys come in, they
23 shoot a lot of pictures and they take a lot of evidence,
24 stuff like that, but I couldn't tell you that.

25 Q Okay, and the reason I'm asking you, obviously, about

1 temperature being taken at the scene, is that could
2 sometimes help to nail down the time of death.

3 A The time of death, yes.

4 Q Okay, so that's correct. So, if her temperature had
5 been significantly low, she might have been out there for
6 longer periods of time, versus if it was more like a normal.

7 A Yes. we try to go hour by hour. You know, we go with
8 the regular temperature of a living person and then it
9 decrease. And then you start, you know, measuring from hour
10 per hour. And that could give us a pretty good time.

11 Q And in this case, you couldn't tell, or you couldn't
12 get a time of death, correct?

13 A Like I said, I wasn't there long enough. I couldn't
14 tell you that. I left the scene and the forensic guy and
15 the other Coroners was there. But when I received the body
16 in the morgue, then everything had completely changed,
17 because she's in the cooler.

18 Q Right. Okay, and how would that affect things?

19 A Well, the body is still going to continue to go into
20 rigor. It might be a little slower, because our cools are
21 about maybe 38 degrees. It's very cold in there. And once
22 we get the body out and put it on the table, we're going to
23 be there at least two or three hours doing the autopsy. And
24 the majority of the time, like 90 percent of the time, the
25 body is already in or out of rigor.

1 Q Okay, so to wrap this up, you couldn't give an opinion
2 on whether it was possible that she died before being found
3 in that field or at the field?

4 A Well, I'm not a Forensic Pathologist. I might have
5 been doing this a long time, but I can't make that call.

6 Q Right. You said you've been doing this how long?

7 A 52 years.

8 Q 52 years.

9 MS. MCNEILL: Beg the Court's indulgence.

10 THE COURT: Sure.

11 MS. MCNEILL: No further questions. Thank you so much.

12 THE COURT: Solicitor, do you have any redirect?

13 MR. SIMMONS: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. SIMMONS:

16 Q Mr. Boseman, I'm showing you State's Exhibit 47. That
17 appears to be a wooded area. Is that right?

18 A Sir? I'm sorry. What did you say?

19 Q This appears to be a wooded area?

20 A Yes.

21 Q This was the scene when you showed up? This is about
22 what it looked like?

23 A Yes, it did.

24 Q And where was this location? Do you remember?

25 A It's in the Starr-Iva area.

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1 Q It's on Cumming Spring?

2 A Yeah, Cumming Spring. Yeah.

3 Q And Bill Mouchet?

4 A Uh-huh.

5 Q And is there another road, Jones Road?

6 A It's another road, yeah. Jones.

7 Q And they're all intersecting right there?

8 A All together, yeah.

9 MR. SIMMONS: No further questions.

10 MS. MCNEILL: Beg the Court's indulgence. No further
11 questions. Thank you.

12 THE COURT: Mr. Boseman, you can step down, sir. You're
13 free to leave the courthouse or you're more than welcome to
14 remain with us if you like.

15 MR. THOMAS: Your Honor, can we approach?

16 THE COURT: Sure.

17 (WHEREUPON, a sidebar was held off the record.)

18 THE COURT: Ladies and gentlemen, we're going to take
19 about a ten minute break. Go back to the jury room, and
20 we'll get you back out and we'll proceed forward. We may
21 have some legal issues I need to deal with before this next
22 witness, so you may be back a little longer than the break
23 time.

24 (WHEREUPON, the jury exited at 11:35 a.m. Break until
25 11:49 a.m.)

1 THE COURT: We're back on the record and Solicitor, I
2 think I think we're going maybe take some in-camera
3 testimony from Dr. Shaw.

4 MR. THOMAS: Yes, sir. Your Honor, just to give you
5 roadmap I think just for his in-camera I'm just going to ask
6 him -- he's got -- I have several photographs from the
7 autopsy. They are numbered State's 82 through 94. I think
8 the Defense has an objection to 85 through 94, they have an
9 objection to. So, proffer some testimony from him, let you
10 take a look at all of them, and go from there.

11 THE COURT: Dr. Shaw, if you'll come around and please
12 be sworn in, and we're going to take some testimony from you
13 outside the jury's presence.

14 MR. THOMAS: And just for the record Judge, I've also
15 marked -- there were several other pictures that Defense
16 objected to. I've marked those Court's 5 through 10 instead
17 of moving those into evidence. We've got a State's Exhibit.
18 It's just a diagram, anatomical diagram. I'm going to just
19 have him mark on the diagram what the injuries are to the
20 victim's head, because most of those Court's exhibits are
21 head injuries. Instead of putting those in evidence, I'm
22 just going to let him refer to them, so if he needs to
23 refresh his recollection.

24 THE COURT: So, 5 through 10 will be Court's exhibits,
25 and will not be in evidence. But the in camera testimony is

1 going to be geared towards the pictures, and what pictures
2 are going to come in, and what pictures may not come in. Is
3 that right?

4 MR. THOMAS: That's correct, Your Honor.

5 THE COURT: I want to make sure that I'm clear on these
6 autopsy pictures. Again, several have been marked as
7 Court's exhibits 5 through 10, may be referred to by Dr.
8 Shaw in his testimony, but they're not going into evidence.
9 And then the other pictures 85 to 92, and the Defense agrees
10 to 81, 82, 83 and 84, but object to the remainder. Is that
11 right or have I confused everybody?

12 MR. THOMAS: 81 should already be in. That came in
13 through Mr. Boseman, the last witness. 82 through 84, no
14 objection. 85 through 94 ---

15 THE COURT: Let's do this. Let's go off the record and
16 then y'all discuss, and then we can go back on the record
17 and see where we are.

18 (OFF THE RECORD.)

19 THE COURT: What is agreed to as far as autopsy
20 pictures and what is not agreed to? Solicitor, you want to
21 cover that, just for the record.

22 MR. THOMAS: State's 82, Your Honor, no objection to
23 that. State's 83, and State's 84 they have no objection to
24 it.

25 THE COURT: And then Defense has objection to ---

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1 MR. THOMAS: 85 through 94.

2 THE COURT: Okay, let's start again with the in camera
3 testimony of Dr. Shaw.

4 WHEREUPON, Dr. Kyle Shaw, having first
5 been duly sworn, testified as follows:

6 EXAMINATION (IN CAMERA)

7 BY MR. THOMAS:

8 Q Dr. Shaw, you performed an autopsy of Ms. Cross in this
9 case?

10 A Yes.

11 Q I'm going to show you several pictures. Again, what we
12 just read out, State's 84 through 94, and let you just see
13 if you recognize those.

14 A Yes.

15 Q And of those, all of them, I think except for State's
16 85, were taken by you; correct?

17 A Yes, by myself for a representative of the Coroner's
18 office, but normally the camera is in my hands at this point
19 in time.

20 Q State's 85 someone else took it, but that's you in the
21 photograph?

22 A Correct.

23 Q So, talk to us about Ms. Billie Jean Cross. What was
24 her cause of death?

25 A Her cause of death, in my opinion, is ligature asphyxia

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1 and blunt head trauma.

2 Q What caused that ligature asphyxia?

3 A So the evidence we have is that there was a ligature,
4 or basically a scarf, or material, that was around her neck
5 at the time. There are additional injuries, or petechiae or
6 hemorrhages, associated with that, which also go along with
7 an asphyxia type event or pressure on the neck.

8 Q How tightly -- so when you got her body, was the scarf
9 still wrapped around her neck?

10 A Yes, it was.

11 Q How tightly was that scarf wrapped around her neck?

12 A It was tight enough that I had a lot of difficulty
13 getting my fingers between the scarf and the neck at the
14 time of examination, which is significantly tight.

15 Q And was it -- it was twisted up in the back?

16 A Yes, it was not knotted, but it was twisted, kind of
17 like you would twist a tie to tie bread bag down.

18 Q And so, how did y'all end up getting the scarf off of
19 her neck?

20 A So after some discussion with law enforcement at the
21 time, we decided to cut the ligature in the front of her
22 neck and pull it off that way.

23 Q And I think did you initially try to do it with
24 scissors?

25 A Probably, yes.

1 Q And I guess that was unsuccessful, so you ended up
2 using a scalpel?

3 A Yes.

4 Q State's 85. I'll just put it up in the board. I don't
5 think details are all very important for you. State's 85,
6 what is that a picture of?

7 A This is an image of me trying to cut or successfully
8 eventually cutting the ligature off, or the scarf off, of
9 her neck. So, those are my hands. You can see the scalpel
10 in my right hand, and basically trying to be very careful
11 obviously to not injure the neck and getting through that.

12 Q So when you're doing that, you're trying to pull the
13 scarf up from the neck so you don't slice into the neck
14 while you're cutting?

15 A Correct, so usually what I try to do is get my fingers
16 in behind the scarf, so between whatever material it is and
17 the skin, and push the skin away, and basically use the gap
18 between my fingers to kind of cut through. It can be a
19 delicate process.

20 Q So it was³ kind of difficult to do that in this case
21 because of how tightly it was wrapped?

22 A Correct.

23 Q And this photo demonstrates how tightly that scarf was
24 wrapped.

25 A To some extent, yes, I believe so.

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1 Q Same thing with State's 94. What is that photo of?

2 A This is just as we were finishing, or as I was
3 finishing cutting the scarf. So, it's a depiction of where
4 that cut was made and the location just before we pulled it
5 off of her neck.

6 Q And then State's number 93. What are we looking at
7 right here?

8 A This is after removal of the scarf. And we can see an
9 area of pallor across the neck. That means just more pale
10 skin. So, there's congestion or lividity, that red
11 discoloration, below the mark or the line of the ligature
12 and some above it as well. And we can see where the
13 ligature was.

14 Q And this photograph right here. The difference in the
15 color between where the ligature was and the rest of her
16 body, is that significant in the terms of helping you
17 determine cause of death?

18 A In part, yes. So, the difference in color, the pallor,
19 the pale skin there is a physical representation of the fact
20 that there was significant pressure there. Basically
21 preventing blood from leaking into the skin and being
22 visible there. So, there's a line of demarcation where that
23 pressure is on each side.

24 Q She also, well that's what we're talking about is
25 asphyxiation. She also -- what's some of the classic signs

1 of ligature asphyxiation, in terms of the eyes?

2 A So classically we see what's called petechiae or
3 petechial hemorrhages, which are tiny little punctate
4 hemorrhages. So to better understand that and how and why
5 that occurs, when we put pressure around the neck, one of
6 the first things that occludes, or gets blocked off, are the
7 veins that drain blood out of the head. So some pressure is
8 put on, the veins occlude, but the arteries are still
9 pumping blood into the head and face. So the intravascular
10 pressure, the amount of pressure inside the blood vessels
11 goes up. And some of the very small blood vessels are more
12 delicate in certain places than others and they can rupture.
13 So we see that mostly in the mucosa, which is inside or
14 behind the eyelids, and on the inside of the lips. Those
15 are two of the most common places. Usually the third most
16 common place is around the outside of the eyes where the
17 skin and the blood vessels are a little more delicate.

18 Q So showing you State's 89. What is that picture of?

19 A So this is reflecting part of her left lower eyelid
20 down. We can see some hemorrhages and petechiae of the
21 inside of that eyelid.

22 Q State's Exhibit 90.

23 A And that's the upper eyelid which is actually, even
24 though the hemorrhages are smaller, there's actually more of
25 them. Those tiny little dots there are petechiae and are

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1 pretty significant in the context of pressure around the
2 neck.

3 Q And State's 91?

4 A Similar. This is the right eye, the right lower eyelid
5 that has been pulled down. We can see some hemorrhage
6 there.

7 Q And 92?

8 A And the right upper eyelid. Again, we can see a little
9 petechiae on the inside of the right upper eyelid.

10 Q And then I believe we talked about petechiae in the
11 mouth. Did she also have injuries to her mouth? She had
12 petechiae in her mouth as well, right?

13 A Yes.

14 Q Did she also have other injuries to her mouth.

15 A She did, yes.

16 Q What were those?

17 A There were pretty substantial bruises to the inside of
18 her lips, as well as a laceration, an avulsion, which
19 basically means part of the tissue was pulled away from her
20 jaw. Part of the lower lip was pulled away from her jaw in
21 front.

22 Q So, in terms of 88, what are we looking at?

23 A So this is her upper lip, which has been sort of lifted
24 up and exposed, and we can see some fairly substantial
25 bruising there, as well as some petechial hemorrhage, the

1 little dots of hemorrhage.

2 Q And State's 87. What are we looking at there.

3 A Again, we can see quite a lot of hemorrhage or bruising
4 here. There are some petechial hemorrhages, and there's a
5 laceration. That laceration, avulsion, where part of the
6 tissue has been pulled away from the lower jaw.

7 Q And she had an injury to her right hand?

8 A Yes.

9 Q What are we looking at on 86?

10 A So this is her right fourth finger, just next to the
11 little finger, so just for orientation. Her thumb would be
12 -- we can't really see it here. That's her index finger,
13 that's her pinky finger, and there's a bruise on this
14 finger. There had been a ring in that location, but there's
15 a bruise right there.

16 Q All of these pictures I've just shown you, State's 85-
17 94, do those fairly and accurately depict the injuries you
18 saw with her that day when you did the autopsy?

19 A Yes.

20 Q Were those pictures helpful and necessary to your
21 explanation of those injuries to the jury, especially the
22 ones as it relates to the petechiae?

23 A Yes.

24 Q And do they also help demonstrate how tightly that
25 scarf was wrapped around her neck?

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1 A Yes.

2 MR. THOMAS: Your Honor, I think for purposes of this I
3 will conclude with that.

4 THE COURT: Well, Ms. McNeill, do you have any
5 examination of Dr. Shaw, as it relates to the photographs?

6 MS. MCNEILL: Yes, sir. Just a few. I'm going to
7 withdraw my objection to State's Exhibit 82.

8 THE COURT: Okay, so we're taking -- well, I already
9 had that you agreed to 82.

10 MS. MCNEILL: I was just confused, because I didn't
11 know.

12 MR. THOMAS: I kept them all together.

13 EXAMINATION (IN CAMERA)

14 BY MS. MCNEILL:

15 Q Dr. Shaw, do you feel that it's necessary for you to
16 look at State's Number 85? Do you see that, okay?

17 A Yes.

18 Q Okay, so State's 85, you find that this picture is
19 reasonable and necessary to explain to the jury your
20 findings, is that right?

21 A I think it's useful, yes.

22 Q It's useful? Is it necessary?

23 A I don't know what you mean by necessary.

24 Q Is it impossible for you to explain her injuries
25 without this picture?

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1 A I can be descriptive, but I think the image is more
2 descriptive.

3 Q Okay, and of course, visuals are always more
4 descriptive. Do you think that this picture is also
5 necessary for your testimony?

6 THE COURT: Which number Exhibit?

7 MS. MCNEILL: I'm sorry, this is State's Exhibit 94.

8 THE COURT: 94?

9 MS. MCNEILL: Yes, sir.

10 A I think it has some value in terms of location of where
11 the scarf was, and showing that these ends have been pulled
12 apart pretty significantly without my pulling on them.
13 That's basically just the effect of cutting them. They've
14 fallen apart because of the stress that was on them. So, I
15 think there's some value there.

16 Q Okay. Do you think that you can accomplish that same
17 value by just using this photo?

18 A I think there's more value in both of them together.

19 THE COURT: What was your answer, Dr. Shaw?

20 WITNESS: So I think there's more value in both of
21 them, because they're showing slightly different things.

22 Q So when we talk about State's 94, again, you're saying
23 that the reason that this photo is so necessary for your
24 testimony to the jury in explaining the injury is because
25 after you cut it, it's kind of falling downward, like,

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1 released.

2 A The tension, yes. The tension is such that these are
3 already pulling apart. I think that's part of the value in
4 this image. And I think the other value, again, is just
5 showing where it's at around the neck.

6 Q Do you think that you would be able to explain that you
7 cut this scarf and that is how this is happening with the
8 scarf?

9 A Yeah, I can certainly explain that I cut it and that
10 that occurred, but this of course is a visual representation
11 of it.

12 Q Okay, so you can do that, so then necessarily State's
13 85, that just shows you cutting the scarf, correct?

14 A Correct.

15 Q Okay, and then State's 94 is after you cut the scarf
16 and you can describe how tight it was because of the tension
17 released in the scarf. Is that correct?

18 A In part, yes.

19 Q I'm going to show you State's Exhibit 93. You testified
20 earlier on direct that this is a photograph that shows where
21 the scarf was located on the neck of Ms. Cross's body,
22 correct?

23 A Yes.

24 Q Okay, and so that skin pigmentation would be lighter
25 than say the red pigmentation because, my understanding from

1 previous discussions with you, is that the tension that the
2 scarf provided would have restricted blood, and that's why
3 it's more of a regular colored whitish pigmentation versus
4 where the blood has been pooling. Is that correct?

5 A Basically, yes. The pressure has basically excluded
6 blood from settling into that spot. So, we have this visual
7 representation of it in terms of pallor.

8 Q And then, do you think that you would be able to draw
9 the injury on a diagram? Where is that diagram? I'm going
10 to show you State's 95. If I stand back here at the podium,
11 Doctor, just so I can keep working with these pictures,
12 can you still do it?

13 A Sure, yes.

14 Q Okay. So I'm showing you State's 95. It's an enlarged
15 diagram, and it says head-lateral view at the top. Do you
16 think that you would be able to draw this injury on the neck
17 portion of this diagram that would be consistent and a good
18 representation of how it looks on State's Exhibit 93?

19 A I can draw the lines there. I can't do the same
20 coloration. Again, the representation of the photograph has,
21 I think, greater value, but certainly, yes. I can draw them
22 there just as I drew them on my body diagram.

23 Q State's Exhibit 86. So my understanding from your
24 testimony, and please correct me if I'm wrong because I've
25 been multitasking so I might have misheard you. State's

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1 Exhibit 86 is a picture of what looks to be her right hand.

2 Is that correct?

3 A Yes.

4 Q All right. And you're stating that her ring finger
5 next to the pinky finger, that's a bruise in your opinion?

6 A Yes.

7 Q All right. And that bruise is consistent with having a
8 ring on its finger, correct?

9 A Not just having a ring on its finger by itself. There
10 was a ring there and it could be that an impact to the ring
11 is, in turn, transferred to the finger. In other words, the
12 ring just being present wouldn't cause a bruise. There still
13 has to be an impact that causes a bruise.

14 Q You're saying that if, like I'm wearing a ring on my
15 hand right now, on my left hand, and you're saying that if I
16 had a bruise that was similar to Ms. Cross's right hand that
17 we're talking about on State's Exhibit 86, that if this ring
18 was too tight, and you cut it off during an autopsy of my
19 body, and you found a redness underneath the ring, such as
20 on State's Exhibit 86 on her ring finger, you're saying I
21 would have to have additional, like, forced trauma to the
22 finger in order to get that bruising?

23 A To get this kind of bruising that we see here, I would
24 say yes. So, simply a tight ring --

25 THE COURT: Do you need water?

1 WITNESS: I might.

2 A Sorry about that. So, the pattern of bruising here is
3 a little bit broader than that. So if, for example, we just
4 had a tight ring, much like we had a tight ligature, that I
5 would more expect there to be pallor there than a bruise
6 there. Now, is it a possible that if someone had a tight
7 ring that they're more prone to getting bruising there, I
8 suppose that might be possible, but it really depends.

9 People wear rings in all kinds of different ways. I see a
10 lot of individuals that come to me with rings on. I do not
11 usually see bruises associated with that, in the absence of
12 some sort of impact or injury to that area.

13 Q Okay, and just because I'm a layperson when it comes to
14 your field, you said "pallor." When you say "pallor" I'm
15 going to refer back to State's Exhibit 93. Are you talking
16 about the whiteness that's on Ms. Billie Jean Cross's body's
17 neck where the scarf was? Is this pallor?

18 A Yes, that is an area of pallor at least compared to the
19 surrounding tissues.

20 Q Okay, to your knowledge and like based on your
21 experience and your knowledge, do you have any idea how a
22 bruise would occur underneath a ring on State's Exhibit 86?

23 A There's a lot of different ways. Potentials are
24 snagging the ring, striking something with the hand or the
25 fist, something else striking the hand or the fist. It's

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1 some sort of impact.

2 Q Okay, so that's why it's not the same as the pallor is
3 because it's more bruised.

4 A It's bruising underneath, right. It's bruising
5 underneath the skin.

6 Q I'm going to refer to State's Exhibit 87. Sorry, let
7 me move that down for you. This is State's Exhibit 87. And
8 you said that this is showing hemorrhaging and bruising on,
9 I guess, this would be her bottom interior lip. Is that
10 right?

11 A Yes.

12 Q Okay. Now, State's Exhibit 88, this is the same exact
13 thing just happening on her upper lip interior, correct?

14 A Close, yes. There's bruising and petechiae in the
15 upper lip, and there's bruising and laceration in the lower
16 lip.

17 Q Okay. So is it your opinion that maybe she was struck
18 in the mouth and that's how this happened?

19 A Yes, there's definitely impact to or around the mouth
20 to produce those kinds of hemorrhages and laceration.

21 Q So that would have been pretty strong force, I'm
22 assuming, to create that effect or that injury?

23 A Reasonably substantial, yes.

24 Q I'm going to show you State's Exhibit 89. And you
25 stated that this was the left lower eyelid, the down eyelid,

1 the lower eyelid; correct?

2 A Correct.

3 Q Okay. And then State's Exhibit 90 is the upper eyelid,
4 correct?

5 A Correct.

6 Q Okay, are these two photographs, State's 90 and 89 --
7 and I'm happy to bring them up there if you need for me to
8 do that. Is this the same eye?

9 A It's the same eye, but different eyelids. One's upper
10 and one is lower.

11 Q Okay, if somebody were to have an injury, such as Ms.
12 Cross did, and it creates petechiae and hemorrhaging in her
13 eye, would it ever just happen on one eyelid and not the
14 other? Like, for example, would it happen on the upper
15 eyelid and not the lower eyelid?

16 A So if it's related to an impact, then that can happen.
17 When it's related to an asphyxia type event or pressure to
18 the neck, usually it's both sides. There can be some
19 variation to that, especially when it's not profound. And
20 there can be some variation to that depending on their
21 position. So if they have that pressure on their neck and
22 then they're immediately laid down, kind of, on their right
23 side. In the right side, sometimes we get a little more
24 congested and have a little more prominence. But generally
25 speaking, the asphyxia component, if it's going to happen in

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1 one eye, for the most part, it's going to happen to the
2 other eye.

3 Q And so my original question, though, was State's
4 Exhibit 90 and State's Exhibit 89. That's the same eyeball,
5 right? It's just -- that one is the upper part of the
6 eyelid and the other photo is the lower part of the eyelid,.
7 Is that right?

8 A Correct, one is the upper eyelid, the other is the
9 lower eyelid.

10 Q So my question is, is it possible that petechiae, that
11 this kind of injury would happen on one, either the upper or
12 the lower, or is it always going to happen on both when it
13 comes to this type of injury?

14 A It usually happens on both. It does not always happen
15 on both. In this case, also, just to be clear, the bruising
16 around the eye is likely showing through here with this
17 darker area on the lower eyelid, which is why this looks a
18 little different to this. There's petechiae in both areas,
19 and there's more we call subconjunctival hemorrhage on the
20 lower.

21 Q Okay. And I think before you testified that usually it
22 would happen to both sides, your left eye and your right
23 eye, is that correct?

24 A Usually, yes.

25 Q Okay, and so then you would agree with me that State's

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1 91, that looks like her left eye.

2 A That would be right.

3 Q That's her right eye?

4 A Correct.

5 Q And then State's Exhibit 92. Is that also the right
6 eye?

7 A It is.

8 Q All right. And so on State's Exhibit 92, you have two
9 metal devices. To me, it looks like tweezers. I'm not
10 really sure what it is. And that is showing both the upper
11 and lower eyelids on that right eye. Is that correct?

12 A On this one it does actually, yes.

13 Q Okay. And so State's Exhibit 91 shows the same injury
14 as State's Exhibit 92, it's just only one eyelid is pulled
15 down, is that correct?

16 A Close. I think the actual image here, the lighting,
17 something makes this a little bit more clear in this image
18 compared to the one with both.

19 Q Now, I'm showing you State's Exhibit 92.

20 A Which is the one with both, and the hemorrhage on the
21 lower is not quite as prominent or not quite as visible in
22 that one.

23 Q But these photographs that we just went over with the
24 eyes, so that's State's Exhibit 92, 91, 90, and 89. Those
25 photographs all show the same injury in each eye and eyelid,

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1 correct?

2 A They all show petechiae and the lower lid shows some
3 subconjunctival hemorrhage, yes. But it shows the extent on
4 both sides, correct.

5 Q Doctor, I just have a quick question about State's
6 Exhibit 86. Is what I'm looking at here, what you refer to
7 as skin slippage?

8 A No, this is an eye. There is some wrinkling of the
9 hands, but I don't see that the skin is actually -- when I
10 use the term skin slippage, that's the very superficial
11 layers of the skin that start to slough away. It's not the
12 entire skin, but it's the superficial layers. But in this
13 particular image, no. There's wrinkling of the hands of the
14 skin, which can happen if there's a little bit of dampness
15 around the skin or on the skin. But I don't see that that
16 skin is actually slipping or sloughing away.

17 Q And then going back -- this is my last one. I'm
18 wrapping up. Going back to State's Exhibit 93, where the
19 scarf was removed and you stated that one of the causes of
20 death was asphyxia due to strangulation, correct?

21 A Due to ligature asphyxia, I believe, yes.

22 Q How long does it take somebody to die from that?

23 A That depends a little bit on how much pressure is
24 actually applied. So again, going back to the explanation of
25 veins being occluded, and then arteries being occluded. If

1 that ligature is tight enough to occlude the arteries, the
2 coronary artery, excuse me, the carotid arteries, then
3 usually loss of consciousness is within seconds. On the low
4 end, maybe five or so seconds, up to around 10 or 12 seconds
5 for loss of consciousness. And death, if that pressure is
6 maintained, death is on the order of a few minutes later.

7 Q So, 5 to 12 seconds for loss of consciousness, and if
8 the pressure is not released, death is -- I'm sorry,
9 you said how long?

10 A On the order of a few minutes. It's probably on the
11 order of two minutes or greater. We don't have a -- the
12 data is not definitive on precisely when death occurs.

13 MS. MCNEILL: Thank you. Beg the Court's indulgence.

14 Q One more question. So you just stated that if the
15 pressure was sustained, it could take two plus minutes for
16 death to occur. What if the pressure is not maintained? How
17 long would it take?

18 A It really depends on how that pressure is applied and
19 release. And unfortunately, strangulation type events can
20 be very dynamic situations, if there's a back and forth
21 struggle where, say, one carotid artery is able to flow for
22 a few seconds. That buys that individual a little more
23 time. So we can't -- we don't really know. I don't really
24 know how long it could take. It could take quite a long
25 time if that struggle, that dynamic situation, works in

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1 favor, I guess, of the victim to the point that they're able
2 to get some blood flow from time to time.

3 Q Okay, so if the pressure is not sustained, basically,
4 you're telling me it would probably take longer to die than
5 if the pressure was maintained.

6 A Correct. And if it's less pressure, so if the pressure
7 is only enough to occlude the veins, or occlude the veins
8 and partially occlude the arteries, then the amount of time
9 is going to vary related to that.

10 MS. MCNEILL: Thank you. No further questions.

11 EXAMINATION (IN CAMERA)

12 BY THE COURT:

13 Q Dr. Shaw, I have two questions for you, sir. To a
14 reasonable degree of medical certainty, can you better
15 explain your findings and opinions of the jury with or
16 without all of these autopsy pictures?

17 A With.

18 Q And to a reasonable degree of medical certainty, do you
19 believe that any of the pictures are cumulative in nature
20 showing exactly the same thing?

21 A I do not think they show exact. There are some
22 overlaps, certainly, but I don't think they all show exact
23 -- or I don't think any two of them show exactly the same
24 thing.

25 THE COURT: All right. Thank you very much. All right,

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1 Ms. McNeill, your objections to -- are you still objecting
2 to 85 through 94? And if you are, the basis for your
3 objection.

4 MR. BROOME: Your Honor, I'll argue.

5 THE COURT: Mr. Broome.

6 MR. BROOME: I'm going to cite -- we're going to object
7 under State v Nelson. The cite is 440 S.C. 413 -

8 THE COURT: Give me that site again, please.

9 MR. BROOME: 440 S.C. 413 State v Nelson. And that was
10 a murder case in Charleston that was decided on August 9th
11 of last year, which was reversed by the Supreme Court. And
12 an issue in Nelson was not necessarily what happened, but
13 who killed the victim in that case. And so, what we're
14 agreeing to do, the Defense, we stipulate to the facts. We
15 stipulate to the facts that are in the photographs that the
16 State introduced and showed Dr. Shaw. We're not disputing
17 that. We're not disputing that the victim died from
18 strangulation. We're not disputing that she had petechiae.
19 We're not disputing any of that.

20 Additionally, I would point out that what the State is
21 intending to do, through Dr. Shaw, is argue an inference of
22 malice based upon strangulation and per testimony from Dr.
23 Shaw that it would take -- and I believe the State is going
24 to intend to proffer this in front of the jury, is that two
25 to three minutes or longer of sustained pressure would cause

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1 death, which is what happened to Ms. Cross here,
2 unfortunately. That's how long it would take to kill
3 someone. So their -- we have that testimony that can, the
4 State can prove malice based upon Dr. Shaw's testifying of
5 how long it would take someone to die from asphyxia.

6 Additionally, the State is has introduced, and will
7 continue to introduce, other additional evidence that will
8 go to one of the elements, which is malice. That being the
9 body being dumped in the woods, left out in the cold in the
10 elements. And additionally, they are arguing that Ms.
11 Cross's body was placed into a trash can, and then dumped
12 into a field, and then left in the middle of nowhere. So,
13 what State v Nelson is, what happened in that case, is that
14 it was a who-done-it case. And the Defense said, we
15 stipulate that she died, the victim. We stipulate that all
16 the information in those photographs, that's what's in the
17 photographs. It's not in dispute that the person died. And
18 what Nelson -- just like the Defense in Nelson stipulated
19 that the victim was murdered in that case, we are
20 stipulating that Ms. Cross was murdered in this case. So
21 what Nelson held is that if the Defense is stipulating to
22 the facts of what's in the pictures that the State is
23 intended to show through the autopsy pictures, and two, that
24 the State can prove through other evidence, malice, which I
25 think we have in this case, via the sustained pressure to

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1 the neck, two, the location of the body, three, the trash
2 can. What Nelson held is the State does not need those
3 autopsy photos to prove a necessary element, which is
4 malice.

5 So, I'd asked the Court to take some time. I know Mr.
6 Thomas is going to -- and you're going to ask him to
7 respond, but I'd ask the Court to take some time to look at
8 State v Nelson, because that was very similar to this case
9 where there were two people pointing a finger at each other
10 and based upon the information in the photographs, and based
11 upon what the doctor in that case was able to testify
12 without pictures, the Supreme Court reversed and said that
13 was unnecessary. The State could have proved malice without
14 the photographs through other evidence.

15 THE COURT: Okay. All right. Solicitor, your response?

16 MR. THOMAS: I think I'm going to start with 86, Your
17 Honor. I'm not sure what the injection to 86 is. It is a
18 picture of her ring finger with a bruise on it. It is very,
19 very similar to States 83 and 84, which also show bruising.

20 THE COURT: Let me see the three pictures that Defense
21 has agreed to. That may be of some help to me.

22 MS. MCNEILL: And Judge, you know, based on my
23 questioning of Dr. Shaw, I am going to withdraw my objection
24 to State's Exhibit 86, which is showing her hand, Ms.
25 Cross's hand. I think it's the right hand with bruising

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1 under the ring.

2 THE COURT: All right. So now, Ms. McNeill, as far as
3 what you're agreeing on is 82, 83, 84, and 86.

4 MS. MCNEILL: Yes, sir.

5 THE COURT: Just hold your thoughts, Solicitor, for
6 just a moment. Let me just look at these. All right,
7 Solicitor.

8 MR. THOMAS: Your Honor, can I ask Dr. Shaw the one
9 question that might actually save us some trouble?

10 THE COURT: Sure.

11 BY MR. THOMAS:

12 Q Dr. Shaw, the diagram, I mean, could you at least mark
13 on the diagram and indicate that there was petechiae in
14 certain locations and then tell the jury about its
15 relevance?

16 A I can, yes.

17 Q Same thing with the injuries inside of the mouth?

18 A I can describe them, sure. Harder to draw them,
19 because we don't have that location, but I can certainly
20 describe them.

21 Q Are there any injuries on the outside of the mouth that
22 correspond to those injuries on the inside of the mouth?

23 A Some, but they are much more subtle.

24 Q And if I let you refer to Court's 5 through 10 if that
25 will help you.

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1 A Yes, there are some on the outside of the mouth that
2 are considerably more subtle than the hemorrhage and injury
3 that we see on the inside of the lips.

4 Q So, that's the only question I have for you for you on
5 that.

6 MR. THOMAS: I think at that point, Your Honor, based
7 on what he said, I will go ahead and I will not move ---

8 THE COURT: This is what's been agreed to. This is
9 what's not been agreed to.

10 MR. SHAFFER: Your Honor, Can we have a second to talk
11 with our client, maybe in the hallway?

12 THE COURT: Sure. So, then just hold that thought.

13 MR. SHAFFER: We'll just stand right there.

14 THE COURT: Sure, that's fine. Go wherever you need to.

15 (OFF THE RECORD)

16 THE COURT: Solicitor, you were at a point to say
17 something, and then Defense wanted a chance to talk
18 privately with Mr. Spencer.

19 MR. THOMAS: Your Honor, I think based on just
20 conversations and the testimony of Dr. Shaw, I will withdraw
21 89, 90, 91, and 92.

22 THE COURT: 89, 90, 91, and 92.

23 MR. THOMAS: But based on that testimony, and obviously
24 87 and 88, those are the pictures inside of her mouth.

25 THE COURT: Okay, does that leave us with two pictures?

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1 MR. THOMAS: It leaves us with two pictures of the
2 mouth, which my position would be, if you read that Nelson
3 case, obviously that was 50-something stab wounds, or
4 however many stab wounds, it was. Pictures of every single
5 one of them, excessively graphic. These are not as graphic.
6 There's very little blood and gore in them. I mean,
7 obviously, aside from what's inside her mouth, but as Dr.
8 Shaw described, that shows the injuries she's sustained to
9 her mouth and her face much better than even the pictures
10 that we have agreed to not put in, and better than he can
11 describe on a diagram about the inside of the mouth. I'm
12 just going to add, and petechiae to State's 95 when he --

13 THE COURT: Okay, so give me again the remaining two
14 pictures in dispute on what now?

15 MR. THOMAS: 87 and 88.

16 THE COURT: 87 and 88.

17 MR. THOMAS: And that's my argument on those. What's
18 left in dispute is 85, 93, and 94. Your Honor, my position
19 on those is again, these are not overly grotesque. There's
20 not a lot of blood and gore. I would say again, based on
21 his testimony, and just -- that Nelson case, Your Honor, I
22 know that talk about -- I know Your Honor said earlier that
23 you're not going to base what anybody said in their
24 openings, base your evidentiary rulings on that. But I
25 think they've already -- part of their theory they elicited

1 in their opening was that he couldn't have done this within
2 the time frame that he was there, within that hour time
3 frame. And obviously, Dr. Shaw's testimony is going to be
4 the way the scarf was tied around her neck that death would
5 have occurred within minutes, unconsciousness within
6 seconds. So, I do think that those are relative to how long
7 it took her to die.

8 Again, they've also raised the issue -- I don't know if
9 it's been in front of the jury yet, but they're going to
10 raise the issue probably about time of death, whether she
11 died in Laurens, or whether she died in Anderson. Again, I
12 think that goes to she would have had to have died in
13 Laurens, not in Anderson County. So it's relevant on those
14 points. The probative value of that is not outweighed by
15 the danger of unfair prejudice, just based on the nature of
16 those pictures there, not as graphic as the ones that Courts
17 have found are too graphic to be introduced in the past.

18 THE COURT: All right. Now, of course, I haven't -- we
19 just kind of briefly looked at Nelson. I need to read it,
20 but am I to understand Nelson stands for the proposition
21 that if the Defense stipulates what the pictures show, and
22 the injuries as depicted in the pictures, if they stipulate,
23 then the pictures don't come in? Is that what ---

24 MR. SHAFFER: Your Honor, I think that what it actually
25 stands for is to say essentially whenever something is not

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1 in dispute, like, for example, if we're stipulating that
2 it's murder, the fact that it's a murder is not in dispute.

3 THE COURT: Right.

4 MR. SHAFFER: The fact that she was strangled to death
5 is not in dispute, because we're -- we're -- no one's saying
6 that she wasn't strangled to death. No one's actually
7 disputing that. So the probative value at that point drops
8 to next to nothing of these pictures. And that's why
9 otherwise, admissible evidence that is slightly prejudicial,
10 because overwhelmingly prejudicial compared to a zero value
11 probative value. So, we're not disputing it. That's the
12 thing. We're not -- this is a who-done-it case like Nelson.
13 We're saying that he didn't do it. We'll stipulate. We'll
14 even say in front of the jury that we stipulate that she was
15 murdered, but not by him.

16 THE COURT: Right, right. Okay, well, here's what I'm
17 going to have to do. I know that Dr. Shaw is an extremely
18 busy guy, but I need some time to study Nelson and we're
19 pushing 1:00. What is your schedule like for hanging around
20 for lunch, and then coming back after lunch? Is that going
21 to interfere with anything you have scheduled, Doctor?

22 WITNESS: I'm yours for the day, sir.

23 THE COURT: Okay. Thank you. So here's my suggestion.
24 Let's go ahead and break for lunch and give me an
25 opportunity to read Nelson, and then of course as I

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1 mentioned I do have a 1:45 kind of fill in, so I'm thinking
2 maybe start back about 2:15. Any objections to that from
3 the State?

4 MR. THOMAS: None from the State, Your Honor.

5 THE COURT: Any objections to that from the Defense?

6 MR. SHAFFER: No, Your Honor.

7 THE COURT: And again, Dr. Shaw, are you okay with
8 that?

9 WITNESS: Yes, sir.

10 THE COURT: Thank you very much. All right, let's
11 bring the jury out we'll go ahead and break for lunch.

12 (WHEREUPON, jury entered the courtroom at 12:46 p.m.)

13 THE COURT: Ladies and gentlemen, I apologize for keeping
14 you back in the jury room longer than we anticipated. I can
15 assure you that we have been working on some legal issues in
16 this case. I can also assure you, other than just a normal
17 break, anytime you're back there a little longer than we
18 otherwise like, we are working. We're not just sitting
19 around drinking coffee and chatting. We are working. We
20 still have some more work to do on some issues we've been
21 dealing with. So we're going to go ahead and break the
22 lunch now. And I want you back at 2:15. And hopefully by
23 then, we'll be in a position to proceed forward with you in
24 this courtroom. Hopefully so. Have a good lunch and once
25 again, remember about keeping the badge visible if you're at

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1 a local restaurant. Have a good lunch. Once again, thank
2 you for your understanding and patience. We'll see you back
3 in a little bit.

4 (WHEREUPON, lunch recess was held from 12:47-2:21 p.m.)

5 THE COURT: We are back on the record. With respect to
6 the autopsy pictures that are in dispute, I think the Nelson
7 case is very clear. So long as the Defense stipulates on the
8 record before the jury as to each injury that Dr. Shaw will
9 be testifying to, then those autopsy pictures that are in
10 dispute will not come in. Certainly I would suggest they be
11 marked as a Court's exhibit for purposes of protecting the
12 record. So, if my numbers are correct, 87, 88, 85, 94, 93
13 are the five remaining autopsy pictures that are in dispute.
14 And again, this is all conditioned on the Defense
15 stipulating on the record before the jury as to each injury
16 that Dr. Shaw will be testifying to.

17 MR. SHAFFER: And Your Honor, we're absolutely fine
18 with that. We just want the clarification that we are
19 stipulating to that, but we're not stipulating that he was
20 the one who caused it.

21 THE COURT: Sure, and I'll make that -- once the
22 stipulation is made, I will make sure that the fact that you
23 are stipulating as to the injury sustained by Ms. Cross is
24 in no way an indication that the Defense is agreeing that
25 Mr. Spencer committed those injuries.

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1 MR. SHAFFER: Thank you, Your Honor.

2 THE COURT: I'll clear that up.

3 MR. THOMAS: That's fine, Judge. I think I've got
4 them. So, if they're marked for ID, we already have some
5 other ones marked for ID as State's Exhibits for ID. I'll
6 let Ms. Scott correct me if I'm wrong.

7 THE COURT: And that will be fine. These are the five.
8 Y'all look at your records. Let me just look at the actual
9 exhibit. 87, 88, 93, 94 and 85. Those will be marked for
10 ID only and those are not coming in, and of course the four
11 that the Defense has agreed to, which would be 86, 84, 83,
12 and 82. Those of course will come into evidence. So, I'm
13 just going to leave them right here. Anything further
14 before we bring the jury out?

15 MR. THOMAS: Nothing from the State.

16 THE COURT: Solicitor, do you want to go ahead and take
17 hold of those.

18 MR. THOMAS: I'm going to put those in. I've got a
19 folder with the Court's Exhibits and the State's for ID for
20 Dr. Shaw. So we can refer to them. But they're not in
21 evidence.

22 THE COURT: Is the State ready and the Defense ready for
23 the jury.

24 MR. SIMMONS: Yes, sir.

25 THE COURT: All right. Let's bring jury in. And once

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1 again, Dr. Shaw, thank you for accommodating us.

2 (WHEREUPON, jury entered the courtroom at 2:28 p.m.)

3 THE COURT: Is the State ready call first witness for the
4 afternoon?

5 MR. THOMAS: Your Honor, the State calls Dr. Kyle Shaw.

6 WHEREUPON, Dr. Kyle Shaw, having first
7 been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. THOMAS:

10 Q Dr. Shaw, what kind of doctor are you?

11 A I'm a forensic pathologist.

12 Q And so, that's a medical doctor?

13 A Yes, so we have to go to medical school and get a
14 medical degree, and then there's additional training after
15 that.

16 Q And so where did you go to undergrad?

17 A I did my undergrad at Birmingham Southern College in
18 Birmingham, Alabama.

19 Q And where did you go to medical school?

20 A After that, I went to medical school, got my medical
21 degree from the University of Sydney in Sydney, Australia.
22 Following that, I did a one-year clinical internship with
23 the Southeastern Sydney Area Health Service, also in
24 Australia. Following that, I returned to the U.S. and did
25 the first two years of my general pathology residency

1 training at the Eastern Virginia Medical School in Norfolk,
2 Virginia. After that, I did the final two years of my
3 general pathology residency training at the University of
4 Maryland Medical Center in Baltimore. Following that, I did
5 a one-year sub-specialty fellowship training year in
6 forensic pathology at the office of the chief medical
7 examiner for the State of Maryland. Following that, I moved
8 to Florida and worked at an associate medical examiner in
9 Florida for a decade. Following that I moved here to South
10 Carolina where I still work as a forensic pathologist for
11 several coroner counties here in the upstate area and I've
12 done that for almost five years.

13 Q So Coroners bring you deceased individuals to perform
14 the autopsies?

15 A Basically, yes.

16 Q Are you board certified in pathology?

17 A Yes. I'm board certified in anatomic pathology,
18 clinical pathology, and forensic pathology.

19 Q And have you ever been qualified as an expert in
20 pathology in court before?

21 A Yes.

22 Q How many times?

23 A 60 plus.

24 MR. THOMAS: Your Honor, at this time the State would
25 offer Dr. Shaw as an expert in forensic pathology.

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1 MS. MCNEILL: No objection.

2 THE COURT: Without objection, Dr. Shaw is found to be
3 an expert in the area of pathology. Ladies and gentlemen of
4 the jury, when the court declares someone an expert in
5 whatever area of expertise that the witness claims to have,
6 the expert is entitled to offer opinions and the basis for
7 those opinions. Typically, witnesses who are not qualified
8 as experts, with some exception, are not allowed to offer
9 opinions and the basis for those opinions. But when
10 witnesses such as Dr. Shaw are found to be an expert in a
11 particular area, then they can, or Dr. Shaw would be
12 permitted to offer opinions and any basis for those
13 opinions.

14 Now, the fact that I have found Dr. Shaw to be an expert
15 in the area of pathology, the weight you give his testimony
16 is totally up to you, and your consideration of his
17 testimony as any other witness's testimony in this case.
18 Solicitor, you may proceed.

19 Q Dr. Shaw, what does pathologist do? Broad strokes.

20 A So, in general, pathology is a study of diseases and
21 disease processes as well as injuries. A forensic
22 pathologist, more specifically, applies that knowledge in a
23 legal setting and for the most part that involves providing
24 opinions of cause and manner of death, and doing autopsies
25 and those kinds of things.

1 Q When you talk about an autopsy, what's an autopsy?

2 A An autopsy is generally composed of two parts, an
3 external examination and an internal examination. So during
4 the external examination, I look at the outside of the body,
5 anything on or with the body, so clothing and other items
6 that may be present. I'll look for evidence of natural
7 disease or injury. And then during the internal
8 examination, I'll look at the internal organs of the head,
9 neck, chest, abdomen, and pelvis. Occasionally, we'll do
10 additional dissections as needed. And again, looking for
11 evidence of natural disease or injury, and then correlating
12 those findings with the findings of the external
13 examination, as well as the investigation as it's presented
14 to me.

15 Q And did you have an opportunity to perform an autopsy
16 on Billie Jean Cross in this case?

17 A Yes.

18 Q What date did that autopsy occur?

19 A The autopsy was on December 16, 2021.

20 Q And where was that done at?

21 A That was at AnMed Health Medical Center and that's
22 where we perform most of the coroner jurisdiction autopsies,
23 at least through Anderson County.

24 Q And who would have brought the body to you for the
25 examination?

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1 A So typically, normally what happens in that scenario is
2 the Coroner's Office, as well as other representatives of
3 law enforcement, other agencies, will go to a scene, and
4 then the Coroner takes jurisdiction of that body and will
5 either transport that body directly or have it transported.
6 So usually, that involves using an ambulance service for
7 transport if they do not have their own vehicles to do that.

8 Q And in this case Anderson County Coroner's Office
9 brought you Ms. Cross's body?

10 A Yes, it was by way of Anderson County Coroner's Office.

11 Q Preliminary to doing your autopsy, do you take blood
12 sample from her and other samples?

13 A Usually during the course of autopsy, but yes, it can
14 be during external examination and or internal examination.
15 Blood samples as well as other samples.

16 Q And I'm just going to show you, do you remember taking
17 a DNA card in this case?

18 A I don't have an independent recollection, but it's
19 routine that we do so and I documented having done so in my
20 autopsy review.

21 Q So that would be -- does that appear to be what State's
22 15 is?

23 A Yes, there's a manilla envelope inside this plastic
24 bag, and on that is written "DNA card", so the card would be
25 inside there.

1 Q So you take that sample and then somebody from the
2 Coroner's Office packages it up and does whatever they do?

3 A Yes. So, typically either the technician who is there
4 working for the Coroner's Office, that I am also doing the
5 autopsy with, will either do that or occasionally another
6 representative or sometimes I'll do it myself.

7 Q And then you said you're going to proceed to an
8 external examination of Ms. Cross?

9 A Yes.

10 Q When you examined her, did she have any injuries to her
11 body?

12 A She did, yes.

13 Q Did she have injuries to her face and to her head?

14 A Yes.

15 Q What was wrapped around her neck?

16 A There was a piece of material consistent with a scarf
17 that was wrapped firmly around her neck.

18 Q And when you say firmly, tell me how firm that was.

19 A At that time, I was unable to easily get my fingers
20 behind that that ligature, that scarf ligature, that was
21 around her neck. It was tight enough that I could not get
22 my fingers behind there. It was difficult.

23 Q Did you end up removing that scarf from around her
24 neck?

25 A Yes, the scarf was not knotted, but it was twisted

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1 quite firmly, and the so the twisting was towards the back
2 of her neck. A discussion was had with law enforcement at
3 that time, because that item becomes a piece of evidence
4 once it's removed, and the decision was made to cut that
5 item off of her neck.

6 Q I'm going to show you what's been marked -- and, Your
7 Honor, I guess before I start showing him pictures, that
8 stipulation on the record. I have several photographs, we
9 have no objection to we're going to show to the jury,
10 several others that we agreed or we've ruled. He's going to
11 refer to them. I can refer to them by number for the
12 record, they are not going to be published to the jury, but
13 he can aid them in his explanation to the jury.

14 THE COURT: Sure. Right, right.

15 MR. THOMAS: And I think that's based on the Defense's
16 stipulation as to --

17 THE COURT: Right. And what I thought I'd do, as far as
18 the stipulation from the Defense, wait until he finishes
19 testifying, so it's kind of laid out what you're stipulating
20 to.

21 MS. MCNEILL: Yes, sir.

22 THE COURT: I think that would be the better practice.

23 MR. THOMAS: Yes, sir.

24 Q State's 82, we talked about the knot around the back of
25 the neck being tightly wound. What's State's a picture of?

1 A This is a picture at the time of autopsy of Ms. Cross,
2 with that scarf material around her neck. So, this is
3 towards the back of her neck. It's an image looking towards
4 the back of her neck and it shows the twisting of that scarf
5 in place.

6 Q And that's a true and accurate copy of what you saw
7 that day?

8 A Yes.

9 MR. THOMAS: Your Honor, I would move State's 82 into
10 evidence at this time.

11 THE COURT: Okay. Without objection from the Defense,
12 82.

13 MS. MCNEILL: Correct.

14 THE COURT: Without objection, 82 into evidence.

15 Q So State's 82, that's that scarf that's wrapped around
16 her neck?

17 A Correct. So, just to indicate, this is the scarf. And
18 again, to orientate, she's partially rolled over onto her
19 side. This is her left ear, the back of her head, and then
20 the scarf.

21 Q And then you described having trouble getting that
22 scarf. You couldn't get your fingers in between there?

23 A Correct.

24 Q I'll let you just look at State's 85 for ID only. And
25 then State's 94. How tightly? Just give me as descriptive

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1 of a description as you can of how tightly that scarf was
2 wrapped around her neck.

3 A So again, it was snug enough that I had difficulty
4 getting my fingers behind there. And the reason I needed to
5 get my fingers behind there one, is obviously I am trying to
6 assess roughly how tight it is. I can't put a number, a
7 quantitative number on that. But once I started attempting
8 to cut it off, as I tried to cut that off initially,
9 normally I would use scissors. I was unable to fully get
10 those scissors safely behind there. So I had to start from
11 the front. So that means using a scalpel, which I used from
12 the front. And again, I had to be very careful, of course.
13 But as I cut, the scarf began to pull apart in the front,
14 because of the tension that existed. So the front part of
15 the scarf, where the cut surfaces were, kind of fell away
16 from each other or drew away from each other.

17 Q And once you removed the scarf, what were your
18 observations about her neck at that point?

19 A So beneath where the scarf was, there's a band of
20 pallor, which means more pale skin. That stands out because
21 she also had some lividity, or congestion, of blood vessels
22 above and below that area. So after somebody passes away,
23 blood flow stops. One of the things that occurs is blood
24 begins to settle in some of the small blood vessels of the
25 skin and can produce some coloration. When there's a lot

1 of pressure there, like with a ligature that's squeezing on
2 the neck, it excludes or prevents that blood from settling
3 in that area just under the area of pressure. So there's a
4 demarcation line where there's color below and color above
5 and essentially no color where the pressure was.

6 Q And what does that tell you in your experience?

7 A Well, again, it's an indication of pressure, of
8 significant pressure that's in place.

9 Q Were there any other indications of what you just
10 described, the pressure being in place, the ligature, I
11 guess.

12 A Yes, so if there's sufficient pressure around the neck,
13 it can produce something that we call asphyxia. That's kind
14 of a generic or broad term. But pressure around the neck,
15 if it's sufficient, first it leads to blocking off of the
16 veins that drain out of the head, and then if there's more
17 pressure applied, the carotid arteries can be blocked. So
18 that's the blood vessels pumping blood into the head. The
19 reason that's important is that sometimes, in fact, often
20 during the course of a strangulation or asphyxia type of
21 event, there is a time that only the veins are occluded and
22 the arteries are still pumping blood into the head. So the
23 head can get really congested. There's a lot of pressure in
24 the blood vessels. That increased pressure can be high
25 enough that it causes some of the very small blood vessels,

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1 the more delicate blood vessels in certain areas, to rupture
2 and produce tiny little hemorrhages that we call petechiae,
3 little pinpoint hemorrhages. That predominantly is seen
4 under the eyelids first. Then it can be seen on the inside
5 of the lips. And in some cases, it can actually even be
6 seen in the outside of the eyes, on the outer part of the
7 eyelids. And in rare cases, you can even see it all through
8 the face.

9 Q In this case, did you observe any petechiae in Ms.
10 Cross's eyes?

11 A Yes.

12 Q Where? Which eye? Both eyes?

13 A Both eyes. So she had significant petechiae of the
14 inside of her eyes, upper and lower eyelids. She also had
15 petechiae of hee inside of her lips. And she had some
16 petechiae around her eyes, a little more prominent on the
17 right.

18 Q And I think we're going to come back to that in a
19 moment with that diagram you've got. Well, let me just go
20 ahead and show you 83, 84, and 86. Do you recognize those?

21 A Yes.

22 Q What are those pictures of?

23 A These are additional photographs at the time of
24 autopsy. One is of some bruising on her right wrist near
25 the base of her right thumb. Another is some bruising on

1 her left arm, kind of the biceps area of the left arm. And
2 another is of her right hand with some bruising of her ring
3 finger, that fourth finger right next to the pinky.

4 Q And those are true and accurate depictions of the
5 injuries you saw in her when you did this autopsy?

6 A Yes.

7 MR. THOMAS: Your Honor, the State would move 83, 84,
8 and 86. this time.

9 THE COURT: Okay. And that's without objection from the
10 Defense?

11 MS. MCNEILL: That's correct.

12 THE COURT: Okay. 83, 84, 86 into evidence for the
13 State.

14 Q All right. So 83 again. What is that?

15 A So again, for orientation, this is her right hand, her
16 right thumb, and there's some bruising here at the base of
17 that thumb.

18 Q And 84?

19 A And again for orientation this is her left arm, the
20 biceps. So this is, kind of, the crook of the arm right here
21 where I'm indicating. This is just the side of her body and
22 here's some bruising on her left arm.

23 Q And 86?

24 A This is her right hand. We can't see her thumb, but
25 this is her right hand. This is the pinky finger here and I

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1 see some bruising here on that fourth finger.

2 Q During the course of her autopsy, did you have to
3 remove a ring from that finger?

4 A Yes.

5 Q The bruising on that finger, is that from just maybe
6 like her swelling and the ring being there and the ring
7 being tight or is that -- what caused that?

8 A No. So the bruising, in my opinion, is from some sort
9 of impact, and that could be that that impact was
10 transmitted through the ring in some fashion. In other
11 words, the ring getting hung on something or impacting
12 something or being impacted by something. But it's not from
13 the mere presence of a ring.

14 A I think we're coming back around. You noted in your
15 report several injuries to her face and her head.

16 A Yes.

17 Q If you would, what we've done -- you've got in front
18 of you -- it's been pre-marked. It's marked in State's 95.
19 Is it a diagram, an anatomical diagram? That's an
20 anatomical diagram, right?

21 A Yes.

22 Q Is that pretty accurate? That's something similar to
23 what you would use?

24 A It is, yes.

25 Q Okay, so as we are going through the injuries to her,

1 if you could sketch those on there for me, just so we can
2 show them to the jury where they were.

3 A Sure.

4 Q So, what was the first injury you noted?

5 A So I'll start with, kind of, the most significant,
6 and we talked about it a little bit already, and that was
7 the ligature furrow. I don't know if you want to draw that
8 part in, but basically there's an area of pallor across the
9 front of her neck.

10 Q And across the front of the neck?

11 A Basically encircling the neck, but it's visible on the
12 front, the sides, and all the way around. So, I've drawn
13 lines of demarcation of where that pallor is.

14 Q I guess let's just label on one of these where there's
15 some room. Just label that "pallor". What was the second
16 injury you noted to her head?

17 A I'll kind of start from the top and work my way down.
18 There's a faint small blue contusion on the right side of
19 her head, kind of around the right temple.

20 Q What's next?

21 A Next is an additional faint blue bruise, or contusion,
22 just above the right eyebrow.

23 Q What's next?

24 A Just above the left eyebrow is a faint patchy blue
25 contusion. That just means that there's little areas of

1 sparing. When I use the word "patchy", it's just not a
2 single contiguous spot. But that was just above her left
3 eyebrow. And then, just to continue, there was bilateral
4 periorbital hemorrhage or bruising. That basically means
5 there's bruising around both of the eyes.

6 Q Is that what we would commonly refer to as probably a
7 black eye?

8 A Basically, yes.

9 Q And then what's the next injury you noted?

10 A So also around the eyes, since we're talking about the
11 eyes, there was some petechiae on the outer aspect of the
12 right upper and lower eyelid, as well as the left lower
13 eyelid. I'm going to try to draw those in a little bit.
14 And again, they're just tiny little dots of hemorrhage.

15 Q What's your next injury you noticed?

16 A Okay, there was a little bit of blood in her nose,
17 which is an indication of some damage to the mucosa on the
18 inside. I'm just going to write the word "small blood" in
19 her nose. Then adjacent to the left side of her nose was a
20 bruise that extended down toward the outer aspect of the
21 left corner of her mouth, kind of here, as I'm indicating on
22 myself.

23 Q Next?

24 A Just below, or on the outer aspect of the left lower
25 lip there is a bruise. Actually two bruises, one of those

1 quite faint. Then on the right side of the front part of
2 her chin there was a faint bruise. On the left side of the
3 front part of her chin was an additional faint bruise, and
4 then below her chin was a bruise. Okay, so that covers most
5 of the front of the face. So, I'll go to the left side of
6 her face. On the left side of her face there were three
7 faint bruises on her left cheek.

8 Q What else?

9 A And then if we actually go over to the right, on her
10 right ear, there were some little faint or superficial areas
11 of abrasion and bruising on the outer aspect of her right
12 ear, which I'm drawing in. And then on the right side of
13 her neck, just above the demarcation of the furrow on the
14 right side of her neck, was an additional bruise.

15 Q What's the next injury you observed?

16 A I believe that is it for the outside of the face. Now
17 under the scalp there were an additional couple of bruises
18 that really were not visible until the scalp was reflected,
19 because, you know, the hair partially obscures those areas
20 and that bruising is not always visible, even if somebody is
21 bald. Sometimes we only see bruising underneath the scalp
22 after we reflect. And there was some bruising in the left
23 side of the head. There was a muscle here, where I'm
24 indicating on me, underneath the skin and there was some
25 hemorrhage there, bruising there, and there was a little bit

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1 of bruising on the left side of the back of her head as
2 well.

3 Q If you could draw those on the diagram.

4 A I'm going to draw it in here, and then I'm going to
5 make a line saying that it's under the scalp.

6 Q And so, this gets us to external injuries. I believe
7 you talked about the lip mucosa had some injuries to them?

8 A Yes.

9 Q Could you just describe those to us? I don't know that
10 you can be able to draw them on the diagram. Maybe indicate
11 them.

12 A I'll -- well, I'll describe them first. So, in Lifting
13 or reflecting the lip up and back to look inside the lip,
14 there was a large area of bruising and hemorrhage involving
15 the upper lip, as well as a large area involving the inside
16 of the lower lip. Also, on the inside of the lower lip,
17 this area of bruising and hemorrhage was associated with a
18 laceration, which is tearing of the tissue, where part of
19 the tissue was pulled away from the front part of the bone
20 just at the base of the teeth, just below the teeth where
21 the lip, kind of, attaches. There was a tear in the tissue
22 right there.

23 Q If you just maybe indicate those on our diagram.

24 A So, I'm just making a small note to explain those
25 inside of the lip for the upper part and then inside the lip

1 with a laceration on the lower part.

2 Q So this diagram we've constructed, State's Number 95,
3 does that accurately reflect the injuries that Ms. Cross had
4 to her head and neck region?

5 A Yes.

6 MR. THOMAS: Your Honor, at this time the State would
7 move State's 95 into evidence.

8 THE COURT: Okay. You want to take a look, Ms. McNeill?

9 MS. MCNEILL: Yes, sir. No objection.

10 THE COURT: All right. 95 into evidence for the State.

11 MR. THOMAS: I'll publish it now, Your Honor.

12 THE COURT: Sure.

13 Q Dr. Shaw, I'm not going to ask you to go back over all
14 these, but these injuries that you've drawn on this diagram,
15 those are the injuries that Ms. Cross had.

16 A Yes.

17 Q What causes those types of injuries?

18 A So we'll put the ligature -- putting the ligature
19 pressure around the neck aside. These are all blunt force
20 trauma type of injuries. It's kind of a generic term. It
21 basically means it's not a cut. It's an impact.

22 Q So those are caused by something impacting her?

23 A Yes.

24 Q If you need to refer to it. In addition to those blunt
25 force injuries, let's circle back around. What was your

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1 professional opinion as to the cause of death in this case?

2 A Ligature asphyxia and blunt head trauma.

3 Q And explain again to us what ligature asphyxia is.

4 A Ligature asphyxia basically just means there's some
5 sort of implementer item that's being used to produce
6 pressure around the neck, on or around the neck. In this
7 case, around the neck.

8 Q And in this case, in your opinion, what caused that
9 ligature?

10 A The scarf is the most obvious explanation here. It
11 fits the pattern of pallor that's present, and it could
12 certainly produce that kind of injury.

13 Q And that type of injury, as tightly as that scarf was
14 wound, what would be the progression of someone's condition
15 when they are subjected to that amount of ligature asphyxia?

16 A It can be variable, but if that pressure is sufficient
17 to actually block off those carotid arteries, then loss of
18 consciousness can occur in a few seconds, five to maybe 10
19 or 12 seconds. And then again, if that pressure is
20 maintained, in other words, it's not immediately released to
21 allow blood flow again, but if that pressure is maintained,
22 death occurs some minutes later. It's probably on the order
23 of several minutes. I do not have a specific time, like an
24 upper limit of that. We have pretty good data that it's
25 beyond 90 seconds or so, so it's probably in the area of two

1 minutes to several minutes.

2 Q And that's just assuming that it's wrapped as tightly
3 as it's wrapped on the body when you receive it, but if
4 somebody else is applying pressure to it at the same time,
5 that's going to just increase the, I guess, the expediency
6 of that?

7 A Right. The main issue is getting those carotid
8 arteries blocked off. Obviously, in a dynamic situation,
9 sometimes that pressure is complete, and then it relaxes a
10 little bit for various reasons, whether there's a struggle
11 or somebody releases or relieves that pressure, even to a
12 certain percentage. Even a small amount. And so that time
13 can fluctuate quite a bit in that scenario. However, if the
14 pressure is sufficient to block off the arteries, which
15 basically completely blocks off blood flow going in or out,
16 for all practical purposes, then there is very good data
17 that says loss of consciousness is very rapid, on the order
18 of seconds. Again, 5 to ten or twelve seconds. Death is a
19 little bit harder to define, but it's somewhere on the order
20 of a few to several minutes later, with maintained pressure.

21 Q And how would that blunt head trauma have contributed
22 to Ms. Cross's death?

23 A One, it contributes to her overall blood loss, but two,
24 it can contribute to her overall status in terms of being
25 able to potentially fight back and get some blood flow back

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1 into her neck at some point. So, it adds to the overall
2 picture. However, certainly, if this amount of pressure was
3 placed, even if she did not have that head trauma, she would
4 still die in roughly those same sorts of time frames. But
5 the trauma contributes to the overall setting.

6 Q And when someone takes a blow to the head, that, for
7 lack of a better word, probably not scientific, but it dazes
8 them perhaps?

9 A It can, certainly. It can add to a concussion type
10 effect, which again, can inhibit somebody's ability to
11 respond, to fight for their air, to fight for their
12 circulation, or even simply to maintain a good position. If
13 you're slumped, that can again affect the kind of pressure
14 that's around your neck.

15 Q So in your professional expert opinion, cause of death
16 was ligature asphyxia with blunt head trauma contributing?

17 A Yes, but I tend to lump those things together, but yes.
18 The most significant is the ligature asphyxia in this case.

19 Q What was the manner of death in this case?

20 A In my opinion, the manner of death is homicide.

21 MR. THOMAS: Thank you very much, Dr. Shaw. I'll let
22 you answer any questions Defense counsel may have.

23 THE COURT: Okay. Ms. McNeill, before you start your
24 cross-examination, do you stipulate, or does the Defense
25 stipulate as to all of the entries sustained by Ms. Cross as

1 testified to by Dr. Shaw?

2 MS. MCNEILL: Yes, Judge. We do stipulate.

3 THE COURT: Okay. And ladies and gentlemen of the jury,
4 the fact that the Defense has stipulated as to all the
5 entries sustained by Ms. Cross as testified to by Dr. Shaw
6 is in no way any admission on the part of the Defense as to
7 Mr. Spencer causing those injuries. Okay. Is that
8 correctly stated as far as what you wanted?

9 MR. SHAFFER: Yes, Your Honor. That's correct.

10 MR. BROOME: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. MCNEILL:

13 Q Good afternoon, Dr. Shaw. How are you?

14 A Good, how are you?

15 Q Good. Okay, so when Ms. Billie Jean Cross's body
16 arrived to you, do you remember what condition the body was
17 in? You talked a lot about doing external examinations of
18 the body and you mentioned clothing.

19 A Yes.

20 Q Can you tell us a little bit about how her clothing was
21 found on her body?

22 A So the clothing was, she had a shirt, some pants,
23 socks, and underwear, panties, that were in place. The
24 shirt, at least based on my review of seeing photographs,
25 had been previously pulled up quite high, but it was still

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1 present and otherwise in place.

2 Q And do you recall if her socks were pulled all the way
3 up, or if they were, kind of, falling off of her feet?

4 A I do not recall. In the photograph of her I don't
5 recall if they were falling off. I have them described as
6 being on her feet, but I don't know exactly how high up they
7 were. I don't recall.

8 MS. MCNEILL: Your Honor, may I approach the witness?

9 THE COURT: Sure.

10 Q Dr. Shaw I'm going to show you what is marked from the
11 State as ACSO autopsy and the Bates number is 00008. Could
12 you take a look at that photo?

13 A Yes.

14 Q Okay. Is that a photograph that you would have taken at
15 the autopsy or were you present when it was taken?

16 A I was present. This is not one that I took. This
17 appears to be a Sheriff's Office image and I can actually
18 see myself on the other side of the table in this image.

19 Q Okay, so you would agree with me that that's how she
20 was presented to you when she arrived for her autopsy?

21 A I think that's fair, yes.

22 Q Okay and then in that picture that refreshes your
23 recollection of how her clothing was.

24 A Yes.

25 Q All right, and are her socks falling off her feet or

1 are they pulled up?

2 A I would I would describe these as sort of normally
3 placed. The tops of the socks are above the ankles, so I
4 wouldn't describe that as falling off, but they're not in
5 pristine condition. They're a little wrinkled.

6 Q And her pants, she's wearing some blue pants, is that
7 correct?

8 A Yes.

9 Q And in that photograph, are her pants still on her
10 body?

11 A They are still on her body. The waistline on the right
12 is down a little bit. And when I say a little bit, it's not
13 completely over her hip, but you can see her underwear.
14 Whereas on the other side, the waistline and underwear line
15 appear to be about the same.

16 Q I'm going to show you what's been already marked into
17 evidence as State's Exhibit 55. And this would have been a
18 photograph taken of her when she was found at the scene.
19 Are her socks similar to what you're describing in your
20 picture that I showed you?

21 A They appear to be, yes, at least the one that I can see
22 here.

23 Q Okay, and then those are the blue pants right here,
24 correct, that she's wearing?

25 A Yes, so this is one of her feet in a sock and the lower

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1 part of her pants leg.

2 Q Okay, and you said that her underwear were also found
3 to be on and in place?

4 A Yes.

5 Q Dr. Shaw, you have your autopsy report in front of you?

6 A Yes.

7 Q Okay. Can you tell us how old Ms. Billie Jean Cross
8 was?

9 A She was reported to be 58 years old.

10 Q Okay, and what was her height and weight?

11 A She was measured at 67 inches long. That's five foot
12 seven, I believe, and weighed an estimated 180 pounds at
13 that point in time. We did not have a working scale that
14 could get a specific weight on her. So, she's estimated.
15 weight.

16 Q Okay, so about 5'7" and 180 pounds?

17 A Yes.

18 Q And when we discussed some things before, you stated
19 that sometimes when the Coroner's Office goes out to the
20 scene where a body is found, sometimes they will do things
21 like check the temperature of the body. Is that correct?

22 A Correct.

23 Q Okay. And what other temperatures would be checked at
24 the scene done by the Coroner that would be helpful for you
25 in determining maybe the time of death?

1 A What is sometimes done is a core body temperature and
2 then an ambient temperature, which means just the
3 temperature right around where the body was. The air
4 temperature.

5 Q Okay. And what kind of things affect or -- I guess, can
6 you explain to us what rigor mortis is?

7 A Rigor mortis is the stiffening of the muscles of the
8 body after death. So there are a number of different
9 postmortem changes that occur after death and that is one of
10 them.

11 Q Okay. And you stated that you -- can you tell us,
12 sorry, how long the process of rigor mortis takes?

13 A It's variable. The textbook answer to that, and that
14 basically means that the average decedent in a stable,
15 usually indoor environment. Rigor mortis begins immediately
16 after death. It's usually not detectable for an hour or a
17 few hours. But generally speaking, rigor mortis gets more
18 prominent for about 12 hours. Again, that's a very rough
19 sort of estimate. It stays maximal for around 12 hours and
20 then it fades over about 12 hours. There's a lot of
21 variables that go into that, but that's sort of the
22 standardized answer to that.

23 Q Okay and one of the things, like environmental factors,
24 could affect the process of rigor mortis. Is that correct?

25 A Yes.

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1 Q All right and previously you had testified I believe
2 about -- when you were questioned about could you tell us
3 the time of death on this case, specifically for Ms. Cross,
4 and what is your answer? You were not able to firmly
5 determine that, correct?

6 A In short, that's correct. There's a lot of variables
7 that go into that. Temperature, you mentioned environmental
8 factors, or environmental variables. Temperature is a big
9 factor in that.

10 Q And did you try to do some research about what the
11 temperature had been while she had supposedly been out in
12 the field for however long?

13 A Yes.

14 Q Okay. And what did you use to figure out the
15 temperature?

16 Q So, for most of that, I used a site called Weather
17 Underground, which allows some searching based on location,
18 as well as historical data, that's available for certain
19 locations. It doesn't cover every location, so we try to
20 get the location that is closest to where that body was.

21 Q All right, and do you recall what the temperature had
22 been for the previous days leading up to the autopsy?

23 A So again, it varies depending on the source that is
24 used, but I have some data. There's data from the Anderson
25 Regional Airport and on December 9 I have a maximum and

1 minimum or low temperature there. I also have hourly
2 information which is from Greenville Spartanburg Regional
3 Airport which is a little further away.

4 MS. MCNEILL: Beg the Court's indulgence.

5 MR. THOMAS: Your Honor, I think she's going to mark
6 this as an exhibit. No objection to it. He's going to use
7 it for the basis of his opinion, so no objection to that.

8 MS. MCNEILL: May I approach the witness?

9 THE COURT: No objection to that document being used
10 for his opinion, or no objection to it coming into evidence
11 if it's so offered?

12 MR. THOMAS: Yeah, it's probably hearsay, Your Honor,
13 but because he's an expert and he's using that hearsay to
14 form the basis of an opinion. No objection.

15 THE COURT: Sure. And that's proper.

16 MS. MCNEILL: This is marked as Defendant's Exhibit 16.

17 Q Dr. Shaw, can you take a look at that and tell us what
18 that is?

19 A It says Anderson Regional Airport Station towards the
20 top. There's a history tab that appears to be a printout of
21 an internet weather information. The first page has the
22 date of December 9, 2021, and it goes through December 9,
23 December 10, December 12, December 13, and December 14.
24 I do not see December 11, but yes. And as part of that,
25 there is a graph which is labeled as temperature in

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1 Fahrenheit for, I believe, each of these pages.

2 Q Okay, and we're going to work on getting you December
3 11.

4 A Yes, I didn't see that.

5 Q So, we're going to go over this report that you just
6 reviewed. So on this Anderson Regional Airport Station,
7 again this is Defendant's Exhibit 16. And this would have
8 been on December 9, 2021. At what temperature does it reach
9 around 3 p.m.?

10 A If I'm reading that correctly, it looks like the line
11 just below here appears to be marked as 50 degrees. So it's
12 something a little bit above that. I don't know if that's 55
13 or -- I'm not sure exactly what the top end of that is, but
14 it appears to be in the range of 53 to 55, depending on
15 exactly where that stops.

16 Q Okay and then around after 6 p.m. I guess this would be
17 around 7 p.m. What temperature does it drop to there? Do
18 you see?

19 A That appears to be 44 degrees there. If I'm viewing
20 that coming over correctly.

21 Q Yes, so let me try to help with this. Is that helpful?

22 A Yes, it looks like about 44 at that point right there.

23 Q Okay. And freezing temperature is what?

24 A So freezing would be 32.

25 Q And then on December 10, 2021, can you see that? I

1 know it's kind of.

2 A I do.

3 Q Okay. On December 10, 2021, around -- what is the
4 coldest that it got that night? Can you tell from this
5 graph?

6 A It looks like around 5 or 6 a.m. that it's around 44
7 degrees Fahrenheit.

8 Q Okay, and then again at 3:56 p.m. does it look like it
9 gets up to 52?

10 A Yes.

11 Q Okay, and then again close to 9 p.m. it's back up to
12 52.

13 A Correct.

14 Q And then around 10 p.m. again back up to 52.

15 A Yes.

16 Q And then also the precipitation down here. How is the
17 precipitation relevant?

18 A It appears to be low. It looks like there are areas or
19 times when it is .03 inches to .04 inches. So it looks like
20 there's a little bit of precipitation.

21 Q Okay. And then again I'm going to work on December 11.
22 But we're going to jump to December 12, so we're skipping
23 one day right now.

24 A Yes.

25 Q Around 2 a.m., what does it appear that the temperature

1 is there?

2 A Well, right next to it, it says 52 degrees, but that
3 appears to be as it's coming down. So somewhere in that
4 52-53 degree range, it appears to be my interpretation of
5 that.

6 Q Okay and then it drops to around -- I'm assuming that
7 would be like 41, 42 degrees around 9 a.m. Correct?

8 A Something like -- yeah, something like that.

9 Q And then at 3 p.m. to about 5 p.m. it jumps back up to
10 55 degrees, right?

11 A Yes.

12 Q And then it starts dipping down around 1 a.m. back down
13 to 35 degrees, correct?

14 A Yes.

15 Q So still not a freezing temperature.

16 A Correct.

17 Q All right. And then on December 13, 2021, this would be
18 around 2 a.m. It's about 34 degrees. Would you agree with
19 me on that?

20 A That looks about right.

21 Q All right. And then it drops down to 30 degrees around
22 8:30 a.m. Would you agree?

23 A It's either 30 or 29, yes.

24 Q Okay and then it goes back up around 4 p.m. till 5 p.m.
25 and that's probably a little more than 55 degrees. Would

1 you agree with me on that?

2 A That looks about right, yes.

3 Q Okay, and then again, it drops down and it looks like
4 around 1 a.m it's about 35 degrees. Would you agree with
5 me?

6 A Yes.

7 Q And is it your understanding that Ms. Cross was found
8 on December 14, 2021?

9 A Yes.

10 Q And so that would be this date. It's a little colder
11 on this day. At 2 a.m., would you agree with me that it's
12 about 35 degrees?

13 A Something like that, yes.

14 Q Okay. And then it drops to about 30 degrees around 8
15 a.m.

16 A Yes.

17 Q Okay. And then again it raises back up to 65 or close
18 to 70 degrees around 4 p.m. Is that right?

19 A Yeah, something in that 65 range. I think at that
20 point, well, I don't know precisely when she left the scene.
21 But I believe -- let me just refer to the Coroner's report
22 if it has it in here. She was pronounced at 1135 on the
23 14th. The Coroner arrived at about 12:05 p.m., according to
24 that report. So sometime within the next couple of hours,
25 I'd expect her to have been removed. So somewhere around

1 that time frame, near where it starts to peak, she's
2 probably removed from the scene.

3 Q All right. And then I'm going to show you December 11.
4 I got that information. December 11, 2021, we're at about
5 50 degrees at around 1 to 1:30 a.m. Would you agree with me
6 there?

7 A That looks about right.

8 Q Okay, and then it moves up to about probably 45 degrees
9 around 9 a.m., is that right?

10 A I would say around 54 degrees maybe.

11 Q 54 degrees, okay. And then at 2 p.m., it goes past 70
12 degrees. So, it's a warm day.

13 A Yes, it at least peaks during that day. Yes.

14 Q And then it drops down around 1 a.m. to about 54
15 degrees. Would you agree with me there?

16 A Yes.

17 Q Okay, and what do you see about the precipitation on
18 December 11, 2021?

19 A It looks like there was a small amount in the early
20 morning hours, and then again kind of in the late afternoon,
21 but that looks like she's probably been removed by the time
22 the afternoon shower arrived.

23 Q Well, this is on December 11.

24 A Oh, I'm sorry, the 11th. So, in the afternoon there's
25 actually a decent amount of rain. Looks like 0.2 inches.

1 MS. MCNEILL: Judge, I'm just going to have Mr. Broome
2 add December 11, 2021 to that.

3 Q So what all do you consider when you are trying to
4 determine the time of death?

5 A There's a lot of factors that go into that, so there's
6 factors that involve the body. What do we I see? What sort
7 of postmortem changes do I see involving the body? And
8 those changes can kind of be broken up into two main parts.
9 One is just postmortem changes that are intrinsic to the
10 body. In other words, the cells themselves are beginning to
11 break down and internal settling of the blood occurs.
12 There's also something that I lump into decomposition or
13 putrefactive changes, which is changes that occur primarily
14 as a result of bacteria that go to work in the body. And
15 the human body is typically seeded with a lot of bacteria,
16 inside our bowels and even inside our airways to some
17 extent.

18 So, I generally keep kind of separate those two things
19 in my mind. So there's the post-mortem changes of the body.
20 There's the environment that the body is in. And certainly,
21 temperature is a big part of that. And circumstances, to an
22 extent, can play a role as well. For example, while the
23 circumstances go towards the environment, what happened
24 leading up to that death as well, if we have that
25 information. Some things that can happen to an individual

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1 can cause accelerated decomposition. Some things that
2 happen to an individual can potentially slow decomposition a
3 little bit. It just depends on the individual.

4 Occasionally the drugs and medications that they're on,
5 there can be a lot of different factors that go into play.

6 Q In a previous testimony you were asked if it's possible
7 that the time of death in this case was on the 9th. Do you
8 recall that question?

9 A Yes.

10 Q Okay. And do you recall testifying that, say, having
11 looked at the temperature information that we do have, which
12 again, there's caveats to that, I think it's possible it's
13 still a significant amount of time. It would be an outlier
14 kind of case. Do you recall saying that?

15 A That sounds like something I said, yes.

16 Q Would you like to refresh your recollection?

17 A I'm happy to, yes.

18 MS. MCNEILL: May I approach?

19 THE COURT: Sure.

20 MS. MCNEILL: I'll direct your attention to line 20.

21 WITNESS: Yes.

22 Q Okay, can you explain what an outlier is?

23 A So that's a term used, kind of, in statistics. So if
24 you think of a population of people who -- I'm trying to
25 think of something to explain it with -- but a population of

1 people who can run fast. And let's say the majority of
2 people -- let's say we take 100 people. The majority of
3 people are going to be towards the middle of the road in
4 terms of their speed. There's going to be a few people who
5 are really, really fast. They're kind of outliers. Those
6 are the people who go to the Olympics and those kinds of
7 things. And we have a few people who are really, really
8 slow for various reasons, whether it's injuries or other
9 things. And they can be considered an outlier when the vast
10 majority of people are, you know, run towards the middle.
11 So statistically, when we talk about an outlier in terms of
12 decomposition or post-mortem changes in this case, based on
13 the information I have, if we look at this case with an eye
14 towards whether it's possible that she died some five days
15 prior to being found, I do think it's possible, but I would
16 agree that it's also an outlier, because there's so few
17 decomposition-related changes with her. There are some of
18 the post-mortem changes, but not the putrefactive changes.
19 And a big factor in that is certainly temperature.

20 Q Okay, so basically that means an outlier is outside of
21 the normal or the norm, that the time of death would have
22 been that long ago. If she had died on 9th, and found on
23 the 14th, that's not really the norm.

24 A Based on the information I have, I think that's fair.
25 Yes.

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1 Q They talked about -- the Solicitor, on direct
2 examination, discussed with you the cause of death, and we
3 talked about this before. Is it my understanding that you
4 ruled that the cause death was ligature asphyxia and blunt
5 force trauma to the head, correct?

6 A Yes.

7 Q If she had not been strangled with the scarf and she
8 just had the blunt force trauma to the head, could she have
9 survived that injury?

10 A She could have, wouldn't necessarily have. That gets
11 into, again, some caveats and natural disease processes that
12 are underlying that, that she had.

13 Q Okay, so she could have survived. So, the main cause of
14 death is ligature asphyxia, due to that circulation by the
15 scarf around her neck.

16 A I think -- I do think the scarf and ligature asphyxia
17 is the most significant component in her death, yes.

18 Q You testified a lot about injury to the face, and I'll
19 refer you to, I believe it's State's Exhibit 95, the diagram
20 that you drew.

21 THE COURT: 95.

22 MS. MCNEILL: Okay, thank you, Judge.

23 Q Is it fair to say she had a pretty substantial amount
24 of injuries to her face and head area?

25 A Yes.

1 Q Okay, and I think the Solicitor asked you, and it
2 looks, it's basically like she had two black eyes, correct?

3 A Yes, both of her eyes were discolored and had bruising
4 so two black eyes is a fair description.

5 Q And the injuries to the upper lip and the lower lip,
6 that would have been caused by some sort of force trauma,
7 blunt force trauma, to her mouth. Is that fair to say?

8 A Yes.

9 Q And then she had, you said, hemorrhaging on I think
10 both sides of her head, bruising on both sides of her head.

11 A Some, yes. Primarily on -- when I'm saying head in this
12 case, I'm talking about above the hairline. So there's some
13 on the left, less on the right, because it's just here in
14 the temple area. There's some on mostly her left cheek, but
15 also around her right eye. But yes, there's some on both
16 sides of the head.

17 Q Okay, is it fair to say that she was lightly punched in
18 her eyes, and punched on her cheeks, nose, and mouth?

19 A That would be a very reasonable explanation.

20 Q Did you find any type of defensive type of injuries?

21 A So defensive, what we classify or characterize or
22 describe as defensive or defensive type of injuries are,
23 excuse me, typically on the back part of the forearms, in
24 the sense that an individual has their hands up as I'm
25 indicating here. There can be other injuries, sometimes

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1 it's on the legs, sometimes it's on the bottoms of the feet.

2 And the inference is that to get those injuries, it's

3 reasonably likely that they had their arms in that position.

4 She did not have the classic defense type injuries in those

5 locations. Some of the bruises that she has could be from

6 attempting a defense, but she does not have typical or

7 classic defense type injuries.

8 Q Okay and is one of those bruising that could have been

9 considered a defensive type of injury. I'm going to show

10 you what's been marked as State's Exhibit 84. Is it fair to

11 say that that could have been a bruise that was a defensive

12 type of injury?

13 A Although it could be, that's not a location that I

14 would consider classic for a defensive type of wound, but it

15 could certainly occur during a struggle or during an attempt

16 to defend yourself.

17 Q I'm going to show you State's Exhibit 83. The bruising

18 on her hand right here.

19 A Yes.

20 Q Could that be considered a defensive type of wound?

21 A Again, it could be considered a defensive type of

22 wound. It's not in the classic locations for the

23 stereotypical defense wounds. It's usually on the --

24 injuries on or around the wrists that are more commonly

25 associated with grappling type of injury, but there's a lot

1 of different potential explanations there.

2 Q When you talked about the injuries with Solicitor
3 Thomas, you didn't really find too many abrasions on Ms.
4 Billie Jean Cross's body, correct?

5 A Correct.

6 Q I think that one abrasion that you discussed was a
7 superficial abrasion on one of her ears. Is that correct?

8 A Correct.

9 Q Other than that, did you find any other abrasions on
10 your body?

11 A No, not to my recollection. And in looking over my body
12 diagram, I'm not seeing those. And I'll just look through
13 my autopsy report as well quickly. No, the rest appear to be
14 bruising and of course the ligature.

15 Q So you didn't find any evidence of what a lay person
16 would refer to as like carpet burn, for example, anywhere on
17 her body?

18 A Correct.

19 Q And I know that you took some x-rays in this case.
20 Were there any fractures found in the x-rays of her head?

21 A I'm just going to review quickly my comment on that. I
22 described it in my autopsy report. No, there were no
23 fractures or recent or remote bony injury that I could see.
24 It's not always visible, but the value of the x-rays is it
25 allows us to look at parts of the body that I don't

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1 necessarily see during the autopsy. That's mainly the
2 extremities. Rib fractures usually do not show up very well
3 on x-ray unless they're really profound, but I was able to
4 see those directly, see those during the course of the
5 internal exam and there were no rib fractures.

6 Q We talked about, or you had testified on direct about
7 the ring finger. Let me show you what's been marked as
8 State's Exhibit 86. And so you testified that you had to
9 remove a ring off of her ring finger, the one next to her
10 pinky, and I believe this is her right hand?

11 A Yes.

12 MS. MCNEILL: Beg the Court's indulgence. I'm looking
13 for a specific picture.

14 Q I'm going to show you what's been marked and is in
15 evidence as Defendant's Exhibit Number 7. Is this her right
16 hand?

17 A Yes, it appears to be.

18 Q Okay. Do you recognize this ring?

19 A Yes, from one of my photographs, it looks like the same
20 one that was on her right hand that I removed from her right
21 hand.

22 Q And how did you remove that ring?

23 A I basically just manually removed it. I did not have
24 to cut it off.

25 Q You did not have to cut it off.

1 A I did not. I was able to straighten the finger enough
2 and pull that ring off, which we do routinely.

3 Q So you just physically just pulled it off her finger?

4 A Yes.

5 Q I'm going to show you what's been marked as Defendant's
6 Exhibit Number 8. This appears to be her left hand. Would
7 you agree with me?

8 A Yes.

9 Q All right. And are these the rings that you found on
10 her ring finger, again next to her pinky finger, on her left
11 hand?

12 A Yes.

13 Q All right. And are these two separate rings?

14 A I believe so, yes. I'm referring back to my diagram.
15 There was a yellow metal ring and then a yellow metal ring
16 with green and white or clear stone, and that appears to
17 correspond to that being a green and additional stone there,
18 so it looks like two separate rings. Yes.

19 Q Kind of like a wedding set?

20 A Could be, yes.

21 Q And how did you remove those rings?

22 A Same way. I do not recall cutting any of the jewelry
23 off of her, and it's extremely, extremely rare that we do.

24 Q It's rare that you cut off jewelry?

25 A That we have to cut the jewelry off, correct.

1 Q And you said that the bruising that was caused under
2 where the ring was on her right hand would have been caused
3 by some sort of force that hit the ring and transmitted that
4 force to her finger?

5 A It could be.

6 Q I think you testified that part of your examination,
7 when you do -- you said there's two types, right? There's
8 the external examination where you examine the, you know,
9 the outside of the body along with the clothing. And then
10 you do an internal examination, and that's looking more at
11 the organs and the inside of the body. Did you find -- what
12 are you looking for when you do an internal exam again?

13 A So there's a lot of standard things that I look at.
14 There's a standard way we go through the internal
15 examination, but fundamentally we're looking for, I'm
16 looking for, evidence of natural disease or injury or its
17 absence. Looking for things that are normal versus
18 abnormal, and kind of go from there.

19 Q Did you find any evidence of any natural disease?

20 A Yes.

21 Q And what was that?

22 A Most significantly she had up to severe coronary artery
23 atherosclerosis. So coronary arteries are the small blood
24 vessels that supply the heart and there's a categorization
25 of mild, moderate, or severe atherosclerosis. Anything from

1 about 75 percent stenosis or greater, I characterize as
2 severe. So she had one location, one focus that was 75
3 percent stenosis, and she had another couple of places that
4 were mild, which I describe as less than 30 percent in this
5 case.

6 Q And you stated before there was no obvious
7 decomposition of her body, right?

8 A Not really. So, decomposition falls into -- or the
9 description of decomposition can fall into a lot of
10 different things. So the classic decomposition findings are
11 lots of skin slippage, discoloration or green brown
12 discoloration, bloating of the tissues from gases produced
13 by bacteria, something that's called marbling, which is kind
14 of streaky discolorations in the body. She did not have
15 that. She had one tiny focus of skin slippage underneath
16 one of her ears. And that was pretty much it in terms of
17 putrefactive or decomposition changes other than rigor
18 mortis, livor mortis, and just the fact that she'd been in
19 cold storage for a while, which meant her body was cold by
20 the time that she got to me. So rigor mortis was absent,
21 lividity was well established, but there really wasn't the
22 other things that we normally see with putrefaction type of
23 decomposition.

24 Q Can you explain what that means?

25 A So again, the putrefaction is that profound green

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1 discoloration, the marbling, the more extensive skin
2 slippage or the superficial layers of the skin that start to
3 slough away. Those are the most common. Tissue gas
4 formation, even just softening of the internal organs, which
5 some of that occurs as rigor mortis fades, so the muscles
6 will get a little softer, the heart will get a little bit
7 softer, but there's usually some discoloration of the
8 internal organs, and she had essentially almost none of
9 that. There was a little bit of softening of the brain, but
10 she had been in the morgue cooler for about two days before
11 I did an autopsy on her. Just that amount of time sometimes
12 the brain will get a little soft.

13 Q And some of these photographs that were taken of the
14 autopsy, I mean, you had to turn her and move her to examine
15 her, the external part of her body, right? The exterior
16 part.

17 A Yes.

18 Q And when you did turn her over and viewed her back, the
19 skin on the back has a lightness to it. Do you recall that?

20 A Yes, to some ---

21 Q Okay. Do you recall saying that it's possible that she
22 died in the field that she was found in, in the position
23 that she was found in?

24 A I may have said that, and to be more clear about that,
25 that is related to the lividity pattern that she had. So,

1 lividity, that discoloration of the skin as a result of
2 blood pooling in the capillaries, that's related to gravity.
3 So, if someone is flat on their back, that pooling happens
4 mostly towards the back. If someone is flat on their front,
5 that pooling happens mostly towards the front. In her case,
6 she was a little on one side, so there's a little bit of
7 lividity discoloration on both sides of her body, but
8 there's a fairly distinct pattern of where she's laying
9 against a surface on the right side of her body.

10 So the lividity pattern, if she had died and was in that
11 position, not necessarily that location, but position for a
12 long enough time for that lividity pattern, that
13 discoloration, to set in that position and not shift after
14 she was moved to the morgue.

15 Q Okay, so -- sorry, go ahead.

16 A Sorry, just to be clear, she certainly could have died
17 or been placed in that position very shortly after death,
18 but position and location are not necessarily the same
19 thing.

20 Q And so, again, you can't tell with a reasonable degree
21 of medical certainty the time or date of death, correct?

22 A Correct.

23 Q But again, if she had been placed in that field, taking
24 in all the factors that we talked about, the weather, the
25 precipitation, the temperature fluctuation, the fact that

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1 she was wrapped in a blanket when she was found, it would be
2 out of the norm for her to have died on the 9th.

3 A I think that is fair, yes.

4 MS. MCNEILL: Beg the Court's indulgence. Thank you
5 Doctor. No further questions.

6 THE COURT: Any redirect?

7 (WHEREUPON, there was a power surge in the courtroom.)

8 THE COURT: We need to take a break, ladies and
9 gentlemen. We've had a little technical difficulties with
10 the recording equipment, and even though we're not finished
11 with Dr. Shaw, we'll be finished soon. But let's go back
12 and take a short afternoon break, and hopefully we can get
13 the technical difficulties squared away.

14 (WHEREUPON, the jury exited the courtroom at 3:50 p.m.
15 and a break was held and the jury entered at 4:00 p.m.)

16 THE COURT: Ladies and gentlemen, our technical
17 difficulties have been resolved. Solicitor, redirect?

18 REDIRECT EXAMINATION

19 BY MR. THOMAS:

20 Q Dr. Shaw, I know you testified extensively about this
21 weather information from the Anderson Regional Airport.

22 A Yes.

23 Q Did you know the Anderson Regional Airport is about 10
24 miles north of Starr?

25 A I did not know that.

1 Q You also don't know -- again, the body wasn't found in
2 a field, it was found in dense brush. Is that your
3 understanding?

4 A Yes, it's kind of a partly covered or largely covered
5 area or shaded area.

6 Q And you don't know the micro-climate in that area right
7 there?

8 A I do not.

9 Q And you have no historical information about that?

10 A Correct.

11 Q There was some precipitation I believe indicated on
12 those records?

13 A Yes.

14 Q When you sweat, why does your body sweat?

15 A To cool off.

16 Q And when the sweat evaporates, it cools off?

17 A Basically, yes.

18 Q Same concept with something wet, when the wet
19 evaporates, it cools off.

20 A It does, that does apply, yes.

21 Q So, you talked about that bell curve and the statistics
22 involved in it and outliers. An outlier on the bell curve
23 is still a probability though, correct?

24 A It's still there, yes.

25 Q And you talked about determining time of death isn't an

1 exact science.

2 A Correct. It's extremely difficult putting specific
3 ranges on time since death is difficult at the best of
4 times. Temperature is obviously a big factor in that. Just
5 to be a little bit more clear about temperature, they say a
6 morgue cooler, for example, which is designed to maintain
7 bodies and limit decomposition for as long as possible.
8 Those coolers are usually maintained at around 37 to 40
9 degrees. 40 is kind of the upper end of that. I have had
10 cases where individuals or bodies remained in a morgue
11 cooler for two weeks, and remained in very, very good
12 condition. Where it gets particularly difficult is when we
13 have fluctuations in environment and temperature and those
14 kinds of things.

15 Q And most of your professional experience before you
16 came here was in Florida?

17 A That's correct.

18 Q But you are familiar with studies that basically say
19 that two people killed at the same time in the same place
20 decompose at different rates?

21 A Yes, there are excellent examples of two individuals,
22 just to briefly describe one of those examples, two
23 individuals sitting on the same couch within a few feet of
24 each other. And one individual is not decomposed, the other
25 individual is green and bloated and shows decomposition.

1 However, the individual without decomposition was the one
2 who died first and the one with decomposition died later.
3 There's good evidence that supports that. There's micro
4 environment types of reasons that that might be the case and
5 sometimes we just don't know why.

6 Q When you are able to maybe fix a time of death, you
7 base that not only on your observations, but also the
8 investigation of law enforcement, correct?

9 A Yes.

10 Q So, if you had information that Billie Jean Cross was
11 assaulted in her home, she was placed inside of her own
12 blanket, her own comforter, she was put in a trash can. And
13 then she was found there. If all of that happened on the
14 9th, would that contribute to you giving an opinion that she
15 was killed on the 9th?

16 A Yes.

17 MR. THOMAS: No further questions.

18 MS. MCNEILL: Just brief recross.

19 THE COURT: Sure.

20 RE CROSS-EXAMINATION

21 BY MS. MCNEILL:

22 Q The Solicitor just asked you about you being primarily
23 from Florida and having the majority of your experience in
24 Florida.

25 A Yes.

1 Q And then you talked about studies, but most of those
2 examples are hypotheticals that Solicitor Thomas talked
3 about with you those cases would be in the norm range;
4 correct? Figuring out time of death.

5 A So the classic, You know, cases where two individuals
6 are in the same room and have just significantly different
7 decomposition rates, those I would consider not part of the
8 norm, because of those differences. You would expect in the
9 norm the individual who died first would decompose faster
10 than the other individual. Well may be that they died
11 minutes apart, but if they died really close to the same
12 time, then you would expect normally that their
13 decomposition rates would be very close to the same. And
14 yet, in those cases, they were not.

15 Q Okay. And then again, just to reiterate, you did
16 external examination of the body, including the clothing.
17 You did an internal examination of her organs and other
18 things. And you also had the knowledge of where she was
19 found, how she was found, and all of that taken into
20 consideration, your testimony would still be consistent as
21 your previous testimony that specific to this case, not any
22 hypothetical that was just talked about, it would be outside
23 of the norm for her to have died on the 9th and found on the
24 14th?

25 A Correct. Possible, but outside the norm.

1 MS. MCNEILL: Thank you, no further questions.

2 THE COURT: Dr. Shaw, you can step down and you are more
3 than free to leave the courthouse if you'd like. Solicitor
4 Simmons, the State's next witness.

5 MR. SIMMONS: Your Honor, the State calls Rachel Nguyen
6 to the stand.

7 WHEREUPON, Rachel Nguyen, having
8 first been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SIMMONS:

11 Q Ms. Nguyen, where do you work?

12 A I am currently employed at the South Carolina Law
13 Enforcement Division, most commonly known as SLED.

14 Q And what do you do with SLED?

15 A I'm a forensic scientist within the DNA Casework
16 Department.

17 Q And what kind of training and experience do you have
18 there?

19 A Upon being hired within the DNA Casework Department I
20 have undergone several training programs in the areas of
21 serology, evidence processing, and the DNA analysis portion
22 which includes laboratory. Each training program is an
23 mapped out in a similar manner. There's a period of
24 observation, lectures on the content that's being trained
25 in. As well as practicing mock samples. At the end of each

1 training program, I then enter what's called a competency
2 testing. That is to test my knowledge and ability to perform
3 all these different types of analysis independently. A
4 competency testing phase is comprised of four components; a
5 written exam, an oral exam, a mock case and mock court.
6 Once all components are successfully completed I am then
7 authorized to perform analysis in those areas, which include
8 for me, serology, evidence processing, and the laboratory
9 portion of DNA analysis.

10 Q Are you training for some other position at SLED?

11 A Yes. So, I was previously a forensic serologist, and I
12 am currently a DNA analyst in training.

13 Q When you receive items from law enforcement, how does
14 SLED normally get those?

15 A So, an agency will submit pieces of evidence to our
16 laboratory. They will fill out a form that details what kind
17 of evidence they're submitting, and what types of analysis
18 from the various departments within the laboratory. They
19 will then deliver it physically to the evidence control
20 department within the SLED's forensic laboratory. There the
21 evidence and the case will be assigned a unique case number
22 as well as respective unique item numbers. And then the
23 evidence will be stored until the respective department that
24 is going to perform the analysis comes to retrieve it.

25 Q Every piece of evidence that you guys receive, you guys

1 check to make sure is something is sealed?

2 A Yes. Upon being submitted, the evidence must be in a
3 sealed state. That means whether it's a box it should be
4 taped with the seal that has the sealer's initials and date,
5 or we have what's called a heat sealed pouch which is a
6 pouch that uses heat to seal it. Also should have initials
7 and date of the initial sealer of that item of evidence.

8 MR. SHAFFER: Your Honor, if necessary, we're happy to
9 stipulate to the chain of custody of any of the items used
10 for DNA analysis.

11 THE COURT: Very good. Thank you.

12 Q I want to get to SLED Item 5, which is State's item 15.

13 THE COURT: And 15 is already into evidence.

14 MR. SIMMONS: Yes, Your Honor.

15 Q What did you do with this item?

16 A So, for this case, SLED's Item 5 is a dry blood
17 standard from Billie Jean Cross. For this item of evidence,
18 I prepared it for DNA analysis, which means I got a small
19 portion, put it in a tube, labeled that tube with a unique
20 case number and item number. I also performed what we refer
21 to as direct DNA analysis on this item, which the laboratory
22 portion of DNA analysis has four steps. So the direct DNA
23 analysis is only comprised of the first two steps, which are
24 extractions, that's taking any biological material and

1 separating it from a swab or a cutting of fabric. And then
2 the second step would be quantitation, which is determining
3 if any and how much human DNA is present within a sample.

4 Q And you did that with this item?

5 A I did.

6 Q And what do you do with that sample when you're
7 completed with it?

8 A So as I mentioned there's four steps. So after that I
9 transfer this evidence to the DNA analyst for the case,
10 which is Donna Money. And she will proceed with the
11 remaining steps of the DNA analysis portion, as well as
12 interpreting any results that are required.

13 Q I'm going to show you what's been marked as State's
14 Exhibit 100.

15 MR. SHAFFER: No objection, Your Honor.

16 THE COURT: Without objection, 100 into evidence for the
17 State.

18 Q And I'll just put it on the board. Thank you. Is this
19 one of the items that you had opportunity to photograph?

20 A Yes, this is the Item 3, as you can see on the post-it
21 note in the image with this case number and those are my
22 initials and the date that I just took the photo.

23 Q What is this a photo of?

24 A It's a picture of Item 3 which is the scarf from the
25 victim's neck.

1 Q That's State's Exhibit 14. That is the scarf that you
2 photographed?

3 A Yes. I recognize this as the packaging for the scarf
4 because it has the case number, the item number, and the
5 seal has my initials and date.

6 MR. SIMMONS: Beg the Court's indulgence. No further
7 questions at this time.

8 THE COURT: Anything from the Defense?

9 MR. SHAFFER: No, Your Honor.

10 THE COURT: Thank you. You can step down, Agent Nguyen.
11 Next witness?

12 MR. SIMMONS: Your Honor, the State calls Donna Money to
13 the stand.

14 WHEREUPON, Donna Money, having first been
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SIMMONS:

18 Q Agent Money, where do you currently work?

19 A I am currently employed at the South Carolina Law
20 Enforcement Division, also known as SLED, at the Forensic
21 Services Laboratory.

22 Q How long have you been with SLED?

23 A I'm going on 12 years.

24 Q What do you currently do there?

25 A I am a forensic scientist in the DNA case work

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1 department.

2 Q What kind of education do you have for that?

3 A I have a bachelors of science degree in forensic
4 science from the Pennsylvania State University.

5 Q What other training do you have to qualify as a
6 forensic scientist there?

7 A When I started my employment at SLED in 2012, I
8 participated in the in-house training program for just over
9 a year. While in the training program, I was under the
10 supervision of a court qualified analyst within the
11 department. During my time in this training program, I
12 handled and analyzed several hundred practice and training
13 samples. I had an oral exam, written exam, report writing
14 exam, and a mock court.

15 Q How many samples of DNA do you think you've tested?

16 A Several thousand.

17 Q How many times have you been qualified as an expert in
18 court?

19 A Over 50.

20 MR. SIMMONS: Your Honor, at this time the State would
21 enter Ms. Donna Money as an expert in DNA analysis.

22 MR. SHAFFER: No objection, Your Honor.

23 THE COURT: Without objection, Agent Money is found to
24 be an expert in the area of DNA analysis.

25 Q Ms. Money, what is DNA? Can you explain that?

1 A DNA is a chemical found in a person's body. It
2 essentially is the person's genetic blueprint. You receive
3 half of your DNA from your biological mother and half of
4 your DNA from your biological father.

5 Q Where can you get DNA profiles from a person?

6 A You could develop a DNA profile from a person's skin
7 cells, from their hair, from a body fluid such as saliva or
8 blood.

9 Q And how do you get a DNA profile from a hair?

10 A So within a hair, the root at the end that is coming
11 out of the person's body, the root material contains cells
12 that we can analyze and develop a DNA profile from.

13 Q And if you did not have a root, would you be able to
14 get a DNA profile from that hair sample?

15 A The type of testing performed at SLED currently we
16 cannot do anything with the shaft part of the hair, the non
17 root part, but other laboratories do have the capability for
18 that.

19 Q And you can also develop a profile in blood, right?

20 A Yes.

21 Q And how would you develop a profile for someone that's
22 deceased, generally?

23 A As far as just...

24 Q Regarding blood.

25 A If an individual is deceased and there needs to be what

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1 is referred to as a known standard collected from them, it
2 could be a blood draw or it could be a buccal swab, which is
3 just the collection of skin cells on the inside of a
4 person's mouth.

5 Q And that's what you would call a known standard. If
6 you have DNA from a person that you know is going to be
7 tested against an item?

8 A Yes, because it's being collected directly from that
9 person's person.

10 Q And I'm showing you State's Number 15. Is that a
11 standard from Billie Jean Cross that you analyzed in this
12 case?

13 A Yes.

14 Q And you were able to develop a -- get a profile from
15 her from that known standard?

16 A Yes.

17 Q And that was from her blood. How does that differ from
18 any touch DNA? How does touch DNA work?

19 A Touch DNA is referring to skin cells from the person
20 touching an item or holding an object. Typically, the
21 chances of developing a profile from touch DNA is not as
22 great as say from a body fluid, like blood or saliva,
23 because in a body fluid you tend to have a lot of cells that
24 can be used to develop a DNA profile. With touch DNA, if a
25 person is just briefly holding say a pen or briefly touching

1 the surface of this bench area, they may not necessarily
2 leave as many cells behind.

3 Q So if I just touch this and let go, if somebody swabbed
4 that later, they might not have my DNA right there.

5 A Not necessarily.

6 Q And if I went back and kind of wiped it off, could my
7 DNA still be there or could it not be?

8 A It may still be there. It may also have been picked up
9 by your sleeve.

10 Q And when you test for DNA, what do you use to prevent
11 from your DNA mixing with a sample that you're potentially
12 testing?

13 A While conducting my analysis, I'm wearing proper
14 protective equipment such as gloves and a lab coat, mask.

15 Q And could wearing gloves prevent someone from
16 transferring DNA?

17 A Yes, because it's introducing a barrier from the
18 person's skin to a potential surface or object.

19 Q How would DNA be affected for someone sitting outside
20 in the elements? So let's say I touch my pen and I've left
21 it outside in the rain for a weekend. Could the rain wash
22 my DNA away from that, from touch DNA?

23 A Potentially.

24 Q And we discussed earlier developing profile with a
25 known standard for Ms. Billie Jean Cross. Did you also have

1 a known standard for Timothy Spencer in this case?

2 A Yes.

3 Q And I just want to go ahead and get this out of the
4 way. I know it was discussed, but did you have an
5 opportunity to test several items in this case?

6 A Yes.

7 Q And were you able to do any comparisons for all of
8 those items?

9 A Not for all of the items.

10 Q And why is that?

11 A For some of the items, the profiles developed were just
12 not suitable for comparison because they were too partial or
13 too complex.

14 Q And for those ones that you could do comparisons on,
15 what were the results regarding Timothy Spencer?

16 A For the profiles that were suitable for comparison,
17 Timothy Spencer was excluded as a contributor.

18 Q And when we talk about getting those samples, where
19 it's the known sample? Can you explain that process to the
20 jury? Getting the sample to make a profile.

21 A The process of performing DNA analysis on whether it is
22 an item of evidence or known standard is a four step
23 process. The first step is extracting DNA from any cells
24 that may be present on that item, whether it is a cutting
25 from a swab or a cutting from another item such as a Tshirt.

1 The second step is referred to as a quantization or
2 determining how much DNA is present on that sample that has
3 been extracted. The third step is referred to as
4 amplification or making more copies of the DNA. And the
5 fourth step is where the sample is run through an instrument
6 where it is separated based on size and that data generated
7 is then translated into what is commonly referred to as a
8 DNA profile.

9 Q And then when you have a known standard for DNA profile
10 and then you create a DNA profile from the item that you are
11 testing, how do you compare those?

12 A For the profile that's developed from the item of
13 evidence. First, it must be reviewed to determine if it is
14 suitable for comparison. If it is, then any profiles
15 developed from known standards in the case will be compared
16 to that evidence profile.

17 Q And then when you are interpreting those results, how
18 do you interpret those results?

19 A When looking at the evidence profiles, part of the
20 interpretation is determining whether or not it is from one
21 singular individual, meaning it's a single source profile,
22 or if it's a mixture profile, meaning it is more than one
23 individual. Currently at SLED, we are able to interpret
24 profiles up to four individuals.

25 Q And when you have that comparison and you get a result,

1 how do you interpret that in a ratio?

2 A When comparisons are being done, part of our reporting
3 process is calculating a statistic. So when comparing an
4 individual to a profile, what is the person as a likelihood
5 ratio is calculated for that comparison. Generally
6 speaking, a likelihood ratio is the comparison of two
7 possible explanations for an event. So in the case of
8 forensic DNA analysis, the DNA profile is the event and the
9 two possible explanations are is person A contributing to
10 the profile or is an unidentified unrelated person
11 contributing to the profile. And in the likelihood ratio is
12 the support for one of those two possible explanations.

13 Q And with SLED, how do you guys determine those in maybe
14 verbal wording when you come up with a likelihood ratio.

15 A In our report, we include what is referred to as a
16 verbal scale. That is a verbal equivalent for the number
17 that is reported for the likelihood ratio.

18 Q And so likelihood ratio, let's say one, how would that
19 be a verbal wording for that?

20 A That would be considered uninformative, because it's
21 not in favor of that person being included or excluded.

22 Q And then 2 to 99?

23 A Can I refer to my report for those?

24 Q Yes.

25 A A likelihood ratio in the range of 2 to 99 is

1 considered weak support.

2 Q And let's say we move up to 10,000 to 99,999.

3 A For a number in that range in support of an individual
4 contributing that would be considered strong support.

5 Q And then what would be a very strong support?

6 A That would be a relative ratio greater than 1,000,000.

7 Q And I'm showing you State's Exhibit 77. What's that
8 item?

9 A This is labeled as set of blood spots from inside trash
10 cans.

11 Q And you had an opportunity to test the swabs from
12 inside that trash can?

13 A Yes.

14 Q You created a DNA profile of those specific swabs?

15 A Yes.

16 Q And it's the same process that you explained earlier to
17 the jury?

18 A Yes.

19 Q When you explained earlier for that item, who
20 contributed to the DNA profile for the trash can swabs?

21 A The profile developed from this item was from one
22 singular contributor.

23 Q And what were your results when comparing that profile
24 from Billie Jean Cross's and the DNA profile from the swab
25 from the trash can?

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1 A The DNA profile is approximately 130 septillion times
2 more likely if Billie Jean Cross contributed the profile
3 than if an unidentified unrelated individual contributed to
4 the profile.

5 Q So going back, a very strong support was more than one
6 million.

7 A Yes.

8 Q And how many zeros does 130 septillion have?

9 A So, one septillion has 24 zeros.

10 MR. SIMMONS: Beg the Court's indulgence.

11 THE COURT: Sure.

12 Q I'm actually must have been marked as State's Exhibit
13 99 for identification purposes.

14 THE COURT: What number is that, Solicitor?

15 MR. SIMMONS: State's Exhibit 99. And the State is
16 going to enter that into evidence. I don't believe there's
17 any objection.

18 THE COURT: Without objection, 99 into evidence.

19 Q Ms. Money, what is that?

20 A These are the extracts that I generated from my
21 analysis of SLED Items 18, 20, 23, and 24.

22 Q And one of those is the extracts for that swab from
23 inside the trash can?

24 A Yes, the extract for SLED Item 18 included.

25 Q And that was for blood?

1 A That was the request for this item. Yes.

2 Q And in your opinion, do you believe that that blood was
3 Billie Jean Cross's blood?

4 A The sample, when it was tested for blood, was
5 presumptive positive. Then there is very strong support
6 that the DNA profile developed from this item is from Billie
7 Jean Cross.

8 Q And that strong support was from that really big number
9 that you just gave.

10 A Yes.

11 MR. SIMMONS: No further questions at this time.

12 THE COURT: Any cross-examination?

13 MR. SHAFFER: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. SHAFFER:

16 Q Ms. Money, I'm going to show you what's been marked
17 Defendant's Exhibits 17, 18, 19, and 20 for ID right now.
18 All right, that's fine. All right, Ms. Money. Have you had
19 a chance to review all those documents?

20 A Yes.

21 Q Okay. And those are four reports that are authored by
22 you, correct?

23 A Yes.

24 Q And they were authored by you as part of your job at
25 SLED; correct?

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1 A That's correct.

2 Q And SLED is the State Law Enforcement Division,
3 correct?

4 A That's correct.

5 Q And SLED is essentially a law enforcement agency in
6 South Carolina that works for the State, correct?

7 A Yes. And it can assist other local agencies in the
8 state.

9 Q And especially DNA, frequently assists local agencies,
10 Correct?

11 A Yes.

12 Q So, but you were working for the State whenever you
13 authored all four reports, correct?

14 A Yes.

15 Q And those reports are dated October 22, May 19 -- or
16 sorry. October 22, 2022, May 19, 2023, January 28, 2024 and
17 April 10, 2024; Correct?

18 A The first one was October 6, 2022.

19 Q Okay. But the other dates were correct?

20 A Yes.

21 Q And I apologize for that. I think I was mistaken.
22 Those reports were addressed to Ben Blackmon and Robert
23 Wilkie and/or, I guess, Robert Wilkie depending on the
24 report at the Laurens County Sheriff's Office, correct?

25 A That's correct.

1 Q So they were requested by the Laurens County Sheriff's
2 Office, correct?

3 A Analysis of items in this case were. The analysis was
4 requested by the Laurens County Sheriff's Office.

5 Q And the most recent report you did was last week,
6 correct?

7 A It was the reissuing of the January 2024 report.

8 Q Yeah. And that January 2024 report maybe had some
9 typographical errors or slight omissions, correct?

10 A There was an administrative statement that was not
11 included and that's why the April 2024 report was reissued.

12 Q But the substance of the analysis that was done didn't
13 really change between that previous report in January and
14 the one in April, correct?

15 A No.

16 Q And in between the January report and the April report,
17 did you have a opportunity to speak with -- and I'm not
18 going to ask you what you asked, or what you spoke about,
19 but did you have an opportunity to speak with individuals
20 from the Solicitor's office, people at this table.

21 A There was a pretrial conducted between the two, yes.

22 Q And it's fair to say that Defense attorneys generally
23 get this information from the Solicitor's office, correct?

24 A What information are you referring to?

25 Q These reports.

- 1 A To my knowledge, yes.
- 2 Q Yeah. You don't send them directly to the Defense
- 3 attorney, generally, correct?
- 4 A No.
- 5 Q You send them to the law enforcement agency, correct?
- 6 A They're made available on I Lab, which law enforcement
- 7 and the Solicitor's Offices have access to.
- 8 Q So they have access to these reports you have correct?
- 9 A Yes.
- 10 Q And I will cut to a little bit of the chase. You had
- 11 said, you testified that basically you weren't able to
- 12 really match my client, Mr. Spencer, to any of the DNA
- 13 related to the victim, Billie Jean Cross, in this case;
- 14 correct?
- 15 A For the profile that were suitable for comparison.
- 16 Timothy Spencer was excluded as a contributor.
- 17 Q Okay. And how many pages are all of these reports?
- 18 A In total or for each one?
- 19 Q Each one.
- 20 A For the October 2022 report, it's a total of seven.
- 21 For the May 2023 report, it's a total of nine. For the
- 22 January 2024 report is a total of six. And for the April
- 23 2024 report is also a total of six.
- 24 Q And you made -- these are your -- these are your
- 25 reports that they're statements made by you, correct?

1 A Yes.

2 Q And you were working as a -- you were -- it was in the
3 course and scope of your employment for the State of South
4 Carolina, correct?

5 A Yes.

6 MR. SHAFFER: Your Honor, at this point I would
7 actually move all four of those Exhibits in.

8 MR. SIMMONS: Your Honor, the State would object to
9 it. The rules don't allow for it under 803(a). It does
10 include opinions and police reports in reports like this.
11 My understanding is Mr. Shaffer was planning on doing a
12 summary, and I don't believe that that would be against the
13 rules under at least 1006. But for this purpose.

14 THE COURT: What would be in support of your offer of
15 these four reports into evidence?

16 MR. SHAFFER: Your Honor, before you actually look at
17 Rule 803, you have to actually look at Rule 801. And this
18 is definitionally non-hearsay. It's a statement by a party
19 opponent under Rule 801(d)(2).

20 THE COURT: All right, let's do this. Ladies and
21 gentlemen of the jury, I need to look at these rules that
22 these lawyers are submitting to me. And you know, I've
23 looked at them many, many times. I need to look at them
24 again.

25 MR. SIMMONS: Judge, we'll let it in.

1 THE COURT: All right. That makes my job a little
2 easier on this particular point. So 17, 18, 19, 20 into
3 evidence for the Defense.

4 Q Now, it's fair to say that whenever you're dealing with
5 statistics related to DNA, the numbers get very, very, very
6 high, correct?

7 A They can, yes.

8 Q And because of the fact that you're dealing with these
9 high probabilities, you know, I heard you testify that there
10 was a number -- that it was Billie Jean's DNA found inside
11 the swab from the trash can. You testified to a really big
12 number. What was that number?

13 A It was 130 septillion.

14 Q So read out, if you don't mind, your conclusion related
15 to that number of the probability that it was someone other
16 than Billie Jean's DNA on the trash can.

17 A I'm not sure what you're asking.

18 Q What was your actual conclusion? What does that number
19 relate to? What's that the probability of?

20 A The DNA profile is approximately 130 times more likely
21 if Billie Jean Cross contributed the profile, then if an
22 unidentified, unrelated individual contributed the profile.

23 Q Okay. So, why don't you just say it's her DNA?

24 A In order to report comparisons, a statistical weight
25 has to be provided as well.

1 Q Okay. So, whenever we hear stuff in, like, CSI or TV
2 shows, that are, like, the DNA matches. The DNA doesn't
3 necessarily match, it's just a high probability, correct?

4 A The statistic is to the DNA profile itself from the
5 evidence.

6 Q Okay. Sorry. Explain that one more time.

7 A The statistics that we calculate are for the DNA
8 profile developed from the evidence, not to state that it is
9 130 septillion times it being Billie Jean Cross. It is that
10 the DNA profile is 130 septillion times more likely to occur
11 if Billie Jean Cross is the contributor than if it was
12 another unidentified, unrelated individual.

13 Q To a layperson who doesn't know very much about
14 statistics like me, that sounds like that's Billie Jean's
15 DNA. Is that a fair assumption for a layperson?

16 A There is very strong support that Billie Jean Cross
17 contributed the profile.

18 Q So I'm asking -- I'm going to ask you some questions in
19 order to create a summary?

20 A Okay.

21 Q Because I don't want to go -- I don't want this jury to
22 have to go through every single page of every one of those
23 documents that I put in. Okay?

24 A Okay.

25 Q And I tried to phrase it the best way I could in a way

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1 that doesn't sound like I'm stating a definite. Where I'm
2 trying to give you a probability and try to answer it. Now,
3 if this question doesn't sound right to you, I'm going to
4 let you read it and let you actually -- I'm going to give
5 you a pen, and I'm going to give you two documents. Okay.
6 We'll go through the first one, the one in red, first.

7 THE COURT: Now, is this a summary of all four reports?

8 MR. SHAFFER: Yes, Your Honor.

9 THE COURT: Okay. And you've got it broken down per
10 report in some fashion.

11 MR. SHAFFER: Yes, Your Honor. It's a chart, minus a few
12 things that just weren't tested.

13 THE COURT: Okay. Just make sure the ---

14 MR. THOMAS: May we see it? Your Honor, may we approach?

15 THE COURT: Sure.

16 (SIDEBAR HELD OUT OF THE HEARING OF THE JURY.)

17 THE COURT: And certainly you can follow up in any
18 redirect. Take a look at those, Agent Money. Just make sure
19 you understand, kind of, what Mr. Shaffer did before he asks
20 you any questions.

21 MR. THOMAS: And then Judge, I would object to it being
22 published before it's in evidence. We let her fill it out
23 before we.

24 MR. SHAFFER: Oh, that's fine, Your Honor.

25 THE COURT: All right. So you want her to write on a

1 response? Is that what you want her to do?

2 MR. SHAFFER: Yes, Your Honor. I'm going to ask those
3 questions. I just want her to respond.

4 THE COURT: Okay. Agent Money, do you understand what
5 he's getting you to do?

6 MR. SHAFFER: And I was going to walk her through each
7 question, Your Honor.

8 Q All right, Agent Money. Give me just one second. Let
9 me pull this up. I'm going to show you that first one, the
10 one that's written in red, Okay? The one that has an item
11 number at the top column, correct?

12 A Yes.

13 Q And then it says description of the item. In
14 parentheses, it says, "Summarize. See report for full
15 description." Correct?

16 A Yes.

17 Q And then it says, "Was a suitable profile developed?"
18 Is that correct?

19 A Yes.

20 Q And then the next question is, "Can you offer
21 analysis?"

22 A Yes.

23 Q Okay. And then the fourth question is, "Based on your
24 testing, can you give an opinion as to the likelihood of
25 Timothy Spencer's DNA being found on that item?" Do you

1 understand those questions?

2 A I understand them, but some of the terms I feel are not
3 appropriate.

4 Q Okay. Which ones do you feel are not appropriate?

5 A For, "Can you offer analysis?" Analysis is what I did
6 in the laboratory, not what's being recorded.

7 Q Okay. what - do you have any idea where I'm coming
8 from? I know that's asking you to dig in my head. I just,
9 I'm not a scientist, clearly. Can you what I offer, "Can
10 you offer an opinion?" Is that a better way of putting it?

11 A "Interpretation" would be a better word.

12 Q Why don't you scratch out that top thing, and just put,
13 "Can you offer an interpretation?". Now ---

14 THE COURT: Let her finish.

15 Q The next question is, "Do you understand that says
16 based on your testing, can you give an opinion as to the
17 likelihood that Timothy Spencer's DNA was found on that
18 item?"

19 A I understand what the question is asking. I just don't
20 agree with the way it's phrased.

21 Q What's a better way of phrasing?

22 A So the likelihood is not to the individual, the
23 likelihood is to the evidence profile.

24 Q Okay. What if we inserted, "To Timothy Spencer's
25 evidence profile"?

1 A Profiles developed from an individual are not
2 considered evidence. It's a known standard.

3 Q What's the better way of phrasing what I'm asking? I'm
4 not asking is that Timothy Spencer's DNA, or can you say
5 whether that's Timothy Spencer's DNA.

6 A It may be just more appropriate, "What is the result,
7 when comparing Timothy Spencer's profile to the evidence
8 profile?

9 Q Do you mind writing that in those? And we'll use that
10 question.

11 MR. THOMAS: Maybe she could just write it on the first
12 page.

13 THE COURT: I think just write it one time on the 1st
14 and it will be applicable to all the other pages.

15 MR. SHAFFER: Fair enough, Your Honor.

16 THE COURT: Can you read what you've written? Just
17 make sure the lawyers know the change that you made.

18 WITNESS: "What is the reported result when comparing
19 Timothy Spencer's DNA profile to the profile developed from
20 this item?

21 Q Okay. And that's basically a technically correct
22 scientific way of saying that it is, or is not, Timothy
23 Spencer's -- or Timothy Spencer's DNA profile is similar to
24 the evidence or not similar, correct?

25 A It's capturing whether that individual is included or

1 excluded.

2 Q There you go, included and excluded. So we'll go
3 through the items, and I'll go through them fairly quickly,
4 and feel free to tell me to slow down, because I need you to
5 make this summary as we go in order to comply with the
6 rules. Okay? Item one, it says, "Carpet from a victim's
7 home." All right, what's your answer to the first question?
8 Was that suitable or was that ---

9 A It's going to be no, because the item wasn't tested.

10 Q Okay. So the cutting from the carpet -- so the carpet
11 in a victim's home was never tested by you guys?

12 A Correct.

13 Q Okay. So you cannot offer any analysis, correct?

14 A That's correct.

15 Q Or you cannot offer an opinion, and the answer is no to
16 that. Clearly you can't say that that's Timothy Spencer's
17 DNA, right?

18 A (NON-VERBAL RESPONSE)

19 Q 2.1 is the swab from the scarf. The top part of the
20 scarf? Were you able to develop a profile?

21 A Yes.

22 Q What sort of opinion about that, compared to Timothy
23 Spencer, can you give?

24 A Timothy Spencer is excluded as the contributor.

25 Q Do you mind if you write your answers as we go?

1 A Uh-huh.

2 Q And one one? Did you answer that?

3 A Yes.

4 Q Okay. Would it be fair to say that this would go faster
5 if I just let you fill it out without asking you the
6 question?

7 THE COURT: I mean, that's that's fine with me if that
8 suits you.

9 MR. THOMAS: And, Your Honor, the State's suggestion -- I
10 mean, the way he set the chart up is it's steps. So like,
11 if the answer to question one is yes, go to two, go to
12 three. So, she can just check the box. If it's one, two,
13 because really what he's getting to at the end. So, if she
14 just checks the boxes, she can write her result at the end
15 of the thing. That might be quicker also.

16 MR. SHAFFER: And I'm actually completely fine with her
17 not even worrying about the first two, and just writing ---

18 THE COURT: You just want the third column, right?

19 MR. THOMAS: Right. Because again, Your Honor, we've already
20 stipulated Mr. Spencer's DNA was not on any of the items
21 tested. So, we can do this as quickly as possible.

22 THE COURT: So if you want to go ahead and complete
23 that third, that might be the way to go.

24 MR. SHAFFER: And if you don't mind, just go ahead and
25 cross out this fourth question in each one of these, third

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1 question, I guess. All right. At this time, Your Honor, I'd
2 move Defendant's 21 into evidence.

3 MR. SIMMONS: Your Honor, if Ms. Money has no objection
4 to it, I don't.

5 THE COURT: Well, I'm not sure if a witness can
6 determine whether or not something comes into evidence or
7 not. But with all due respect to Agent Money.

8 MR. SHAFFER: Now, Agent Money ---

9 THE COURT: Wait a minute. Wait a minute. So, are you
10 saying without objection?

11 MR. SIMMONS: Yes, Your Honor. Without objection. The
12 reason I said that because she had questions about how the
13 statements were written, so if she's fine with how it is,
14 I'm fine with it now.

15 THE COURT: All right, 21 into evidence for the
16 Defense.

17 MR. SHAFFER: Thank you.

18 Q Now, I appreciate you doing this for me. I also gave
19 you Defendant's 22, and Defendant's 22 is much, much
20 shorter, but I used the same wording, so you may have to
21 change it. It's only two things long. So would you mind
22 changing it? Obviously it's for Billie Jean Cross's DNA.
23 If you don't mind, just go ahead and answer it however you
24 feel appropriate.

25 WITNESS: Do you still want the first two answered as

1 well, or just the third?

2 MR. SHAFFER: You can just do the third one. Your
3 Honor, at this time I would moved Defendant's Exhibit 22
4 into evidence.

5 THE COURT: What says the State?

6 MR. SIMMONS: No objection.

7 THE COURT: All right, 22 into evidence for the
8 Defense.

9 Q All right before we go back and talk about this, I want
10 to talk about one other thing. You had said that -- I
11 think on direct you said that -- Jared asked you, if he had
12 his pen and he put it down right here and it rained for a
13 couple of days, is it possible that the DNA washed off? And
14 I think you said yes. Is that a fair paraphrasing of what
15 of one of the questions that Jared asked you on direct?

16 A Yes, it's possible for the water to have washed off any
17 DNA that was present.

18 Q Okay, it's also possible it didn't wash off DNA,
19 correct?

20 A That's correct.

21 Q And DNA can get transferred from saliva, correct?

22 A Yes.

23 Q Skin cells, correct?

24 A Yes.

25 Q Blood?

- 1 A Yes.
- 2 Q Hair?
- 3 A Yes.
- 4 Q All sorts of bodily fluids, correct?
- 5 A That's correct.
- 6 Q You said touch DNA is sometimes hard to get a hold of.
- 7 If I touch this and just put it down, there may be DNA on
- 8 that, right?
- 9 A Potentially, yes.
- 10 Q If I grab this, and I grab it, and I pull it, it's real
- 11 tight. This is a canvas thing, and right now my hands are
- 12 hurting. They're burning, because I'm pulling it so tight.
- 13 Okay? If I do that, is it possible or likely that there's
- 14 some DNA that just got rubbed off onto this thing whenever I
- 15 grabbed it like that?
- 16 A It's possible, yes.
- 17 Q Okay, it's probably pretty likely if I'm making my
- 18 hands hurt, right?
- 19 A Yes.
- 20 Q And you may or may not be able to answer this question.
- 21 I don't know. Say some touch DNA got on this pen, and it
- 22 got left outside for three days in the rain. And then I
- 23 just did the same thing where I jerked on this canvas strap
- 24 and I left that outside in the rain. Is the DNA more likely
- 25 to wash off the pen, or the thing that I just jerked on real

1 tight?

2 A I can't answer that.

3 Q Okay. Can you answer if there was likely more DNA on
4 the pen versus the strap?

5 A I can't answer that.

6 MR. SHAFFER: Your Honor, I'm going to publish the first
7 page. I'm happy to publish the whole thing, but for the
8 sake of time, probably just going to publish the first page
9 and then run through some of the ---

10 THE COURT: However you want to do it will be fine.

11 Q For the sake of time, I'm not going to go through each
12 and every one of those with you. I'm just going to ask you
13 whether or not those are included in that first exhibit.
14 I'm going to go through the numbers, and ask you whether
15 each one of those are included. So, in that first exhibit,
16 I included item one, which was carpet from the victim's
17 home. Is that correct?

18 A Yes.

19 Q And I included item 2.1, which was the swab from the
20 scarf, the top twist on it. That was included too, correct?

21 A Yes.

22 Q And item 2.2, which is the swab from the scarf on the
23 bottom?

24 A Yes.

25 Q And item 3.1, which is the swab from the underneath the

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- 1 knot of the scarf?
- 2 A Yes.
- 3 Q Item 4.1 is a vaginal swab.
- 4 A Yes.
- 5 Q Item 4.2 is a oral swab.
- 6 A Yes.
- 7 Q Item 4.3 is a rectal swab.
- 8 A Yes.
- 9 Q Item 4.4 is the right swab of suspected bodily fluid
- 10 from Billie Jean?
- 11 A Yes.
- 12 Q Item 4.5 is a left swab from Billie Jean?
- 13 A Yes.
- 14 Q Item 4.6.1 is hair from the -- hair combings from the -
- 15 - hair from the hair combing from the pubic hair combs;
- 16 correct?
- 17 A Yes.
- 18 Q Okay. Item 4.6.2 is hair -- is another hair from the
- 19 pubic hair combs.
- 20 A Yes.
- 21 Q Item 18 is a swab -- swabs from inside the trash can.
- 22 A Yes.
- 23 Q Item 11.1 is the left-hand fingernail scrapings from
- 24 Billie Jean.
- 25 A Yes.

1 Q Item 11.2 is the right-hand fingernail scrapings from
2 Billie Jean.

3 A Yes.

4 Q Item 11.3 is the left-hand fingernail clippings from
5 Billie Jean.

6 A Yes.

7 Q What are the difference between clippings and
8 scrapings?

9 A Scrapings is when a plastic stick with a pointed end is
10 rubbed on the underneath of a person's fingernails.
11 Clippings is the nail itself. It's just clipped directly
12 off.

13 Q And y'all test that because of the fact that if someone
14 may have scratched someone, it's possible that they took
15 away some of that person's DNA with it, correct?

16 A Yes.

17 Q But you didn't find any of his DNA correct?

18 A No.

19 Q Okay. Item 11.4 is the right hand-finger fingerprint -
20 - or right-hand finger clippings from Billie Jean Cross.

21 A Yes.

22 Q I put fingerprint. That's clearly a misprint, okay?
23 Item 20 is swabs from the trash can handle.

24 A Yes.

25 Q Item 21 is swabs from the metal trash can, the front

- 1 handle.
- 2 A Yes.
- 3 Q Item 23 is swabs from the rear lower lip of the handle
- 4 of the trash can.
- 5 A Yes.
- 6 Q Item 31.1 is swabs from the victim's T-shirt.
- 7 A Yes.
- 8 Q Now, I'm going to ask you something specific about that
- 9 in a second, but Item 33 is swabs from a comforter.
- 10 A Yes.
- 11 Q Item 34 is another swab from area A of the comforter.
- 12 A Yes.
- 13 Q Item 35 is swabs from area B of the comforter.
- 14 A Yes.
- 15 Q Item 36 is swabs from area C of the comforter.
- 16 A Yes.
- 17 Q Item 37 is swabs from area D of the comforter.
- 18 A Yes.
- 19 Q And I go back and I think it's in your fourth report,
- 20 the one from last week. That's probably the one you want to
- 21 refer to. Item 31.1 is listed as swabs from the scraping
- 22 from the interior front upper middle of the victim's black
- 23 T-shirt. Is that correct?
- 24 A Yes.
- 25 Q There's something interesting about that. There's

1 three people's DNA in that right?

2 A The DNA profile was interpreted as a mixture of three
3 individuals.

4 Q So based off the results you got from testing the DNA
5 on that swab that, you know -- Is it fair to say that at
6 least three people contributed to that DNA?

7 A Yes.

8 Q One of those people is Billie Jean Cross, correct?

9 A Correct.

10 Q Makes sense. It's her shirt, right?

11 A Yes.

12 Q You have two unidentified individuals, correct?

13 A There are two contributors remaining to the profile
14 after assuming her. Yes.

15 Q Okay. If law enforcement decided to provide samples of
16 other people who may have had contact with her to you, you
17 may be able to say whether or not those people's DNA is in
18 her shirt, correct?

19 A Comparisons could be conducted if we received
20 additional standards.

21 Q But that would be only the law enforcement's job to
22 actually produce for you, correct?

23 A Yes.

24 Q But we -- but Timothy Spencer is definitely excluded as
25 being one of those two other individuals, right?