

VOLUME II 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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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED APRIL 15-19, 2024.....	1
DEFENSE RENEWAL OF MOTION TO CHANGE VENUE.....	26
DEFENSE MOTION TO SUPPRESS ALLEGED GAMBLING PROBLEM OR FINANICAL TROUBLES	33
COURTS RULING ALLOWING MENTION OF PRESENCE IN CASINO DURING OPENING STATEMENT	35
COURT’S RULING DENYING MOTION TO CHANGE VENUE.....	39
COURT’S RULING DENYING MOTION TO SUPPRESS CELL PHONE DATA	40
COURT’S RULING DENYING MOTION TO SUPPRESS SEARCH WARRANT.....	41
OPENING STATEMENT BY MR. SIMMONS.....	50
OPENING STATEMENT BY MS. MCNEILL	58
STATE’S MOTION TO INCLUDE TESTIMONY FROM MOTHER OF DECENDANT ..	70
DEFENSE MOTION TO EXCLUDE HEARSAY TESTIMONY	71
COURT’S RULING PERMITTING TESTIMONY	76
TESTIMONY	
BARBARA MCCOY	
Direct Examination by Mr. Thomas	77
Cross-Examination by Mr. Broome	79
KATHY WARREN	
Direct Examination by Mr. Thomas	87
Cross-Examination by Mr. Broome	91
Redirect Examination by Mr. Thomas.....	96
KELLY RIVERA	
Direct Examination by Mr. Simmons.....	97
Cross-Examination by Mr. Shaffer	111
Redirect Examination by Mr. Simmons.....	124
Recross-Examination by Mr. Shaffer	125

ROBBIE HAUPFEAR	
Direct Examination by Mr. Simmons	129
DEFENSE OBJECTION TO EVIDENCE WITHOUT FOUNDATION	145
COURT’S RULING DENYING DEFENSE OBJECTION	148
DEFENSE MOTION TO PROFFER MR. HAUPFEAR TESTIMONY	151
<i>IN-CAMERA</i> TESTIMONY	
ROBBIE HAUPFEAR	
Direct Examination by Mr. Broome	153
Cross-Examination by Mr. Simmons	158
DEFENSE MOTION TO INCLUDE DRUG ADDICTION HISTORY IN CROSS- EXAMINATION OF MR. HAUPFEAR	160
COURT’S RULING DENYING DEFENSE MOTION TO CROSS-EXAMINE WITH DRUG ADDICTION HISTORY	161
TESTIMONY	
ROBBIE HAUPFEAR	
Cross-Examination by Mr. Broome	162
Redirect Examination by Mr. Simmons	193
Recross-Examination by Mr. Broome	196
BRIAN HOLLEY	
Direct Examination by Mr. Thomas	197
Cross-Examination by Mr. Broome	200
BRYCE JACKSON	
Direct Examination by Mr. Thomas	201
Cross-Examination by Mr. Broome	206
ROSS ABLES	
Direct Examination by Mr. Thomas	209
STATE’S MOTION TO ADMIT STATE’S EXHIBIT 54 (PHOTOS OF DECEDENT) TO JURY	217
COURT’S RULING ADMITTING PHOTOS OF DECEDENT	218
TESTIMONY	

ROSS ABLES	
Continued Direct Examination by Mr. Thomas	220
Cross-Examination by Mr. Broome	229
Redirect Examination by Mr. Thomas	240
KENDALL CASH	
Direct Examination by Mr. Thomas	255
Cross-Examination by Mr. Shaffer	275
Redirect Examination by Mr. Thomas	294
Recross-Examination by Mr. Shaffer	306
JIMMY TORREY	
Direct Examination by Mr. Simmons	309
Cross-Examination by Mr. Shaffer	312
CHRISTOPHER PRIDEMORE	
Direct Examination by Mr. Simmons	314
Cross-Examination by Mr. Broome	321
DEFENSE MOTION ARGUING SEARCH WARRANT TO BE JURISDICTIONALLY INVALID	
	332
COURT’S RULING DENYING DEFENSE MOTION.....	
	332
TESTIMONY	
DON KINSELA	
Direct Examination by Mr. Thomas	334
Cross-Examination by Mr. Shaffer	337
NATHANIEL BROWN	
Direct Examination by Mr. Thomas	339
<i>In-Camera</i> Examination by Mr. Thomas	346
Continued Direct Examination by Mr. Thomas	349
Cross-Examination by Mr. Shaffer	351
Redirect Examination by Mr. Thomas	362
Recross-Examination by Mr. Shaffer	363
CHARLIE BOSEMAN	
Direct Examination by Mr. Simmons	366
Cross-Examination by Ms. McNeill	373
Redirect Examination by Mr. Simmons	380
DOCTOR KYLE SHAW	
<i>In-Camera</i> Examination by Mr. Thomas	384

<i>In-Camera</i> Examination by Ms. McNeill	391
Court's <i>In-Camera</i> Examination.....	403
Direct Examination by Mr. Thomas	415
Cross-Examination by Ms. McNeill	436
Redirect Examination by Mr. Thomas	461
Recross-Examination by Ms. McNeill.....	464
 RACHEL NGUYEN	
Direct Examination by Mr. Simmons	466
 DONNA MONEY	
Direct Examination by Mr. Simmons	470
Cross-Examination by Mr. Shaffer	480
Redirect Examination by Mr. Simmons.....	504
Recross-Examination by Mr. Shaffer	511
 JAMES BROWN	
Direct Examination by Mr. Thomas	518
Cross-Examination by Mr. Shaffer	526
 STEVEN SWEAT	
Direct Examination by Mr. Simmons	528
Cross-Examination by Mr. Shaffer	532
 LOGAN KANIPE	
Direct Examination by Mr. Simmons	534
Cross-Examination by Ms. McNeill	542
Redirect Examination by Mr. Simmons.....	562
Recross-Examination by Ms. McNeill.....	562
 MELINDA WORLEY-BLACKMON	
Direct Examination by Mr. Thomas	565
Cross-Examination by Mr. Shaffer	573
 WILLIAM FREESTATE	
Direct Examination by Mr. Thomas	579
 DEFENSE MOTION TO SUPPRESS GAMBLING HABITS AS GENERALIZED CHARACTER EVIDENCE	603
 COURT DEFERS RULING.....	605
 TRIAL TRANSCRIPT DATED APRIL 22-24, 2024.....	616
 TESTIMONY	

JOEY PITTMAN	
Direct Examination by Mr. Thomas	624
Continued Direct Examination by Mr. Thomas.....	673
Cross-Examination by Mr. Broome.....	709
Redirect Examination by Mr. Thomas.....	786
Recross-Examination by Mr. Broome	789
BRETT AUCKLAND	
Direct Examination by Mr. Thomas	802
Cross-Examination by Mr. Shaffer.....	842
Redirect Examination by Mr. Thomas.....	849
Recross-Examination by Mr. Shaffer	853
DEFENSE MOTION FOR DIRECTED VERDICT	860
COURT’S RULING DENYING MOTION FOR DIRECTED VERDICT	862
COURT’S COLLOQUY WITH DEFENDANT	869
STATE RESTS	873
TESTIMONY	
ROBERT WILKE	
Direct Examination by Mr. Shaffer	874
Cross-Examination by Mr. Thomas.....	894
Redirect Examination by Mr. Shaffer.....	896
ANGIE ATKINS	
Direct Examination by Ms. McNeill.....	900
Cross-Examination by Mr. Thomas.....	907
CARLOS GOSNELL	
Direct Examination by Mr. Shaffer	908
Cross-Examination by Mr. Thomas.....	912
JIMMY POWERS	
Direct Examination by Mr. Shaffer	924
Cross-Examination by Mr. Thomas.....	929
DEFENSE RESTS	929
TESTIMONY	
JIMMY POWERS	
<i>In-Camera</i> Examination by Mr. Shaffer.....	933

<i>In-Camera</i> Examination by Mr. Thomas.....	935
WALTER BENTLEY	
<i>In-Camera</i> Examination by Mr. Shaffer.....	935
<i>In-Camera</i> Examination by Mr. Thomas.....	937
CLOSING ARGUMENT BY MR. THOMAS.....	949
STATE’S STATEMENT IN CLOSING REGARDING DEFENSE COUNSEL ATTEMPTING TO DISTRACT AND CONFUSE JURY	951
DEFENSE MOTION FOR MISTRIAL PURSUANT TO <i>FORTUNE V. STATE</i>	979
COURT’S RULING DENYING MOTION FOR MISTRIAL	983
CLOSING ARGUMENT BY MR. BROOME.....	985
STATE’S CLOSING ARGUMENT IN REPLY BY MR. THOMAS.....	1007
DEFENSE RENEWS RULING FOR A DIRECTED VERDICT.....	1011
COURT RENEWS RULING DENYING MOTION FOR DIRECTED VERDICT	1012
VERDICT	1026
DEFENSE RENEWS PREVIOUS MOTIONS.....	1029
DEFENSE RENEWS MOTION FOR MISTRIAL BASED ON STATE’S CLOSING ARGUMENT	1029
SENTENCING	1035
INDICTMENT.....	1037
SENTENCE SHEET.....	1039
CERTIFICATE OF COUNSEL	1041

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)

Donna Money-Cross-Examination

557

1 A Yes.

2 Q Now, I also asked you about the other Exhibit 1 written
3 in blue about Billie Jean. Do you have that in front of
4 you?

5 A (NO VERBAL RESPONSE)

6 Q You can't say that Billie Jean's DNA was found on the
7 handle of that black Dodge trunk, can you?

8 A No.

9 Q It actually wasn't even tested, right?

10 A That item only went through serology testing and
11 presumptive testing for blood was negative.

12 A So the presumptive testing for blood of the handle of
13 the black Dodge Ram was negative. So y'all didn't test it,
14 because there was no blood there, right?

15 A Yes. DNA analysis was not performed because the request
16 from the agency was for serology for blood, and with it
17 being a negative result, there was no need to continue any
18 further.

19 Q If they had asked you, you would have gone back and
20 retested that even though there was no blood found on there,
21 right?

22 A If they suspected another source of DNA present, could
23 have gone forward, yes.

24 Q So if they had asked you to, you would have tested it,
25 correct?

1 A Yes.

2 Q But they didn't ask, correct?

3 A They did not.

4 Q Okay. Item 19, that's a swab from the trunk area of a
5 Ford Escape. Were you able to find Billie Jean Cross's DNA
6 or not?

7 A No, because the item was not analyzed.

8 Q And why was that?

9 A It was not included in the list of items that were
10 requested to be tested in this case.

11 Q So, law enforcement put all this stuff in a box and
12 sent it to you guys that SLED in Columbia, right?

13 A Yes, we received all this evidence.

14 Q But they didn't actually ask you to test a swab.

15 A It was not included in the list of specific items that
16 the Sheriff's Office and the Solicitor's office was
17 interested in.

18 Q But it's a swab, right?

19 A Yes.

20 Q Swabs are generally only used -- or excuse me, those
21 types of swabs are generally only used for DNA collection,
22 correct?

23 A Yes.

24 Q But they didn't ask you to test it. Correct?

25 A That's correct.

Donna Money-Cross-Examination

559

1 Q And if I told you that that Ford Escape was in my
2 client's driveway, you would have no ability to say yes, no,
3 or anything about that, right?

4 A As far as the location of his car? No.

5 MR. SHAFFER: Court's indulgence.

6 Q If I have these gloves on -- and I think there was a
7 question asked about gloves -- and I was pulling on this
8 canvas strap real hard, my DNA may not go in there, right?

9 A Potentially, no.

10 Q And if I'm on top of someone, sweating, trying to
11 strangle that person, is it possible that my sweat DNA could
12 have dropped into their T-shirt?

13 A It's possible.

14 Q And there was a test of Billie Jean T-shirt in this
15 case, and there's two identified unidentified people's DNA
16 in it, correct?

17 A There are two additional contributors to Billie Jean
18 Cross.

19 Q That is not Timothy Spencer, correct?

20 A That's correct.

21 Q And if someone had a ring on, and this ring is sort of
22 a bad example. Someone had a ring on, and they punched
23 someone hard enough to bruise the underside of their finger,
24 is it possible that that person's DNA could have gotten on
25 that ring or gotten on that hand?

Donna Money-Redirect Examination

560

1 A It's possible, but rings are made out of many different
2 materials.

3 Q But it is possible that if someone punched someone hard
4 enough to leave a bruise up underneath the ring, that there
5 was some DNA transfer from that other individual, right?

6 A It's possible.

7 Q No one ever asked you to test a swab from a ring,
8 correct?

9 A That's correct.

10 MR. SHAFFER: No further questions.

11 THE COURT: Solicitor, have you got some redirect?

12 MR. SIMMONS: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. SIMMONS:

15 Q 31.1 is the scrapings from the shirt, is that correct?

16 A It is, yes, the swab taken from the scraping of the
17 interior front.

18 Q And what the actual proposition has, I believe, is one,
19 maybe Billie Jean Cross's as a possible contributor, and
20 then a non-probative source. Is that correct?

21 A For the first proposition set, yes.

22 Q What is a non-probative source?

23 A A non-probative source of DNA indicates that when
24 conducting a contamination check of our profiles, which is
25 done for every evidence sample that is run through our

Donna Money-Redirect Examination

561

1 department. The evidence profiles are compared to an
2 internal database that we maintain in the DNA case work
3 department, that includes all staff individuals looking at
4 casework, and other departments that handle evidence, and
5 then law enforcement personnel who routinely collect
6 evidence, and other individuals who frequently come into the
7 lab or may interact with evidence on the outside of the
8 laboratory. When comparing the evidence profile from 31.1,
9 it was indicated that an individual in this database was
10 contributing to this profile. And a non-probative source
11 would be an individual involved with the collection or
12 processing of evidence, specifically in this case.

13 Q So you would know who that non-probative source is, but
14 it's not produced in this report?

15 A It would be if it hits back to a staff member.

16 Q A staff member?

17 A Yes.

18 Q So it was somebody in maybe the Coroner's Office, or
19 wherever. It could have been anybody in law enforcement.

20 A The staff members are associated with a name, but
21 within our case file we only refer to the staff number.

22 Q And item 2.1 and 2.2. Both of those are swabs that you
23 received from law enforcement. You didn't produce those
24 swabs.

25 A Correct. We received them as swabs from law

1 enforcement.

2 Q And then you did get State's Exhibit 14, which is the
3 scarf, is that correct?

4 A (NO VERBAL RESPONSE)

5 Q You can look at it if you need a reference number. It
6 is Item Number 3.

7 A Yes, that is the scarf. I did not personally have this
8 in my custody at any point, though.

9 Q I understand, but there was a DNA profile, or a swab
10 taken from that scarf from SLED, not from law enforcement,
11 is that correct?

12 A Yes.

13 Q And where was that swab taken?

14 A The swab taken from SLED Item 3 was the underneath knot
15 of the scarf, avoiding the heavy staining.

16 Q And why are you trying to avoid the heavy staining?

17 A This item was resubmitted for touch DNA processing, so
18 because there is a stain present, it needs to be avoided
19 because it may impact the collection process. Because the
20 purpose is looking for epithelial cells, not cells from
21 potential body fluids.

22 Q And this scarf was, to your knowledge, wrapped around
23 Billie Jean's neck; is that correct?

24 A Yes. And the item description is that scarf from
25 victim's neck.

Donna Money-Redirect Examination

563

1 Q I'm showing you State's Number 94. I apologize. Let
2 me show you another State's Exhibit 52. State's Exhibit 52.
3 Can you see that?

4 A Yes. There's a little bit of a shine to it though.

5 Q Yeah, I understand. The lights are a little iffy in
6 here. I might give it to you first, and then I'll put it
7 back up there. Maybe you can see it a little bit better
8 first. I might just hold it up. Get rid of this glare.
9 And what is what does that appear to be a picture of to you?

10 A I see something that's purple fabric, and what looks
11 like a leg out in a wooded area.

12 Q And then right there, does that appear to be a scarf to
13 you?

14 A I can't tell.

15 Q But it's in evidence. This was Billie Jean Cross's
16 body at the scene. There's a scarf wrapped around her neck.
17 And you received that scarf in evidence, and you had an
18 opportunity to collect that sample from that. Is that
19 correct?

20 A It was processed by Rachel Nguyen.

21 Q And Number 3.1. Let me go back to that, please. It
22 says a partial DNA profile was developed.

23 A Yes.

24 Q Wrapped around Ms. Billie Jean's neck. Did you get a
25 profile for potentially being Billie Jean in this case?

1 A This profile was determined not to be suitable for
2 comparison.

3 Q And then, no Y-STR profile was developed. What does
4 that mean?

5 A Y-STRs are a male specific type of testing. So, in the
6 DNA process, that second step, the quantitation steps to
7 determine how much DNA is present, it can also be determined
8 of that total human DNA, how much is it is male. So if
9 there's an indication that there may be male DNA present, Y-
10 STRS can be -- Y-STR analysis can be performed to see if any
11 DNA profile can be developed from a male individual.

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

13 Q All right. Item Number 33. And you were taking -- or
14 these were swabs from a comforter?

15 A Yes.

16 Q And 34 was swabs from Area A of a comforter?

17 A Yes.

18 Q So for 33, you have a DNA profile that is 130
19 septillion times more likely to be Billie Jean Cross's being
20 a contributor to that profile, is that correct?

21 A Yes.

22 Q And then Number 34 you have the swab area of A being
23 128 quadrillion times more likely being Billie Jean Cross as
24 a contributing profile, is that correct?

25 A Yes, the DNA profile is approximately 120 quadrillion

Donna Money-Redirect Examination

565

1 times more likely if Billie Jean Cross contributed to the
2 profile than if an unidentified unrelated individual
3 contributed.

4 Q And then Number 35, the swab area of B of the
5 comforter, the partial DNA profile developed is insufficient
6 for interpretation now?

7 A Yes.

8 Q And what are the results of 36? That's swab C of the
9 comforter?

10 A No STR DNA profile was developed.

11 Q What does that mean again?

12 A It means that for the profile, one of the locations
13 looked at is a gender location, so female XX, male XY. And
14 it was only at that location that a DNA type was developed.

15 Q And then swab area from Area D of the comforter.

16 A No DNA profile was developed.

17 Q So she was wrapped in a blanket, and then she's not on
18 some of these swabs. Is that correct? Potentially, because
19 you were unable to get a profile?

20 A Correct, so no comparisons were conducted.

21 Q And then Item 11.4 of the right hand fingernail
22 clipping from Billie Jean Cross. A DNA profile developed
23 attributable to Billie Jean Cross?

24 A Yes.

25 Q And then another no Y-STR profile was developed.

1 A Yes.

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

3 Q Ms. Money, Items 3.1, the swab from underneath the
4 scarf, and 11.4, the fingernail clippings. I want to make
5 sure I understand. There's no Y-STR profile was developed.
6 Is that correct?

7 A Yes.

8 Q That potentially male DNA. Potentially.

9 A Male DNA was indicated during that second step of the
10 process, but when attempting to develop a profile using Y-
11 STR, there was no profile developed.

12 Q And if you would like to add that to your chart for the
13 summary, I believe you should be able to add that to that
14 chart.

15 MR. SHAFFER: And Your Honor, I'm fine if they want to
16 -- I don't mind photocopying and let her add to it if they
17 need to, if that's what they want to do. But I just think
18 that because it was entered into evidence, it probably
19 shouldn't be ---

20 MR. SIMMONS: Your Honor, nevermind. The jury has heard
21 it. Thank you.

22 THE COURT: All right. Anything in recross in response
23 to redirect?

24 MR. SHAFFER: Yes, Your Honor.

25 RECROSS-EXAMINATION

1 BY MR. SHAFFER:

2 Q Okay. Mr. Simmons asked you about 31.1, and I think
3 you said that there was a he asked a question and you
4 testified -- he asked a question, and you testified that
5 there was a non-probative source as one of the three
6 individuals that contributed to that DNA sample, correct?

7 A Yes.

8 Q But there's three individuals, correct?

9 A For the mixture as a total yes.

10 Q For both of the non-probative sources?

11 A Billie Jean Cross is assumed as one contributor, and
12 then the non-probative source was assumed as a second
13 contributor, leaving one third contributor.

14 Q Who's an unidentified person, correct?

15 A As it stands, yes.

16 Q Okay. And if they had submitted additional swabs to
17 you, maybe they can find that that person, or match that --
18 or match a contributor to your sample, correct?

19 A If additional standards are submitted, they would be
20 compared to this profile.

21 Q This is a blanket. I've never touched it except for
22 right here. Is it likely that you'd find my DNA up
23 underneath there?

24 A I can't really answer that, because I don't know what
25 may happen to it afterwards.

1 Q Fair, but if I've never touched it, and no one's ever
2 put my DNA up underneath there, is the fact that I'm holding
3 it here going to cause DNA to go down there?

4 A It's possible, but not probable, the way it currently
5 is.

6 Q So if I wrap myself in a blanket, some parts are
7 touching me, and some parts aren't. The parts touching me
8 are probably more likely to have DNA on them than the parts
9 not touching me. Excuse me. The parts touching me are more
10 likely to have my DNA on them than the parts not touching
11 me, correct?

12 A I would expect so, yes.

13 MR. SHAFFER: No further questions.

14 THE COURT: You can step down, ma'am. Thank you.

15 MR. SHAFFER: Your Honor, we do need to approach. I'm
16 not sure what the State plans on introducing next.

17 THE COURT: No, we're going to break for the evening.

18 MR. SHAFFER: We need to get that on the record, that's
19 all. That's fine.

20 THE COURT: Thank you, ma'am. You can step down.

21 Ladies and gentlemen, I had mentioned yesterday that we were
22 going to go a little bit longer today, but y'all have worked
23 really hard and so we're going to go ahead and break for the
24 evening and get another good night's rest, and we'll see you
25 at 9:30 in the morning. Good evening.

1 (WHEREUPON, the jury exited the courtroom at 5:10 p.m.)

2 MS. MCNEILL: Your Honor, I believe that during Jared
3 Simmons' direct, or redirect, he published to the jury
4 State's Exhibit 94, which we had all agreed was not coming
5 into evidence. It would be a picture of the Billie Jean
6 Cross's neck. I just want to make sure that I'm correct
7 about that.

8 MR. THOMAS: That did happen, Your Honor. I was also
9 watching it. I am not sure what happened, because as I'm
10 looking at it right now, when we got done with Dr. Shaw, all
11 of those State's for ID only were not in this stack. They
12 were in a folder that I gave to Ms. -- and Your Honor's Law
13 Clerk has it. But I'm over here at our table now. 94 is
14 sitting here. 85 is sitting here. I don't know how this
15 got on our table. Mr. Simmons, he can talk to you about his
16 intent.

17 MR. SHAFFER: Your Honor ---

18 MR. THOMAS: I did -- I noticed it. I caught it when
19 he did it immediately. I called his name.

20 THE COURT: Right.

21 MR. THOMAS: He took it off. I don't know that that was
22 -- and then again, 94 is the one that was inadvertently
23 published to the jury.

24 MR. SHAFFER: Your Honor, I didn't see it. That's the
25 reason I did not object.

1 THE COURT: And it was up there just for a very brief
2 period of time. I'm not so certain -- I can't -- I can't
3 speculate on what the jury saw or thought, but it was up
4 there just such a brief period of time. Chances are it
5 really was not, you know, really detected by the jury as far
6 as what they were looking at.

7 MS. MCNEILL: True, and chances are it could have been
8 detected. I just want to make sure that the situation has
9 cured and that we make sure that State's Exhibit 94 does not
10 get admitted into evidence.

11 THE COURT: Right, right.

12 MS. MCNEILL: And does not go back to the jury.

13 THE COURT: Exactly, of course, you know, as I
14 normally do it at the conclusion of the charge, give lawyers
15 on both sides an opportunity to go through each piece of
16 evidence and make sure that they're good that it is a proper
17 piece of evidence going back to the jury. And if you want
18 to, before we leave, go through this file to make sure it
19 has all of the exhibits not going into evidence, then please
20 do that.

21 MR. THOMAS: I thought I had done that already, so I'm
22 a little at a loss. We'll certainly keep an eye. We'll be
23 vigilant about it going forward.

24 MR. SIMMONS: And Judge, just to clear up the record, I
25 was attempting to locate State's Exhibit 82, which is almost

Donna Money-Recross-Examination

571

1 a similar looking picture. I was trying to look for a
2 picture of the scarf. I grabbed a picture of the scarf,
3 which I thought was in evidence that it was on the table and
4 not in the folder.

5 MR. THOMAS: And so the record is clear, all of the
6 evidence, State's and Defense, are on a table in front of
7 the courtroom, in front of the bench. It is all laid out.
8 It is mostly in numerical order, except for a few things.
9 Those items were sitting where they would probably should be
10 numerically, but again, there is a lot of stuff on this
11 table. I made every effort to make sure what was in that
12 folder was correct.

13 THE COURT: It was just something inadvertently done.
14 And you know, when you start dealing with 100 plus exhibits,
15 something like that could very easily happen.

16 MS. MCNEILL: I'm just trying to protect the integrity
17 of the trial.

18 THE COURT: Sure. Right. And the issue is now cured.
19 And so I don't see that will come up again. All right.
20 Thank you. Have a good evening. See you at 9:30 in the
21 morning.

22 TRIAL DAY 4: April 19, 2024

23 THE COURT: We're back on the record. We did have a
24 conference in chambers this morning this morning and we
25 talked about several things, but as far as applying to

1 today's witnesses. Solicitor Thomas, do you want to go
2 ahead and just put on the record the agreement slash
3 understanding concerning today. I know we talked about
4 other stuff that we'll get into next week, but would you go
5 ahead and put on the record what we agreed to?

6 MR. THOMAS: Yes, sir. Your Honor, State's Exhibit 96
7 is going to be a USB drive containing all of the data off of
8 what is marked as State's Exhibit 65, which is Mr. Spencer's
9 work phone. It's a Motorola E phone, yeah, State's 65. So,
10 based on, sort of, what the Defendant has said and objected
11 to, obviously not everything on here is directly related to
12 this case at this time.

13 We do have several exhibits, State's Exhibit Number 2,
14 which is not in evidence, it's just for ID right now. We
15 have State's Exhibit 97 and State's Exhibit 98. Those are
16 all data off of the cell phone that we intend to introduce.
17 So those three exhibits, I believe my understanding is they
18 have no objections to those. We are going to introduce
19 those through this witness. They will be marked and
20 entered. State's Exhibit 96, which is the USB drive with
21 the raw data, that is going to be made just for ID purposes
22 only in case going down the road -- we'll lay a foundation
23 for it. We'll do that, but just in case going down the road
24 something off here does become relevant.

25 THE COURT: Why don't we make a Court's Exhibit?

1 COURT REPORTER: I can mark it State's ID only.

2 THE COURT: If you want to do it that way, we'll do it
3 State's ID only. Mr. Shaffer is that your understanding?

4 MR. SHAFFER: Yes, Your Honor.

5 THE COURT: Okay, all right, very good. Anything else
6 before we bring the jury out? And I've already reminded the
7 lawyers will need to break about 10 to 12, so the
8 appointment can be kept. All right. Let's bring the jury
9 out.

10 (WHEREUPON, the jury entered the courtroom at 10:04 a.m.)

11 THE COURT: Good morning, ladies and gentlemen. I hope
12 you got some good rest last night and are ready to get back
13 to work. Several points I need to bring out. First of all,
14 this morning we will break about 10 to 12. One of the
15 lawyers has an appointment that cannot be missed, so even if
16 we're in the middle of a witness, that's okay, but we'll
17 break about 10 minutes to 12:00 for a lunch break.

18 Secondly, I think some of you already inquired about
19 work passes, or work permits, or work excuses. During the
20 break, whether it's a lunch break or morning break, one of
21 the clerks will come back and find out what you need with
22 respect to work and we'll take care of you on that.

23 Lastly, ladies and gentlemen, this case is going into
24 next week. We will not work over the weekend. I think
25 everybody needs a break. And so we'll start back on Monday.

1 So just make arrangements. My, kind of, projection -- don't
2 hold me to this, but probably through Wednesday is my guess.
3 So, just make plans for that. Again, I appreciate your hard
4 work, your efforts in this case, your patience with us. We
5 appreciate it very much. Solicitor, are you ready to call
6 your next witness?

7 MR. THOMAS: Your Honor, the State calls James Brown.

8 THE COURT: Come around, Mr. Brown.

9 WHEREUPON, James Brown, having first
10 been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. THOMAS:

13 Q Agent Brown, where do you work?

14 A I work for Homeland Security in Greenville, South
15 Carolina.

16 Q What do you do there?

17 A I'm a computer forensic analyst.

18 Q And what kind of education and training do you have to
19 be a computer forensic analyst?

20 A So, I have multiple certifications in computer
21 forensics to include Windows operating systems, cell phones,
22 both Android and iOS, along with Mac operating systems and
23 Linux. I also have a Master's in cyber security.

24 Q And as part of your job that you routinely do ---

25 MR. SHAFFER: We're willing to stipulate that he's an

1 expert.

2 MR. THOMAS: Again, it doesn't require expert testimony,
3 Your Honor.

4 THE COURT: Right.

5 MR. SHAFFER: Fair enough.

6 THE COURT: We had that discussion in the back. That's
7 all right. You may proceed.

8 Q Is part of your job as a forensic analyst to do what we
9 call cell phone dumps?

10 A Yes, sir.

11 Q And I guess the proper term for that is an extraction.

12 A It is.

13 Q And what do you use to do that?

14 A I use tools that are provided by Homeland Security.
15 So, cell phone forensic tools such as Cellbrite or Oxygen.
16 or Axial.

17 Q And Cellbrite is just a tool that you use to basically
18 transfer data from a phone into a readable format?

19 A That is correct.

20 Q Is that a device that's commonly used in law
21 enforcement for this type of thing?

22 A It is. It is a gold standard in mobile forensics.

23 Q And you've obviously got training and experience on how
24 to use that?

25 A I have.

1 Q Did you have an opportunity to get involved in a case?
2 originating in Anderson County, I think, as far as you need
3 to know?

4 A Yes, sir.

5 Q Did you dump -- did you do a phone extraction for them
6 in that case?

7 A I did.

8 Q Who brought you this phone?

9 A Investigator Davis with Anderson County Sheriff's
10 Office.

11 Q Do you remember what type of phone it was?

12 A It was a Motorola E, Moto E.

13 Q I'll show you what's already in evidence as State's 65.
14 I think it's wrapped in the old school Faraday bag. Take a
15 peek and just make sure that is the same phone that you
16 dumped.

17 A It is.

18 Q And so you recognize the device. So without getting
19 into too much of the weeds, like what happens when you
20 extract it?

21 A So the device would be connected to my forensic
22 computer, also provided by Homeland Security, and that we
23 would provide an extraction. In this case there's three
24 types of extractions; a logical, a file system, and a
25 physical. This phone I was able to obtain a logical and a

James Brown-Direct Examination

577

1 file system extraction.

2 Q And that basically just means you take the information
3 off the phone and put it onto a hard drive, essentially.

4 A It would use the -- Cellbrite's tool would use its own
5 programming to be able to extract the information such as
6 call logs, and messaging, and things of that nature from the
7 phone and put it in a human readable form.

8 Q So part of what you get off of that is call logs?

9 A Yes.

10 Q Do you also get text messages, I think you said?

11 A Yes.

12 Q Do you also get any audio, like voice mails that are
13 saved in the phone?

14 A Correct.

15 Q And you did that to that phone in this case?

16 A I did.

17 Q And then it turned it into a digital format?

18 A It did.

19 Q I'm going to show you what's been marked as State's
20 Number 96.

21 MR. THOMAS: And again, Your Honor, based on
22 conversations with counsel, this is in evidence as ID only.

23 Q State's Number 96. Do you recognize that?

24 A I do.

25 Q What is that?

1 A That is a thumb drive with a forensic extraction on it
2 produced in a reader report which allows for investigators
3 to be able to go through the evidence on their own.

4 Q So, State's Number 96 is basically a readable copy of
5 the data that's on State's Number 65.

6 A That's correct.

7 Q And you said, I believe, that there were call logs that
8 were located on that phone.

9 A Yes.

10 Q I'll show you what's marked as State's 97. Do you
11 recognize that?

12 A I do.

13 Q I believe you initialed that when you reviewed it to
14 show that that's a true and accurate copy of the call log
15 you took off this phone.

16 A It is.

17 Q What is that the call log? When we say call logs,
18 there's call logs for all the calls, but that is for a
19 specific phone number.

20 A It is.

21 Q What phone numbers are associated with that call log?

22 A 12186160060.

23 Q And what's the phone number for that phone again?
24 State's 65, the suspect's phone.

25 A I don't have that in front of me.

James Brown-Direct Examination

579

1 Q I guess that's not on that exhibit.

2 A It is not.

3 Q But do you recall, if I told you, that it was

4 (864)293-9052.

5 A Yes, sir.

6 Q Sound right?

7 A It does sound right.

8 Q Ending in -9052.

9 A -9052.

10 Q And that's a true and accurate copy of the call logs
11 from that phone between that and that 218 number.

12 A Yes, sir.

13 MR. THOMAS: Your Honor, I'd moved State's 97 evidence
14 at this time.

15 THE COURT: Okay. He's moving 97, the call logs, into
16 evidence.

17 MR. SHAFFER: No objection.

18 THE COURT: Without objection, 97 into evidence for the
19 State.

20 Q You said there were also text messages you pulled off
21 that phone.

22 A Yes, sir.

23 Q I'll show you State's 98. Do you recognize that?

24 A I do.

25 Q And you've initialed it, you've reviewed it, and that's

1 a true and accurate copy of the text messages -- some of the
2 text messages you pulled off that phone?

3 A Yes, sir.

4 Q And what's the number associated with those text
5 messages?

6 A 12186160060.

7 Q So that same 218 number?

8 A It is.

9 Q And that's -- you don't know this. That's the number
10 that's been previously identified as belonging to Billie
11 Jean Cross.

12 A That's correct.

13 MR. THOMAS: State's Number 98, the State would move
14 into evidence at this time, Your Honor.

15 MR. SHAFFER: No objection?

16 THE COURT: 98 into evidence.

17 Q Last thing you said there was audio on that phone and
18 that included voice mails?

19 A Correct.

20 Q Were you able to download a voice mail off that phone,
21 or extract it, I guess?

22 A Yes, sir.

23 Q That disk, you've initialed it, you've reviewed it.

24 A I have.

25 Q Is that a true active copy of a voice mail that you

James Brown-Direct Examination

581

1 extracted from that phone?

2 A Yes, sir.

3 MR. THOMAS: Your Honor, at this time, I would move
4 State's 2 onto evidence.

5 MR. SHAFFER: No objection.

6 THE COURT: Without objection, Number 2 into evidence
7 for the State.

8 MR. THOMAS: Beg the Court's indulgence.

9 Q Just one last thing for clarification. State's 97 and
10 98, the time stamps on that. What time zone is that in?

11 A In UTC.

12 Q So those would -- to know what time it was that Eastern
13 Standard would just need to be converted, however that
14 conversion goes.

15 A That's correct. It would be minus four or five hours,
16 depending on Daylight Savings Time.

17 Q You haven't looked at the content of these two a whole
18 lot, so we can do that through a different witness. But You
19 have listened to this, so I'm going to publish State's
20 Exhibit 2 for the jury at this time.

21 (WHEREUPON, State's Exhibit 2, published to the jury.)

22 Q I'm going to show you one line to look at. I know you
23 haven't reviewed the content of this, but just so -- I'll
24 show this. This is State's Exhibit 97 I'm showing you. On
25 line 3 there, that call log, does that show a answer, or a

1 voice mail, or a missed call?

2 A A voice mail.

3 Q And the length of that voice mail is how long?

4 A 21 seconds.

5 Q And that occur at 12/9/21 at 3:59 p.m. UTC time?

6 A Correct.

7 Q So that would be roughly -- let make sure I get my
8 chart right. 3:58 p.m. -- 3:59 p.m. UTC would be -- that
9 would be about 11:00 a.m.?

10 A Correct.

11 Q And that State's Exhibit we just listened to is also 21
12 seconds long?

13 A Correct.

14 MR. THOMAS: Thank you. I have no further questions.

15 CROSS-EXAMINATION

16 BY MR. SHAFFER:

17 Q You work for the Federal Government, correct?

18 A Yes, sir.

19 Q Okay, and how long have you worked for the Federal
20 Government?

21 A Roughly six years.

22 Q Okay, so in 2021 you were also working for the Federal
23 Government, right?

24 A Yes, sir.

25 Q Okay, and you got involved in this case because the

Steven Sweat-Direct Examination

583

1 Laurens County Sheriff's Office asked you to, correct?

2 A Yes, sir.

3 Q Okay, they actually asked the Federal Government ---

4 THE COURT: Mr. Shaffer, hold just a minute. We need
5 you close to the microphone.

6 MR. SHAFFER: Thank you.

7 Q The Laurens County Sheriff's Office actually asked the
8 Homeland Security if you could assist, right?

9 A Investigator Davis with the Anderson County Sheriff's
10 Office, who is a task force officer with Homeland Security,
11 asked me to perform an extraction.

12 Q Okay, so they -- essentially Anderson County called
13 upon the resources of the Federal Government to help with
14 the investigation, correct?

15 A Correct.

16 MR. SHAFFER: All right. No further questions. Thank
17 you.

18 MR. THOMAS: No redirect, Your Honor.

19 THE COURT: All right. Mr. Brown, you may step down.
20 You are free to leave the courthouse. However, if you want
21 to remain with us, you're more than welcome to.

22 MR. SIMMONS: Your Honor, the State calls Steven Sweat.

23 WHEREUPON, Steven Sweat, having first
24 been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. SIMMONS:

2 Q Investigator Sweat, where do you work?

3 A Laurens County Sheriff's Office.

4 Q And how long have you been with Laurens County
5 Sheriff's Office?

6 A On and off, almost 17 years.

7 Q And what do you do there?

8 A I'm a criminal investigator.

9 Q And what do you do with criminal investigations with
10 the Laurens County Sheriff's Office?

11 A Short-term and long-term investigations, property,
12 assaults, homicides. Whatever I'm assigned.

13 MS. MCNEILL: I'm sorry. I can't hear.

14 THE COURT: Speak up a little bit if you would, please.

15 WITNESS: Yes, sir.

16 THE COURT: Is that microphone on?

17 MR. SIMMONS: Yes, sir. It is.

18 Q Can you repeat that?

19 A Pretty much anything I'm assigned to investigate.
20 Anything from aggravated assaults, to property crimes, to
21 homicides.

22 Q When you were not a lead on the case, do you assist
23 other investigators with investigations?

24 A Yes.

25 Q Did you have an opportunity to aid in this case?

Steven Sweat-Direct Examination

585

1 A I did.

2 Q What was your role in this case?

3 A I entered a search warrant into the Google LERS System.

4 Q And what is the Google LERS System?

5 A The Google LERS System is a Law Enforcement Response
6 System. Essentially, the way it works is anytime law
7 enforcement whether Federal, State, or Municipal, needs to
8 get production of records or data from Google or any of
9 their companies, you have to use the LERS portal website to
10 submit the legal correspondence. And you enter it there,
11 and then they respond and produce what you're asking for.

12 Q And you were attempting to essentially get videos from
13 a neighbor's house?

14 A Yes, I believe it was a Nest system.

15 Q Okay. And have you had an opportunity to send that
16 search warrant off?

17 A Yes.

18 Q And then you received some information back from them?

19 A Yes.

20 Q Okay. I'm showing you what's been marked as State's
21 Exhibit 66.

22 MS. MCNEILL: No objection.

23 THE COURT: All right, without objection, 66 into
24 evidence for the State.

25 MS. MCNEILL: Well, judge, I should say subject to

1 previous objections.

2 THE COURT: Sure, certainly subject to previous
3 objections, my ruling remains the same.

4 Q Investigator Sweat, you had an opportunity to review
5 those?

6 A No. I uploaded them. I got the files, and gave them to
7 Investigator Pittman after we got them.

8 Q But you had an opportunity to at least look to make
9 sure that there is videos on it?

10 A Oh, yes, there are video files.

11 Q And those videos were from Google?

12 A Yes.

13 Q And then I'm showing you State's Exhibit 67.

14 MS. MCNEILL: Subject to previous objections.

15 THE COURT: Sure. So noted. Ruling remains the same.

16 MR. SIMMONS: Your Honor, the State introduces that into
17 evidence.

18 THE COURT: And what is that, Solicitor.

19 MR. SIMMONS: Your Honor, that's the Google Nest records
20 of authenticity.

21 Q And essentially Google just authenticated that those
22 videos are from their system. Is that correct?

23 A Yes.

24 Q And you got a form from them?

25 A Yes.

Steven Sweat-Direct Examination

587

1 Q Stating that?

2 A Yes, it's this.

3 Q And what date did you get those videos back?

4 A December 23rd. Well, no, no. It was some time after
5 December 23rd. I can't remember exactly.

6 Q But that's what time that they, at least, put on their
7 authenticity. That's when they produced those documents?

8 A Yes.

9 Q And then State's Exhibit 68.

10 MR. SHAFFER: No objection to 68.

11 THE COURT: All right, 68 into evidence for the State.

12 MR. SIMMONS: Your Honor, this is just a form from the
13 records themselves.

14 Q Investigator Sweat, that's a document from that flash
15 drive regarding those videos. What is that document to
16 instruct?

17 A More or less, it shows when the range of -- what the
18 range of time is for when the videos were obtained. In
19 other words, like, if I wanted a video from them from
20 January 1st, it would indicate ---

21 THE COURT: Officer Sweat, speak up, please.

22 WITNESS: Sorry.

23 A If I wanted to -- it explains the time range of videos
24 obtained from the Nest system from Google.

25 Q And what time zone are these videos in?

1 A Universal Time Code.

2 Q And when you open these files, what did the file names
3 mean specifically?

4 A Generally, they're produced in a manner to where the
5 file name indicates the date and time that particular video
6 or file begins.

7 Q And what did you do with these videos once you received
8 them?

9 A I gave them to them to Investigator, Pittman.

10 MR. SIMMONS: Beg the Court's indulgence. No further
11 questions.

12 THE COURT: Does the Defense have any cross-examination
13 of Officer Sweat?

14 MR. SHAFFER: Yes, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. SHAFFER:

17 Q Investigator Sweat, you said you are an investigator,
18 correct?

19 A Yes.

20 Q So you work crime scenes as well -- or not crime scene
21 investigators, but you worked crimes, correct?

22 A Yes.

23 Q Serious crimes?

24 A All crimes.

25 Q Okay. So, including murders and things like that,

1 right?

2 A Yes.

3 Q And you were somewhat limited in your involvement in
4 this particular investigation, right?

5 A I submitted a search warrant to Google LERS and got the
6 files and gave them to Investigator Pittman.

7 Q Say you were at the scene of what you thought was a
8 murder, and you found a sword, and that sword may have blood
9 on the handle of it. Do you think you would swab that sword
10 and send that to SLED to test that sword for DNA?

11 A Let me make sure I understand the question clearly.
12 I'm at a crime scene ---

13 Q Yes.

14 A --- and this crime is a ---

15 Q --- murder ---

16 A Murder, okay. And I find a sword at the crime scene and
17 it has blood on it.

18 Q On the handle, yeah. Do you think you would swab that
19 handle, that blood, and send it to SLED for DNA testing?

20 A Someone involved in the case definitely would, if not
21 me.

22 Q That would be the normal thing to do, correct?

23 A In that circumstance, if we thought the sword was
24 involved, absolutely. And probably just to be safe.

25 Q There's blood on a weapon, you're probably going to

1 send it to SLED normally?

2 A More than likely.

3 MR. SHAFFER: No further questions.

4 THE COURT: You can step down, sir. Wait a minute,
5 let's make sure. Do you have anything to follow up?

6 MR. SIMMONS: No, Your Honor.

7 THE COURT: You can step down, sir. Investigator Sweat,
8 you're more than -- you can leave the courthouse or you're
9 welcome to remain with us.

10 WITNESS: Thank you, Judge.

11 WHEREUPON, Logan Kanipe, having first
12 been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SIMMONS:

15 Q Mr. Kanipe, where do you work?

16 A Laurens County Sheriff's Office.

17 Q And what do you do there?

18 A I'm a criminal investigator.

19 Q How long have you been with Laurens County Sheriff's
20 Office?

21 A Since 2018.

22 Q And you were involved in the case with Ms. Billie Jean
23 Cross?

24 A I was.

25 Q And when did you get involved in this case?

Logan Kanipe-Direct Examination

591

1 A On December 10, 2021.

2 Q And who was your partner at the time?

3 A Investigator Pittman.

4 Q What day did Billie Jean -- was she reported missing?

5 A She was reported missing on December the 10th.

6 Q Do you know about what time?

7 A Around 2 o'clock in the afternoon, I believe.

8 Q And what was your understanding of when the last person
9 talked to her?

10 Q The day prior, her mother spoke to her on December 9,
11 in the morning time, sometime in the morning.

12 Q So, at that point, how long was she missing?

13 A 30 hours or so.

14 Q And on December 10, 2021, did you have any leads for
15 about what time she went missing?

16 A No, not at that time.

17 Q And then when was Billie Jean Cross found? Do you
18 remember?

19 A December 14, 2021.

20 Q And on December 14, 2021, what else happened that day?

21 A Ms. Cross's body was found in Anderson, and we also
22 made contact with Timothy Spencer.

23 Q And on December 14, 2021, when they found Billie Jean's
24 body and Timothy Spencer was questioned, at that point did
25 you have any information on what time or when Billie Jean

1 went missing?

2 A No. When we when we made contact with him that day we
3 still did not know when she would have gone missing on the
4 9th.

5 Q And after that, how did your investigation proceed?

6 A From there on the -- that was the initial contact was
7 made with Mr. Spencer, and then on the 15th I returned back
8 to Ms. Cross's house.

9 Q And why did you return back to Ms. Cross's house on the
10 15th?

11 A To recanvas, where I received a lead from a witness
12 stating that they may have seen a vehicle in her driveway.

13 Q And about what time did they think they saw that?

14 A Around 10:30 at night, on December 9th.

15 Q And after you got that, where else did you go?

16 A The neighbor's house across the street. It's adjacent,
17 like, catty corner to her house. His name is Ernesto Ramos.
18 He had cameras that were on his house that faced Ms. Cross's
19 house. So, I went there to review the video footage.

20 Q And you went to their house to review the video
21 footage?

22 A Yes.

23 Q About how long were you there?

24 A I couldn't tell you exactly. I was there for a little
25 while trying to scroll back through to that date.

1 Q What time frame were you currently looking at when you
2 were over there that day?

3 A Around -- I was looking for around 10 o'clock. 10:00 to
4 10:30 p.m., what would have been on 9th.

5 Q What did you think you found when you were looking at
6 videos then?

7 A It looked to me like there were headlights, what would
8 have been a vehicle backed in the driveway, you know, toward
9 the top of the driveway at Ms. Cross's house.

10 Q I'm going to put up a video from the State's Exhibit
11 66. When you were reviewing those videos, is this about the
12 time frame that you were looking?

13 A Looks correct.

14 Q Is that, those lights right there, is that what you
15 believed to be what you thought were headlights at the time?

16 A Can I stand?

17 Q Yes.

18 A So, right here.

19 Q And then that's what you saw when you were reviewing
20 videos that night?

21 A Yes.

22 Q And you didn't have time to -- I believe you testified
23 that you had 24 to 36 hours of time she was ---

24 A It was a lot of footage. It would have been a lot of
25 footage to review. Yes.

1 Q So at that point you thought you saw something then,
2 and you just stopped looking at that point?

3 A Well, I was -- Yeah, that was the time that I was
4 focused on while I was there at their house in the living
5 room, because that's what an eyewitness said that they
6 thought that they had seen a vehicle there at that time.

7 Q And about what time was that?

8 A That would have been sometime after 10 p.m. in the 10
9 o'clock hour.

10 Q At 3:06 ---

11 A So, adjusted that would that would be 10:06 p.m. on the
12 9th.

13 Q And at that point, your investigation didn't just stop
14 there; is that correct?

15 A Correct.

16 Q What did you do to continue this investigation?

17 A Well I told Investigator Pittman what I had found, or
18 what I believed I had found on the video, and then we began
19 working, you know, additional leads from there, but I left
20 the Ramos's at that point.

21 Q I'm showing you State's Exhibit 69.

22 MS. MCNEILL: No objection.

23 THE COURT: Okay. 69 into evidence for the State.

24 MR. SIMMONS: Thank you, Your Honor.

25 Q And you had a chance to review State's 69. Is that

1 correct?

2 A I have.

3 Q And what is that a video of?

4 Q Her home as well.

5 A It's a video from the from Google Nest?

6 A Yes.

7 Q Because eventually, did law enforcement get --

8 A We sent a search warrant for the that entire time
9 period, rather than viewing it -- trying to view that at the
10 Ramos's home.

11 Q At that time, what else did you get to look for a time
12 frame?

13 A Well, Captain Wilkie had done a DMV search but that's
14 how we knew that there was also a black pickup truck that
15 was owned by Mr. Spencer and that we had gotten GPS data
16 back that showed that he was at Ms. Cross's home at about
17 12:30 p.m. on the 9th. So then we started looking for
18 footage then.

19 Q And when you reviewed, this footage, did you find any
20 information?

21 Q There was a dark colored pickup truck at Ms. Cross's
22 house at that time.

23 MR. SIMMONS: Your Honor, the State is publishing
24 State's 69.

25 THE COURT: Okay.

1 Q I'm going to pause it for a moment. Where I have the
2 mouse pointed, what is right here?

3 A A hedgerow of trees.

4 Q And what's past those trees?

5 A There's another residence that's Ms. Cross's neighbor.

6 Q And right in front of the house, is that where Billie
7 Jean's driveway is?

8 A Yes.

9 Q And after reviewing this video, what did you believe
10 those lights were that you saw at 10:30?

11 A Looking at it in the daytime hours, I think it's the
12 window on the front of the neighbor's, house. It's two
13 windows side by side.

14 Q And then when you reviewed those videos at the
15 nighttime hours, did you ever see those lights move in
16 either direction?

17 A No, they didn't move either direction. I could see
18 reflection off of them at one point where you could see
19 light hitting glass or plastic.

20 Q I'm going to play 69. If you want to grab the pointer,
21 so we can direct, kind of, where everything is going on.

22 A Okay.

23 Q I'm going to stop it right there. What is that right
24 there?

25 A Here? A back pickup truck pulling out. You'll see it

Logan Kanipe-Cross-Examination

597

1 turn right out of the driveway. This is Ms. Cross's house
2 behind all this right here.

3 Q All right. I'll just back it up. Be careful touching
4 the screen. It pauses and stops the video, so just be
5 careful.

6 A There's the black -- dark colored pickup. It turns
7 right onto Fairview Road.

8 Q All right. And about what time was that?

9 A It was around 12:30 p.m. that day, on December 9th.

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

11 THE COURT: Sure.

12 Q And you've been out to this residence multiple times?

13 A Yes.

14 Q How certain are you that that is Billie Jean Cross's
15 driveway?

16 A Very.

17 Q And what direction was that vehicle going out of the
18 driveway?

19 A It would have been -- it turned right out onto Fairview
20 headed back toward the Hickory Tavern area, that direction.

21 Q And that would be south?

22 A Yes.

23 MR. SIMMONS: No further questions.

24 CROSS-EXAMINATION

25 BY MS. MCNEILL:

1 Q Good morning. How are you?

2 A Good. How are you?

3 Q Good. All right, so let's go over a couple of things.

4 Did you have a pretty vast role in the investigation in this
5 case, or was it more limited?

6 A I'm assisted Investigator Pittman. I wouldn't -- I
7 don't know that I would classify it as vast or limited, but
8 just the part that, you know, whatever needed to be done is
9 kind of what I assisted with.

10 Q So some things that you did during this investigation.
11 You -- and I think that you testified to this in direct when
12 solicitor Simmons just talked to you. On December 10, 2021,
13 that's when -- did you go out to her house -- to Billie Jean
14 Cross's house on December 10, 2021?

15 A Yes, ma'am.

16 Q Okay. And when you went out on December 10, 2021, did
17 you assist in collecting any evidence?

18 A No, ma'am.

19 Q Okay. Did you observe anybody collecting any evidence?

20 A No, I don't recall. It was -- I don't recall it being
21 collected. But it -- I mean, we were viewing in the home.

22 Q OK, so viewing in the home is not necessarily
23 collecting anything?

24 A Right.

25 Q All right. And then I believe it was -- did you say

Logan Kanipe-Cross-Examination

599

1 that you were helping to canvas the neighborhood on that day
2 as well, or did you not do that that day?

3 A No, I didn't do that that day. I recall looking --
4 there's a house behind Ms. Cross's. I looked, like, at the
5 driveway at that time. We didn't know what was going on,
6 but it was pretty limited, you know, my canvas then was
7 pretty limited to the house.

8 Q Okay, so on December 10, 2021, how long were you out
9 there on that particular day approximately?

10 A Approximately an hour, hour and a half.

11 Q All right. So basically you were just, kind of,
12 canvassing around the property and observing the other
13 officers looking, I guess, in her house to see where she
14 was?

15 A Yes, ma'am.

16 Q And trying to find clues. All right. And then on --
17 did you have any involvement in this case whatsoever on
18 December 11, 2021?

19 A No, ma'am.

20 Q Okay. What about on December 12, 2021?

21 A No, ma'am.

22 Q What about on December 13, 2021?

23 A December -- that was Monday -- Monday I believe. Yes,
24 December 13th, I believe, was when the case was assigned to
25 Investigator Pittman, and at that point it was still a

1 missing person's case. It would have been very limited.

2 Q Okay, so you wouldn't have tried to move the needle
3 during that for the investigation on the 13th?

4 A Not a great deal. No, ma'am.

5 Q Okay, and on the December 14t, 2021, what involvement
6 did you have on that day?

7 A December 14th was when Ms. Cross's body was located in
8 Anderson. When we got that information we went to Anderson
9 County Sheriff's Office, and then subsequently ended up
10 going to Mr. Spencer's.

11 Q All right, and you were with other officers from the
12 Laurens County Sheriff's Office when you guys went to Mr.
13 Spencer's house, correct?

14 A Yes, ma'am.

15 Q How many officers were you with that day? Do you
16 remember?

17 A From my office, or total?

18 Q From your office.

19 A Four, well, myself included. Four, if I recall.

20 Q Four to five?

21 A Yes.

22 Q Okay, so four to five Laurens County Sheriff's
23 Officers?

24 A Correct.

25 Q Okay, and do you recall how many Anderson County

Logan Kanipe-Cross-Examination

601

1 Sheriff's Officers were out there?

2 A I don't recall exactly. It was at least five
3 additional, maybe more.

4 Q So, five plus additional Anderson County Sheriff's
5 Officers?

6 A Yes, ma'am.

7 Q So, there was 10 plus officers that you recall being at
8 Mr. Spencer's property.

9 A I'd say that's accurate.

10 Q That would be on December 14, 2021, right?

11 A Yes.

12 Q Okay. And then when you were at Mr. Spencer's house on
13 December 14, 2021, you did participate in further
14 investigation at that point, right?

15 A Yes, ma'am.

16 Q All right. And some of that investigation was to --
17 you obtained, I guess, consent to search his house, correct?

18 A I obtained consent to search his vehicle.

19 Q His vehicle?

20 A Yes, ma'am.

21 Q Well, let's back up. When you arrived at Mr. Spencer's
22 house on December 14, 2021, you -- sorry, you asked Mr.
23 Spencer for consent to search things like his laptop, right?

24 A Me specifically or law enforcement?

25 Q I thought it was you specifically. Was it not you?

- 1 A No, ma'am.
- 2 Q Okay. When you got to his house, was he already talking
3 to officers, or were you there when he answered the door?
- 4 A I was there when he answered the door.
- 5 Q Okay. So when you located him it was at his home
6 address, right?
- 7 A Yes, ma'am.
- 8 Q Okay. And he came to the door. He was found at his
9 house. He didn't flee. He didn't run. He didn't try
10 to run, did he?
- 11 A No, he was actually cooperative.
- 12 Q He was very -- he was cooperative when you showed up?
- 13 A Uh-huh.
- 14 Q Okay. And he lives at that house with his girlfriend,
15 Angie Atkins, is that right?
- 16 A Yes, ma'am.
- 17 Q Okay. And when you started talking to him, I guess you
18 all learned that -- he told you guys about a work cell phone
19 that existed, right?
- 20 A Correct.
- 21 Q All right. He also told you he had a laptop that
22 existed, right?
- 23 A Yes, ma'am.
- 24 Q Okay, and then he told y'all that it was inside of the
25 house and he, I believe, directed his girlfriend to go

1 retrieve for y'all, right?

2 A Yes, ma'am.

3 Q Okay, and I think that he also was insistent on getting
4 his car keys, correct?

5 A Yes.

6 Q All right. And he turned those over voluntarily too as
7 well.

8 A I believe so. Yes, ma'am.

9 Q And then when you were further talking to him, I
10 believe that it was you that went and got consent to search
11 his home. Was that not right?

12 A I don't ---

13 Q You don't recall?

14 A No. I don't recall asking. I recall asking for
15 consent to search his vehicle.

16 Q Okay, did you go inside of the house at all?

17 A Not on the 14th. Ms. Atkins didn't want to speak with
18 us in her home. She -- we did speak with her outside, and
19 she said that she would get those items. But I don't recall
20 going in, or if we did it was, it was very limited, like, to
21 the living room, if we did go in that day.

22 Q Okay, so you don't recall going inside, but probably
23 some other officers went inside, right?

24 A They may have.

25 Q Okay. To your knowledge, was any clothing of Mr.

1 Spencer's taken out of that house?

2 A Not to my knowledge.

3 Q Okay. So the only things really that you were
4 responsible for that you observed being taken out of the
5 house were the electronic devices, correct?

6 A Yes, ma'am.

7 Q And he very willingly and voluntarily gave them to you
8 you?

9 A Yes.

10 Q He actually told them that they -- told you guys they
11 existed in the first place, right?

12 A He did.

13 Q Okay. And then, I believe, also when you were trying to
14 obtain consent from Mr. Spencer to search his items further,
15 when he said yeah, that's fine. You can you can search it,
16 and here's what I have, and it's located in my house. I'll
17 get my girlfriend to go get it for you, and he basically was
18 assisting you guys.

19 A Yes, ma'am.

20 Q I think that you also reiterated to him that he did not
21 have to consent, but he complied anyway.

22 A Yes, ma'am..

23 Q Okay. How did you explain to him that he did not have
24 to consent?

25 A I told him he could -- he didn't have to consent to

1 that, that that was voluntary, and that he could withdraw
2 that consent at any time that he wanted to.

3 Q Okay, and he was just like, that's fine, but I'm still
4 willing to consent.

5 A Yes, ma'am.

6 Q Okay. And then you stated that you assisted in
7 searching his black pickup truck, correct?

8 A Correct.

9 Q And what kind of truck is it? Do you remember?

10 A It's a black Dodge pickup truck.

11 Q Is it an older model? 2008?

12 A That sounds right. Yeah.

13 Q And this truck, is it a four-door truck? Two-door
14 truck? Do you recall?

15 A I mean, I know it has space behind the back seat. It's
16 not a single cab. I can -- I don't remember if they were
17 split doors or full.

18 Q What kind of -- when you found that truck, it was on
19 Mr. Spencer's property, right?

20 A Yes.

21 Q And you found it in kind of a disarray situation?

22 A Yes.

23 Q Is that fair to say?

24 A Looked like a typical work truck.

25 Q And I believe that it was described that the truck was

- 1 full of trash and junk. Is that right?
- 2 A Yes, ma'am. That's pretty accurate.
- 3 Q So in the interior part of the cab it was really messy?
- 4 A Yeah, you know, just receipts and stuff, tools, a
- 5 coffee maker.
- 6 Q A coffee maker?
- 7 A There was a coffee maker.
- 8 Q Okay. And in the bed of the truck it was also full of
- 9 junk and trash, correct?
- 10 A There was stuff in the bed. I don't recall
- 11 specifically what was in it, but I mean, there was some
- 12 stuff in the bed. Yes, ma'am.
- 13 Q Did you remove anything out of the bed of the truck?
- 14 A To collect?
- 15 Q Yes.
- 16 A No, I didn't collect anything from it at that time.
- 17 Q Who else helped you search the truck?
- 18 A Investigator Pittman, I believe, Investigator
- 19 Honeycutt, and someone from Anderson. I don't recall a name
- 20 from Anderson.
- 21 Q So there was four of you that were searching the truck?
- 22 A It was at least four of us that, at one point or
- 23 another, were looking through the truck. Yes, ma 'am.
- 24 Q Did you search it during the day or night?
- 25 A I would have definitely been working into the evening

Logan Kanipe-Cross-Examination

607

1 hours. When we got there, there was still light, but we
2 started working into the dark.

3 Q Got you. How long would you estimate that you were
4 searching the truck for?

5 A Maybe a half an hour.

6 Q Half an hour?

7 A Me personally. Maybe a half an hour.

8 Q Okay. And was anything collected from the truck of
9 evidentiary value?

10 A Not by me. No, ma'am.

11 Q Okay did you observe anybody, any of the other three
12 officers, collecting anything of evidentiary value?

13 A No, ma'am.

14 Q So nothing was found in the truck?

15 A No, ma'am. Did you see any visible blood anywhere in
16 the truck or on the truck?

17 A No. Nothing visible.

18 Q And then I know that Solicitor Simmons questioned you
19 about December 15th.

20 A Yes, ma'am.

21 Q Okay. So, to be clear, Ms. Cross's body was found in
22 Anderson County on December 14, 2021.

23 A Correct.

24 Q And you learned of that at what point in time?

25 A Sometime in the afternoon hours.

1 Q On that same day?

2 A On the 14th. Yes, ma'am.

3 Q So then when she was found, that confirmed that this
4 was, in fact, a homicide case to investigate.

5 A Yes, ma'am.

6 Q All right. And so then, as part of your follow-up
7 investigation, you went out to the neighborhood where Ms.
8 Cross lives on December 15, 2021?

9 A Yes, ma'am.

10 Q All right, let's talk about where her house is. I know
11 that it's kind of in that video over there. Is it in the --
12 can you stand and point to exactly where her house is?

13 A This is Ms. Cross's house right here.

14 Q Is it a corner lot?

15 A Yes.

16 Q Okay. So where is Fairview Road?

17 A So this is Fairview Road here, and this is Tullyton
18 Drive would be, kind of, back here behind this.

19 Q Okay. Is it safe to say this is a suburban
20 neighborhood?

21 A Back in here, yes.

22 Q Okay, so the houses are not too far apart?

23 A No, ma'am.

24 Q All right. And Fairview Road, that is a main road in
25 Fountain Inn, is it not?

1 A Heavily traveled.

2 Q Heavily traveled road. Okay, and to be clear, Mrs.
3 Cross's home is on the corner lot of that heavily traveled
4 road.

5 A Yeah, so her front door faces Tullyton, and then the
6 back door, where the ramp is, would face Fairview.

7 Q Okay, thanks. Thank you. You said that you saw a
8 black truck leaving Ms. Cross's house around what time?

9 A I believe it was around 12:30 on December 9.

10 Q So 12:30pm on December 9, 2021, you're testifying that
11 you can see a black truck pull out of our house?

12 A You can see a dark-colored pickup truck pull out.

13 Q Okay, dark-colored pickup truck, and that's 12:30 p.m.
14 and so it was daylight out, right?

15 A Oh, yes.

16 Q Okay, was it raining or anything?

17 A No, ma'am.

18 Q All right. So no inclement weather. All right. So,
19 December, so the trees don't have as many leaves on them,
20 right?

21 A Yes.

22 Q Okay. When you were canvassing the neighborhood on
23 December 15, 2021 how many neighbors did you talk to?

24 A I tried to make contact with a number, but I spoke with
25 two neighbors that I can recall. And that would have been

1 one of them -- or both of them on Tullyton.

2 Q Okay. Do you remember who they were? What their names
3 are?

4 A I don't remember one of them. The one that I received
5 a lead from was a Carlius Gosnell.

6 Q He's a neighbor that lives in that neighborhood?

7 A Yes, ma'am.

8 Q Okay and you said you received a lead from him. What
9 kind of lead did your investigation?

10 A He said that he saw

11 MR. SIMMONS: Objection, Your Honor. That's hearsay. He
12 can say what he did from that information but ---

13 THE COURT: -- as a result, right. I sustain. As a
14 result of your conversation with Mr. Gosnell, then you can
15 say what you did. Just don't quote what he told you.

16 A Okay, as a result of that, as a result of the lead, I
17 went back to the Ramos's to view additional video.

18 Q All right, and we saw part of that video played when
19 Mr. Simmons was asking you questions, and that video was
20 taken at night, right?

21 A Yes, ma'am.

22 Q And that video belongs to a Mr. Ernesto Ramos. Is this
23 Mr. Ernesto Ramos's house that we're looking at right now?

24 A Yes, ma'am. This is his house.

25 Q Okay, so this is his Google Nest video footage?

1 A Correct.

2 Q All right. And is this motion activated?

3 A I'm not sure how the video is activated.

4 Q All right. When you went to view the footage of the
5 video, were you able to view, like, an entire day's worth of
6 footage?

7 A What I have been capable of doing that? Yes, ma'am. I
8 didn't though.

9 Q You did not do that?

10 A I didn't go through, like, an entire day. No, ma'am. I
11 was looking for time specifically to what the neighbor had
12 give me the lead about.

13 Q Speaking of this Google Nest, on December 9, 2021, you
14 said that you testified that you saw a black pickup truck
15 leaving Ms. Billie Jean Cross's house.

16 A Yes, ma'am.

17 Q Okay. Did you see a trash can in the bed of the truck?

18 A No, I can't see that clearly.

19 Q Okay. So, you can't see it clearly, but you also
20 didn't see one, right?

21 A No, I can't say that I did or didn't. No, ma'am.

22 Q Did you see the black pickup truck entering the
23 driveway on December 9, 2021?

24 A No, ma'am.

25 Q Is that because you didn't review the footage from

1 before the 12:30-ish time that you saw the truck leaving?

2 A Are you asking after we got the return back, or while I
3 was on scene?

4 Q Either.

5 A I didn't see any of this when I was at the Ramos's.
6 This was after the fact. Investigator Pittman, when we were
7 both reviewing it after the fact, he found the video of a
8 black pickup, or a dark colored pickup truck, pulling out of
9 the driveway and that was the part that I reviewed with him.

10 Q So, to your knowledge, no one saw the black truck enter
11 the driveway?

12 A I can tell you I didn't.

13 Q Okay. Do you, to your knowledge, is all of the footage
14 that you -- or who retrieved the -- who got the return for
15 the Google Nest? Do you know?

16 A I believe Investigator Sweat would've actually gotten
17 the video back and then given it to Investigator Pittman and
18 I.

19 Q To your knowledge, do you know how much footage is on
20 that video?

21 A I couldn't tell you specifically. There's a lot,
22 there's several clips, and it's the 9th. It would be
23 December 9th and 10th.

24 Q All right, do you know what time they began the video
25 on December 9th?

1 A I don't, not off the top of my head.

2 Q When we looked at the video footage at night time, when
3 you said you found -- you got a lead from a neighbor and so
4 then you went back to Ernesto's house ---

5 MS. MCNEILL: Beg the Court's indulgence. Sorry, Judge.

6 THE COURT: That's all right.

7 MS. MCNEILL: I just lost my train of thought. Just
8 give me a minute.

9 WITNESS: That's okay.

10 Q Okay, when you went to view the footage of the night
11 time due to your lead that you received from a neighbor.

12 A Yes, ma'am.

13 Q And then you -- Mr. Simmons played you the video that
14 was taken at night and you said -- is it your testimony that
15 you said that you thought that those lights were from a
16 window?

17 A Now. At the time I didn't. At the time it looked to me
18 like those were possibly headlights as, you know, the
19 witness had stated that ---

20 Q Don't say what another person said, but just ---

21 A I thought that those were -- I thought those were
22 headlights at the top of the driveway, or in -- you know,
23 back -- the vehicle would have had to have been backed
24 in and that those were headlights. Initially. I didn't --
25 after the fact, and I'm able to see in daytime footage,

1 which I didn't then, because I was looking for that specific
2 time at night, I believe it's a window. And those trees are
3 in between the window.

4 Q All right, but you're speculating about that, don't you
5 think?

6 A About it being --

7 Q A window?

8 A Yeah, I mean, it could be -- I think that's -- I think
9 now that's what it is, but at the time I thought that it was
10 headlights.

11 Q Okay. Why did you think it was backed in when you
12 first reviewed it?

13 A Well, for me to be able to see headlights. I mean, if
14 they were on the rear of a vehicle, they would have been
15 red, orange, but they appeared to be, you know, bright.

16 Q So when you first reviewed the video, because of your
17 follow-up investigation, you initially thought there was a
18 vehicle that was backed into Ms. Billie Jean Cross's
19 driveway. And is that driveway the one that's connected to
20 the Fairview Road?

21 A Yes, ma'am.

22 Q Okay, so not the Tullyton Road or whatever.

23 A No, ma'am.

24 Q So backed up on the heavily traveled Fairview Road, and
25 you think it's backed it. Now, can you describe to us how

1 her driveway is? Isn't it kind of like a slope going
2 downward to her house?

3 A You can kind of see like that the bottom of the house
4 here is actually kind of cut off. So, the driveway --- it's
5 not a steep slope, but it goes downhill.

6 Q So when you first saw the video and you thought it was
7 a vehicle with headlights backed into Mrs. Cross's house,
8 and then you reviewed it again, when is the second time that
9 you reviewed it?

10 A It would have been after the return was -- after the
11 full videos came back from Google Nest.

12 Q Do you know how long that was that took?

13 A Five or six days, if I recall.

14 Q And so then you reviewed it a second time, and you said
15 -- and you compared it to daylight, and instead of initially
16 going off your gut instinct initially of it's a truck, or a
17 vehicle, I'm sorry, with headlights backed in, now you're
18 saying it was probably a window?

19 A Well, I think it's I think it's certainly possible that
20 it was the window, just because of the angle of where that
21 house is and there's, you know, the two windows on the front
22 of that house.

23 Q Got you. It's also possible your initial gut instinct
24 of it looked like a ---

25 A It's possible.

1 Q It's possible that it was a car.

2 A Yes, ma'am>

3 MS. MCNEILL: Beg the Court's indulgence.

4 THE COURT: Sure.

5 Q Do you remember, during the investigation of this case,
6 do you remember ever observing -- initially, when you
7 initially observed the video at Ernesto's house that night,
8 do you remember saying that you thought it was a vehicle
9 parked in the driveway of the residence possibly at the same
10 time as what the lead had led you to believe initially?

11 A Can you repeat that, or rephrase it?

12 Q Basically when you first reviewed the video, you looked
13 at that time, because that's what the lead led you to
14 believe you would find ---

15 A That's right. Yes, ma'am.

16 Q And how long did you view the video footage of at
17 night?

18 A How long was I physically there?

19 Q Yes, sir.

20 A I mean, I was at the Ramos's for a little -- I don't
21 know. An hour and a half. Two hours. I'm not sure exactly
22 how long I was sitting there with them.

23 MS. MCNEILL: Beg the Court's indulgence.

24 Q I know I keep harping on this, and I'm sorry if I'm
25 confusing you, but when you first reviewed the footage at

Logan Kanipe-Cross-Examination

617

1 night time when you were at Mr. Ernesto's house, the lead
2 investigator on this case was who?

3 A Investigator Pittman.

4 Q Okay, and then also Captain Wilkie had involvement in
5 this case?

6 A Yes, ma'am.

7 Q Okay and did you, from your findings after your viewing
8 the video footage at night, did you tell Captain Wilkie that
9 it appeared that there was a vehicle backed up to the
10 victim's wheelchair ramp, and it stayed there for an
11 extended period of time as you could initially see the
12 headlights?

13 A Yes. I conveyed that. Yeah, I conveyed what I was
14 seeing on the camera to Investigator Pittman and Captain
15 Wilkie. Yes, ma'am.

16 Q Okay and also just to clarify, just to make sure I'm
17 not missing anything, you didn't write any reports, did you?

18 A No, ma'am.

19 Q Okay, so on the night of the 15th of December of '21
20 when you got your lead, you didn't write a report about
21 that, correct?

22 A No, ma'am.

23 Q You just conveyed that information to Captain Wilkie?

24 A Correct.

25 MS. MCNEILL: Beg the Court's indulgence. Thank you. No

1 further questions.

2 THE COURT: Any redirect from the State?

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

4 REDIRECT EXAMINATION

5 BY MR. SIMMONS:

6 Q Investigator Kanipe, can you just hold the pointer over
7 those lights right there? That's where the house is, right?

8 A Yes.

9 Q And what other information did you have at the time
10 that you got those videos back that caused you not to follow
11 up on those night-time lights?

12 A Well, by the time the videos came back, we had gotten
13 GPS information back for Mr. Spencer's vehicle that showed
14 that he was at the house at -- on the 9th at around 12:30.
15 We got -- we had GPS showing that his vehicle was in the
16 area where her body was found, and also in the area where
17 the trash can was located.

18 MR. SIMMONS: No further questions.

19 MS. MCNEILL: Just a couple of recross questions.

20 RECROSS-EXAMINATION

21 BY MS. MCNEILL:

22 Q So, Mr. Simmons just asked you to point out that house.

23 A Yes, ma'am.

24 Q Okay. When you testified that you thought it was a
25 truck initially, right? Then you said it could have been a

1 window when you looked at it again. Are you saying that it
2 was possibly a window in Ms. Billie Jean Cross's house?

3 A No, ma'am. In a neighbor's house.

4 Q In a neighbor's house.

5 A In a neighbor's house.

6 Q Okay. But interestingly, you did see a black truck
7 leaving, right?

8 A In the daytime video?

9 Q During the daytime.

10 A Yes, ma'am.

11 Q Around 12:30. And then -- so you had already seen that.
12 Then you go back to the house and you reviewed the video at
13 night time and you're looking at the same area, right? That
14 you had seen the black truck pull out of before at 12:30.

15 A No, ma'am. We didn't see the black truck until we got
16 all the Google Nest videos back.

17 Q Okay, but you initially thought it was a black -- a
18 vehicle with headlights on. You testified, then you thought
19 it was a window, but you testified it's also possible it
20 could have still been a vehicle.

21 A Yes, ma'am.

22 Q All right. And then you just testified on redirect
23 about the reason that you didn't follow up with this
24 possible vehicle that was in the driveway on -- at what time
25 was that? 10:30 or 10:00 p.m.?

1 A 10 some -- yeah. In the 10:00 p.m. hour. Yes, ma'am.

2 Q On the day that Ms. Cross went missing, December 9,
3 2021.

4 A Yes, ma'am.

5 Q All right. You didn't follow up with the lead that you
6 had got from the neighbor, because -- you just testified
7 because you then got information pertaining to Mr. Spencer
8 and as a primary suspect?

9 A Yes, ma'am.

10 Q So you then abandoned all other leads to investigate?

11 A On the Trailblazer?

12 Q Or, no. I'm talking about on this potential vehicle
13 that popped up according to the lead.

14 A Yes. That was ---

15 Q So, you just abandoned ---

16 A --- that was not -- I -- that was not investigated any
17 further. It was -- at the time that I initially viewed it, I
18 felt that it was certainly relevant, until it wasn't. And
19 then I felt that we had the GPS data back from Mr. Spencer's
20 truck that put him in those locations.

21 Q Okay so basically you're saying that you found the
22 information to be relevant, and then when you got
23 supplemental information then that piece of originally
24 relevant information became irrelevant?

25 A Yes, ma'am.

Melinda Worley-Blackmon-Direct Examination

621

1 MS. MCNEILL: Thank you. No further questions.

2 THE COURT: You can step down, sir. Thank you. I
3 believe that's it for the morning witnesses. We finished up
4 a little bit sooner than anticipated.

5 MR. SIMMONS: Judge, if we could approach. I'm going to
6 talk with him real quick.

7 (WHEREUPON, a sidebar was held off the record.)

8 THE COURT: We do have one more witness for the morning.
9 I say "we", not me, the State. Next case, Solicitor?

10 MR. THOMAS: Your Honor, the State calls Melinda Worley-
11 Blackmon.

12 WHEREUPON, Melinda Worley-Blackmon,
13 having first been duly sworn, testified as follows.

14 DIRECT EXAMINATION

15 BY MR. THOMAS:

16 Q Agent Blackmon?

17 A That's fine.

18 Q Agent Blackmon, where do you work?

19 A I'm currently employed at the South Carolina Law
20 Enforcement Division, commonly referred to as SLED.

21 Q And what is your job there?

22 A I'm currently a senior criminalist assigned to the
23 latent print unit. I'm a footwear and tire examiner.

24 Q So when we talk footwear and tire examination, I guess
25 you do comparisons of treads and things to see if you've got

1 a sample to match to a suspect?

2 A That's right.

3 Q What kind of training and experience and education do
4 you have to be qualified to do that?

5 A Well, I have a Bachelor's of Science in Anthropology
6 from the University of Tennessee at Chattanooga, a
7 Bachelor's of Science in Forensic Science from Mercyhurst
8 College, and a Master's of Science in Forensic Science from
9 the University of Florida. Once I was hired at SLED, I was
10 hired into the crime scene unit. I completed my footwear
11 and tire training while in the crime scene. It's an internal
12 program. It took just shy of two years for me to complete
13 the entire program before I could do casework on my own.
14 I've been to external training classes, at least three or
15 four training classes outside of SLED, and I've testified
16 multiple times.

17 Q Been qualified as an expert several times?

18 A Yes, sir.

19 THE COURT: Do you stipulate that she is an expert in
20 the area of footwear and tire impression comparison?

21 MR. SHAFFER: We do, Your Honor.

22 Q Okay. When we talk about footwear and tire
23 impressions, explain to us, I guess, what we mean in general
24 by like, an impression.

25 A Basically, at a crime scene, a suspect will arrive

1 either on foot or in a vehicle. At some point they'll be on
2 foot. They'll leave footwear impressions in dirt or in
3 blood. Same with tires. There's a dirt driveway or dirt
4 road. They'll leave tire impressions in the dirt or sand or
5 mud. Once the crime scene investigators process that scene,
6 they'll document those impressions with photographs, and
7 many times they'll collect a cast of that impression, a
8 dental stone cast, to actually collect the cast for the
9 impression from the scene.

10 Q So, I think -- so step one sometimes you try to take a
11 photograph of the impression?

12 A That's right.

13 Q And then if you can, you want to take like a plaster
14 cast or -- what is this made out of?

15 A It's a dental stone.

16 Q Okay. So that's something that you can try to do. Let
17 me just show you a State's 101.

18 MR. SHAFFER: No objection.

19 Q State's 101, do you recognize that?

20 A I do.

21 Q And what is that?

22 A This is the tire cast. I believe it was collected by
23 Anderson County deputies at the Anderson County scene.

24 Q And 102, do you recognize that?

25 A I do.

1 Q What are those?

2 A Those are the inked tire impressions that SLED crime
3 scene collected from the Dodge Ram pickup truck.

4 MR. THOMAS: The State would move those into evidence at
5 this time.

6 MR. SHAFFER: No objection.

7 Q And there's also -- there are a number of these in
8 here.

9 A There's also test impressions of trash can wheels.

10 THE COURT: 101 and 102 in evidence without objection
11 for the State.

12 Q So, this trash can here, that's -- you tested those
13 wheels?

14 A That's right.

15 Q You did a ink to board?

16 A We did, yes.

17 Q What's the purpose of doing the ink boards?

18 A That allows me to compare the impressions from the
19 scene to the actual tires. It's much easier to compare the
20 impressions to a test impression of the tire than to
21 actually try to look at the tire itself.

22 Q So, I'm looking at -- I mean, just looking at these
23 States 102, incredibly detailed.

24 A Yes, very detailed.

25 Q And that's what you want so that you can get a good

1 comparison.

2 A Right.

3 Q How would you describe the quality of State's 101?

4 A The cast? It's okay. I would prefer more detail, for
5 it to be clearer for me to be able to see the design of the
6 tire tread. You can kind of see there are five ribs and
7 four grooves of a tire. You can kind of see a little bit of
8 detail in the tread of the tire, but not a lot of detail.

9 Q And that was the only tread? That was only cast you had
10 in this case?

11 A That's right, yes.

12 Q And if I told you that was from marker one at the
13 scene, I know that probably doesn't mean a whole lot to you,
14 does it?

15 A I might have seen it in a photograph.

16 Q But you had the photographs of them also, right?

17 A I do, yes.

18 Q In fact, one of those photographs you had was what the
19 Defense has entered as Exhibit Number 9. Does that look
20 familiar to you?

21 A Yes.

22 Q So what do you do when you get a photograph of the
23 scene instead of a cast?

24 A A photograph -- notice how there's a scale in the
25 photograph. I can take that image and I use Photoshop to

1 basically print that image to scale. So I calibrate the
2 image so that it's life-size when I print it out. Which I
3 also do that with the photos that were taken of the
4 impression that they did the cast of. I'll do that with
5 that too. As long as there's a scale in the photograph, I
6 can enlarge it to one-to-one, so it's life-size and I can
7 compare our test impressions to that unknown impression.

8 Q Mr. Shaffer was kind enough -- they do actually have an
9 exhibit of the impression for which the cast was taken, so
10 I'm going to show you that real quick. Defendant's 13. Does
11 that look like the marker one cast you did a --

12 A Yes.

13 Q You say you did the same thing tried to do a sketch
14 there.

15 A I do a -- with tire cases, I basically take a
16 transparency sheet of paper and I trace the detail that I
17 can see in the unknown impression. I will take that
18 transparency tracing of the detail from that impression and
19 run it across the test impression boards. I'll lay the
20 boards out, end to end, for one tire at a time. If the
21 design of the tire is similar enough to the test impressions
22 that I have, then I will run that transparency tracing
23 across the board and try to find if I can find where on the
24 tire it came from.

25 Q So I'm going to show you what's been marked as State's

1 103. Does that look familiar to you?

2 A Yes it does.

3 Q Is that what you basically did for the picture that's
4 up on the board, Defendant's 9?

5 A Yes, that's it.

6 MR. THOMAS: Your Honor, the State would move 103 into
7 evidence at this time.

8 MR. SHAFFER: No objection.

9 THE COURT: Without objection, 103 for the State into
10 evidence.

11 Q It's inverted, but basically same concept. There's a
12 ruler. We've got the impression, and then you can sketch it
13 out with your own ruler.

14 A I basically, when I scan the image of my tracing, I put
15 a ruler in it just so if it needs to be reproduced it can it
16 can be one-to-one also.

17 Q So you did some comparisons in this case. I believe
18 the cast -- did you -- were able to compare that casting to
19 the tire tread, the tires from the Dodge truck?

20 A I did.

21 Q What was your result, as it goes to the tire cast?

22 A For the cast, I said no conclusion on the result
23 because it wasn't detailed enough. I couldn't see the
24 detail of the tire tread well enough in order to rule the
25 tires from the truck in or out. It wasn't clear enough for

1 me to be able to see.

2 Q Were you able to use any of the pictures and your
3 tracings to compare to the Dodge truck?

4 A I did, yes.

5 Q And were any of those, I guess, were you able to make
6 any conclusion about those?

7 A Same thing. It just -- there wasn't enough detail and I
8 couldn't say one way or the other if it was consistent with
9 the tires. All four of the tires were the same. I couldn't
10 say for sure if it was consistent with those tires or it
11 wasn't consistent with those tires.

12 Q So, just no conclusion at all.

13 A Right.

14 Q Now, I know State's 103, that's the impression tire
15 tread from Marker 1 -- I'm sorry, Marker 3. You could draw
16 a conclusion about that. What was that conclusion?

17 A For that one, I said it was not made by the truck tires
18 or the trash can tires. I've never seen an impression like
19 that. It wasn't consistent with the truck tires at all or
20 the trash can.

21 Q Is it consistent with any kind of vehicle tires?

22 A I was thinking maybe a wheelbarrow or a lawn mower.
23 I'm not really sure what kind of vehicle it might have
24 been, but it has ribs and grooves. I know that.

25 Q So, in your training and experience, that impression

1 probably did not come from a vehicle.

2 A I guess I can't say that for sure. I can say for sure
3 it didn't come from these truck tires.

4 Q But it looks like it came from something much smaller
5 than a vehicle?

6 A Yes.

7 Q This is the only one you can exclude, State's 103.
8 That's the only one you can exclude the truck on?

9 A That's right.

10 Q You can't conclude one way or the other as it relates
11 to the casting from the other marker?

12 A That's right.

13 MR. THOMAS: Thank you very much. I have no further
14 questions.

15 THE COURT: Any cross-examination?

16 CROSS-EXAMINATION

17 BY MR. SHAFFER:

18 Q Ms. Worley-Blackmon, you work for the State of South
19 Carolina?

20 A That's right.

21 Q And you work for the State Law Enforcement Division,
22 right?

23 A Yes.

24 Q And part of your job is to write reports for the State
25 Law Enforcement Division, correct?

1 A That's right.

2 Q And you're authorized by the State to do that, correct?

3 A Yes, sir.

4 Q You're authorized to give your opinion in reports for
5 the purposes of criminal investigations, correct?

6 A That's right.

7 Q And, I've handed you Defendant's 23, I think it is, is
8 that correct?

9 A That's right.

10 Q Okay, Defendants 23, is a copy of that report that you
11 did for this case, correct?

12 A It is.

13 Q Is it a true and accurate copy?

14 A Yes, it appears to be.

15 Q Sorry, I accidentally printed on two sides.

16 MR. SHAFFER: Your Honor, at this time I would move
17 Defendant's 23 into evidence.

18 MR. THOMAS: No objection, Your Honor.

19 MR. SHAFFER: Thank you.

20 THE COURT: Without objection, 23 in evidence for the
21 Defense.

22 Q And that gives a summary of your opinions related to
23 this case, correct?

24 A Yes, it does.

25 Q And in your opinion -- this is hard to see. There's a

1 pretty substantial glare in this. If you don't want to try
2 that, I'm not sure. Here we go. This is a darkened view of
3 this particular picture, but I think it probably comes out a
4 little bit better. If I told you that first marker was
5 marker one, would you agree with me?

6 A Yes, sir.

7 Q If I told you that second marker was marker two, would
8 you agree with me?

9 A Yes, sir.

10 Q If I told you that third marker, the furthest one away,
11 was marker three. Do you have any reason to doubt that?

12 A It looks like a three to me.

13 Q Okay, fair enough. Those are -- marker one and marker
14 three are where you did the tire impressions, correct?

15 A That's right.

16 Q Okay, and marker one is a tire impression that they
17 took this with, right?

18 A That's right.

19 Q Okay, and then marker three is a tire impression that
20 you had a close-up picture of, and then you used the picture
21 to match one for one scale to each one of these boards,
22 right?

23 A Right.

24 Q So you blew the picture up in detail and put it one to
25 one next to each one of these boards and determined that

1 where marker 3 is, there's a mark on the ground that was not
2 caused by any of the tires that are not represented by the
3 boards in this bag.

4 A I used my tracing of that picture.

5 Q Okay. I think that there was some sort of argument
6 about cases where tire impressions come back. This is a
7 shot in the dark, but you match more than zero percent of
8 tire impressions, correct?

9 A I have examined far more footwear cases than tires.
10 Tires -- I mean, I've identified several footwear cases, but
11 tire cases I have yet to make an identification.

12 Q Okay. So you have never made an identification in any
13 tire case?

14 A I've been able to say it could have been made by this
15 tire, but I've never been able to say for sure it's
16 definitely been made by this.

17 Q Okay, but you weren't even able to say that these two
18 could have been made that, right?

19 A Well, the one at Marker One could have, but it may not
20 have been. I couldn't tell enough detail from it.

21 Q So are there standards of words you use, like this tire
22 is excluded, this tire is an identification, I can't make a
23 determination on this. Is there any other conclusions you
24 come up with?

25 A I can say it corresponds in tread design. The tread

1 design and dimension is basically a class result that it
2 could have been made by this tire. More or less, it's
3 fairly cut and dried for tires.

4 Q But you weren't able to even say that the cast matches
5 in class and dimension of the tire impressions from the
6 truck, right?

7 A Right, the cast just wasn't clear enough to tell.

8 Q Fair enough. But you can definitely say that the
9 picture from three definitely was not made by the truck tire
10 or the garbage can, correct?

11 A Right, it didn't. When I ran the tracing across the
12 board, nothing about it lined up with either.

13 Q Could it have been an ATV tire?

14 A I guess.

15 Q Have you ever done a case involving an ATV tire.

16 A I don't think so, no.

17 MR. SHAFFER: No further questions.

18 THE COURT: Solicitor, anything in redirect?

19 MR. THOMAS: Nothing on redirect, Your Honor.

20 THE COURT: You can step down, ma'am. We're close to
21 where we had planned to stop for the morning. Ladies and
22 gentlemen, as I told you earlier, if any of you need
23 anything today for purposes of a work excuse, just remain in
24 the jury room and one of the clerks will come and provide
25 you whatever you need. If you don't need anything, then

1 you're free to go now and we'll start back at 1:30. So
2 you'll have a little longer lunch break than we normally
3 give. Thank you very much. Have a good lunch.

4 (WHEREUPON, the jury exited the courtroom and a lunch
5 recess was held from 11:36 a.m. to 1:55 a.m.)

6 THE COURT: We're back on the record and I understand
7 that maybe we want to do a little modification concerning
8 this afternoon.

9 MR. THOMAS: Judge, we went through this morning a lot
10 faster than I think we anticipated going. We've only got one
11 foundational witness that we need to put up, and then the
12 next witness after that, his direct is going to be fairly
13 lengthy and involved. Cross will probably be even more
14 lengthy than anything we've done. The Defense and I
15 basically talked about it. If we can get this foundational
16 witness up, release the jury, then obviously we have a lot
17 of issues we discussed in chambers with Investigator
18 Pittman. So, we can maybe take care of those this afternoon
19 and then maybe hit the ground running first thing Monday
20 morning.

21 THE COURT: That's fine. We'll bring the jury out and
22 let them know that they're going to get to leave early today
23 and then we'll do what we need to do. All right, let's bring
24 the jury out, please.

25 (WHEREUPON, the jury entered the courtroom at 1:55 p.m.)

1 THE COURT: Good afternoon, ladies and gentlemen. I've
2 got a bit of good news for you. We were going to finish up
3 earlier this afternoon. The State has one witness to put
4 up, and then the next witness that they anticipate calling
5 will take quite some time, and that would really push us
6 well into the evening. So the State will put up their one
7 witness for today and then we're going to go ahead and cut
8 you guys loose. Now, we've got some work to do in the case
9 so we'll still be here working but y'all get going and start
10 an early weekend. Sound good? All right. Is the State ready
11 to call its witness.

12 MR. THOMAS: Your Honor, the State calls William
13 Freestate.

14 THE COURT: Come around please, sir. place, sir.

15 WHEREUPON, William Freestate, having
16 first been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. THOMAS:

19 Q Detective Freestate, where do you work?

20 A I'm currently employed at the Anderson County Sheriff's
21 Office.

22 Q And how long have you worked there?

23 A Coming up on seven and a half years.

24 Q And what's your job in the Anderson County Sheriff's
25 Office?

1 A I'm currently assigned to the criminal investigation
2 division as a detective.

3 Q And as a detective, I guess, I think we've heard enough
4 about what detectives do and investigators do. But as your
5 role as a detective, were you involved in the investigation
6 into Ms. Cross's death in December of 2021?

7 A Yes, sir.

8 Q And how did you assist with that investigation?

9 A I was notified by Detective Cash that two cell phones
10 had been taken and needed to have phone records done on
11 them. I then obtained a search warrant for those two
12 numbers and was able to send them off to that appropriate
13 company.

14 Q Do you remember if those two cell phones were those Mr.
15 Spencer cell phones?

16 A Yes, sir.

17 Q Do you remember what those phone numbers were?

18 A Not off hand.

19 Q And let me go ahead and show you -- I'll show you
20 State's 104 and 106, and see if those refresh your
21 recollection as to what those phone number were.

22 A Yes, sir.

23 Q What was the first phone number?

24 A The first phone number is area code (864)293-9052.

25 Q And is that what we refer to as Mr. Spencer's work

1 phone?

2 A Yes, sir.

3 Q What's the second phone number?

4 A Area code (864) 614-3996.

5 Q And is that what we refer to as his personal cell
6 phone?

7 A Yes, sir.

8 Q You got a search warrant for those numbers. How do you
9 then get that information back from Verizon?

10 A Once it's signed by, in this case, a Circuit Court
11 judge, I then take it and scan it into our computer. I then
12 send it to Verizon, who sends me a receipt that they have
13 received that search warrant and the request for those
14 records.

15 Q And then how do you get the records back when they
16 finish preparing them?

17 A So Verizon has a secure portal you have to actually
18 sign up for to get access to. Each detective has their own,
19 you know, password and username. Once you get the records
20 you request for you have to sign in and log into your
21 portal. At that time, you'll get the records you've
22 requested.

23 Q And those come to you digitally?

24 A Yes, sir.

25 Q But they're really just spreadsheets, right?

1 A Yes, sir.

2 Q You did that in this case for both of those cell
3 phones?

4 A Yes, sir.

5 Q I'll show you -- well, let me do this. So, does
6 Verizon send you some information along with those to let
7 you know that those records are true and accurate?

8 A Yes, they'll send a letter of whomever processed the
9 records and it will be notarized stating that these records
10 are true and accurate.

11 Q And so, 104 and 106, would you just look at those. Are
12 those the affidavits you got back from Verizon?

13 A Yes, sir.

14 Q Attesting to the authenticity of the records?

15 A Yes, sir.

16 MR. THOMAS: Your Honor, I would move State's 104 and
17 106 into evidence this time.

18 THE COURT: Okay. 104, work number. 106,
19 personal numbers? Is that ---

20 MR. THOMAS: Reversed, Your Honor. 104 is the -3996,
21 and 106 is the 9052.

22 THE COURT: Oh, okay.

23 MR. THOMAS: -9052 is work. -3996 is personal.

24 THE COURT: Okay. All right. -9052 is work.

25 MR. THOMAS: Correct.

- 1 THE COURT: And -3996 is personal.
- 2 MR. THOMAS: Correct.
- 3 THE COURT: And so 104 would be work or personal?
- 4 MR. THOMAS: 104 is personal.
- 5 THE COURT: Gotcha.
- 6 MR. THOMAS: And 106 is work.
- 7 THE COURT: Gotcha. Defense?
- 8 MR. BROOME: No objection.
- 9 THE COURT: No objection. 104 and 106 into evidence for
- 10 the State.
- 11 Q And you said those records were produced to you
- 12 digitally?
- 13 A Yes, sir.
- 14 Q What did you do with them, I guess, when -- once you
- 15 get them downloaded and you send them off to whoever was
- 16 going to use them to further the investigations?
- 17 A Prior to that, I checked to make sure that they were
- 18 the records I requested.
- 19 Q So you spot-checked the documents to make sure they're
- 20 what you're asking for?
- 21 A Yes, sir.
- 22 Q And then you passed those along to whoever's doing the
- 23 primary investigation?
- 24 A In this case, it was Detective, now Sergeant Cash.
- 25 Q Would you -- let me let you look at -- let's start with

1 State's 105. What is State's 105?

2 A This would be the records, I believe, yes, for the
3 personal phone for the Defendant.

4 Q And we talk about records. Those are -- we talk about
5 tower records.

6 A Yes.

7 Q That's information with it communicating with towers.

8 A Pretty much location data as the phone is used.

9 Q And is that exhibit a true and accurate copy of the
10 records you got back from Verizon?

11 A Yes, sir.

12 MR. THOMAS: At this time, Your Honor, the State would
13 move 105 into evidence.

14 THE COURT: What says the Defense?

15 MR. BROOME: Subject to previous objections.

16 THE COURT: Right, and ruling remains the same subject
17 to previous objections. 105, is a flash drive, Solicitor?

18 MR. THOMAS: It's a USB drive.

19 THE COURT: USB drive. Okay. Into evidence for the
20 State.

21 Q I'm handing you State's 107. What is State's 107?

22 A This would be the work phone for the Defendant. The
23 records and location data for that number associated with
24 it.

25 Q That's the -9052 number?

1 A Yes, sir.

2 Q That exhibit is a true and accurate copy of those
3 records you got back from Verizon.

4 A Yes, sir.

5 MR. THOMAS: Your Honor, at this time the State would
6 move 107 into evidence.

7 THE COURT: Subject to previous objections, ruling
8 remains the same.

9 MR. BROOME: Subject to previous objections.

10 THE COURT: 107, into evidence for the State.

11 Q The records and everything that are in there includes
12 call logs, messages, that sort of thing?

13 A Yes, sir.

14 Q Not the substance of them, but just basically time
15 stamps?

16 A Yes, sir.

17 Q What time zone are those time stamps in?

18 A Eastern Standard Time.

19 Q Are they in Eastern Standard or do they come in UTC?

20 A They come in UTC and then -- Yes, sir.

21 MR. THOMAS: Beg the Court's indulgence.

22 THE COURT: Sure.

23 Q Is it your understanding that those records were to
24 help locate where Mr. Spencer was during time frame involved
25 in this investigation?

1 A That was my understanding. Yes, sir.

2 MR. THOMAS: No further questions, thank you.

3 THE COURT: Any cross-examination?

4 MR. BROOME: I don't have any questions.

5 THE COURT: Sir?

6 MR. BROOME: No, Your Honor.

7 THE COURT: Thank you. You can step down, sir. Okay
8 ladies and gentlemen, as I indicated a moment ago it's going
9 to be a one witness afternoon, so I'm going to go ahead and
10 excuse you for the remainder of the day and for the weekend.
11 I think, in talking with the lawyers this morning, I want to
12 start back at 10 on Monday, so we will see you at 10:00 on
13 Monday morning. Have a good rest of your day have a good
14 weekend. Get some rest and see you on Monday.

15 MS. MCNEILL: May we approach, real quick?

16 THE COURT: Sure.

17 (SIDEBAR OFF THE RECORD.)

18 THE COURT: Just one inquiry. Early on in the case, I
19 instructed you not to do any research on the internet,
20 social media, stay away from any news sources, newspapers.
21 Has everybody complied with my instruction? Okay, all
22 right, thank you. And that instruction continues. So just
23 stay away from all that, because we don't want you to be
24 potentially improperly influenced by anything that you see.
25 Because again, your decision one hundred percent has to be

1 based on what is brought out in this in this courtroom. So
2 thank you very much. Have a great weekend. See you on
3 Monday.

4 (WHEREUPON, off the record briefly.)

5 MR. THOMAS: Your Honor, I have provided Defense with
6 all of the exhibits that we intend to introduce through
7 Investigator Pittman tomorrow (SIC). They've reviewed them.
8 The first one is 108. That is USAA bank records for Billie
9 Jean Cross.

10 MR. SHAFFER: Your Honor, we have no new objection to
11 that.

12 THE COURT: All I want right now -- well, unless we need
13 to put it on the record what is not contested. I'm fine with
14 that.

15 MR. THOMAS: I'm just trying to get an idea so we don't
16 come on Monday morning.

17 THE COURT: We'll just go down you tell me whether it's
18 contested or not.

19 MR. THOMAS: 109 is just going to be the certificate of
20 authenticity for the T-Mobile records. So 110 will be the
21 T-Mobile records.

22 MR. SHAFFER: Your Honor, there's going to be no new
23 objection to that. However, we have agreed to, I think it's
24 the second and third column has latitude and longitude on
25 it, and we've agreed that they're not going to essentially

1 plot those points for the jury, or allow the jury to use
2 like Google Earth or anything to plot on them.

3 THE COURT: When we talked back in chambers this
4 morning, that was going to maybe be deleted or redacted in
5 some fashion. You're going to leave it in, but just not
6 talk about it.

7 MR. SHAFFER: That's correct.

8 MR. THOMAS: We're certainly not -- I may talk about it
9 to the extent that I have the experts say that T-Mobile
10 plots its own coordinates, but those are not what I used to
11 do my work with. But yes, I think what we can do is just
12 like a couple of the other exhibits we will write do not
13 send back on this. And that way they're not. I don't think
14 the computer they have back there has the Internet. That's
15 what Mr. Bentley tells me.

16 THE COURT: It does not. All that computer can do is
17 play flash drives, CDs, that sort of thing.

18 MR. THOMAS: So we're good on those. State's 111 is the
19 House Call Pro records.

20 MR. SHAFFER: There's no objection to that.

21 MR. THOMAS: State's 112 is the First Citizens banking
22 records. Mr. Spencer's, one of his -- I think the only one
23 of his work accounts we have records from. They are bank
24 records for Spence's HVAC.

25 THE COURT: And is that contested?

1 MR. SHAFFER: Yes, Your Honor.

2 THE COURT: Is that the one where you said this
3 morning, back in chambers, you wanted to get into that
4 account back in November when it went to a minus balance?
5 Is that same thing is that something different?

6 MR. THOMAS: These are the same ones. Yes, sir.

7 THE COURT: Okay, we can come back to the contested.
8 Let's just kind of get us a good list of what is contested
9 and not. So let me flag that as contested. Moving on.

10 MR. THOMAS: 113, Your Honor, are Sharon View banking
11 records. Those are Mr. Spencer's personal banking records

12 THE COURT: And is that contested?

13 MR. SHAFFER: No, Your Honor. No new objection to that,

14 THE COURT: Sir?

15 MR. SHAFFER: I think we raised the pre-trial objection
16 to it, but no new objection.

17 THE COURT: Okay, all right. Okay.

18 MR. THOMAS: 114 and 115 are just photographs that
19 Detective Pittman took fairly recently.

20 THE COURT: Photographs of what?

21 MR. THOMAS: Just the plaza in Honea Path where we
22 contend his truck was stopped while he was doing some
23 transactions on House Call Pro.

24 THE COURT: You okay with that?

25 MR. SHAFFER: Yes, Your Honor. As long as he can lay a

1 foundation.

2 MR. THOMAS: 116 is what we're calling the third
3 statement.

4 THE COURT: In Greenville?

5 MR. THOMAS: This is the Greenville County one that is
6 Detective Pittman's body camera. I think -- I know I gave
7 Your Honor a list of segments we might publish. Mr. Shaffer
8 and I have whittled it down. I think I may move what we
9 want to publish around. But we've got it down to about
10 three things that they have an objection to and won't redact
11 it. And then I have several of the redactions based on
12 prior rules from Your Honor. I'm not even going to worry
13 about.

14 THE COURT: The portions that are still contested can
15 you give it to me transcript form, like you did last time?

16 MR. THOMAS: So I can give you the references to the
17 transcript, we've got those.

18 THE COURT: That would be in the notebooks, okay? Okay,
19 so you're just going to give me like page numbers and lines
20 like you did last time?

21 MR. THOMAS: I can do that. So he has an objection to
22 page seven lines 8-15. And page 11, lines 7-10. Then page
23 24, line 23 through page 25 line 4. I'm going to have to go
24 back and figure out what I want to publish, but if it's a
25 redaction on here, I will redact it from what gets

1 published. Those are the only things we need to argue
2 about.

3 THE COURT: Any other?

4 MR. THOMAS: That's the end of the exhibits.

5 THE COURT: So basically what we have, and this is with
6 respect to Pittman, is the First Citizens bank records.
7 There's an issue there, and then three excerpts from the
8 Greenville interview. So, I guess let's talk about the
9 First Citizen's records first. You want to, I guess, tell
10 me, Solicitor, what it is you want in, and then Mr. Shaffer
11 can tell me why he wants it out.

12 MR. THOMAS: So basically the testimony we've already
13 gotten from Detective Cash was when they were searching his
14 house that night, they found a bunch of -- they found all of
15 his account information for Spence's HVAC and it was with
16 First Citizen's bank. Investigator Pittman followed up
17 later, and at some point got the banking records from -- he
18 asked for that time period where they were doing the
19 investigation from First Citizens. First Citizens sent him
20 back the last account ledger they had, which was from
21 November. So the ending date on this is November 26, which
22 would have been a few weeks before this incident happened on
23 December 9. And that account was closed on the 26th for an
24 overdrawn balance.

25 That account, Your Honor, throughout the month of

1 November, has a negative balance of roughly \$2,000,
2 fluctuating between \$2,050.04 and at the highest point at
3 the end, \$2,592.04. On November 24th was the ending balance.
4 Obviously the State -- that's obviously relevant in that it
5 again shows that his financial situation was in the red.
6 And quite frankly, the amount on here being so close, \$2,592
7 in the red. Bank account closed for that amount within a
8 couple of weeks of this murder. In addition to the other
9 financial records that are coming in with no objection. Goes
10 to motive.

11 THE COURT: Is this account that the payment over the
12 phone by Ms. Cross was made to Mr. Spencer?

13 MR. THOMAS: We don't know where that account went to.
14 That was what was confusing to Investigator Pittman. There
15 were -- this hasn't come out yet, and I don't know that we
16 need to get into it, but when they were searching his truck
17 there were checks still being written off this account dated
18 after November. So, I'm not sure that he even knew this
19 account had been closed. I think he would have to, but I
20 don't know. But he was still writing the checks off of it.
21 So I think they thought maybe the money from Ms. Cross's
22 account was going into it. We don't know where it went. I
23 think he may have had a Chase account, but they never were
24 able to track any information on that.

25 THE COURT: So your position is you want to get it in

1 to show what now exactly, Solicitor?

2 MR. THOMAS: It goes to motive, Your Honor. It goes
3 back to the theory of the case that when he killed her to
4 steal the money from her. Obviously, if the House Call Pro
5 Records, his initial -- he initially tried to take it.
6 \$4,500 out of that account. And then it was bounced back
7 for insufficient funds. So then he took out \$2,500, which
8 is just strikingly similar to the amount in these First
9 Citizens records.

10 MR. SHAFFER: Your Honor ---

11 THE COURT: I'll be glad to -- are you finished,
12 Solicitor, on this point?

13 MR. THOMAS: I think so.

14 THE COURT: Okay. All right. Mr. Shaffer, your
15 argument?

16 MR. SHAFFER: Your Honor, 403 and also 404(b). In order
17 -- this is an uncharged prior bad act. Okay? I'll start my
18 analysis here. First of all, I don't think it's relevant,
19 but I'll skip ahead to 404(b). It's an uncharged prior bad
20 that.

21 THE COURT: What would be the bad act? By having a
22 negative balance in the account and still writing checks or
23 what would be the bad act?

24 MR. SHAFFER: That too. I didn't know that they were
25 planning on bringing in any of the checks and I was about to

1 say that.

2 MR. THOMAS: I think just based on -- I think that may
3 be something for cross of him later. I think again that may
4 be a bridge too far is to say he's still writing checks off
5 the account. I could concede that. I think I would
6 probably be entitled to ask Investigator Pittman about if
7 this account, were there still checks being written off of
8 it as far as you could tell. There are some pictures that I
9 hadn't planned on introducing, but I could understand maybe
10 back-tracking from that. That might be a bad act because
11 that probably is a check fraud type charge. Obviously. I'll
12 let him finish. I'll was just answering your question.

13 MR. SHAFFER: Your Honor, can I actually hand you the
14 exhibit?

15 THE COURT: Yeah, I'm going to need -- because I'll
16 probably take this, and then the issues about the Greenville
17 interview, probably just take a look at it over the weekend
18 and then make my ruling. So, do you want me to make a copy
19 of this, Solicitor?

20 MR. THOMAS: No, sir, I have a copy of it.

21 THE COURT: So first objection is just not relevant
22 under general relevancy terms, okay? And your next argument
23 on this.

24 MR. SHAFFER: Your Honor, I'm going to argue 404(b) and
25 then what I want to explain why. First of all, he's

1 overdrawn in getting insufficient fund fees constantly,
2 okay? This obviously is not a conviction. However, he's,
3 there's nothing, there's no account activity other than he
4 starts the month at negative - sorry, starting balance is -
5 beginning balance is negative \$2,096.04. He then basically
6 makes one apparent deposit of \$190.00 on 11/02, and then
7 another apparent deposit of \$140 on 11/10.

8 THE COURT: You're looking on what page Mr. Shaffer?

9 MR. SHAFFER: The first page. With the exception of that
10 we have nothing but insufficient funds and charge back fees
11 off of this account. I mean basically it's just nothing but
12 insufficient funds. I think that they're going to have to
13 prove a nexus between this and the actual crime that
14 happened two weeks after this account got closed. Allegedly,
15 of course, in the State's theory, he killed her about two
16 weeks after. They're going to have to prove that nexus
17 between him being negative on November 1st and getting all
18 these charge back fees insufficient funds fees. They're
19 going to have to prove each one of those has a nexus to the
20 offense. I don't think that they can do that. I think the
21 standard properly should be clear and convincing evidence
22 because, in fact, it's not subject to the conviction. I
23 would argue that you would have to establish clear and
24 convincing evidence for that. I think that there's some
25 support, not directly on point, but if you're looking at

1 evidence of flight. Arguably evidence of flight also has to
2 be show a nexus, but it has to be shown by clear and
3 convincing evidence. And I think that this is similar to
4 that. I mean, normal 404(b) objections, you always have to
5 show a nexus in order to introduce it. And you have -- I
6 don't see how you can say that there's some nexus between
7 the -- something that allegedly happened on December 9th and
8 him having a negative balance on November 1st. I also think
9 that there's really no relevance to it, but also I think
10 that it's unduly prejudicial. I'm going to -- I think I
11 printed this, Your Honor, and I'd like to go grab it, the
12 case that I cited earlier this week, that Huff case, H-o-u-
13 g-h, where I said that there's -- it's a drug case.
14 I mean, it's involving a drug transaction. Is a motive for
15 a crime. But what they said, I told you it was even handed
16 because they draw a distinction between stuff that's
17 directly relevant because, you know, they committed the
18 crime so they could buy drugs that day. That was admissible
19 there. The difference is, is that this is something where
20 it's, you know, they said that all the stuff prior to that,
21 these random generalized character stuff about him being a
22 drug addict, is not -- was not admissible. I think the same
23 thing applies to this and will likely apply a little bit to
24 their position about gambling, generalized gambling habits.
25 But we would ask that the Court consider that. Do you have

1 a copy of it? If not, I have one.

2 THE COURT: If you got an extra copy, I'd appreciate
3 it.

4 MR. SHAFFER: Yeah, I printed it.

5 THE COURT: Okay, I'm going to come back to you, Mr.
6 Shaffer. All right, but now, Solicitor, you're referring to
7 the bank account as not a prior bad act, but as motive for
8 the killing. Tell me how that can be a motive for the
9 killing.

10 MR. THOMAS: I think if you look at the Hough case that
11 he cited to, it cites to that Adam's case.

12 THE COURT: Is the Hough case, is that what you're
13 giving me, Mr. Shaffer?

14 MR. SHAFFER: Yes, sir.

15 MR. THOMAS: It cites to that Adams case and they're -- I
16 mean, in that Adams case they talked about how the Adams
17 prior drug use was so inextricably intertwined in the
18 robbery murder was probably admitted to part of the res
19 gestae the temporal proximity of the cocaine to the robbery
20 was part of the environment crime because omission
21 would have unnecessarily fragmented the State's case and the
22 difference they said in Hough was that there was no -- the
23 testimony in Hough was at unspecified times in the past that
24 they had smoked crack, previously stolen money. But no
25 evidence that they had smoked it immediately prior to the

1 burglary or that the acts were so linked together at point
2 in time and circumstances to be part of this crime. The
3 difference here, Judge, is that between his personal bank
4 records, these bank records, his admissions to gambling at
5 the casino, all of that goes to his financial situation at
6 the time, which was he has deep financial troubles. And
7 again, there is a financial component to this crime. After
8 Ms. Cross is killed, he tries to take \$4,500 from her, can't
9 take the \$4,500, ends up taking \$2,500. That we can prove
10 through that other evidence, or at least the money was
11 transferred, through that portal, not sure what account to,
12 but definitely out of her account to Spence's HVAC.

13 THE COURT: All right, let me just stop you now. You
14 say try to take \$4,500, could only get \$2,500, but this has
15 nothing to do with the payment that Ms. Cross made by credit
16 card over the phone. We're talking about two separate sums
17 of money?

18 MR. THOMAS: No, Your Honor. Ms. Cross never made a
19 payment over the phone. When he talks about that in his
20 Statement.

21 THE COURT: Oh.

22 MR. THOMAS: She -- the State's theory in this case and
23 our position is she was deceased. What he is saying is he
24 is trying to cover for, because what he did, we have the
25 records at 1:04 PM, a payment tried to be made for \$4,500

1 through this House Call Pro App. That was, I guess, that's
2 what he means when he says over the phone. It was rejected,
3 because, like, the security card through the code was
4 incorrect. It was rejected again at 1:06 PM because the
5 card had insufficient funds. And then at 1:07 PM, the
6 amount was reduced and it was done for \$2,500.

7 MR. SHAFFER: And, Your Honor -- may I?

8 THE COURT: Yeah, I'm going to let you respond. I'm just
9 trying to get my notes clear. Hold on just a second.

10 MR. SHAFFER: I'm going to hand you State's 113, which
11 is his personal account, which was still open at the time of
12 the alleged murder. Your Honor, that is -- notice, Your
13 Honor, I did not say I was objecting to that, and there's a
14 reason I'm not objecting to that. I recognize the fact that
15 the stuff that happened right immediately around the time of
16 the murder probably is relevant, Your Honor. But I just
17 don't see how they can say that him having started the month
18 of November with a negative balance of \$2,096.04 and then
19 his account getting closed on November 26th for an account
20 balance of negative \$2,592.04 has anything to do with
21 something that would have happened on December 9th. I also
22 don't see how they can say that generalized gambling habit
23 -- well, we can talk about that in a bit. So, in addition to
24 being unduly prejudicial under 403, you could arguably say
25 any relevant value it would have would be cumulative to the

1 exhibit. It's far less prejudicial, which is something we're
2 -- it's probably still pretty prejudicial, but we're not
3 objecting to it because of the fact that we don't think we
4 have grounds to necessarily object to it, because that's
5 part of the res gestae. It happened right around the time
6 of the event. Not stuff that happened prior to the month of
7 November, and not stuff that happened during November in his
8 business account.

9 THE COURT: Is his personal bank account in any better
10 shape than the work account, or is it all ---

11 MR. SHAFFER: It's slightly better, but it's open and
12 not much. It's a pretty low balance. It varies, but it's
13 bouncing off the bottom. And that's also the account that
14 apparently he tried to get ---

15 THE COURT: It's a little negative at the end, yeah.

16 MR. SHAFFER: And Your Honor, there's also what's also in
17 there is the fact that that's the account that he tried to
18 get funds from Ms. Cross's check that was written to him
19 being a mobile deposit, the one that was found in his car.
20 That was deposited. It appears that that may have been
21 deposited in that account, I think. Is that accurate?

22 MR. THOMAS: Judge, I was going to probably argue that later
23 to the jury.

24 THE COURT: The check, because it's an exhibit that was
25 found in the -- 400 bucks or something? You think that was a

1 \$400 mobile deposit?

2 MR. SHAFFER: I don't know for sure, but I know the
3 State's going to believe that because of the fact that there
4 was a mobile deposit around this time period for that amount
5 from into his personal account, so --

6 MR. THOMAS: There is a \$400 mobile deposit and that
7 check is sitting in his truck later that day. And that check
8 was bounced or returned on the day. Perhaps she put a stop
9 payment on it, but again, we don't have any of that
10 information, so I've got to be careful what I argue to the
11 jury inferences based on the facts.

12 MR. SHAFFER: Your Honor, the First Citizen's Bank
13 account additionally, Your Honor I would point out the fact
14 that they have not produced any records indicating that any
15 money from Billie Jean Cross ever actually went into that
16 account.

17 MR. THOMAS: That's correct, Your Honor. Again that \$400
18 check that she wrote when this account would have been open
19 was not deposited into this account.

20 THE COURT: I'll take a look at this issue and let you
21 know something Monday. I'll take with me 112 and 113. Do
22 y'all want to put anything on the record concerning why you
23 want that in or not want it in.

24 MR. SHAFFER: Yes, Your Honor. I'll let Josh start.

25 THE COURT: All right. Let's do the page seven line

1 eight through line 15.

2 MR. THOMAS: I want it in because it's relevant, Your
3 Honor. I don't know Mr. Shaffer's objection.

4 THE COURT: The State believes that that about the casino
5 is relevant to this whole kind of over looming financial
6 kind of issue, is that?

7 MR. THOMAS: That is it, Your Honor. I mean, I guess
8 just to go into it again, that goes into the theory, and
9 he's already, the evidence is already there that he had gone
10 to the casino the morning of Ms. Cross's death,
11 disappearance, whatever you want to call it. So again,
12 this, I don't know how this is overly prejudicial in light
13 of that. They ask him, you know, how many times have you
14 been to the casino? Oh, I go a lot, I like to go to the
15 casino.

16 THE COURT: Yeah. Wasn't it brought out in the Anderson
17 interview about the casino? He went there. He usually put
18 large bets, and that's why he was there for only like an
19 hour and a half because he bets large. And came back. And
20 so we've already got casino evidence in.

21 MR. SHAFFER: Here's the thing. It's overly prejudicial
22 for the exact reason that they want it in, despite the fact
23 that they know he would be the casino that day. They're
24 trying to characterize him as a gambling addict. They're
25 trying to characterize him in a negative light. That's what

1 they're trying to do. They're trying to do it because of the
2 fact that they think that it establishes motive. I don't
3 think that it does establish motive because there's a nexus
4 between his gambling and her death. The stuff that they
5 have in there about his location and going to the casino, I
6 certainly think that they'd be able to argue, hey, who
7 drives two hours to go to a casino for two hours. Because
8 they have that in already. But what does him go to the
9 casino in the past couple of months a bunch of times, have
10 anything to do with this case? I don't understand how that
11 has anything to do with Billie Jean Cross. I think it's a
12 404 objection. I also think it's a 403 objection. And I
13 don't think it's relevant. I also think that what they're
14 doing is introducing generalized character evidence, which I
15 don't think is necessarily admissible in this case because
16 that character trait of being a gambling addict is not
17 admissible in this case.

18 THE COURT: Well okay, someone who goes to a casino a
19 lot, does that automatically make them a -- using Mr.
20 Shaffer's words -- a gambling addict.

21 MR. THOMAS: I wouldn't say that normally, Your Honor,
22 however the next objection that he has would be to page 11,
23 lines 7 through 10 where they ask him do you have a gambling
24 problem he says probably a little. That's the exact same
25 issue that I have here with that is what I'm talking about

1 in the Hough case. They're introducing it to show that he
2 is a gambling addict. And they're introducing-- that's why
3 they're introducing that first section for, is to establish
4 what they're putting into the second section, which I think
5 is unduly prejudicial to bring that up. I also don't see
6 how it has any tie-in. Because once again, Your Honor,
7 you're going to have to prove a nexus between -- or the
8 State has to prove the nexus between that and the actual
9 murder in this case in order for it to be admissible as this
10 prior bad act. Which means -- and I think the burden of that
11 is clear and convincing evidence, Your Honor. I don't
12 think that they're able to establish a nexus by clear and
13 convincing evidence. I don't think they're able to
14 establish a nexus by anything, quite honestly, Your Honor.

15 MR. THOMAS: And the nexus would be that he was at the
16 casino when she called him. And then he left the casino and
17 went to her house. The records from Sharon View show while
18 he's at the casino several large withdrawals getting that
19 bank account dwindling lower and lower and lower. And it
20 ties back into the First Citizen's stuff. That's another
21 account that he's already negative on. It's all temporarily
22 connected.

23 MR. SHAFFER: Once again, Your Honor the temporarily
24 connected stuff I didn't object to. I'm objecting to him
25 talking about over the last couple months. I'm not

1 objecting to the fact he went to a casino. That came out.
2 I didn't even object to it. That came out. This is in this
3 interview, too, that he went to the casino that day. I
4 don't have a problem with the fact he went to the casino
5 that day coming into evidence. I don't have a problem that
6 he took out money out of the ATM coming into evidence.
7 I did have a problem with who he got the cash out from.
8 Obviously, I did say I objected to that, but I told you in
9 the last segment, I didn't have a problem with that. We
10 brought up the fact he went to a casino. I don't mind them
11 saying he went to a casino that day. I do have a problem
12 with him saying that he repeatedly went to the casino a
13 bunch of times over the last couple of months and he has a
14 gambling problem. It is prejudicial for the exact same
15 reason they want it in, Your Honor. It's more prejudicial
16 than him going to the casino that day for the exact same
17 reason they want it in.

18 MR. THOMAS: And again, Your Honor, yes, every piece of
19 evidence I've entered I would hope I can argue is
20 prejudicial to Mr. Spencer.

21 THE COURT: Well, and as we know it's unfair prejudicial
22 effect. What the State always attempts to do is bring out
23 evidence that is prejudicial to the Defendant, because
24 they're trying to get a conviction. But as you know, the
25 rule says, unfair prejudice. Okay. All right, then let's

1 look at the last one is page 24, line 23 through page 25,
2 line 4. Okay, let's take a look at that.

3 MR. SHAFFER: Your Honor, this is a little bit of a
4 different statement. And I think it is probably the reason
5 that I find this objectionable is that throughout this
6 interview, you probably have to watch the entire interview
7 to understand the context of what I'm about to say. This
8 interview is basically Pittman largely just making up some
9 evidence that they have against him and then seeing how he
10 responds to it. Your Honor, this -- it basically says that
11 they have eyewitness testimony saying that he was there, and
12 they say that they have him on video a bunch. and to
13 understand that section, unfortunately you're probably going
14 to have to watch or at least listen read that the whole
15 transcript, but what they're saying is that he has people
16 there and it said -- essentially he's saying -- what I'm
17 saying is whoever said something about some camera,
18 all that stuff about me in the evening, I know that's a
19 hundred percent lie. All that is a lie. And then Detective
20 Cash says it's not a lie. And Timothy Spencer says okay.
21 Your Honor, that -- the reason I have a problem with that is
22 that essentially it's going to -- it's the Washington case
23 and there's a couple other cases that talk about basically
24 what they're doing is presenting something that is a false
25 statement and then saying you know like it could confuse the

1 jury too. So it's a big 403 issue to sit there and say oh we
2 have a eyewitness and the jury's ever heard about an eye
3 witness, but they may assume that the cops not lying, or
4 they may not understand the fact. Even if they say he was
5 lying, they may not understand the fact that he was not
6 lying. That's a little bit hard and could be misinterpreted
7 by the jury that there's an eyewitness saying that he's
8 actually at the property. I don't think it really advances
9 their case significantly for his response to this lie,
10 because he's basically just denying that he had anything to
11 do with it.

12 THE COURT: Is there some mention about a camera earlier
13 on in the interview?

14 MR. SHAFFER: Yes, there's a bunch of mentions about the
15 camera throughout that.

16 MR. THOMAS: They confront him several times telling him
17 there's a camera that catches him coming and going. I think
18 they're basing that off of what Kanipe testified to earlier
19 today that he thought he saw a car there that night.

20 THE COURT: Is that coming in? I mean, that's not
21 objected too.

22 MR. SHAFFER: They are not basing that off of that.
23 They are not basing that off of that.

24 MR. THOMAS: Your Honor ---

25 THE COURT: Not at the same time, not at the same time.

1 MR. SHAFFER: Your Honor, we've got an eyewitness putting
2 you at the scene. That is not what Kanipe said. And we
3 talked about this, that this was like the search warrant
4 thing, and they presented you with a search warrant saying,
5 "We've got an eyewitness putting them on the scene. We've
6 got camera footage of him on the scene. And it was that
7 truck that could have been a truck behind the trees. You
8 probably would have thought that that was misrepresentation.

9 THE COURT: But prior to this, prior to page 24 in the
10 interview, there's mention that, hey we got an eyewitness
11 got you on camera. Is that coming in?

12 MR. SHAFFER: No, Your Honor. None of that is coming in.
13 We're objecting to all of that. They're leaving out ---

14 THE COURT: Y'all have agreed that that doesn't come in.

15 MR. THOMAS: I kept this one in, because it's the one
16 that doesn't say eyewitnesses. This is where he says, what
17 I'm saying is, whoever said something about some camera, all
18 that stuff about me in the evening time, that's a lie.
19 That's a lie. It's not a lie. Okay."

20 MR. SHAFFER: But that's not what they're talking about,
21 Your Honor. If you listen to the context of the interview,
22 it's using an inappropriate, or not an inappropriate --
23 sorry. A lie based question that was designed to elicit a
24 response that it did not. It's using that in order to, for
25 them to be able to, you know, if he talks about it maybe we

1 can get it in. He's talking about the part where they're
2 telling him that they have him on camera at the scene of the
3 crime, and not his truck on camera. Him on camera, we got
4 eyewitness, we got you on camera. That's what they're
5 talking about. They're not talking about -- or his response
6 is that it's unfair for them to be allowed to get that into
7 evidence. Whenever I can't explain the context without
8 getting into otherwise inadmissible evidence.

9 THE COURT: Well, let me ask this. Would it not be -- if
10 nothing preceding this in the interview about a camera eye
11 witness is coming in, would that not be a little confusing
12 to the jury when all of a sudden there's mention about a
13 camera? What are we talking about a camera? Is that not
14 going to kind of be -- and I'm saying that in light of the
15 fact that by agreement you've agreed not to have anything
16 prior to this about, hey, we've got you on camera eye
17 witness, blah, blah, blah. You agreed not for it to come in.
18 So it seems like to me, wouldn't this be a little confusing
19 to the jury when, all of a sudden.

20 MR. THOMAS: So here's where I'm at with it, Your
21 Honor. Because there's so much in this video that kind of
22 goes back and forth and it's not really, it's not
23 structured. What I was planning on doing at this point
24 probably was just asking Investigator Pittman did they
25 interview him and not putting the video in. And I just

1 shifted to that just now. But that gets me to the problem
2 of, I think based on reading that Washington case, they say
3 that, because again, my disagreement with the Washington
4 case, and I think the most prosecutor's disagreement is, the
5 interpretation.

6 THE COURT: Well, every prosecutor disagrees with the
7 Washington case.

8 MR. THOMAS: Well, it's the interpretation of the
9 hearsay rule to say that when a detective asks a question,
10 that that is, it's not hearsay, because it's not being
11 offered for the truth of what the detective says. But the
12 way the Washington court says you can resolve that is by
13 just saying to the detective well, didn't you tell him X, Y,
14 and Z and what was his response, and then he could say the
15 response for the Washington case was well he denied it or
16 whatever. So, kind of what I think I can do to avoid any
17 Washington issues, and this may solve our problems here all
18 together. The jury needs to know that he was interviewed
19 that third time. Detective Pittman needs to testify about
20 it. I don't want to hide things from the jury. Not playing
21 the video makes them think we're hiding things from them.
22 But I think I can do it in a way that I can just ask him.
23 You interviewed him a third time. You asked him X. You
24 asked him Y. You asked him Z. He said he denied it. He
25 didn't add any information from the previous interview. I

1 don't know if that would solve the problem and maybe make
2 this whole thing. I agree with you that it's confusing. But
3 what I tried to pull out was the parts where they asked him
4 a question and only leave in his response, which would not --

5 THE COURT: Why don't we do this? Why don't we do
6 this? As it relates to the Greenville interview, why don't
7 just -- we don't necessarily need to do it this afternoon,
8 but if you're not going to put the video in, but you're
9 going to ask Pittman about the interview, take some
10 in-camera testimony, and so the Defense can hear exactly
11 what you're going to ask them about the interview, what Joey
12 is going to respond to, and they may be fine with that, and
13 we don't even have these issues as far as do I order a
14 redaction or not. You want to try it that way?

15 MR. THOMAS: We can try it that way, Your Honor, but I
16 still think the issue is going to be the same. If I ask
17 Detective Pittman the question did you confront him with the
18 possibility or did you confront him with there being a
19 camera across the street and someone seeing his car there at
20 10:30 at night? Is that objectionable? I think under the
21 Washington case, it's not, because we're not putting hearsay
22 in. It's just asking, did you confront him? What was his
23 reaction?

24 THE COURT: Well, and he denies it, but I'm certainly
25 not trying to tell you how to prosecute your case, but when

1 this jury hears anything about a camera, and I know we've
2 already got a camera with Kanipe, I understand that, but if
3 they think maybe there's another camera somewhere and they
4 don't ever see that other camera, I think maybe you're kind
5 of creating some unnecessary problems.

6 MR. THOMAS: Putting all the cards on the table, Your
7 Honor, the reason why watching the video is better than
8 asking questions is because his reaction when he's
9 confronted with all of the other facts is very calm and very
10 nonchalant and very matter of fact. When they confront him
11 with, oh, we've got proof that you were there at night, he
12 gets a little more jovial. And he's like, if that's the
13 evidence you've got against me, I know you've got nothing
14 against me. And the position I would have later would be
15 it's because he knows he's not there at night. And I can
16 prove he wasn't there at night.

17 THE COURT: You're probably correct in that
18 interpretation. The State more likely would want to have the
19 video in.

20 MR. THOMAS: Then I can ask I put the way I can do that
21 in trial. I hate to discuss trial strategy on the record
22 like this, but the way we can just ask that in trial would
23 be well how was his reaction that question different than
24 his reaction to the other questions, Detective Pittman.

25 THE COURT: SO, right now you plan to put the video in

1 and I need to make a ruling on these three excerpts that are
2 in dispute. Which is fine, I mean that's -

3 MR. THOMAS: I mean, I think if you could review them
4 and give us a ruling on Monday and we can adjust from there.

5 MR. SHAFFER: Your Honor, I hate to ask you to do this,
6 but because it's only three little excerpts and I think you
7 need to understand the context of the video, you're probably
8 going to have to watch the whole video.

9 THE COURT: Okay, and I will, but I'm going to need and
10 I know what you gave me is highlighted, but I'm going to
11 need to know what y'all have agreed to redact out of this.
12 So when I read it, so let me, can I ask this? And this
13 Greenville interview is not anywhere as long as the Anderson
14 interview. Could y'all give me a new Greenville interview
15 with one color highlight that you've agreed to redact and
16 then another color highlight of the three areas that I've
17 got to decide. Would that be possible?

18 MR. SHAFFER: Yes, Your Honor, and I'll put -- I'll just
19 do them in two different colors.

20 MR. THOMAS: What may be easier is it's -- it's only
21 4:00 now. I don't know if Mr. Simmons was planning on
22 leaving early. If he is, I can probably do it. We could
23 probably take what I was going to publish and take out what
24 we agreed to redaction wise and give you an actual video of
25 what is left for you to consider, and then from that I can

1 add time stamps to the parts of it that are in dispute.

2 THE COURT: Okay, other than the three areas that I've
3 got to decide, you're going to give me a video with the
4 agreed upon redactions. So instead of reading a transcript,
5 I'll just watch the video.

6 THE COURT: That works for me. Mr. Shaffer is suggesting
7 that I'm familiar with the whole interview to be able to
8 understand the context and maybe have a little bit better
9 idea in making a ruling on these three areas. So yeah, I'm
10 good with that.

11 MR. SHAFFER: Thank you, Your Honor.

12 *** END OF REQUESTED TRANSCRIPT OF RECORD***

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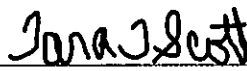
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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Laurens County, South Carolina, on the 15th-19th day of April, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

A handwritten signature in black ink, reading "Tara T. Scott", is written over a horizontal line.

Tara T. Scott, CVR

Official Court Reporter

July 29, 2024

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 8
COUNTY OF LAURENS) DOCKET NO. 2023-GS-30-1662

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
TIMOTHY P. SPENCER,)
Defendant.)

H E A R I N G
BEFORE THE HONORABLE DONALD B. HOCKER

DATE: April 22-24, 2024
TIME: 10:11 AM
LOCATION: South Carolina Circuit Court 8

TRANSCRIBED BY: Mary Ragsdale

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1 INDEX

2

3 Proceedings..... 6

4 Certificate of Transcriber.....242, 330, 421

5

6

7 EXHIBITS

8 PARTY'S DESCRIPTION PAGE

9 STATE'S

10 Exhibit 109 & 110 Records from T-Mobile 15

11 Exhibit 108 Bank records for Ms. Cross 22

12 Exhibit 116 Interview with Mr. Spencer 64

13 Exhibit 114 & 115 Parking lot 79

14 Exhibit 113 Sharonview Bank records 83

15 Exhibit 112 First Citizen Bank records 86

16 Exhibit 111 Housecall Pro app records 90

17 Exhibit 118 House 298

18

19 DEFENDANT'S

20 Exhibit 24 T-Mobile & Timing Advance records 107

21 Exhibit 25 Rear side of blue Trailblazer 135

22 Exhibit 26 Trash can 135

23 Exhibit 27 Blue Trailblazer 144

24 Exhibit 28 Right side of blue Trailblazer 144

25 Exhibit 29 Back side of the blue Trailblazer 144

26 Exhibit 30 Left front quarter of Trailblazer 144

1	Exhibit 31	Shoe	278
2	Exhibit 32	2006 Chevy Trailblazer	288
3	Exhibit 33	Pictures of the truck	312
4	through 40		

5

6 EXAMINATION

7 WITNESSES FOR THE STATE:

8 INVESTIGATOR JOEY PITTMAN

9	Direct Examination	9
10	Cross-Examination	94
11	Redirect Examination	172
12	Recross-Examination	174

13

14 AGENT BRETT AUCKLAND

15	Direct Examination	187
16	Cross-Examination	227
17	Redirect Examination	234
18	Recross-Examination	238

19

20 WITNESSES FOR THE DEFENSE:

21 CAPTAIN ROBERT WILKE

22	Direct Examination	259
23	Cross-Examination	279
24	Redirect Examination	281

25

1	ANGIE ATKINS	
2	Direct Examination	285
3	Cross-Examination	292
4		
5	CARLOS GOSNELL	
6	Direct Examination	293
7	Cross-Examination	297
8		
9	JIMMY POWERS	
10	Direct Examination	309, 318
11	Cross-Examination	314, 320
12		
13	WALTER BENTLEY	
14	Direct Examination	320
15	Cross-Examination	322
16		
17		
18		
19		
20		
21		
22		
23		
24	(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL	
25	IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)	

1 THE COURT: You're standing, so that would indicate
2 that you have something for the Court.

3 MR. SHAFFER: Yes, Your Honor. Apparently, and I -- I
4 think Josh may have sent me an email as well, and that it --

5 MR. THOMAS: Just you.

6 MR. SHAFFER: Oh, he just sent me an email. The -- the
7 part you have there was apparently the video that you had,
8 there's a very short clip that's not in dispute that happened
9 after that.

10 And then, another very short clip that the end of it is
11 in dispute, that should be added to the end of that. So
12 we're still sort of trying to -- there's a couple lines at
13 the very end that we need to add two more clips to the video
14 that you saw.

15 THE COURT: Okay. And then to be candid, I had a very
16 difficult time understanding Mr. Spencer because he had a
17 mask on. Now Pittman and Cash, I -- I did not -- I could
18 hear you guys pretty well in that Greenville interview, is
19 what I'm referring to, but I had a real difficult time
20 understanding Mr. Spencer. So I went back through the -- the
21 transcript and tried to kind of piece that together. I -- I
22 am going to want a little bit more argument on what we ended
23 on Friday, concerning the -- the First Citizens Bank record.
24 And there were three excerpts in the interview.

25 I want to kind of rehash that. I know that I -- I need

1 to make a ruling. When Pittman testifies at some point in
2 his testimony,-- but what I thought we'd do is go ahead and I
3 assume, Solicitor, that Pittman's going to be your next
4 witness?

5 MR. THOMAS: He will be, Your Honor. I do have -- so
6 what I was going to do with him, instead of like awkwardly
7 handling the exhibits over here in front of the monitor, I
8 put most of them onto a jump drive -- onto just, like, a
9 slide show.

10 THE COURT: Okay.

11 MR. THOMAS: So I can plug it in and just click through
12 them. That video was one of them. So I think I can go
13 through the slide show and then when I just get to that
14 point, we'll have to pop it out and do some editing and
15 stuff.

16 THE COURT: Okay. Just when --

17 MR. THOMAS: We -- we make that work.

18 THE COURT: Okay. Just when we get to that point to
19 where I want to discuss a little further what we ended with
20 Friday, then just tell me, and we will send the jury out and
21 we can do that. And then, I'll make a ruling, and then you
22 can go ahead at that time as well. Tell me the -- another
23 area of the interview that's in dispute that maybe was not
24 indicated to me on Friday.

25 MR. THOMAS: Sounds good.

1 MR. SHAFFER: Thank you.

2 THE COURT: All right. We good then?

3 MR. THOMAS: Yes, sir.

4 THE COURT: Okay. All right. Anything further before
5 we bring the jury out, Solicitor?

6 MR. THOMAS: No, sir, Your Honor.

7 THE COURT: Defense?

8 MR. SHAFFER: No, Your Honor.

9 MR. BROOME: No, sir.

10 THE COURT: Are we waiting on Ms. McNeill?

11 MR. BROOME: Yes. She stepped out for something.

12 THE COURT: Let's bring jury out, Mr. Bolt.

13 (Jury enters courtroom.)

14 THE COURT: Thank you, Mr. Bolt.

15 Good morning, ladies and gentlemen.

16 THE JURY: Morning.

17 THE COURT: I hope you had a good and restful weekend
18 and ready to get back to work. Okay.

19 All right. Solicitor, you want to call your next
20 witness?

21 MR. THOMAS: Your Honor, the State calls Joey Pittman
22 to the stand.

23 INVESTIGATOR JOEY PITTMAN,
24 having been duly sworn, testifies as follows:

25 THE CLERK: Thank you. You can have a seat.

1

2

DIRECT EXAMINATION

3

BY MR. THOMAS:

4

Q. All right. Investigator Pittman, you ready?

5

A. Yes, sir.

6

Q. Where do you work?

7

A. I work -- currently work for the Solicitor's

8

office here in Laurens.

9

Q. And before that, where'd you work?

10

A. I worked at the sheriff's office in Laurens and I

11

worked at Laurens Police Department.

12

Q. And when you worked for the Sheriff's office, what

13

was your job there?

14

A. I was a criminal investigator.

15

Q. And what does a criminal investigator do?

16

A. We investigate crimes ranging from simple theft

17

all the way to homicide.

18

Q. What kind of education training experience do you

19

have at that role?

20

A. I have a bachelor's degree in criminal justice and

21

about 18 years in law enforcement.

22

Q. Any specialized training from SLED or academy?

23

A. I have some -- I have some cold case training,

24

things like that, but not a whole lot.

25

Q. All right. Investigated everything ranging from

1 petty crime to -- to violent crimes and murders?

2 A. That's correct.

3 Q. Were you working as an investigator on
4 December 10, 2021?

5 A. I was.

6 Q. How did you get involved in this case?

7 A. I actually already left for the day. I got a call
8 from Captain Wilke, and he asked, "Would I go assist the
9 other investigators?"

10 Q. So you got called out to, I guess, assist in the
11 -- the investigation on Fairview Road?

12 A. I did.

13 Q. What did you initially -- what, I mean, what was
14 your initial day like? What -- what did they tell you was
15 going on when you recall that?

16 A. Captain Wilke advised me that they
17 were -- Ms. Cross was missing and had been for maybe a day,
18 and that there appeared to be blood on the floor. And what
19 looked like he described some drag marks up the -- the
20 hallway.

21 Q. When you arrived, what was that scene like? Was
22 that what it was?

23 A. When I got there, it was really cold and raining,
24 and there was a lot of cops there before me. I went inside
25 to see what they had been doing. They told me they were

1 trying to "get up" on her phone, which means they were trying
2 to ping it. I walked around the house, I saw the blood on
3 the living room floor. I walked back, I saw that her desktop
4 computer was up. I checked her email, things of that --
5 that, and I saw that she had some banking paperwork from USAA
6 and I -- I was advised to go get her bank records or send off
7 for them.

8 Q. And why would you send off the bank records?

9 A. You'd want to know what her activity on her bank
10 account was, -- maybe where she had been. It might give us
11 an indication of where she might be.

12 Q. Is that sort of a standard practice in a missing
13 person's case?

14 A. It is. You'd either go to their -- their phone
15 and their bank, because most people have their money and
16 their phone.

17 Q. What other steps do you take when you've got a
18 missing person like this?

19 A. You call literally everything everywhere. You
20 call the hospitals, morgues, you call hotels, places she
21 might've been. In this case, everything that had a phone
22 number in the house. I -- I -- I called to see where she
23 might've been, if she may have been there recently.

24 Q. Just give us some examples of some of the types of
25 people you talked to?

1 A. There were several hotels. There were a pest
2 control guy, there was a pressure washer -- a pressure wash
3 business, things like that. Just to name a couple of them.
4 There were several.

5 Q. In HVAC business?

6 A. There was, I did see some indication that there
7 was -- she had been, had some HVAC work done, yes.

8 Q. When you got to the house, did the HVAC appear to
9 be working?

10 A. It was cold inside the house.

11 Q. You said you went through her USAA and you saw
12 some -- some HVAC work? State's Exhibit 17. What is
13 State 17?

14 A. This is Ms. Cross's checkbook folio.

15 Q. And when you open that up, is there anything in
16 there?

17 A. There is --

18 Q. There's -- is there a canceled check?

19 A. Oh, I'm sorry, I -- I know this was open. There
20 is a canceled check in here, yes -- for Spencer's HVAC.

21 Q. So check to Spencer's HVAC?

22 A. It is.

23 Q. Voided or canceled?

24 A. It's voided.

25 Q. Package that back up. Why do you call around to,

1 like, the HVAC repair people or the pest control, the roofer?

2 Why do you call those people?

3 A. Well, I -- I want to know what their interaction
4 was with her. And I know it's scary to think about, but some
5 of those people could harm her. I know you let strangers in
6 your house all the time, you really don't know who these
7 people are, and it's just a starting point to try to figure
8 out where she is.

9 Q. Any -- anything you can do to get a lead?

10 A. Anything.

11 Q. Was there anything else you noticed about the
12 house while you were there?

13 A. Oh, the trash can. Her -- their mom had mentioned
14 that the pull to the road trash can was missing.

15 Q. And what was the significance of that in your mind
16 at that time?

17 A. At the time, I really didn't know. It was odd,
18 but I just -- there was no explanation for it.

19 Q. So sort of filed that away and kept working?

20 A. I did.

21 Q. And I know all of this is stuff. This was on
22 the 10th, that's a Friday?

23 A. It was.

24 Q. So this is sort of a -- it's an ongoing
25 investigation. You all are trying to ground these things up?

1 A. It is.

2 Q. As it goes?

3 A. But being it's on the weekends, it's harder to get
4 records, and things of that nature.

5 Q. Records. I know you
6 said you were eventually able to get her phone records; is
7 that right?

8 A. That's correct.

9 Q. Who was her phone provider?

10 A. She had her phone service through T-Mobile.

11 Q. Okay. I'll show you what's marked as
12 State's 109 and 110. Just with 109, what is that?

13 A. This is the certification of records from
14 T-Mobile.

15 Q. Those are indicating that they were giving you
16 Billy Jean's records or cell phone records?

17 A. Yes, sir. That's correct.

18 Q. And what is State's 110?

19 A. This would be what I received from T-Mobile.

20 Q. And you've had a chance to review that. That's
21 the records that you received from T-Mobile?

22 A. Yes, sir. It is.

23 Q. True and accurate copy of those?

24 A. It is.

25 Q. Haven't been manipulated or changed in any way?

1 A. Not at all.

2 Q. Would you even know how to manipulate it?

3 A. Absolutely not.

4 MR. THOMAS: Your Honor, at this time, the State moves
5 109 and 110 into evidence.

6 MR. BROOME: Just renew previous objections,
7 Your Honor.

8 THE COURT: Okay. Ruling remains the same. 109, 110
9 into evidence for the State.

10 (State's Exhibits 109 and 110 were admitted into evidence.)

11 BY MR. THOMAS:

12 Q. And those records are in a digital format, right?
13 There's basically spreadsheets, and PDFs, and that sort of
14 thing?

15 A. Yes, sir. That's correct.

16 Q. Were you able to get those that night, or were you
17 able -- did you have to wait a little while?

18 A. No, we had to wait.

19 Q. But you eventually got them?

20 A. Yes, sir, I did.

21 Q. All right. You had a chance to review them?

22 A. I did.

23 Q. You've got printouts and some of it there in front
24 of you when you talk about it, right?

25 A. I do.

1 Q. All right. So let's talk about the information
2 that you've had on those records. I'm going to put her call
3 logs up for you to review.

4 A. Okay.

5 Q. Does that look familiar?

6 A. It does.

7 Q. Okay. What -- just basically, what are we looking
8 at here just in general terms?

9 A. This is just Mrs. Cross's phone records score was
10 like 12 to 9, December 9th.

11 Q. And the originals don't have all this highlighting
12 on it. We've added that for -- for your explanation?

13 A. It does.

14 Q. Okay. So what are we looking at? I see there's a
15 -- there's a one here. The first yellow highlight, it's
16 15:58:22. What time is that? Are these in UTC or are these
17 in EST?

18 A. These are in UTC.

19 Q. Okay. So you have to convert that to
20 Eastern Standard to figure out, I guess what Eastern Time it
21 would be?

22 A. You do.

23 Q. Okay. So what is that 15:58 that we're looking at
24 -- the first one here?

25 A. It would be 10:58.

1 Q. Okay. And what is that -- what's the phone number
2 that's making that phone call?

3 A. It's Ms. Cross's. It's (218) 616-0060.

4 Q. And what number is she calling?

5 A. She's calling (864) 293-9052.

6 Q. And whose phone number is that?

7 A. That is -- I think that's Mr. Spencer's work
8 phone. If I'm not mistaken. It is.

9 Q. So she called his work phone at 10:58?

10 A. That's correct.

11 Q. On December 9, 2021?

12 A. Yes, sir.

13 Q. Did he call her back?

14 A. He did.

15 Q. And what is that -- what time is that? That next
16 one?

17 A. It is -- that would be 11, I'm sorry. I think
18 it's 11:09.

19 Q. 11 -- 11:09, okay. So 16:09, that's that second
20 yellow highlighted one?

21 A. Yes, sir.

22 Q. And so, that's an incoming call. These are her
23 phone records so that would be call from who?

24 A. That would be Mr. Spencer calling Ms. Cross.

25 Q. Okay. What's that next blue line that's

1 highlighted there at 16:16?

2 A. Let's see, that will be incoming call from -- I
3 believe it is her mom.

4 Q. Okay. So that's Ms. McCoy's number?

5 A. It is.

6 Q. And again, 16:16 is what time?

7 A. That'll be 11:16.

8 Q. Okay. So that's about seven minutes after that
9 private call?

10 A. It is.

11 Q. Her mom -- so her mom calls her at 11:16. What's
12 that next yellow highlight from down there?

13 A. That's the incoming call from Mr. Spencer.

14 Q. And those two things in between here, those are
15 not phone calls?

16 A. That's correct.

17 Q. Okay. So that next phone call at 17:34, what is
18 17:34 again?

19 A. And that would be 12:34.

20 Q. So -- and that's -- who's making that phone call?

21 A. Mr. Spencer.

22 Q. And where is that phone call directed?

23 A. It is directed to Ms. Cross.

24 Q. At 12:34?

25 A. That's correct.

1 Q. What are those next two green ones right here?

2 A. The green ones are where Ms. Warren, her cousin,
3 tried to call her and it went to voicemail.

4 Q. Okay. So when you talk about going to voicemail,
5 it looks like there's an incoming and an outgoing?

6 A. That's correct. If you'll see this number here,
7 this is T-Mobile's voicemail number.

8 Q. Okay. So I guess if somebody calls you on
9 T-Mobile and it goes to voicemail, that's what it looks like
10 on the call log?

11 A. If your phone is on, yes.

12 Q. Okay. If your phone is on?

13 A. That's correct.

14 Q. What if your phone's off?

15 A. It'll look like -- it'll look like this.

16 Ms. Cross's number won't be present. It'll be
17 T-Mobile's voicemail number.

18 Q. Okay. What's that -- so that's what those purple
19 ones are?

20 A. That's correct.

21 Q. Those are straight to voicemails?

22 A. Yes, sir.

23 Q. Were you all able to -- when you were pinging her
24 phone on the 10th, was anybody able to ping her phone?

25 A. No.

1 Q. And generally why is that not?

2 A. It's probably off.

3 Q. And just real quick before we move on, that light
4 yellow one there between the purple and the green, what is
5 that showing?

6 A. That is a -- a text from Mr. Spencer.

7 Q. So these records show incoming, outgoing calls as
8 well as text messages?

9 A. It does.

10 Q. What time is that text from Mr. Spencer?

11 A. See that would be 1:18.

12 Q. Okay. So just walk me through
13 Mr. Spencer's communications with her based on the phone
14 records?

15 A. It looks like Ms. Cross tried to call him, and he
16 called her back, and he called her again, and then he texted
17 her.

18 Q. But you didn't have these phone records of
19 Mr. Spencer at that time?

20 A. No, sir, I did not.

21 Q. You did however, have information that showed
22 Mr. Spencer had a -- I guess a -- some business relationship
23 with Ms. Cross? I think we already talked about the checks.

24 A. That's correct.

25 Q. You also looked at her bank records; is that

1 right?

2 A. I did.

3 Q. And then, who was the bank -- who was her bank --
4 who did she bank with?

5 A. She banked with USAA.

6 MR. BROOME: Renew previous objections, Your Honor.

7 THE COURT: So noted ruling remains the same.

8 What number is that, Solicitor?

9 MR. THOMAS: It's 108, Your Honor.

10 BY MR. THOMAS:

11 Q. Let me show you the State's 108. Do you recognize
12 that?

13 A. I do.

14 Q. What is that?

15 A. These are the bank records for Ms. Cross.

16 Q. And you were able to get those during the course
17 of your investigation?

18 A. I was via search warrant.

19 Q. Did you have those before you talked to
20 Mr. Spencer the first time?

21 A. Yes.

22 MR. THOMAS: Let me show you. State moves 108 into
23 evidence.

24 THE COURT: All right. Subject to previous objection
25 ruling remains same. 108 into evidence for the State.

1 (State's Exhibit 108 was admitted into evidence.)

2 BY MR. THOMAS:

3 Q. All right. So this is -- this is just the cover
4 page of that document, correct?

5 A. That's correct.

6 Q. All right. What are we looking at here?

7 A. You're looking at Ms. Cross's records --
8 transactions for her checking account.

9 Q. Okay. And what -- what transaction on here did
10 you see that stood out to you when you reviewed this the
11 first time?

12 A. This transaction on December the 9th for
13 Spencer's HVAC for \$2,500.

14 Q. So there was a transaction for \$2,500, I think.
15 Does that say it's a check, or does that say it's a debit?

16 A. It's a debit card purchase.

17 Q. Okay. So debit card purchase for \$2,500 on
18 December 9th?

19 A. Yes, sir.

20 Q. All right. Were you able to determine who
21 Spencer's HVAC was, like, what that is?

22 A. Eventually, yes, sir.

23 Q. And what is Spencer's HVAC?

24 A. It's a company owned by Mr. Timothy Spencer.

25 Q. Okay. And what -- were you able to determine the

1 address where that business was located?

2 A. Eventually, I was, yes, sir. It was --

3 Q. And what was that address?

4 A. I think it was [REDACTED].

5 Q. And what county is that in?

6 A. It's in Anderson County.

7 Q. So you all are looking for Ms. Cross, you're
8 getting her bank records, you're getting her phone records,
9 checking hotels, hospitals, people that she may have had
10 contact with?

11 A. Yes, sir.

12 Q. What's the next break in your case?

13 A. Well, we discovered the trash can.

14 Q. Well, before you discovered the trash can, what
15 did Anderson County discover?

16 A. Oh, I'm sorry, it discovered Ms. Cross's body.

17 Q. Okay. And where was her body located?

18 A. Her body was located on Cummings Green Road in
19 Anderson County.

20 Q. Describe that property for me?

21 A. It's like an old farmhouse as a -- really
22 grown-up. It's an old house.

23 Q. Is it off of a main road or is it sort of off the
24 side of the main road?

25 A. It does run off of main road, but it's -- the

1 house sets a good ways up off the main road, but it
2 runs,-- there's some more secondary roads behind it.

3 Q. And what town is that near?

4 A. Starr.

5 Q. Starr. You've had a chance to go there several
6 times, right?

7 A. Yes, sir.

8 Q. You've had a chance to go to Mr. Spencer's address
9 on Trump Pointe?

10 A. I did.

11 Q. About how far away are those two?

12 A. Approximately seven miles.

13 Q. How long have were you driving?

14 A. About 10-minute drive.

15 Q. So after you have this information about her
16 transaction, Mr. Spencer, and her body is located in
17 Anderson County, what's your next step?

18 A. We drive out to Anderson County.

19 Q. Did you have a chance to speak with Mr. Spencer?

20 A. We did.

21 Q. And I know I'm not going to replay it, but that
22 conversation we heard on Detective Cash's recorder, was that
23 the conversation you all had with him upon first making
24 contact with him?

25 A. Yes, sir. It was.

1 Q. About what time did you all go to his house that
2 night?

3 A. I'd say probably about 5:45, 5:50, somewhere
4 around there. It was in the evening.

5 Q. In the evening.

6 A. It's dark.

7 Q. Was it dark at that time?

8 A. It was.

9 Q. In fact, you've had a few -- you've had an
10 opportunity to spend a few days at Anderson working on this
11 case?

12 A. I did.

13 Q. About what time did it start getting dark while
14 you all were there?

15 A. I think the sun started setting around 5:20.

16 Q. And in fact, have you gone back and checked the
17 official records --

18 A. I did.

19 Q. --- sunset and twilight?

20 A. I did. The Naval.

21 Q. When was the sun setting then?

22 A. It was 5:48 according to the Naval Observatory.

23 Q. That's when the sun was setting or that's when --
24 that's when it was getting dark?

25 A. It was getting dark at 5:48. The sun was setting

1 at 5:20.

2 Q. So 5:20 minutes, dark by 5:48?

3 A. Yes, sir.

4 MR. THOMAS: Your Honor, we take judicial notice of
5 sunset in Anderson on December 9, 2021.

6 BY MR. THOMAS:

7 Q. Is it 5:20 I think?

8 A. 5:48.

9 Q. 5:48.

10 THE COURT: Okay. Would the Defense have any objection
11 to my taking judicial notice to that?

12 MR. BROOME: I don't think they have laid a proper
13 foundation. I mean, he's -- I guess he's saying he looked it
14 up online, but you don't have enough additional information.

15 THE COURT: You -- you maybe (crosstalk) where you got
16 the information.

17 BY MR. THOMAS:

18 Q. Where did you get that -- so based on your
19 experience, that's what time it is getting dark?

20 A. Yes.

21 Q. Did you actually look that information up?

22 A. I did.

23 Q. Do you have that in front of you?

24 A. I do somewhere.

25 THE COURT: Mr. Broome, you want to take a look at what

1 he used?

2 MR. BROOME: Yeah.

3 THE COURT: Is that a yes?

4 MR. BROOME: Yes, sir. Okay. Let me just look at it.

5 THE WITNESS: It's right here.

6 BY MR. THOMAS:

7 Q. Where -- where are those pronounced from?

8 A. It is from the astronomical applications
9 department from the U.S. Naval Observatory.

10 Q. And according to those on December 9th, what time
11 did it get -- did sunset occur?

12 A. It set at 5:20.

13 Q. And what time does it twilight?

14 A. It's 5:48.

15 MR. BROOME: Your Honor, no -- no objection based upon
16 --

17 THE COURT: Okay.

18 MR. BROOME: -- that website, Your Honor.

19 THE COURT: That objection. The Court takes judicial
20 notice that on -- on December 10th, correct?

21 MR. THOMAS: 9th.

22 THE COURT: 9th, oh nine. Okay. 5:20, sunset, and
23 dark at 5:48.

24 BY MR. THOMAS:

25 Q. But when you all went on December the 14th -- when

1 you went to speak with Mr. Spencer?

2 A. That is correct.

3 Q. About the same (inaudible) not as relevant as the
4 December 9th date?

5 A. That's correct.

6 Q. All right. So when you went to speak to
7 Mr. Spencer, was he cooperative with you when you got there?

8 A. He was.

9 Q. Let me ask you this: "Did you all ever tell him at
10 any point, while you all were there on scene with him, that
11 Ms. Cross was dead?"

12 A. No, sir.

13 Q. Did you ask him when the last time he spoke to
14 her, was that? --

15 MR. BROOME: I'm going to object to leading.

16 THE COURT: Okay. Try to rephrase, Solicitor, if you
17 would.

18 BY MR. THOMAS:

19 Q. Was he able to tell you about the last time he
20 spoke to her?

21 A. He was.

22 Q. What did he tell you about that?

23 A. He said, "He had spoke to her on
24 December the 9th." He said that, "She had called him while
25 he was at the casino and that she left the voicemail."

1 THE COURT: Mr. Pittman, can you speak up a little bit
2 please, sir?

3 THE WITNESS: Yes, sir, I will.

4 THE COURT: Thank you.

5 THE WITNESS: He said that, "She had tried to call him
6 on the 9th and that he missed the call because he was in the
7 casino. And when he left, he called her back, and that she
8 was inquiring about the heat not working, and that he told us
9 that she owed a balance for some -- for some previous work he
10 had done. And that he was going to go buy a Carrier, which I
11 believe is an HVAC supply store, and tell her what the price
12 was, and then she paid him over the phone."

13 Q. So when was the last time he said he was at her
14 house?

15 A. He said he had been there -- he hadn't been there
16 in a few weeks.

17 Q. And that was the story -- was that the story he
18 initially told you all there at his house?

19 A. It was.

20 Q. Did you have a chance to interview him in a little
21 more formal setting back at the Anderson Sheriff's office?

22 A. We did.

23 Q. Was that a more detailed conversation?

24 A. It was.

25 Q. Was that the first time that you all told him that

1 Ms. Cross was deceased?

2 A. Yes, it was.

3 Q. What was -- what was his explanation or -- to you,
4 about his interaction with her -- his last interaction with
5 her once you got back to the -- the Sheriff's office?

6 A. He was just -- and her HVAC guy, -- he was just
7 trying to get paid for work that he had previously done, and
8 she was trying to get her heat fixed.

9 Q. Was it essentially the same story that he told
10 you?

11 A. It was.

12 Q. Did you all ask him to give a detailed sort of
13 outline of his day on December 9th?

14 A. We did.

15 Q. Was he able to do that?

16 A. Not very well.

17 Q. Did you ask him what he was doing on
18 December 10th?

19 A. I did.

20 Q. What was -- was he able to formulate a response to
21 that question?

22 A. Not at all.

23 Q. When he told you that he had finished talking to
24 her on the phone, discussing the part she needed, did you ask
25 him where he was when he called her back?

1 A. I did.

2 Q. Where did he say he was?

3 A. I believe he said, "He pulled over to talk to
4 her." It was on around Lake Thicketty, I think it's around
5 the North Carolina line.

6 Q. Do you know what county that would be in?

7 A. I -- I really don't know. I know it's around the
8 North Carolina line.

9 Q. Okay. And again, what was his explanation for
10 what she needed done at her house?

11 A. That apparently, according to Mr. Spencer, that
12 she has this home warranty company. They had ordered the
13 wrong part for her, and she needed a new furnace, and that's
14 what the problem was according to him.

15 Q. And what did he tell you about where he was in the
16 process of installing or getting that part, and installing
17 it?

18 A. He had said -- he said, "He had done some
19 measurements prior to this, and that we were waiting on the
20 part to come in."

21 Q. And what did he say to you? What did he tell you
22 about what she owed him for the part?

23 A. \$2,500.

24 Q. So according to him, that \$2,500 was for the part
25 that needed to be ordered and for some work that he was still

1 owed money on?

2 A. That's correct.

3 Q. And how did he say she paid him for that?

4 A. Over the phone, through the Housecall Pro app.

5 Q. And on what was Housecall Pro? What's that?

6 A. Housecall Pro, the best of mind I can explain it
7 is -- it's like a -- the -- Ms. Cross would have the home
8 warranty, and they would use Housecall Pro to dispatch or
9 assign the work assignments to the contractors.

10 Q. And so then, did he -- so he said he would use the
11 Housecall Pro app to get paid?

12 A. That's correct.

13 Q. What -- and he -- so he said that's what he --
14 that's what she paid him for on the night?

15 A. That's correct.

16 Q. Okay. Did he give you any details about where he
17 was after he got that -- that payment from her in that phone
18 call?

19 A. He did. He said, "He'd went to -- he left the
20 casino. He went to a -- a Pilot Station." Could never say
21 which one. He said, "He went to his mom's house" -- in I
22 believe it's Pick -- Pickens on Rooster Street.

23 Q. Is that near Clemson?

24 A. It is.

25 Q. And what vehicle did he say he was driving during

1 that time?

2 A. He was in his black Dodge Ram.

3 Q. At the conclusion of that interview, what was your
4 next break in the case?

5 A. After that, we -- we were able to locate the trash
6 can.

7 Q. How did that come about? Why were you, -- I mean,
8 walk us through that whole process?

9 A. Well, what -- I think it was Sergeant Cole of the
10 Anderson County Sheriff's Office. When we got there
11 initially on the Monday the 14th, he had told us that there
12 was grass pushed down -- be about as wide as an TV.

13 MR. BROOME: Object to the hearsay, Your Honor.

14 THE COURT: Okay. All right.

15 MR. THOMAS: I -- I don't really have a response to
16 that, Your Honor. I will say that they asked Detective Cash
17 pretty much the same.

18 THE COURT: Was he -- was he quoting Mr. Spencer?

19 MR. THOMAS: He was quoting Sergeant or Lieutenant Cole
20 from the Anderson Sheriff's office.

21 THE COURT: I don't -- unless it's already been brought
22 out into evidence.

23 MR. THOMAS: I can move along.

24 THE COURT: Okay. Sustain the objection.

25 BY MR. THOMAS:

1 Q. From your review of the photos from where the body
2 was found, what did it appear to you?

3 A. It looked like the grass had been pushed down.

4 Q. And as far as what that significance was to you,
5 what was that significance?

6 A. I thought if it was going to -- if you were going
7 to transport a lifeless body, the trash can would be a great
8 way to do it.

9 Q. So what was your process for trying to find the
10 trash can?

11 A. It's a very difficult one. We just started from
12 Laurens, and worked our way to Anderson, looking on every
13 side of the road, every bridge, every landfill, every park
14 looking for where he might -- could have possibly hid the
15 trash can. Because it was -- you could see the size of it.
16 It's not something you can just put under your bed or
17 something like that -- if you have to hide it.

18 Q. Were you able to eventually find it?

19 A. We were actually about to leave for the day, and
20 we got to the last road before you get to Trump Pointe where
21 Mr. Spencer lives, I walked over, we stopped at the bridge on
22 Cleveland Road. I walked over to the side, and looked over,
23 and there was a trash can. It had Powells written on it.

24 Q. That's what we're looking at on State 71?

25 A. That is the trash can, yes.

1 Q. What -- what -- what'd you do after you found it?

2 A. I called Anderson County's crime scene and advised
3 them to come collect it.

4 Q. Where is that -- what's the name of that street
5 again?

6 A. Where's this bridge?

7 Q. Yes.

8 A. It's Cleveland Road.

9 Q. How far is that from Mr. Spencer's address on
10 Trump Pointe?

11 A. If you go through the woods, it's about
12 half a mile.

13 Q. How long will it take you to drive that?

14 A. About two minutes.

15 Q. After you found that trash can, did you go
16 interview Mr. Spencer again?

17 A. We did.

18 Q. And was that interview recorded?

19 A. Yes, sir. It was.

20 MR. THOMAS: Your Honor, this may be -- take up that
21 matter we discuss today.

22 THE COURT: Okay. All right. Okay. Ladies and
23 gentlemen, we have a -- a legal matter that needs to work
24 through with the lawyers. So if you go back to the jury
25 room, we'll get you back out just as soon as we possibly can.

1 (Jury exits courtroom.)

2 THE COURT: All right. Let me -- let me go over my
3 notes, and just make sure that what we discussed Friday
4 afternoon is those issues that were -- are in dispute.

5 One is the -- the First Citizens Bank records, which is
6 the Defendant's work account. That statement being the month
7 of November 2021, State wants to offer that into evidence and
8 the Defense objects.

9 And then concerning the Greenville interview, at least
10 on Friday afternoon, there were three excerpts: Page seven,
11 line eight through line 15. And that excerpt, excuse me,
12 deals with reference to the -- Mr. Spencer going to the
13 casino a lot. The next excerpt, page 11 line seven through
14 line 10. And that was a discussion concerning a gambling
15 problem that Mr. Spencer admitted to. And then line 20 -- I
16 mean page 24, line 23 through page 25, line four. That's
17 kind of a back-and-forth about line, concerning a camera.
18 Concerning what we discussed Friday, is that a correct
19 statement of what is in dispute? I know there's one more
20 thing, but --

21 MR. SHAFFER: And yes, Your Honor, actually, and sadly
22 there's two more things. One is toward the end and then all
23 set that Josh wants in.

24 THE COURT: All right. Can you give me a page and
25 line?

1 MR. SHAFFER: I think he could.

2 MR. THOMAS: I cannot because Mr. Shaffer added that
3 one at the last moment. So let me -- the general gist of
4 that one was, what's your financial situation like? What
5 kind of debt are you in?

6 MR. SHAFFER: That's the one I'm -- that's the
7 previous. (Inaudible).

8 MR. THOMAS: No, that's a yes. That's -- that's one
9 that he added. I think he highlighted in that example.

10 THE COURT: Discussion concerning Mr. Spencer's
11 financial situation and debt.

12 MR. SHAFFER: Beg the Court's indulgence. Yeah.
13 Your Honor, there was one that we put -- we asked for to be
14 put on the record afterwards. And that's what the Defense
15 asked for, and that would've been line or page four, one
16 through 11.

17 THE COURT: Okay.

18 MR. SHAFFER: And then the State --

19 THE COURT: Oh, wait -- wait a minute. Is -- is that
20 -- does the State consent to that or not?

21 MR. THOMAS: No, Your Honor. I think, again, that goes
22 back to the same arguments. I don't need to rehash those. I
23 mean, -- I think your finances, -- how much debt are you in?
24 And I think that's different from, do you have a gambling
25 problem?

1 To a degree, but I think it's the same argument of --

2 THE COURT: Okay.

3 MR. THOMAS: -- goes back to --

4 THE COURT: Let me just go to it, so I can understand.

5 Okay. The Defense wants page four, line one to 11?

6 MR. THOMAS: Redacted. They want it redacted.

7 THE COURT: Oh, I thought you want that redacted.

8 Okay.

9 MR. SHAFFER: (Inaudible) want redacted.

10 THE COURT: I got you. I -- I misunderstood you,

11 Mr. Shaffer.

12 Okay. And then is there still one more added?

13 MR. SHAFFER: Yes, Your Honor. On page 45, the State
14 wants to include 16 through 19, and we want to have that
15 redacted.

16 THE COURT: Okay. Is that concerning financial and
17 debt?

18 MR. SHAFFER: This is --

19 MR. THOMAS: That's -- that's the Washington issuer.

20 MR. SHAFFER: The video --

21 MR. THOMAS: The purported -- there's a video of your
22 issue, but that again,-- those lines,-- whoever said, you can
23 look, whoever said show them, but I guarantee I know it
24 wasn't me. That is what it is. You did not see me back up
25 nowhere, like, -- tried to say and -- all that stuff there on

1 Thursday evening. I -- I don't think that references a video
2 at all.

3 Again, I think Investigator Pittman would say that he
4 was asking questions, trying to get an answer that doesn't
5 reference the video specifically. That's just more of a
6 generic. People that say I was there on Thursday are wrong.

7 MR. SHAFFER: And, Your Honor, the -- the thing is
8 nobody says that he was there on Thursday. That's it.
9 That's the thing. There's no -- they -- they claim in this
10 interview that they have an eyewitness putting them there,
11 and that's just a lie.

12 And I understand that they can lie to them, but the
13 problem is whenever you say there's an eyewitness and the
14 jury hasn't heard it, the jury's going to think that the
15 eyewitness actually does exist. Or even if they say, "Hey,
16 that was a lie", it's very easy for a jury to forget about
17 that part and say, "Oh, they were talking about an
18 eyewitness, there's an eyewitness to this."

19 So I think it's not very probative because the only
20 thing it's responsive to is a lie. And I think that it is
21 very prejudicial, in the fact that it could mislead the jury
22 into thinking that there's an eyewitness in this case, that
23 they're not able to hear from.

24 THE COURT: Okay. But when you -- when you argue
25 Washington -- Washington only prohibits hearsay. I don't

1 look at this as being hearsay. It may be -- it may be
2 misrepresenting the facts by law enforcement in the
3 interview, but I don't see how this is hearsay. I -- and,
4 Solicitor, you just, you brought up, and I know Friday there
5 was some mention about the Washington case.

6 MR. SHAFFER: He's already -- that I'm making an
7 objection under Washington. I'm not -- I did not say I'm
8 making an objection --

9 THE COURT: Right.

10 MR. SHAFFER: -- under Washington. He's interpreting
11 my objection as Washington. And honestly, I think that it --
12 it would be hearsay if it actually existed. I think that
13 there's absolutely no probative value in him testifying about
14 what his response would be to a fictional witness. That's a
15 lie.

16 And I think that there's no probative value in that,
17 and that's highly prejudicial because it leads to the fact
18 that a jury may misinterpret what I'm -- what -- what the
19 evidence is based off of that.

20 MR. THOMAS: All right. Well, okay. Well, if there's
21 no hearsay objection to it under Washington, then I have -- I
22 mean, then obviously, I think that that is probative. I
23 think it's an allowed technique that they can ask questions.
24 They are welcome to cross-examine him on.

25 Well, you're lying to him when you say that that never

1 happened, I don't think -- I think that clears it up to the
2 jury. I'll even ask him that. Well, I'm just going to ask
3 him that anyway. There wasn't anybody that saw him, so you
4 lied to him to try and get a reaction from him.

5 THE COURT: Okay.

6 MR. THOMAS: That probative value of that outweighs any
7 prejudice that is complete. There's no prejudice because the
8 jury is going to know that there's no witness.

9 THE COURT: Okay.

10 MR. THOMAS: I don't think that's --

11 THE COURT: I think I -- from what I'm hearing from
12 Mr. Shaffer, I think if you do explore that with him, that
13 there was not an eyewitness, that it was just an interview
14 technique to try to get a reaction out of Mr. Spencer. But
15 you clear it up saying, "Hey, there is no or was no
16 eyewitness", then I don't -- I don't have a problem with
17 that.

18 MR. SHAFFER: Your Honor, there's -- there's, I believe
19 that there's also a case law about false statements being
20 admissible as well. This is not -- this is not a hearsay
21 statement.

22 THE COURT: Right.

23 MR. SHAFFER: I guess because there's no declarant. It
24 is, I mean, I -- I'll go ahead and add the Washington
25 objection in there as well -- the hearsay-type objection.

1 THE COURT: Yeah.

2 MR. SHAFFER: However, the -- the -- my main focus is
3 that there's zero probative value in him responding to a
4 fictional witness. And it is highly prejudicial because the
5 jury could actually misinterpret what -- what is being said,
6 is that there actually was one.

7 I understand that they may try to clear it up, but the
8 problem is I would want an instruction from the Judge, from
9 you, Your Honor, saying that both parties stipulate that
10 there is absolutely no witness, and that they're making that
11 he made it up.

12 If you're willing to give an instruction, I probably
13 wouldn't have the 403 objection to it. If you're willing to
14 give an instruction that both of us are stipulating, that he
15 lied about that and that there absolutely was never ever a
16 real witness. And that doesn't happen. But if they're just
17 asking the question, you know, half of what's said in
18 testimony goes over the jury's head.

19 THE COURT: Yeah. Well, I mean, I'm not going to speak
20 for Solicitor Thomas, but I don't know if he's going to want
21 to stipulate that one of his officers lied during the
22 interview.

23 MR. THOMAS: Your Honor, giving an instruction on that
24 would probably be a comment on the facts.

25 THE COURT: Yeah.

1 MR. THOMAS: I don't think a stipulation is necessary
2 when the evidence is coming out. The purpose of a
3 stipulation is to put something in evidence without having to
4 lay a foundation forward, or have to have arguments about it,
5 or to agree to sort of a redaction of some sort. When it's
6 coming out through Investigator Pittman that I asked him the
7 question, "Hey, somebody saw you there and his reaction was
8 X, Y, and Z." I think that's very clear when he says that
9 was not a truthful statement, no one saw him there.

10 MR. SHAFFER: I just want the -- and I'm fine with the
11 -- the Court not giving the instruction. If he'll say, "I'll
12 stipulate that you were lying at that point." If I -- if
13 he'll say that, "I'm more than happy," then it is clear --
14 cleared up where he was lying. But unless he's going to
15 stipulate that he was lying about it, there's a chance that
16 the jury may misinterpret what he's saying. If there
17 actually was an eyewitness, and there's absolutely no
18 probative value to him responding to, what would you say to
19 this eyewitness who doesn't exist?

20 THE COURT: Yeah -- yeah. Again, we're using the word
21 "stipulating" in the colloquial sense, not in the legal
22 sense. Him testifying that there was no eyewitness is the
23 evidence that the jury needs, yeah.

24 MR. SHAFFER: And, Your Honor, I just want to point out
25 that the State's willing to stipulate that there never was an

1 eyewitness that he's talking about. If that's the case, and
2 I don't have a 403 objection, -- still have the Washington
3 objection, I guess.

4 THE COURT: Well, again, I don't think Washington comes
5 in on this particular portion. I don't think this is a
6 Washington issue.

7 MR. THOMAS: And that would be -- that would also be my
8 follow-up to that, Your Honor. Is that the last four lines
9 that we're talking about. I don't see a Washington issue in
10 that at all. I could understand some of the other objections
11 he has to Pittman saying those things. But I think those
12 four lines of, you know, somebody saying they saw me there
13 and why.

14 MR. SHAFFER: Your -- Your Honor, can I ask him what he
15 thinks the probative value of that statement is?

16 THE COURT: Okay.

17 MR. THOMAS: Your Honor, do I need to take the stand?

18 THE COURT: No.

19 MR. SHAFFER: No.

20 MR. THOMAS: Your Honor, the probative value of that
21 statement is that's the first time that Mr. Spencer has a
22 sort of -- his demeanor, changes and he all of a sudden is
23 like, if that's what the evidence you have is -- that's
24 100 percent false. I know that's false. That's going to go
25 back to what we're going to talk about later -- is we have

1 his truck at home at that time.

2 THE COURT: Right.

3 MR. SHAFFER: And your --

4 MR. THOMAS: Responses to the other questions are sort
5 of caging and dodgy of, you know, he asks a question,
6 Mr. Spencer -- Mr. Spencer asks a question in response, he
7 doesn't give a direct answer. What's that got to do with me?
8 That sort of thing versus the response to that question,
9 which he's adamant about. That's the -- that's the extent of
10 it.

11 MR. SHAFFER: Your Honor, I would ask that you actually
12 view the entire video in it's entirety, because that is not
13 the first time he starts acting like it doesn't matter,
14 because there are several times throughout that interview
15 that he actually changes his demeanor and is like, "Hey, you
16 all got the wrong guy." He -- he says that multiple times
17 throughout the video.

18 I ask that you view the entire video. If he's saying
19 he changed it based off of that, that's just not true.
20 Because I can tell you in the first 10 minutes of that video,
21 he at one point is like, hey, you all got the wrong guy.
22 That's not -- that's not the -- that -- that just isn't true.
23 That that thing 44 minutes in, he all of a sudden changes his
24 demeanor right there.

25 MR. THOMAS: Well, that's -- that's not the first time,

1 Your Honor, but that's the time that we found that didn't
2 have any Washington issues.

3 THE COURT: Okay. All right. Okay. Let's -- let's --
4 let's go back -- kind of what we talked about on Friday,
5 about the -- it -- it is already been put into evidence, that
6 on the -- on the 9th, Mr. Spencer did go to that casino up in
7 North Carolina somewhere for hour and a half, two hours,
8 whatever period of time. But as far as repeated trips to the
9 casino and Mr. Spencer acknowledging some sort of gambling
10 debt, I'm -- I'm just having a difficult time wrapping my
11 arms around how that fits into -- in -- into this case.

12 MR. THOMAS: I understand, Your Honor, I don't really
13 have any additional argument on that point. I think I
14 understand your prior rules well, so.

15 THE COURT: Okay. All right. Okay.

16 MR. THOMAS: Same thing with the
17 First Citizens records. I have no additional argument on
18 this.

19 THE COURT: Right. Okay. All right. Okay. Now, let
20 me -- let me ask this question: I think you told me on
21 Friday, Solicitor, that in fact the \$2,500 was not done over
22 the phone between Mr. Spencer and Ms. Cross. That the \$2,500
23 was done by Mr. Spencer after the -- the "murder" in an
24 attempt to initially get 45, but he got 25. Is that
25 basically what you told me on Friday?

1 MR. THOMAS: That -- that will be the evidence that
2 comes out in a few moments, Your Honor, the Housecall Pro
3 records demonstrate that about 1:07, 1:04 or something like
4 that, is when those transactions take place on Housecall Pro.
5 And initially was the 45 and it's for 25, it got declined a
6 couple times for 45.

7 THE COURT: Forty-five. Okay. All right.

8 MR. THOMAS: And that is in the Housecall Pro records.
9 We haven't introduced those yet. I mean, I think we -- we'll
10 lay the foundation. We have a pretrial hearing, so they
11 should be coming in.

12 THE COURT: Okay. All right. Is -- is that, but we
13 haven't dealt with that pretrial before concerning the
14 Housecall Pro records showing this attempt at \$4,500 and the
15 \$2,500, have we?

16 MR. THOMAS: All we dealt with was their admissibility
17 under the Business Records Act.

18 THE COURT: Right.

19 MR. THOMAS: Foundational stuff. I haven't heard any
20 objections to any of that coming in from the standpoint of
21 prejudice, or relevance., or anything like that --

22 THE COURT: Okay.

23 MR. THOMAS: -- so.

24 THE COURT: Is -- is that -- is that correct or do you
25 all need to talk?

1 MR. SHAFFER: No, Your Honor, I think that there may
2 have been a Fourth Amendment objection as well for that, but
3 if there -- I -- there was nothing new. Yeah. Last Friday,
4 I think --

5 THE COURT: Okay.

6 MR. SHAFFER: -- I said that we were not going to
7 create any new --

8 THE COURT: Okay. I got you. Give me one minute.

9 MR. SHAFFER: And -- and, Your Honor, Joel is checking
10 something as well. I -- I --

11 THE COURT: I'm sorry.

12 MR. SHAFFER: I honestly am getting confused myself
13 about whether we argued about pretrial and the
14 Fourth Amendment/South Carolina Constitutional --

15 MR. THOMAS: Your Honor, the only --

16 MR. SHAFFER: -- (inaudible).

17 MR. THOMAS: -- the only suppression hearing -- the
18 only suppression motions that were filed were to the
19 Verizon records and to the U.S. It was some other -- the GPS
20 from the truck. The truck GPS and the Verizon records were
21 the only thing that there were any written motions on
22 pretrial. I would imagine the arguments as to the Housecall
23 Pro records would be similar to the truck GPS ones. I
24 actually don't know. I -- I -- I -- they didn't raise any of
25 those, so...

1 MR. SHAFFER: And other than the -- the -- I -- I think
2 I may have also raised it under the
3 South Carolina warrant statute, and saying that it wasn't
4 located in the county, which I raised --

5 THE COURT: Right.

6 MR. SHAFFER: -- each of them, but you're denying, and
7 I understand that.

8 THE COURT: Right. I got you. Okay. All right.

9 Okay. This is -- this is my ruling in light of the
10 fact that the Sharonview Bank records are -- are coming in
11 for consent. I'm going to allow the First Citizens Bank
12 records, which is a work account. Sharonview's the personal
13 account work account to come in as well. I -- I understand
14 it's in November and not December, but I'm going to allow
15 those to come in.

16 Concerning the third interview: Page seven, page 11,
17 page 24, those excerpts, those will not come in and those
18 need to be redacted. The page four, one to 11 will not come
19 in. That needs to be redacted.

20 And then page 45, I will allow that to be played as
21 part of the interview, so long as the Solicitor specifically
22 questions Investigator Pittman concerning the fact that there
23 is no eyewitness.

24 And certainly Pittman can -- can say, "Yeah, his
25 demeanor changed," but then you can cross-examine Mr. Shaffer

1 as far as other parts of the -- the interview where his
2 demeanor is such that, "Hey, you've got the wrong guy. It
3 wasn't me." And whatever you want to get into. So that's --
4 that's my ruling again, I'll just refresh,
5 First Citizens Bank records can come in.

6 Concerning the third interview: Page seven, page 11,
7 page 24, those will not come in. Page four, one to 11 will
8 not come in, but pages 45, 16 to 19 will come in, so long as
9 the State questions Pittman about the non-existent --
10 existence of an eyewitness. Okay?

11 MR. SHAFFER: Your Honor, the -- the only thing I would
12 like to point out to the Court, and I'm not -- I -- I -- I
13 believe you may have caught this, you may not have, but --
14 but where his demeanor changes prior to this in this
15 statement is a wholly inadmissible statement. There --
16 there's sections. And the reason that they are not trying to
17 introduce those is that they're wholly inadmissible, to and
18 they're recognizing the fact that they're inadmissible.

19 MR. THOMAS: Judge, the reason I'm not trying to admit
20 those is because I'm trying to streamline this and get done.
21 I -- I would disagree that they're wholly and inadmissible,
22 but we're not admitting them --

23 THE COURT: Right.

24 MR. THOMAS: -- by -- by just --

25 THE COURT: But if -- again, if there's a portion of

1 the interview that the State is not going to play, but if it
2 -- if the Defense feels like it's helpful to them, then they
3 can certainly -- they can certainly offer that and then State
4 can object or not object.

5 MR. THOMAS: Absolutely, Your Honor. My -- my -- if
6 the jury, -- if we want to put the whole videos in, I'm happy
7 with that. I have nothing to hide on them. I'm just trying
8 to clean it up to -- to get us to the finish line.

9 THE COURT: And -- and -- and let's try to streamline
10 it, but again, that doesn't prevent the Defense from getting
11 in portions, that you feel like are helpful to your side.

12 MR. SHAFFER: And, Your Honor, because of the fact that
13 the State just indicated something and then indicated, no
14 wasn't actually correct, which is the fact that that's the
15 point where the interview changed. I mean, clearly we're not
16 going to allow him to testify that at that point his demeanor
17 changed. If that is false -- false, I mean, that's clearly
18 false.

19 So we're not going to allow him to -- to say at that
20 point right there, that's when the demeanor changed. If
21 that's not where the demeanor changed, because --

22 THE COURT: Well, if, you know, if -- if he -- if
23 Officer Pittman says, "Okay, that -- that portion right there
24 his demeanor changed." If you don't believe that it did,
25 play it again, cross-examine, I think a lot of your concerns,

1 Mr. Shaffer, can be handled through cross-examination, as
2 opposed to me making a ruling as to admissibility or -- or
3 whatever, so.--

4 MR. SHAFFER: And, Your Honor, so we're going to allow
5 him to say, "That's the point where the demeanor changed,
6 even though that's not" --

7 THE COURT: Well, I mean --

8 MR. SHAFFER: -- (crosstalk) point where the demeanor
9 changed, the State just said that.

10 THE COURT: Okay. Wait a minute, don't talk over each
11 other. He has a right to offer his opinion, as far as what
12 took place in the interview, as far as what he believes he
13 observed. Okay?

14 If he feels like a demeanor -- showing of demeanor or a
15 demeanor change, -- if he has that opinion, then he can give
16 that opinion. If you disagree with that, you can
17 cross-examine him on that. And then, of course it's -- it's
18 up to the jury to make that -- that determination.

19 MR. THOMAS: And quite frankly, Your Honor, I don't
20 think I'm even going to ask him about the demeanor change,
21 that's argument for closing. He asked me what the probative
22 value of it was.

23 THE COURT: Yes.

24 MR. THOMAS: I told you that's the probative value, but
25 I'm probably going to raise that. I don't know that Pittman

1 needs to talk about Mr. Spencer's demeanor or anything.

2 THE COURT: Well.

3 MR. SHAFFER: And that's fine, Your Honor. I'm -- I'm
4 -- I -- I'm fine with that. I just didn't want there because
5 Josh said, "Yes, this is where the demeanor changed."
6 Actually it changed earlier.

7 MR. THOMAS: Yeah.

8 MR. SHAFFER: But we're not going to introduce that
9 part. I didn't want Pittman to be able to say, "This is the
10 point that happened at" --

11 THE COURT: Well.

12 MR. SHAFFER: -- if that's false.

13 THE COURT: You know, if -- if Solicitor Thomas says,
14 "He's not planning to get into that," that's fine, but I -- I
15 think that would be a proper area to cover. He can -- he can
16 testify as to what he has observed. If you disagree, that's
17 what cross-examination is all about. Okay. Let's -- let's
18 take a -- we -- we all need a little short break, so let's --

19 MR. THOMAS: And we're going to have --

20 THE COURT: Sure.

21 MR. THOMAS: -- so splits out of here (inaudible)

22 THE COURT: Yeah. Okay.

23 MR. BROOME: Judge.

24 THE COURT: All right.

25 MR. BROOME: Judge -- Judge, is it all right, have you

1 (inaudible)?

2 THE COURT: Yeah, sure. Yeah -- yeah. Here's two
3 exhibits.

4 Shaffer, you had made a -- a request off the record.
5 And just to put that on the record.

6 MR. SHAFFER: Your Honor, we were also arguing that
7 they should not be allowed to play the video that they're
8 about to play, the second interview in the actual video
9 portion, the audio, you know, is pursuant to our previous
10 objections.

11 However, the video portion of it shows him in a
12 jumpsuit during the time period. So we would argue that the
13 video is unduly prejudicial, and also under the lines of the
14 case law that says, "Essentially he can't be dressed in or,
15 -- yeah, he can't be dressed out or it needs to be dressed
16 out for the trial." The duration (inaudible).
17 Thank you, Your Honor.

18 THE COURT: Okay. When you made that request off the
19 record, I was not even thinking of the --

20 MR. BROOME: Tristan (inaudible).

21 THE COURT: Right. Does the State have a --

22 MR. THOMAS: Your Honor, I mean, again --

23 THE COURT: I -- I know that there's -- there's a case
24 came out a couple years ago where the jury was kind of
25 inadvertently, but nonetheless, the jury saw the Defendant in

1 the -- in the jail clothes, maybe even shackled, whatever.

2 And they -- in that situation, the -- the -- I -- I think the
3 mistrial was -- motion was made in that case, and they said
4 it was properly denied. All right.

5 MR. THOMAS: I think that happens far too often, but I
6 think that's different. Because that's in the courtroom,
7 they're shackled. I think we play videos all the time of
8 individuals --

9 THE COURT: Yeah.

10 MR. THOMAS: -- in custody being interrogated. I mean,
11 I think it's already sort of been alluded to that he's in
12 custody.

13 THE COURT: Right.

14 MR. THOMAS: Because he got a Miranda form, they
15 obviously opened with, -- he was arrested that night.

16 THE COURT: Right.

17 MR. THOMAS: Yeah.

18 THE COURT: I mean, the fact that he was placed under
19 arrest when they went out to the house on the 14th, that's
20 already into evidence. So I think I'll be glad to give an
21 instruction, Mr. Shaffer, Mr. Broome, that they can place no
22 significance on the fact that -- that he was in custody at
23 the time of that Greenville interview, if you would like for
24 me to.

25 MR. THOMAS: And I think that would cure any prejudice

1 that may exist from it, Your Honor.

2 MR. SHAFFER: Your Honor, I -- this isn't on that
3 point. I accidentally rendered the wrong file. It -- can we
4 go off the record just for a second? I'm -- it's a
5 (crosstalk).

6 THE COURT: Sure. Yeah.

7 (Off the record.)

8 THE COURT: Back -- back on the record.

9 MR. SHAFFER: Okay. We're -- we're going to decline
10 the instruction. I'm -- we have about a minute left for this
11 -- according to this, to finish with the video exhibit for
12 them and then, we should be ready.

13 THE COURT: Okay. All right. And -- and -- and
14 probably, you're correct in -- in denying that -- my offer,
15 because it sometimes, -- you know, you call more attention to
16 something by way of a -- a curative instruction from the
17 Court. This -- you kind of lose the effect of the
18 instructions, so. -- So your motion for just the audio is
19 denied.

20 MR. SHAFFER: Thank you, Your Honor.

21 THE COURT: Do we need to wait for you to finish that
22 Mr. Shaffer and then get the jury out?

23 MR. SHAFFER: Yes, it will.

24 MR. THOMAS: And then because it -- once he finishes, I
25 have to put it into the TV, so, that should take --

1 THE COURT: That's fine.

2 (Jury enters courtroom.)

3 THE BAILIFF: All jury present, Your Honor.

4 THE COURT: All right. Thank you, Mr. Bolt.

5 Ladies and gentlemen, we thank you for your patience.

6 I know I've kept you back there about 45 minutes. We have
7 some -- some technology, -- I'm going to say issues, that the
8 lawyers are working on, and we -- I don't know how much
9 longer that's going to take. So what I'm going to do is just
10 go ahead and take an early lunch break and please be back by
11 1:00. And otherwise, it's just -- just, you know, can't
12 continue with the trial until the technology issues are
13 resolved, and either you sit back there or go get an early
14 lunch. So I felt like that would probably be better to do it
15 that way. So we'll see you back at 1:00. Okay? Thank you
16 very much.

17 (Jury exits courtroom.)

18 (Off the record.)

19 THE COURT: Ready for the jury?

20 MR. THOMAS: We are, Your Honor. Mr. Shaffer has
21 provided me with those redactions. I have put them on our
22 board to play for the jury. I have not reviewed it, so I'm
23 trusting that he got everything out that he wanted.

24 THE COURT: I'm -- I'm sure he did. I'm sure he did.

25 Defense ready for the jury?

1 MR. BROOME: Yes, sir.

2 THE COURT: Let me just add a rule briefly to my ruling
3 concerning the Defense request for just audio only of the
4 Greenville interview. Just the 403 I think, probative value
5 of having the -- the video exceeds any unfair press just to
6 Mr. Spencer being in jail clothes.

7 All right. Mr. Bolt, let's bring the jury out.

8 (Jury enters courtroom.)

9 THE BAILIFF: All jury present, Your Honor.

10 THE COURT: Thank you, Mr. Bolt.

11 Ladies and gentlemen, it's my understanding we're --
12 we're good to go. Okay. So we're going to -- we're going to
13 work hard this afternoon.

14 Solicitor, you ready?

15 MR. THOMAS: Yes, sir. Your Honor, may I please the
16 Court.

17 BY MR. THOMAS:

18 Q. Investigator Pittman, when we left out, we were
19 talking about your discovery of the trash can; is that
20 correct?

21 A. That's correct.

22 Q. Okay. So you find the trash can, what day was
23 that?

24 A. I believe it was the 15th of December.

25 Q. I think you said during your prior interviews with

1 Mr. Spencer, he had discussed that he was driving this
2 Dodge Ram truck?

3 A. That's correct.

4 Q. During the day of December 9th?

5 A. Yes, sir.

6 Q. After you found the trash can, did you all go back
7 and interview him again?

8 A. We did.

9 Q. And was that -- I -- I know Detective Cash already
10 testified you already read him his Miranda rights?

11 A. Yes.

12 Q. That was with him?

13 A. Yes, sir.

14 Q. He appeared to freely, voluntarily talk to you
15 that day?

16 A. He did.

17 Q. Let me ask you, going back to this truck, did any
18 eyewitnesses ever see this truck on the scene?

19 A. No.

20 Q. Okay. Did any eyewitnesses ever see Mr. Spencer
21 on the scene?

22 A. No.

23 Q. Okay. And by "scene", I mean Ms. Cross's house,
24 do you understand that?

25 A. That's correct.

1 Q. Okay. So when you went back and talked to him
2 after you found the trash can, did you perhaps tell him that
3 some witnesses had put him there?

4 A. I did.

5 Q. What was the purpose of that?

6 A. It's just an investigative technique, just we try
7 to get --

8 THE COURT: Can you speak up a little bit?

9 THE WITNESS: I'm sorry. It's just an interview
10 technique to try to get somebody to speak to you. Just tell
11 them information.

12 BY MR. THOMAS:

13 Q. Put (inaudible) no -- no one. No eyewitness puts
14 him in the scene?

15 A. No, sir.

16 Q. I know Detective Knight (phonetic) talked about he
17 watched a video where he thought he saw some headlights. Do
18 you remember that?

19 A. I do.

20 Q. Do you remember seeing that video?

21 A. I did.

22 Q. In hindsight, were there any headlights there at
23 that time?

24 A. I don't think so.

25 Q. Okay. And that was what time of night about?

1 A. It was in a 10:00 hour. I just -- I don't recall
2 the exact time.

3 Q. So no video evidence of his vehicle being there at
4 nighttime?

5 A. That's correct.

6 Q. But you went and interviewed him again, you went
7 with Detective Cash; is that right?

8 A. Yes, sir. That's correct.

9 Q. Okay. Was that interview recorded?

10 A. It was.

11 Q. What was that report on?

12 A. As a body cam I had.

13 Q. And have you had a chance to review State's 116,
14 you have -- you had a chance to review that body cam?

15 A. Yes, sir.

16 Q. Is that what the State's 116 is?

17 A. It is.

18 Q. Obviously it's not the entirety?

19 A. That's correct.

20 Q. Parts of it have been taken out?

21 A. It has.

22 Q. Okay. But that truly and accurately represents
23 your interview with him that day?

24 A. It does.

25 MR. THOMAS: Your Honor, the State moves 116 into

1 evidence at this time.

2 THE COURT: 115?

3 MR. THOMAS: one -- no.

4 THE WITNESS: 116.

5 MR. THOMAS: 116, Your Honor.

6 THE COURT: 116. Okay. And subject to previous
7 objections, any further objections to this coming in?

8 MR. BROOME: No further objections.

9 THE COURT: Okay. My ruling remains the same subject
10 to previous objections. 116 into evidence for the State.

11 (State's Exhibit 116 was admitted into evidence.)

12 BY MR. THOMAS:

13 Q. Before we publish this, let me ask you, what was
14 -- you had obviously had an opportunity to talk to him for an
15 extended period of time on the 14th?

16 A. That's correct. That Monday. I'm sorry, Tuesday.

17 Q. How was your interview with him on the 16th
18 different from your standpoint?

19 A. He was more frustrated than he was in the last
20 times we had spoke to him, but he remained adamant that he
21 had nothing to do with it.

22 Q. Okay. And when you would confront him with the
23 evidence, what was his reaction to the evidence of the trash
24 can?

25 A. He asked what that had to do with him.

1 Q. And what was his reaction to those sort of false
2 questions you were asking him about?

3 A. That he was -- he was adamant that was
4 100 percent false.

5 Q. How are those responses different when you were
6 interviewing him in your experience?

7 A. The responses different from what? I'm sorry.

8 Q. How is his response to the trash can different
9 from his response to your -- your misleading questions or not
10 misleading, but your false questions?

11 A. He -- he answered with more certainty that he knew
12 that I was mistaken for saying he was there in the evening
13 time.

14 (Video played - inaudible.)

15 BY MR. THOMAS:

16 Q. I heard him say -- it sounded like he caught on
17 you were fishing for something?

18 A. Yes.

19 Q. I know we talked about there was some video from
20 that evening from Ms. Cross's house, -- from the neighbor's
21 house looking at Ms. Cross's house at night?

22 A. Right.

23 Q. Did you all have an opportunity to go back and do
24 the video from the daytime hours?

25 A. We did.

1 Q. What did you see that was significant during the
2 daytime hours?

3 A. At about 12:30, you'll see a black truck pull out
4 of Ms. Spencer -- I'm sorry, Ms. Cross's yard on the
5 Fairview Road.

6 Q. And that's State's Exhibit 69. Can you direct to
7 the jury to where we're looking on that? What -- orient us
8 here, I know Investigator (inaudible) already tried to just
9 one more time.

10 A. Yes, this is -- this is Ms. Cross's house on the
11 other side of this brick little wall here. Her driveway
12 (inaudible).

13 Q. So that's a vehicle leaving Ms. Cross's house?

14 A. Yes, sir. It is.

15 Q. What kind of vehicle did Timothy Spencer drive?

16 A. He drives a black truck, black Dodge Ram.

17 Q. I believe already in exhibit -- already in
18 evidence of State's Exhibit 97. I know during that
19 conversation we just saw, you said you all were going to go
20 look at his phone dump?

21 A. That's correct.

22 Q. Did you get an opportunity to review that?

23 A. We did.

24 Q. What is State's 97 for us?

25 A. Just like phone records from --

1 Q. (Inaudible).

2 A. Yeah.

3 Q. State's 65, that was his work phone?

4 A. It was. This is a -- it's like call log for that
5 phone.

6 Q. Okay. And what phone number is he calling?

7 A. Ms. Cross's.

8 Q. What's the -- the very bottom on box number four
9 here, what -- what does that represent? What does that
10 report to be?

11 A. That's an incoming call from Ms. Cross.

12 Q. And what time is that?

13 A. Let's see, I think it's 10:58 converted.

14 Q. And then looking at box number three right above
15 it, what is that -- that -- what is that showing us?

16 A. It shows a voicemail from Ms. Cross.

17 Q. So that phone call at 10:58 went to voicemail?

18 A. It appears so, yes.

19 Q. And then, what's the next one there, number two?

20 A. It's an outgoing call to Ms. Cross.

21 Q. And what time is that?

22 A. 11:09.

23 Q. Okay. And then number one box, what is that
24 again?

25 A. That's an outgoing call to Ms. Cross.

1 Q. And what time is that at?

2 A. That's at 12:34 p.m.

3 Q. And what time was this video at again?

4 A. It was at 12:31.

5 Q. So does that call show it was answered?

6 A. It does.

7 Q. Okay. Does it show -- well, it's not going to
8 show there, but going back to her records, did that call go
9 to voicemail or did that call get picked up?

10 A. Which call is that?

11 Q. The call from Mr. Spencer at the 12:34.

12 A. It went to voicemail. I'm sorry, it was answered.

13 Q. I think during that conversation also, you talked
14 about -- he talked to you about, she paid him over the phone?

15 A. That's correct.

16 Q. So State's 98 -- and that may help you look at
17 it. -- State's 98, what are those again?

18 A. These are texts exchanged through -- from between
19 Ms. Cross and Mr. Spencer.

20 Q. Okay. And so, who is this text message from here
21 on screen?

22 A. This is from Mr. Spencer.

23 Q. And what time is that at?

24 A. It is 1:18 p.m.

25 Q. And what does that -- I mean, according to your

1 conversation with him, what -- what does that report mean?
2 Getting out that text?

3 A. The payment that he received for \$2,500.

4 Q. So his story was that he -- she paid over the
5 phone, he let her know the payment went through?

6 A. That's correct.

7 Q. When you all first talked to him on Trump Pointe,
8 did he tell you all the payment went through, or did he tell
9 you it was still processing?

10 A. It was still processing.

11 Q. But then, what does this text message say?

12 A. It says that the payment went through.

13 Q. Okay. And that's -- supposedly that's that
14 \$2,500 payment?

15 A. That's correct.

16 Q. Okay. Are there other text messages before those?

17 A. Between he and her?

18 Q. Yes, sir.

19 A. That's correct. Yes.

20 Q. What did he tell her on November 16th?

21 A. "I just got an email saying they approved a new
22 furnace, check your portal."

23 Q. So he's telling her there that they have approved
24 her repairs, I guess?

25 A. Yes, sir.

1 Q. Is that -- that -- is that consistent with what he
2 was saying?

3 A. To us in the interviews?

4 Q. Yes.

5 A. That he said -- no, it's not.

6 Q. Well, what do we got? So what do we -- what did
7 he tell her on November 23rd?

8 A. Looks like they -- they ordered the wrong
9 equipment and saying that they can't change it, but they can
10 -- they are passing the cost to you, which is not how it's
11 supposed to be. Call and talk to the case manager.

12 Q. Okay. Is that what he was -- did he explain to
13 you all what you meant by non-covered charges?

14 A. I recall it was a very technical explanation for
15 the first interview we have with him. I don't -- I don't
16 remember.

17 Q. But it's basically what the -- what the warranty
18 doesn't cover?

19 MR. BROOME: Object to -- object to the leading.

20 BY MR. THOMAS:

21 Q. What is a non-covered charge?

22 A. Something that the -- Ms. Cross would've had to
23 pay herself.

24 Q. Okay. What did she tell him her non-covered
25 charge for that work was going to be?

1 A. It appears to be \$1,290.16.

2 Q. Okay. And what was his response to that?

3 A. It says, "Okay, the furnace that Choice ordered
4 will not work. I contacted them and now they're wanting me
5 to get the right furnace, but it's -- and they are going to
6 try to charge you, check your portal."

7 Q. So based on those, does it sound like any
8 equipment has been ordered yet?

9 A. If it has, it was the wrong equipment.

10 Q. Okay. And that is -- what date is that last text
11 message from him?

12 A. It is 11/23 of '21.

13 Q. What does he tell her on December 7th, two days
14 before she went missing?

15 A. "No equipment has come in yet, hopefully later
16 this evening."

17 Q. When you talked to him, had he told you -- what
18 did he tell you about whether he had ordered the equipment
19 yet?

20 A. He said, "He had to measure."

21 Q. So during your conversations, had he ordered the
22 equipment yet?

23 A. No.

24 Q. But on December 12th, December 7th, he sent her a
25 message saying?

1 A. It was ordered.

2 Q. State's Exhibit 107 already in evidence is his
3 text messages. We just looked at a few of those. What is --
4 what is State's 107? That's the Verizon records, correct?

5 A. That's correct.

6 Q. Okay. Were you able to compare the phone records
7 to his call logs?

8 A. Yes.

9 Q. Okay. What are we looking at here?

10 A. The highlighted one is from December the 9th, 2021,
11 at 1:18 p.m.

12 Q. Okay. And does that correspond with that 12/9/16,
13 6:18 UTC?

14 A. That's correct.

15 Q. Okay. So what time is that text message sent to
16 her phone?

17 A. 1:18 p.m.

18 Q. Okay. What is -- what is this clip from 107?

19 A. This appears to be the phone calls from Ms. Cross
20 to Mr. Spencer.

21 Q. Okay. And again, what are we looking at that
22 15:58, those two -- what -- what time is 15:58?

23 A. That would be 10:58 a.m.

24 Q. And do you know what those -- that fifth column
25 from the right DIR, do you know what those MF and MT mean?

1 A. I do. I have it written somewhere. Do you have
2 the actual records? I'm -- somewhere here. MO is for
3 outgoing, MT is for incoming, and MF is for voicemail.

4 Q. So that 15:58, does that correspond with what we
5 have on his call logs number three and four box on
6 State's 97?

7 A. That's correct.

8 Q. And then same thing, I'm not going to belabor it.
9 Same thing on the 11:09 and the 12:34, those also correspond?

10 A. Yes, sir.

11 Q. And again, that's showing as an outgoing call that
12 was answered?

13 A. That's correct.

14 Q. What did he tell you about that outgoing call when
15 you talked to him?

16 A. I think he called to say that he would get the
17 part ordered.

18 Q. Did he tell you whether she answered or did not
19 answer?

20 A. I don't recall.

21 Q. Fair enough. And then just, this is just for the
22 record, what's State's 105? Those are the records from his
23 other phone?

24 A. Yes, sir. That's correct.

25 Q. His personal phone. Just -- is that at -- what --

1 what time is that highlighted call?

2 A. Let's see. It should be 11:52 a.m.

3 Q. All right. And with all these phone records, is
4 it your understanding -- what's your understanding about what
5 we did with these phone records, after you got them and
6 reviewed them? Did we send -- did you send them to somebody
7 else?

8 A. We did.

9 Q. And what was the purpose for that?

10 A. So they could do some mapping.

11 Q. Plotting his location?

12 A. Right.

13 Q. Okay. Speaking of plotting locations, what -- I
14 think you talked to him on the 16th; is that right? That was
15 your last interview with Mr. Spencer?

16 A. That's correct.

17 Q. What information did you get in the investigation
18 after that? What was the next big break?

19 A. Captain Wilke had -- he had discovered that
20 Mr. Spencer's truck had GPS -- active GPS on it.

21 Q. And when you say active GPS, what do you mean by
22 that?

23 A. A lot of those "buy here pay here" lots. They
24 want to get their vehicle back if you don't make the payment
25 or anything like that. So they'll put a GPS on it. So you

1 do default, they can go get their car back.

2 Q. And that's what we already have in evidence as
3 State's Exhibit 80. Those are?

4 A. That's correct.

5 Q. And again, that just comes in, -- I think we've
6 already seen it, but that just comes in a spreadsheet with
7 GPS locations?

8 A. It does.

9 Q. During the course of your investigation, were you
10 able to sort of go out to some of those locations, and sort
11 of eyeball it to make sure those are actual locations that
12 might be --

13 A. Yes, sir. I did.

14 Q. -- important to your investigation?

15 A. I did.

16 Q. Okay. So let's start here. We've truncated a
17 lot. That's -- that's a very (inaudible) record, isn't it?

18 A. I'm sorry. I was -- what was the question?

19 Q. It's a big record, right?

20 A. Yes.

21 Q. A lot of locations?

22 A. Yes, it is.

23 Q. All right. So you've got some on here that were
24 important to your investigation. Does that sound right?

25 A. I do.

1 Q. Okay. So what are these first three times we're
2 looking at here?

3 A. That is trip starting from -- let's see, it would
4 be -- he's leaving Trump Pointe.

5 Q. Okay. And what time is he leaving?

6 A. 7:02 a.m.

7 Q. And where -- where does he go?

8 A. So he's going to the casino.

9 Q. Okay. So that's what that bottom location is, or
10 I'm sorry, the middle one? It's the middle one.

11 A. Yes. The -- it's the casino at 8:57 a.m.

12 Q. And what's the 15:13?

13 A. It is the time he left the casino.

14 Q. Okay. So he leaves the casino at what time?

15 A. 10:13 a.m.

16 Q. Okay. And then what about these two times? What
17 are we -- what -- what's the significance to 16:09 and 16:31?

18 A. At 11:09 he's on 385 traveling towards
19 Simpsonville.

20 Q. Okay. So at 11:09, is he near Lake Thicketty?

21 A. No.

22 Q. Okay. 11:31 what's the significance of that time?

23 A. He would be at Ms. Cross's house at 11:31.

24 Q. So that's what that GPS form is?

25 A. That's correct.

1 Q. And what's that address again?

2 A. It's [REDACTED].

3 Q. And what county is that in?

4 A. It's Laurens.

5 Q. How long does his vehicle stay at that address?

6 A. It appears to be an hour.

7 Q. That's her house?

8 A. That is.

9 Q. All right. So he stays for about an hour. What
10 are those? So 17:31, 17:33. What are those points?

11 A. That's when 17:31 is when he leaves her residence.
12 And 17:33, he is actually traveling south on Fairview Road.

13 Q. So how would you turn south on Fairview Road?

14 A. You would turn right out of the driveway.

15 Q. What about the 17:35s and 17:39s?

16 A. The 35, he's actually turning on Cowens Bridge
17 Road in Hickory Tavern.

18 Q. And which direction is that headed?

19 A. Towards Anderson County.

20 Q. And does that vehicle make a stop in
21 Anderson County? It makes several stops?

22 A. It does.

23 Q. What's the first stop that it makes?

24 A. Let's see. I said -- assuming. It's the parking
25 lot in Honea Path.

1 Q. Okay. Show you what's been marked
2 State's 114 and 115. Have you had a chance to visit those
3 GPS coordinates?

4 A. I have.

5 Q. Where are those located at?

6 A. It's a parking lot for, like, a shopping center in
7 Honea Path.

8 Q. Okay. State's 114 and 115. Are those pictures
9 you took in that parking lot?

10 A. These are those, yes.

11 Q. And that is a true and accurate depiction of that
12 parking lot?

13 A. Yes, sir, it is.

14 MR. THOMAS: Your Honor, at this time, the State moves
15 115 or 114, 115 into evidence.

16 MR. BROOME: Without objection.

17 THE COURT: Without objection. 114, 115 into evidence.
18 Did he convert the -- the time to regular normal time when
19 leaving the --

20 (State's Exhibits 114 and 115 were admitted into evidence.)

21 THE WITNESS: I'm reading out the -- I'm reading out
22 the UTC time. He's converted it for me.

23 MR. THOMAS: Okay. Trying to make it a little easier
24 to understand.

25 THE COURT: Right. I -- I just don't think he did the

1 last couple times.

2 BY MR. THOMAS:

3 Q. What -- what is 18:07 --

4 A. 18?

5 Q. -- 18:21?

6 A. It would be 1:07 p.m. At the parking lot in
7 Honea Path.

8 Q. So how long did he sit in that parking lot?

9 A. Let's see, about 14 minutes give or take.

10 Q. Sat right there in that parking lot?

11 A. Yes, sir.

12 Q. What is the next stop that vehicle makes?

13 A. At 2:10 p.m., he is at home on Trump Pointe.

14 Q. So it goes back to Trump Pointe at 2:10?

15 A. That's correct.

16 Q. That's 19:10 on this exhibit?

17 A. Yes, sir.

18 Q. All right. What's his next movement after 2:10?

19 A. At 2:24 p.m., he leaves the residence.

20 Q. Okay. What does he do when he leaves the
21 residence at 2:24?

22 A. He starts riding around Lake Hartwell, making a
23 really big circle.

24 Q. Okay. Does he stop anywhere during the course of
25 that trip?

1 A. He does. At 3:20 p.m., he stops -- he stops at a
2 -- on Old Dobbins Bridge Road. It's an old boat ramp that
3 the road literally runs into the woods with -- into the lake.

4 Q. And so according to these records, the vehicle was
5 turned off there?

6 A. That's correct.

7 Q. How long did it stay there?

8 A. Two minutes.

9 Q. And what's the next stop he makes?

10 A. He stops again on Manning Road for -- at 4:49 p.m.

11 Q. And what is that location?

12 A. At the time, it would've been a house that was for
13 sale.

14 Q. All right. And how long did he stay there?

15 A. Looks like he was there five minutes.

16 Q. And where did -- where did the truck go after
17 that?

18 A. He went to Cumming Springs Road where the body of
19 Ms. Cross was located.

20 Q. So what are those -- what times are those?

21 A. Let's see, that would be 5:14 and 5:16, and
22 5:22 p.m.

23 Q. So what time did he arrive?

24 A. He got there at 5:14.

25 Q. And what time did he leave?

1 A. 5:22.

2 Q. And those GPS coordinates were his truck. You've
3 been there?

4 A. I have.

5 Q. State's Exhibit 32. Is that where that truck was?

6 A. Yes, sir. It was.

7 Q. State's Exhibit 34. Same thing?

8 A. Yes, sir.

9 Q. Where does he go after that?

10 A. At 5:38 p.m., he is where the trash can is
11 located.

12 Q. Is that 5:38 and 5:40, so 22:38, 22:40, again,
13 where is that at?

14 A. That is Cleveland Road.

15 Q. You've been to those spots?

16 A. I certainly have.

17 Q. State's Exhibit 70. Is that what those GPS
18 coordinates are?

19 A. Yes, sir.

20 Q. More specifically, the one from 22:38, that's
21 what's shown basically where it's at in State 70?

22 A. That's correct.

23 Q. All right. The 22:40, how far away are those two
24 pings from each other?

25 A. 150 feet.

1 Q. But how much time elapsed between those two GPS
2 pings?

3 A. Two minutes.

4 Q. All right. And again, how far from where you
5 found this trash can to Mr. Spencer's house is it?

6 A. About a half a mile.

7 Q. If you were to drive to Mr. Spencer's house and
8 you were to leave that trash can at 22:38, how long -- what
9 time would you arrive at Mr. Spencer's house?

10 A. If I left at 22:38, I'd be there at 22:40. It's
11 about two minute drive.

12 Q. So how long would it take you to travel 150 feet?

13 A. Not very long -- not very long at all.

14 Q. So far less than two minutes?

15 A. Absolutely.

16 Q. Those records from the GPS company, that 22:38,
17 22:40, does it show that the car was ever turned off or does
18 it say moving?

19 A. It says moving.

20 Q. Okay. Does that mean the car was moving?

21 A. No.

22 Q. And after that, where does the car go? I know
23 we've -- we've got the 22:57, but it goes somewhere after it
24 drops off the tracking?

25 A. He does, it goes -- it to a Power Trac.

1 Q. The videos that we've seen earlier that are in
2 evidence is -- Defense exhibits do those -- what was your
3 initial thought about those videos, and Detective Cash
4 brought them to you?

5 A. At the time when we got those videos, we did not
6 have all this data. We just had the printouts from the car
7 lot. So we just -- there was like -- I can't remember the
8 exact address on the -- the printout, but we based it off the
9 time, and the location, and just watched for headlights.

10 Q. Having the benefit of reviewing the detailed
11 data -- so when did you get the detailed data?

12 A. Last year.

13 Q. Having the benefit of the detailed data, what do
14 you now know about those videos from the Power Trac?

15 A. That video -- those -- the headlights in that
16 video are not Mr. Spencer.

17 Q. So but he got -- did that vehicle go to the Power
18 Trac?

19 A. Yes.

20 Q. But just what time did he go do you know?

21 A. 5:44.

22 Q. So then, it was there for how long?

23 A. It appears to be -- I don't -- I don't see it on
24 there.

25 Q. Yeah, it -- okay. Yes, it's not on this one.

1 That -- that last coordinate that 22:57. Do you remember
2 where that is?

3 A. That's his residence.

4 Q. But between -- between here -- between those
5 coordinates and this coordinate, it does stop at the Power?

6 A. It does.

7 Q. Which you don't have any video?

8 A. I don't, they only have one operating camera.

9 Q. As you continued your investigation. I know -- I
10 think we talked about -- he told you that, "He drove his
11 truck to the casino?"

12 A. Correct.

13 Q. Did he tell you that he got any -- did he -- what
14 did he tell you about getting -- did he use the (inaudible)
15 at casino?

16 A. He did.

17 Q. Okay. What bank did he tell you he banked with?

18 A. Sharonview Credit Union.

19 Q. Subsequent to that interview and getting that
20 information, did you get records from
21 Sharonview Credit Union?

22 A. I did.

23 Q. I'll show you what's marked as State's number 113.
24 Showing you marked State's 113. Do you recognize that?

25 A. I do.

1 Q. What is 113?

2 A. These are Mr. Spencer's Sharonview Bank records.

3 Q. And those are a true and accurate copy of the
4 records that were produced to you by Sharonview?

5 A. Yes, sir. They are.

6 Q. Then they attached an affidavit all position that
7 has showed you, those are the records that you?

8 A. Yes, sir. They did.

9 MR. THOMAS: Your Honor, at this time the State moves
10 113 into evidence.

11 THE COURT: Those are bank records from where?

12 MR. THOMAS: Sharonview.

13 THE COURT: Sharonview.

14 MR. BROOME: Subject to previous objections.

15 THE COURT: Subject to previous objections ruling
16 remains the same. 113 is in evidence for the State.

17 (State's Exhibit 113 was admitted into evidence.)

18 BY MR. THOMAS:

19 Q. All right. So again, 113. What's the address on
20 that account?

21 A. It is 106 Rooster Street in Clemson.

22 Q. Why does that address ring up?

23 A. That's where Mr. Spencer said he had went the --
24 the night we interviewed him at the Sheriff's office in
25 Anderson.

1 Q. Okay. These GPS records that you reviewed, did
2 that vehicle ever go to that address?

3 A. No, sir.

4 Q. Did it even get close?

5 A. No.

6 Q. 113, there are some withdrawals, but I think going
7 down to the 12/9 on the bottom 12/9/21, the last couple...

8 A. Okay.

9 Q. Do you recognize that address, that
10 260 Dixon School Road?

11 A. I do.

12 Q. What's that the address to?

13 A. The casino.

14 Q. So how much money did he take out at the casino?

15 A. \$245.95.

16 Q. And then again, there's also a -- we go to --
17 that's from one account, right?

18 A. That is.

19 Q. And then his other account, is there also a --
20 from 12/9, is there also an ATM withdrawal there?

21 A. Yes, I see it, yes.

22 Q. Okay. And how much is that for?

23 A. It's \$365.95.

24 Q. Okay. Interestingly enough, on 12/9, what is that
25 -- I think it's kind of bold, and that's -- that's their

1 bold, not mine.

2 A. Okay.

3 Q. One, two, that's the 12/9, the very first 12/9.

4 A. Right.

5 Q. Coming from the top. What does that show?

6 A. It appears to be a deposit for online banking.

7 Q. Does that say mobile deposit?

8 A. It does for \$400.

9 Q. For \$400. Okay. Do you remember getting
10 State's Exhibit 16 out of his truck, or do you remember
11 locating that? Someone located that?

12 A. Yes, I do.

13 Q. And again, Investigator Hoffia (phonetic) is the
14 one that found that?

15 A. It was.

16 Q. It was secured in that truck?

17 A. It was -- it was.

18 Q. And that's also representing State's Exhibit 30?

19 A. That's correct.

20 Q. You also -- I think during the course of you all
21 going to Mr. Spencer's residence on Trump Pointe, were you
22 able to determine who -- what you believed to be his business
23 account?

24 A. I was.

25 Q. And where was he? Where did you keep that account

1 at?

2 A. It was at First Citizens.

3 Q. Okay. Did you have an opportunity to get records
4 from First Citizens?

5 A. I did.

6 Q. And I'm going to show you -- I'll show you what's
7 been marked as 112. Do you recognize those?

8 A. These are the First Citizens records for
9 Spencer's HVAC, Mr. Spencer's heating and cooling business.

10 Q. Okay. And you got those -- I guess you sent off
11 some sort of process to get those to them?

12 A. I did. I sent them a search warrant, yes.

13 Q. And did they send you back a certificate or an
14 affidavit saying those are true and accurate copies of -- of
15 what they keep?

16 A. They did.

17 Q. And is that a true and accurate copy of the
18 records they sent you?

19 A. Yes, sir.

20 MR. THOMAS: At this time, Your Honor, State moves 112
21 into evidence.

22 MR. BROOME: Subject to previous objections.

23 THE COURT: Subject to previous exceptions. Ruling
24 remains the same. 112 into evidence for the State.

25 (State's Exhibit 112 was admitted into evidence.)

1 BY MR. THOMAS:

2 Q. And so that account is in his business name?

3 A. That is correct.

4 Q. And what is that business again?

5 A. It's Spencer's HVAC and Maintenance, LLC.

6 Q. Just looking at this account, I -- I know he said
7 what you believed to be his business account. What is
8 significant about this account, in terms of his status, when
9 you -- when you got these records?

10 A. The -- the account is closed, but the balance is
11 negative \$2,592.04.

12 Q. And when was that account closed though?

13 A. The end of November, I believe.

14 Q. Okay. So a couple weeks before --

15 A. Correct.

16 Q. -- the events happened, right?

17 A. That's correct.

18 Q. All right. Last thing, Investigator Pittman,
19 during the -- during your interview with him, who did
20 Mr. Spencer tell you he used to sort of manage his -- his
21 payments and things like that?

22 A. Housecall Pro.

23 Q. And again, what's Housecall Pro?

24 A. It's -- the Choice Home Warranty was the warranty
25 company. They utilized Housecall Pro to contract the people

1 out to the contractors.

2 Q. So -- so he would use -- how would he use
3 Housecall Pro? How would (inaudible)?

4 A. He would use it to get paid, and get -- get jobs.

5 Q. Okay. So generate invoices, accept payments, that
6 sort of thing?

7 A. Correct.

8 Q. Not business, like a practice management.

9 A. Right. I don't want to call it a dispatch call.
10 That's not what it is. It's just, they help him get jobs.

11 Q. Choice Home Warranty dispatches. Housecall Pro
12 manages?

13 A. Right -- the business part.

14 Q. Okay. He said those were -- that was like an app
15 that he used?

16 A. That's correct.

17 Q. Okay. Did that require an account?

18 A. It does.

19 Q. Housecall Pro, where -- where are they based out
20 of?

21 A. I believe it's Colorado.

22 Q. And were you able to communicate with them about
23 getting records from Mr. Spencer's account?

24 A. I was.

25 Q. And did they provide those records to you?

1 A. They did.

2 Q. And specifically, you didn't ask for everything,
3 you only -- what was -- what did you ask for specifically?

4 A. Just this transaction, the \$2,500.

5 Q. And again, you used some sort of process to get
6 back?

7 A. It was a search warrant, yes.

8 Q. Okay. And how did you receive those records back
9 from them?

10 A. Digitally.

11 Q. Okay. Let me show you what's been marked as
12 State's 111. Let me ask you if you recognize that.

13 A. I do.

14 Q. What is 111?

15 A. It is the records from Housecall Pro.

16 Q. And those records, they attached an affidavit to
17 those saying that those were true and accurate copies of the
18 records they have involving Ms. Cross and
19 Mr. Spencer's transaction?

20 A. That is correct.

21 Q. And did they have any other records, where she had
22 made payments or anything to Mr. Spencer?

23 A. No.

24 Q. So that's the only record they have of her ever
25 using that software?

1 A. That's correct.

2 Q. Okay. And is that document you have in front of
3 you 111, is that a true and accurate copy of the records they
4 sent you?

5 A. Yes, sir, it is.

6 MR. THOMAS: At this time, Your Honor, the State would
7 move 111 into evidence.

8 MR. BROOME: Subject to previous objection.

9 THE COURT: Subject to previous exceptions or
10 objections ruling remain the same. 111 into evidence for the
11 State.

12 (State's Exhibit 111 was admitted into evidence.)

13 BY MR. THOMAS:

14 Q. What is the first page of those records?

15 A. It looks like it's a copy of the invoice for the
16 \$2,500 transaction.

17 Q. So according to them, that's -- that's something
18 he generated from his side?

19 A. That's correct.

20 Q. Okay. What is the date that that invoice is
21 created? Or I guess, what's the date that's paid?

22 A. Oh, I'm sorry. I see it. It's December the 9th,
23 at 1:07 p.m.

24 Q. Okay. And for what amount is that?

25 A. It is \$2,500.

1 Q. So what's on the second page of that exhibit?

2 A. This appears to be a signature block and some more
3 details about that transaction.

4 Q. Okay. So originally, we've got time stamps on it
5 down at the bottom of the payment history. What was the
6 original amount that was attempted to be charged for this
7 system?

8 A. It appears at 1:04 p.m., he tried to make the
9 payment for \$4,500.

10 Q. What happened to that payment?

11 A. The card security code was incorrect. The three
12 digit code in the back.

13 Q. Was that \$4,500 attempted the second time?

14 A. It was at 1:06 p.m., he tried it again for \$4,500,
15 and there was not enough money in Ms. Cross's account.

16 Q. And that's -- and we can go back to her record,
17 and see that she didn't have \$4,500 in there?

18 A. That's correct.

19 Q. So what's the final -- what's the final time, and
20 that final payment?

21 A. At 1:07 p.m., he ran it for \$2,500, and it went
22 through.

23 Q. And again, this is -- what's the third page of
24 that?

25 A. This is another page documenting the transaction.

1 Q. If you let me look that up. Thank you. Of
2 course, counsel called. So this would be -- is this from
3 hers? Would this be from the vendor side or would this be
4 from the customer side?

5 A. Should be from the vendor side.

6 Q. Okay. So this is his activity fee?

7 A. It is.

8 Q. Okay. So again, what time was that job invoice
9 created?

10 A. It looks like the job was created at 1:01 p.m. on
11 December the 9th.

12 Q. And what was the line item total at 1:01?

13 A. It was \$4,500.

14 Q. And then, what time was the payment actually made?

15 A. At 1:07, after two failed attempts for \$4,500 it
16 went through for 2,500.

17 Q. And then, it looks like -- what time did he go
18 back and update the line item?

19 A. It appears he did that at 1:31 p.m.

20 Q. And so, that would zero out the balance view?

21 A. That's correct.

22 Q. And again, according to your interview with him,
23 all of these transactions would've had to have been done by
24 Ms. Cross via the phone?

25 A. That's correct.

1 Q. And all of the stuff from his side would've been
2 done via the phone as well?

3 A. That's correct.

4 Q. Do you know where those phones were when all of
5 this was going on, or is that a question for someone else?

6 A. That's a question for the next witness.

7 MR. THOMAS: Thank you so much, Investigator Pittman.
8 I'm going to let you answer any questions Mr. Broome has.

9 THE WITNESS: Thank you.

10 MR. BROOME: Judge. I suggest, like, a five minute
11 recess --

12 THE COURT: Sure.

13 MR. BROOME: -- just to stretch our legs.

14 THE COURT: Sure. Yeah -- yeah. Ladies and gentlemen,
15 before the Defense engages in their cross-examination of
16 Investigator Pittman, we're going to take a short little
17 break. So if you'll go back to the jury room, we'll get you
18 back out shortly and proceed forward. Okay. Short recess.

19 (Jury exits courtroom.)

20 (Off the record.)

21 THE COURT: All right. We ready for the jury?
22 State?

23 MR. THOMAS: State's ready, Your Honor.

24 THE COURT: Defense?

25 MR. BROOME: Yes, sir.

1 THE COURT: Okay. All right. Let's bring the jury
2 out, please.

3 (Jury enters courtroom.)

4 THE COURT: All right. Thanks, Mr. Bolt.

5 Mr. Broome, you ready, sir?

6 MR. BROOME: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. BROOME:

9 Q. How long did you all practice that direct
10 testament this weekend?

11 A. I didn't practice it at all.

12 Q. You never practiced that with Solicitor Thomas
13 over the weekend?

14 A. I didn't.

15 Q. Okay. He asked you his leading questions and gave
16 his kind of automated responses?

17 A. I don't think it was automated, I answered his
18 questions.

19 Q. Okay. That was the first time?

20 A. Did I answer those questions?

21 Q. Yes, sir.

22 A. Yes.

23 Q. Okay. Now, you testified about certain important
24 things that you found in the case, and there are certain
25 important locations that were critical of this case, correct?

1 A. That's correct.

2 Q. That would be Ms. Cross's home at
3 [REDACTED], right?

4 A. Yes.

5 Q. And the location of her body, correct?

6 A. Yes.

7 Q. And the location of the trash can, correct?

8 A. Yes.

9 Q. Now, one of the things that law enforcement has
10 the ability to do is draft search warrants, correct?

11 A. That's correct.

12 Q. And you draft -- you draft the search warrants in
13 this case, correct?

14 A. I drafted some of them, yes, sir.

15 Q. Including for cell phone records, right?

16 A. Yes, sir.

17 Q. And for cell phone tower locations, correct?

18 A. That's correct.

19 Q. Okay. And you have the ability to draft a search
20 warrant, give a search warrant to Verizon, T-Mobile, AT&T,
21 and Sprint, correct?

22 A. That's correct.

23 Q. And specifically, you can ask all those companies
24 through a search warrant for the location of every single
25 cell tower in a given location, correct?

1 A. That's correct.

2 Q. All right. So if you know a specific address, you
3 could ask for every single cell phone tower within a
4 five-mile radius, correct?

5 A. Yes.

6 Q. Or a 10-mile radius?

7 A. Yes, sir.

8 Q. And that information, you could ask for a cell
9 phone tower dump, correct?

10 A. You could, yes.

11 Q. Right. And what you're looking for, as a
12 law enforcement investigator, is every single cell phone
13 subscriber who is connected to that tower within a given time
14 period, true?

15 A. That's true.

16 Q. And that could show you every single person who
17 had been in that high-shaped azimuth on a given date and the
18 time, correct?

19 A. Yes.

20 Q. And so you could have gotten a search warrant for
21 Verizon, their cell phone towers in the five-mile radius of
22 Ms. Cross's home on December the 9th, correct?

23 A. Yes.

24 Q. And on December the 10th, correct?

25 A. That's correct.

1 Q. And on December the 11th, correct?

2 A. Correct.

3 Q. And on December the 12th?

4 A. Correct.

5 Q. And on December the 13th?

6 A. Sure.

7 Q. And on December the 14th, correct?

8 A. Yes.

9 Q. You didn't do any of those things, did you?

10 A. No.

11 Q. You could have gotten a search warrant for cell
12 phone tower information, Verizon, Sprint, T-Mobile, AT&T, for
13 every tower within a five-mile radius of where Ms. Cross's
14 body was found, correct?

15 A. Yes.

16 Q. Okay. And again, that would show every person,
17 every cell phone subscriber that had connected with that
18 tower on a specific time period, correct?

19 A. It'd be a huge amount of data, but yes.

20 Q. You could have looked for this closest cell phone
21 tower to where her body was found, correct?

22 A. Yes.

23 Q. Okay. You could have found out every single
24 person who connected to that tower on December the 9th,
25 correct?

1 A. Yes.

2 Q. Same thing for December the 10th, correct?

3 A. Yes.

4 Q. Same thing for December 11th, correct?

5 A. Yes.

6 Q. And every day until the body was found, correct?

7 A. That's correct.

8 Q. Did you do that?

9 A. I did not.

10 Q. And again, that would give law enforcement the
11 ability to know every single person who has been in that
12 area, where her body was found, correct?

13 A. Yes. But the --

14 Q. The -- the -- that phone had been, correct?

15 A. Yes. But to assume that you would get that much
16 data back that quickly, that's not going to happen.

17 Q. So you just decided not to try?

18 A. No, I -- it just -- I wouldn't -- I wasn't going
19 to get any records. I just know how these phone records
20 work. I just wasn't going to get them back.

21 Q. You weren't going to get cell phone records from a
22 search warrant, if you asked for them from Verizon?

23 A. You don't get them immediately, no.

24 Q. I'm not asking if you got immediately, I'm asking
25 if you tried to get them.

1 A. No, I didn't.

2 Q. Even after the body was found?

3 A. No, I didn't do tower scrubs. No, I didn't do it.

4 Q. And you didn't do that, you never got a search
5 warrant for cell phone tower, or scrubs, or dumps for all the
6 towers within a five-mile radius of where the trash can was
7 found, correct?

8 A. I did not.

9 Q. You testified about the Power Trac video?

10 A. That's correct.

11 Q. And you testified about how long Mr. Spencer's
12 truck had been at the Power Trac station, correct?

13 A. I did.

14 Q. And it was 10 minutes, right?

15 A. It was about 10 minutes, yes sir.

16 Q. You testified on a direct, there was only one
17 working camera. Do you remember saying that?

18 A. I did say that, yes.

19 Q. Did you drive the search warrant for Power Trac's
20 surveillance cameras?

21 A. No, I didn't.

22 Q. Did you drive the subpoena for Power Trac's
23 surveillance cameras?

24 A. No. I sent Detective Cash to Power Trac.

25 Q. Did Detective Cash, to your knowledge, do those

1 things?

2 A. He did not.

3 Q. Did you -- you never went to Power Trac yourself
4 personally?

5 A. No, I didn't. Detective Cash went at my request.

6 Q. You said Detective Cash?

7 A. I did.

8 Q. To your knowledge, you never did those things,
9 correct?

10 A. He went to the Power Trac, yes. Now, did he draft
11 a search warrant? No.

12 Q. (Inaudible)?

13 A. No.

14 Q. Search warrants? No.

15 A. No, he did not.

16 Q. And the basis of that knowledge comes through
17 Detective Cash?

18 A. Yes.

19 Q. Okay. And is your experience generally, as a law
20 enforcement officer, gas stations typically have a lot of
21 surveillance cameras, correct?

22 A. They typically do, yes, sir.

23 Q. But you never went there once to check to see for
24 yourself, if they had operating cameras on the gas pumps,
25 correct?

1 A. No, I did not.

2 Q. For the front entrance?

3 A. I did not.

4 Q. For the cashier?

5 A. I didn't do that at all. I sent Detective Cash

6 and --

7 Q. Detective Cash never did this thing as far as you
8 know, correct?

9 A. I know what Detective Cash told me, but I can't
10 tell you. That's hearsay, but --

11 Q. But as the lead investigator knowing all aspects
12 of this, you're the lead investigator, correct?

13 A. That's correct.

14 Q. And part of your job is to know all aspects of the
15 investigation, correct?

16 A. That's correct.

17 Q. Communicating with (inaudible), right?

18 A. Yes.

19 Q. Communicating with other sergeants and officers --

20 A. Right.

21 Q. -- at the sheriff's office, right?

22 A. Yes, sir.

23 Q. And you need as much information as possible to do
24 a proper and thorough investigation, correct?

25 A. That's correct.

1 Q. You need as much information from them. You need
2 these people to communicate with you so you can do a thorough
3 investigation, correct?

4 A. Right.

5 Q. And a competent investigation, correct?

6 A. I need as many people as possible in an
7 investigation this size, yes.

8 Q. And a meticulous investigation?

9 A. Yes.

10 Q. All right. But you don't know, -- you didn't ever
11 ask him to do those things, did you?

12 A. I did ask Cash to go to the Power Trac, yes.

13 Q. You asked him to serve him with a subpoena for a
14 video?

15 A. I did not.

16 Q. You asked him to -- for the search warrant videos?

17 A. I did not. I simply asked him to go to the Power
18 Trac to see if he could obtain video.

19 Q. Along that same line you testified on direct about
20 -- let me show you State's 114 and 115, which are already
21 into evidence, okay?

22 A. Yes, sir.

23 Q. Has this -- I'm going to keep -- you're going to
24 hold 114.

25 A. Okay.

1 Q. All right. And State's 115, we have what looks to
2 be an Ace Hardware store, correct?

3 A. That is not in my picture, but yes.

4 Q. I'm going to show you 115.

5 A. Yes, it is. It's in the parking lot.

6 Q. Okay.

7 A. Yes.

8 Q. How about you holding all that?

9 A. Okay.

10 Q. What businesses do you see in 114 and State's 115?

11 A. I see Ace, an O'Reilly, a Dollar Tree, what's like
12 a pharmacy, maybe a vape store. And there's a couple, -- I
13 can't read the signs, but a Chinese restaurant.

14 Q. Chinese restaurant. So O'Reilly's, a restaurant,
15 Dollar Tree. What's the last one --

16 A. I'm sorry. There's a -- there's an Ace and a
17 pharmacy, and like two more -- I can't see the sign.

18 Q. Did you once, -- when you were taking those
19 pictures, or before you took those pictures actually, after
20 you arrested Mr. Spencer for murder, did you attempt to go to
21 those locations. Once you got the information that showed
22 that he was there or the GPS was there, did you ever attempt
23 to go to those businesses and attempt to get surveillance
24 camera for those businesses?

25 A. I called the businesses. They said they didn't

1 have any outside surveillance. Cash went by the -- these
2 places.

3 Q. Detective Cash went by this?

4 A. He did.

5 Q. When was that?

6 A. I have no idea. I -- I can't recall.

7 Q. You remember?

8 A. I don't remember, no.

9 Q. Did you write it down in your report (inaudible)?

10 A. I did not.

11 Q. You don't know what date it could have been?

12 A. I -- I don't remember. I don't know.

13 Q. Could have been last week?

14 A. These pictures are taken recently, yes.

15 Q. No, I'm saying when you think that you sent
16 Investigator Cash to look at the surveillance cameras it was
17 after the picture taken?

18 A. Before. Before.

19 Q. Before. That's okay.

20 A. Right.

21 Q. Okay. You're just not sure when?

22 A. I -- I'm not.

23 Q. Okay. You testified on direct that you
24 interviewed Mr. Spencer on December 16th. You played that
25 video to the jury. Remember that?

1 A. Is that the one in Greenville.

2 Q. The one in Greenville?

3 A. Yes, sir.

4 Q. And your testimony under question by
5 Mr. Thomas was that "he appeared more frustrated?"

6 A. He did.

7 Q. Correct. And that was after you had confronted
8 him with evidence in the case that you said that you had
9 found, correct?

10 A. Yes, sir.

11 Q. But you lied to him about that? Yes, correct?

12 A. I did.

13 Q. (Inaudible).

14 A. I did.

15 Q. Found the witness, correct?

16 A. I did.

17 Q. And you confronted him with lies, correct?

18 A. That's correct.

19 Q. Told him he was guilty based upon lies?

20 A. I did lie to him about being a witness, yes.

21 Q. And while you claim he was frustrated, he on the
22 video asked for proof, he said, "Show me proof of this?"

23 A. He did say that, yes.

24 Q. And he also said -- I told you -- you testified
25 that Mr. Spencer told you he, "felt like you were trying to

1 force words into his mouth," correct?

2 A. He did say that, yes.

3 Q. But you all have interviewed him several times at
4 this point, right? The third time?

5 A. That's correct.

6 Q. Okay. And you accused him of killing Ms. Cross at
7 least twice at this point, correct?

8 A. Yes.

9 Q. And he had continually maintained his innocence to
10 you, correct?

11 A. He did.

12 THE COURT: Which looks like, for the Defense, it would
13 be 24.

14 MR. BROOME: 24. Thank you, Your Honor.

15 MR. THOMAS: Your Honor, this is -- we have no
16 objection. It's already in, it's just a PDF off of one of
17 the jump drives, so no objection.

18 THE COURT: Okay. All right.

19 MR. BROOME: May I approach?

20 THE COURT: You sure can.

21 BY MR. BROOME:

22 Q. All right. Investigator Pitt, I'm going to show
23 you what's been marked as Defendant's Exhibit 24. And that
24 is just a -- a page from T-Mobile's records and
25 Timing Advance's records?

1 A. Yes, sir.

2 Q. And at the top do you recognize that?

3 A. I do.

4 Q. Okay. And that's already in evidence, I think
5 under State's 110. At the top it says, "Interpreting Timing
6 Advance's records." Correct?

7 A. That's correct.

8 Q. All right. You've had the chance to review the
9 T-Mobile records already. You testified to that, correct?

10 A. That's correct.

11 Q. Have you seen that document before?

12 A. I've seen it. I -- I'm not going to say I
13 understand all of it. Yes, I've seen it.

14 Q. Your understanding is that based on what T-Mobile
15 sent you back regarding authenticity, that's a true and
16 accurate representation of their records?

17 A. Yeah. Right.

18 MR. BROOME: Okay. Your Honor, at this time I move
19 Defendant's 24 into evidence.

20 THE COURT: Okay. I know that without objection admit
21 24 into evidence for the Defense.

22 (Defendant's Exhibit 24 was admitted into evidence.)

23 BY MR. BROOME:

24 Q. Okay. And what we're looking at is a T-Mobile
25 interpretation of Timing Advance's record. Is that what it

1 says?

2 A. Yes, sir.

3 Q. And on the very first sentence, second paragraph.

4 A. Okay.

5 Q. It says "Timing Advance's records come with a
6 rating of location accuracy known as confidence." Correct?

7 A. That is correct.

8 Q. Okay. It says "A high level of confidence means
9 that the device is located within 100 meters of the indicated
10 location, while a low level of confidence indicates a range
11 of 300 or more meters of the indicated location". Correct?

12 A. That's correct.

13 Q. Okay. So it's talking about high confidence, low
14 confidence, what that means, correct?

15 A. Right.

16 Q. And actually skipping back ahead the last sentence
17 of the first paragraph.

18 A. Okay.

19 Q. Says "Please exercise caution using these records
20 for investigative or prosecutorial purposes." Correct?

21 A. That's what it says, yes.

22 Q. And it goes on to explain about the levels of
23 confidence, how they can be read, correct?

24 A. It does.

25 Q. Now, you've been an investigator before you've

1 been a police officer for 18 plus years.

2 A. That's correct.

3 Q. Correct?

4 A. Yes, sir.

5 Q. And part of that experience has been as an
6 investigator?

7 A. Half of it. Yes, sir.

8 Q. How much?

9 A. Half of it.

10 Q. Yeah.

11 A. Yes, sir.

12 Q. Close to a decade?

13 A. Yes, sir.

14 Q. Right. And you testified that you -- part of your
15 experience of doing poll cases, correct?

16 A. Yes, sir.

17 Q. Missing persons?

18 A. Right.

19 Q. That sometimes eventually lead to homicides?

20 A. That happens. Yes, sir.

21 Q. So over the course of your 18-year career, you've
22 responded to a lot of crime scenes, correct?

23 A. I have.

24 Q. A lot of homicide scenes, correct?

25 A. I have.

1 Q. And you've been asked to help out and assist in
2 missing persons cases. Okay?

3 A. Yes, sir. That's correct.

4 Q. And being -- and you basically -- in your
5 experience as a trained investigator. --

6 A. Uh-huh.

7 Q. -- You know certain pieces of evidence to look for
8 in these type of cases, correct?

9 A. That's correct.

10 Q. All right. In a missing person's case, there's
11 certain things that are going to stand out to you, correct?

12 A. Yes, sir.

13 Q. That may turn it from a missing person's case into
14 something more serious, correct?

15 A. Yes, sir.

16 Q. Okay. And you've got someone who's been missing
17 an elderly woman?

18 A. Right.

19 Q. Who's been missing for at least 24 hours. Okay?

20 Her phone is missing, and the phone is turned off, and
21 there's blood at the scene of her house. That probably
22 indicates to you -- that this two-

23 decade experienced investigator, -- this probably could be a
24 homicide, correct?

25 A. That's correct.

1 Q. Mostly based on the blood, correct?

2 A. That's a clue, yes.

3 Q. And at that point, when you walk into Ms. Cross's
4 house on December the 10th --

5 A. Uh-huh.

6 Q. -- alarm bells are probably going off for you that
7 this is a crime scene?

8 A. It doesn't look good, no

9 Q. Alarm bells are going off, but it's probably more
10 likely than not, this is a crime scene, correct?

11 A. Correct.

12 Q. Based on the blood?

13 A. The blood, yes.

14 Q. And the blood's covered up with the blanket,
15 right?

16 A. It was a blanket, yes.

17 Q. Okay. So you got a call from Sergeant Wilke,
18 asking you to come assist him with this -- a missing person's
19 case, correct?

20 A. He did. He contacted and asked me to come.

21 Q. Repeat that.

22 A. He asked me to come up there and assist him, yes,
23 sir.

24 Q. Okay. And you did -- you showed up there with
25 Investigator Knight about? --

1 A. I think it was like --

2 Q. 6:00?

3 A. That's about right. Yes, sir.

4 Q. Sound right?

5 A. Yes, sir.

6 Q. And there's an elderly, disabled woman. She's
7 been missing for 24 hours, correct?

8 A. That's correct.

9 Q. No one has spoken to her in 24 hours and no one
10 has seen her in 24 hours, correct?

11 A. That's correct.

12 Q. The phone was off and multiple cars in the
13 driveway, correct?

14 A. Yes, sir.

15 Q. Like I said, like you testified to, there's
16 multiple blood stains on the carpet, right?

17 A. There is.

18 Q. That run by a (inaudible)?

19 A. It is.

20 Q. And when you got there, you were not the first
21 officer on scene, correct?

22 A. No, sir. I was like maybe seventh or eighth,
23 maybe.

24 Q. You weren't the first. There were actually people
25 who were there. And you've seen this through trial,

1 fortunately, Ms. McCoy was in the house, correct?

2 A. I did see that, yes, sir.

3 Q. And this is Kathy Warren, correct?

4 A. That's correct.

5 Q. And when you got there at 6:00 with

6 Investigator Knight, there's no crime scene tape up anywhere,
7 correct?

8 A. That's correct.

9 Q. No crime scene log ever created?

10 A. Not to my knowledge, no, sir.

11 Q. Okay. And like you just said, Ms. McCoy,

12 Ms. Warren in the house, correct?

13 A. They were.

14 Q. All these other officers?

15 A. They were.

16 Q. I believe Officer Wilke, Investigator Staton (ph),

17 Investigator Sweat (ph), Investigator Hoffia, and

18 Investigator Ogus (ph) are all there, correct?

19 A. Yes, sir. That's correct.

20 Q. And not once while you were there, did you ever
21 tell Ms. McCoy, "You need to leave because this is a crime
22 scene -- we need -- or not even that, but we just need you
23 out of this house so we investigate," correct?

24 A. I did not tell her that, no.

25 Q. Okay. And not once did you ever tell Ms. Warren,

1 "I need you out of this place so we can look for evidence of
2 the crime," correct?

3 A. No, I didn't.

4 Q. You never instructed Investigator Hoffia, the
5 CSI Crime Scene Investigator, to exclude anyone from the
6 crime scene, correct?

7 A. No, I did not.

8 Q. You never instructed him to put up crime scene
9 tape?

10 A. At the -- no, I did not.

11 Q. And when you left the house at 8:20 p.m., that
12 night of the 10th. --

13 A. Uh-huh.

14 Q. You left the house as it was, correct?

15 A. When I left, there were still law enforcement
16 there. I left to get the bank records, but to answer your
17 question, no, they did not secure it.

18 Q. You came back to the house on the 13th with --

19 A. Blackman, I believe.

20 Q. Blackman and Wilke?

21 A. Right. That's correct.

22 Q. And the house is unlocked, correct?

23 A. It was.

24 Q. It was not sealed out there, correct?

25 A. It wasn't -- it wasn't.

1 Q. At that point, that's three days between when you
2 got there, the 10th, and when you showed back up on the 13th
3 to go back in the house, correct?

4 A. That's correct.

5 Q. So the house was unsecured for those three days,
6 correct?

7 A. That is correct.

8 Q. And during those three days, that point no one had
9 processed the scene for any fingerprints, correct?

10 A. No, they had not.

11 Q. No one had cut the carpet up at that point?

12 A. They hadn't.

13 Q. No one had sprayed luminol -- for looking for
14 blood or anything, correct?

15 A. At that point, no, sir.

16 Q. No one had physically checked the windows to see
17 if they were locked or unlocked?

18 A. They did not.

19 Q. And you had never told Investigator Hoffia to do
20 those things?

21 A. Over the weekend, no, I would not. Because I --
22 it hadn't been assigned to me yet. No.

23 Q. You again, you didn't tell me to do that,
24 lieutenant?

25 A. No, I didn't.

1 Q. One left?

2 A. I did not.

3 Q. One of the things that you found during the course
4 of your investigation was that Ms. Cross had two walkers that
5 she used?

6 A. We did -- I did receive information late, but she
7 had two walkers. Yes, sir.

8 Q. You learned that she kept a second walker, -- one
9 in the house, and one in the truck, correct?

10 A. That is correct.

11 Q. And you knew on the 10th that her walker was
12 missing, correct?

13 A. We did not see a walker in there in her car, no.
14 No, sir.

15 Q. You -- you -- you looked in there and did find
16 one, correct?

17 A. That's -- that's correct.

18 Q. You learned that that's where she kept her second
19 one, correct?

20 A. Yes, sir.

21 Q. You knew her keys were missing, correct?

22 A. We did.

23 Q. Okay. And the car was unlocked, right?

24 A. I believe so. I -- I -- I don't remember, but I
25 believe so. I know we got in it.

1 Q. Fair inference that whoever invaded the house, or
2 the killer, or killers --

3 A. Uh-huh.

4 Q. -- in this case involved her disappearance --
5 would've been -- opened up the trunk to take her walker?

6 A. I don't -- I don't know.

7 Q. You don't think -- you don't know if that's a fair
8 inference to complete?

9 A. That the murderer would've took the walker with
10 her?

11 Q. Well, if the person -- let's back up, if a missing
12 person --

13 A. Right.

14 Q. -- for four hours, correct?

15 A. Right.

16 Q. Who's established that there's blood in the car,
17 correct?

18 A. That's correct.

19 Q. She's not answering her phone?

20 A. Right.

21 Q. And in your mind, as a seasoned homicide
22 investigator, you're thinking this is more than just someone
23 who's just gone off for the weekend, correct?

24 A. Right.

25 Q. Okay. She could be a victim of an assault or

1 murder, correct?

2 A. Right.

3 Q. Okay. And her walker is missing, correct?

4 A. Right.

5 Q. Okay. Did it dawn on you at any point that the
6 person who was responsible for these actions on her had
7 removed the walker from the trunk?

8 A. On Friday when -- when we went out there
9 initially, we learned that the walker was missing from the
10 trunk, but we also had information that she could have
11 suffered from some sort of medical episode. And I knew she
12 had some doctor's appointments from some of the things I saw
13 there. We weren't sure whether she had gone somewhere with
14 someone and the walker was missing. We just didn't know what
15 we didn't know on that Friday.

16 Q. But eventually her body was found on the 14th,
17 correct?

18 A. On that Tuesday, yes, sir.

19 Q. And then, that's when Investigator Hoffia went
20 back out to the scene, correct?

21 A. Yes, sir.

22 Q. Looking for clues, right?

23 A. Right. Yes, sir.

24 Q. I know he's testified to this, but you, -- when
25 you were there, never processed the trunk of her car looking

1 for fingerprints or DNA, correct?

2 A. I never processed the trunk, no, sir.

3 Q. And as the lead investigator in this case, you and
4 the sheriff's office are responsible for sending certain
5 items in that are in evidence to SLED for testing?

6 A. That's correct.

7 Q. Correct. For DNA, correct?

8 A. Correct.

9 Q. Fingerprints, right?

10 A. Anything we want analyzed. Yes, sir.

11 Q. Anything that you need a scientist to analyze or
12 an expert to analyze, correct?

13 A. That's correct.

14 Q. Okay. And if you've got blood, you can send that
15 to SLED for testing?

16 A. Sure.

17 Q. If you've got saliva, you can send that to SLED
18 for testing for DNA, correct?

19 A. Anything you can imagine can be analyzed.

20 Q. DNA, sweat, correct?

21 A. Right.

22 Q. If you think it's on an item, you can take it?

23 A. Sure.

24 Q. And getting ready, or as you're working this case,
25 you reviewed all the evidence that you, or Investigator

1 Hoffia, or Anderson County collected and put into evidence,
2 correct?

3 A. Correct.

4 Q. All right. You didn't send the bloody carpet to
5 SLED for testing, correct?

6 A. You said I did or didn't?

7 Q. Did not.

8 A. Initially it was sent, yes, but I don't know why
9 they sent it back without testing.

10 Q. Okay. You didn't choose to send it back to SLED
11 for testing?

12 A. I -- I did not. That falls on me.

13 Q. There were also swabs from right outside the trash
14 can?

15 A. That --

16 Q. You never sent for testing?

17 A. Yes. That falls on me. Yes, sir.

18 Q. Importantly, as Investigator Hoffia testified to,
19 you showed pictures of luminol on some metal lamp. Do you
20 remember that?

21 A. I do.

22 Q. Okay. And you never sent that to SLED for testing
23 to see if that was blood or some other substance on there,
24 correct?

25 A. That's correct.

1 Q. Now, Investigator Knight testified about and
2 showed us this video at night of -- at the neighbor's house,
3 correct?

4 A. He did.

5 Q. And really, what I mean is the -- there's a
6 neighbor who lives across the street from Ms. Cross and
7 Ernesto's Ramos, correct?

8 A. Yes, sir. That's him.

9 Q. And that's the owner of the video cameras that
10 we're seeing, correct?

11 A. Yes, sir.

12 Q. Okay. And you learned through the course of your
13 investigation really, on December the 15th, the day after
14 BJ Cross was found, you learned that there was an eyewitness?

15 A. That's correct.

16 Q. And Investigator Knight found the eyewitness,
17 correct?

18 A. He did.

19 Q. All right. And then because Investigator Knight
20 testified that, "He went back out on the scene to look for
21 neighbors who had seen anything suspicious?"

22 A. That's correct.

23 Q. Right?

24 A. Yes.

25 Q. Seen anything weird at all, right?

1 A. I'm sorry, who -- who didn't see anything weird at
2 all?

3 Q. Investigator Knight went looking for neighbors to
4 see if they had seen anything weird --

5 A. Oh.

6 Q. -- at Ms. Cross's house?

7 A. That's correct.

8 Q. Correct. And he found this person named
9 Carlos Gosnell who lives at 99 (inaudible) Lane, correct?

10 A. That's correct.

11 Q. And he saw this blue Envoy at Ms. Cross's home at
12 -- it -- his words were "10:30 on December the 9th," correct?

13 A. Yes, sir.

14 Q. That was the night that you went missing?

15 A. Correct.

16 Q. Correct. And he lives on Turlington and really
17 Ms. Cross lives in the corner of Turlington and --

18 A. Fairview.

19 Q. Correct?

20 A. That's correct.

21 Q. And you've gone out to the scene a lot in
22 Turlington, correct?

23 A. Yes, sir.

24 Q. Turlington is a dead-end road?

25 A. It is.

1 Q. Correct?

2 A. It is.

3 Q. There's only one way in and one way out of that
4 neighborhood?

5 A. Right.

6 Q. And so Mr. Gosnell has to live down the street
7 from Ms. Cross, correct?

8 A. That's correct.

9 Q. And so, any neighbor who lives down the street
10 from Ms. Cross is going to -- have to every time they leave
11 their house to leave out the neighborhood, they have to cross
12 Ms. Cross's house?

13 A. They have to -- they would have to pass her house,
14 yes, sir.

15 Q. Every time they come home, they have to look at
16 her house (inaudible).

17 A. They would, yes, sir.

18 Q. Initially, once you all got that information, you
19 all were convinced that this blue Envoy was Mr. Spencer,
20 correct?

21 A. Yes.

22 Q. And that's why you all went back to Mr. Spencer's
23 house on December 15th?

24 A. Yes.

25 Q. And you took a picture, you were out of his house

1 at --

2 A. We also found the trash can on the 15th too.

3 Q. You did. You testified that when you found the
4 trash can, you had not quite made it to Mr. Spencer's house,
5 correct?

6 A. That's correct.

7 Q. You testified that you went and found the trash
8 can first, right?

9 A. On the 15th?

10 Q. Yeah.

11 A. Yes, sir.

12 MR. BROOME: Okay. (Inaudible).

13 THE COURT: Sure.

14 (Bench conference.)

15 THE COURT: All right. Ladies and gentlemen, I -- you
16 will better handle this particular legal argument, that's
17 been presented to me by lawyers, better handled outside your
18 presence as opposed to trying to do it at the bench. So I
19 want to ask that you go back to the jury room. Should not be
20 long, hopefully, and we'll get you back out. Thank you.

21 (Jury exits courtroom.)

22 THE COURT: Okay. The Defense has a -- this is 25 and
23 26. 25 is a picture of the Defendant's Trailblazer, correct?

24 MR. BROOME: Yes, sir. Defendant's Exhibit 25 is a
25 picture of the rear of the trail, -- Mr. Spencer's

1 Trailblazer, looks like on his property, based upon the other
2 photographs. And Defendant's 26 is a picture of the
3 (inaudible) trash can found (inaudible).

4 THE COURT: And there, thought is some information,
5 numbers and letters on the right-hand side. Somebody
6 referred to it at -- at the bench conference as metadata.

7 So Solicitor Thomas, you have an objection, and I think
8 -- let's best handle the objection by somebody asking
9 Investigator Pittman about these pictures.

10 MR. THOMAS: Right. Yeah, I mean, just -- let's see
11 what kind of foundation they can lay for it. I'm just not
12 sure he's going to understand or be able to testify to the
13 metadata pictures.

14 THE WITNESS: No.

15 MR. BROOME: One second, Your Honor. Yeah, we'll get
16 him on the flash drive quick too.

17 THE COURT: All right. Is the flash drive going to be
18 better than those actual pictures?

19 MR. BROOME: Have the same data on it? Yes, sir.

20 THE COURT: I think the purpose of this in-camera
21 testimony, -- let's just go with what you got right there.

22 MR. THOMAS: Right. Yeah, yeah. I mean, I think for
23 the purposes -- in-camera, I mean, I don't --

24 THE COURT: Yeah.

25 MR. BROOME: It's 250. It says 250 on the car and

1 301 on the trash can.

2 MR. THOMAS: Yeah, I mean, I -- I think for purposes of
3 this proffer, we're good with what's in this picture.

4 THE COURT: Go ahead and examine -- have Mr. Broome
5 about those, and let's just see where it takes us. Okay?

6 MR. BROOME: Sure.

7 THE COURT: Did you have them both or just one?

8 MR. BROOME: Just one. They've got the other one right
9 now.

10 BY MR. BROOME:

11 Q. Investigator Pittman, I'm showing you what was
12 remarked as Defendant's Exhibit 20 -- think that's five. Is
13 that 25 on there?

14 A. Yes, sir. It's 25.

15 Q. Okay. Have you seen that picture before?

16 A. I've seen this picture before, but just not this
17 stuff on the side.

18 Q. Okay. It's the actual picture, -- it's the bottom
19 two parts, the actual photograph.

20 A. Right.

21 Q. On the left-hand side. Do you recognize that
22 part?

23 A. I -- I do. The Trailblazer, yes.

24 Q. Yes. And is that a picture that you took?

25 A. I remember seeing the Trailblazer like this. I

1 don't know if I took this photograph, but I was out there and
2 it looked like this, yes.

3 Q. What time was -- was that picture taken according
4 to the data (inaudible)?

5 A. It looks like December 15, '21, at 2:50 p.m.

6 Q. December 15th, 2021, at 2:50 p.m.?

7 A. Yes, sir.

8 Q. Correct?

9 A. Yeah. Yes, sir. I'm sorry.

10 Q. And you testified that you found the trash can on
11 December the 15th, 2021, as well, correct?

12 A. That's correct.

13 Q. And you took photographs of the trash can?

14 A. Yes.

15 Q. Okay. Enter those into (inaudible) file or create
16 them, I guess you downloaded them -- downloaded them onto,
17 like, law tracks?

18 A. That's correct.

19 Q. Okay. I'm going to show you Defendant's 26 and 25
20 as well.

21 A. Okay.

22 Q. Is 26 the trash can --

23 A. Yes, sir, it is.

24 Q. -- you all found?

25 A. Yes, sir, it is.

1 Q. And that's a picture that you took; is that
2 correct?

3 A. Yes, sir.

4 Q. Okay. Because you all, -- you found the trash can
5 first, not Anderson, correct?

6 A. No, I found it first, yes, sir.

7 Q. Okay. You took a picture, you have a --

8 A. It was a county cell phone, police --

9 Q. It was a county cell phone, correct?

10 A. Right.

11 Q. Would it be Samsung, correct?

12 A. No, sir. It would've been an iPhone.

13 Q. It would've been an iPhone?

14 A. That would've been Captain Wilke. He uses a -- he
15 uses Android.

16 Q. He uses the Android?

17 A. He does.

18 Q. So Captain Wilke uses an Android?

19 A. He does.

20 Q. But you were familiar with those pictures?

21 A. I am familiar with those pictures, yes, sir.

22 Q. Okay. So you think maybe Captain Wilke took those
23 pictures?

24 A. He was with me in both locations, so probably he
25 used -- he was an Android guy. I don't --

1 Q. He's -- he's a what guy?

2 A. He's an Android guy, not an iPhone guy, so --

3 Q. Android guy. Okay. Got you. And you were
4 present with him, when those pictures were taken?

5 A. Yes, sir. I was on the -- yes, sir.

6 Q. Looking at the 25.

7 A. Okay. Oh, you said you want, I'm sorry.

8 Q. Do you remember going out to Mr. Spencer's house,
9 taking his picture?

10 A. I remember going to Mr. Spencer's house, yes, sir.

11 Q. Okay. You just don't remember who took that
12 picture?

13 A. I can't remember if I took it.

14 MR. BROOME: All right. Beg the Court's indulgence.

15 BY MR. BROOME:

16 Q. All right. Investigator Pittman, I'm going to
17 have Mr. Bentley place the actual digital image on the -- the
18 flash drive on the screen here for us.

19 A. Okay.

20 Q. Okay. And what are we looking at here?

21 A. This is a blue Trailblazer.

22 Q. Okay. Is it the same picture that's in
23 Defendant's 25?

24 A. Yes, sir. It is.

25 Q. Okay. And click it on -- click on file and put

1 here.

2 A. Okay.

3 Q. Look at the picture number. What picture number
4 is that?

5 A. Is that at the top?

6 Q. Yeah, top right there.

7 A. It's 119.

8 Q. Okay. And where have you got an 25? State's 119?

9 A. It's not on this Mr. Broome.

10 Q. Okay. Are the last three numbers at the top of
11 parentheses there?

12 A. Oh, I'm sorry. I see it. It's 119.

13 Q. Probably got some other numbers on there that are
14 a copy of it?

15 A. A case number I believe.

16 Q. Yeah. Yeah, I think I -- I think we rename those
17 for our Defense file. Is the date -- looking at
18 Defendant's 25, is the date on the picture that you're
19 looking at the same on the screen here, December 15, 2021?

20 A. Yes, sir, it is.

21 Q. Is the time the same 2:50 p.m.?

22 A. Yes, sir, it is.

23 Q. Is the size information the same, the size of the
24 picture of 30 (inaudible)?

25 A. Yeah. Yes -- yes, sir.

1 Q. Is the three and a half megabytes in each picture?

2 A. Yes, sir.

3 Q. And both devices are Samsung, correct?

4 A. That is -- that is correct.

5 Q. With a 4.3 millimeter?

6 A. Yes, sir.

7 Q. Okay. Let's do the same thing for the -- let's
8 look at Defendant's 26. Okay. We're going to put -- we're
9 going to pull the file info here. Is this number -- look at
10 the tracking Defendant's 26. Now, looking at the screen, we
11 have number 120, correct?

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

13 Q. And on Defendant's 26, are the last three numbers
14 in parentheses 120?

15 A. Yes, sir.

16 Q. And are the dates the same on the two pictures
17 December 15, 2021?

18 A. Yes, sir. That's correct.

19 Q. And time the same, 3:01 p.m.?

20 A. Yes, sir.

21 Q. And the size of those the same, correct?

22 A. Yes, sir.

23 Q. And device information's the same, correct?

24 A. Yes, sir, it is

25 Q. Must be something that you all would've provided

1 to the solicitor's office, right?

2 A. That's correct.

3 Q. Who would've been provided to us?

4 A. That's correct.

5 MR. BROOME: Can you put that back up, Mr. Bentley?

6 MR. THOMAS: Whenever he's done, I have some -- some
7 redirect.

8 THE COURT: Yeah, you -- you have a right to examine
9 him on this limited issue.

10 MR. SHAFFER: While -- while he's doing that, can we
11 get a clean copy of those that are not reading from the
12 State?

13 THE COURT: Yeah, but let's --

14 MR. THOMAS: They were just turned over to discovery.
15 I --

16 THE COURT: They're --

17 MR. THOMAS: They're on flash drive right there.
18 Somebody driving.

19 MR. SHAFFER: Okay. Thank you.

20 MR. THOMAS: Investigator Pittman, wait a minute.

21 THE COURT: (Inaudible) you finish with your
22 examination --

23 MR. BROOME: (Crosstalk) I think -- I think --

24 THE COURT: As far as on this limited issue in camera.

25 MR. THOMAS: It's okay. Yeah -- yeah, for now I have

1 until we can get the original photograph.

2 THE COURT: Okay. All right. Solicitor, do you have
3 any examination of -- of Pittman in camera, related to this
4 limited issue (inaudible).

5 BY MR. BROOME:

6 Q. Do you know who took those pictures?

7 A. I don't -- I didn't -- I don't think I took the
8 Trailblazer photograph, no.

9 Q. I open up the picture of the trash can that they
10 have on this jump drive, and I believe I click all these
11 three little dots at the top, and I go (inaudible) click on
12 this info button. That's got the file name, that's basically
13 the way the screen looks right now.

14 A. Yes.

15 Q. (Inaudible).

16 A. That's correct.

17 Q. And it says December 15, 2021, 3:01 p.m.?

18 A. Yes.

19 Q. What does that say, now that I've pressed a few
20 buttons on that side of the screen?

21 A. Can't change file date and time.

22 Q. Where do you see that at?

23 A. It -- when you changed it, it popped up.

24 Q. Okay. So you can't manipulate that. I guess
25 that's a true and accurate copy of the pictures that we got?

1 A. That is what I saw that day, yes.

2 Q. Okay.

3 THE COURT: Solicitor, is there still an objection
4 (inaudible)?

5 MR. THOMAS: I -- I -- I guess maybe I wasn't paying
6 attention to the line of questioning. I don't have a problem
7 with them. I don't know --

8 MR. BROOME: What the relevance of it is (inaudible).

9 MR. THOMAS: That's fine. No objection.

10 THE COURT: Without objection 25 and 26 into evidence.

11 Yeah, that was all, anything in camera. Quick break
12 while the jury's out or would be great to start back.

13 MR. SHAFFER: Actually, Your Honor, just so we're clear
14 -- clarify a couple of things, I think it probably would be
15 beneficial for us to go ahead and get a clean copy.

16 THE COURT: You want a clean copy of what Mr.
17 (Inaudible) wrote?

18 MR. SHAFFER: A clean copy of the pictures that have
19 not had the name changed, because I'm just being told that,
20 basically, we can confirm we -- we don't want them to argue
21 that we somehow tampered with the date or anything like that.

22 MR. BROOME: That was the experiment I just did.
23 Because I was on my computer, I could change it, but it says
24 it wasn't, this is accurate. I have confirmed the original
25 copy we had has the same information on it. I mean, I guess

1 --

2 MR. THOMAS: So your foundation being such a low
3 threshold, I believe that they have demonstrated that this is
4 what it purports to be. I probably still -- yes, that's
5 fine. I -- I'm --

6 THE COURT: So what the Solicitor Thomas is saying,
7 your concern should be alleviated.

8 MR. SHAFFER: Yes, Your Honor.

9 THE COURT: Okay. All right. Very good. All right.
10 Nobody needs a break. All right. Bring jury out.

11 (Jury enters courtroom.)

12 THE BAILIFF: All jury present.

13 THE COURT: All right. Thank you, Mr. Bolt.

14 Ladies and gentlemen, I often tell juries in Laurens,
15 if they have to go back to the jury room a lot during the
16 course of the trial, that you will thank me at the end of
17 this because you're getting a lot of exercise walking from
18 the courtroom to the -- to the jury room. Oftentimes in
19 other courtrooms, the jury room is just right there, but in
20 Laurens you get your little walk, so you get your exercise
21 in, thanks to the court.

22 (Inaudible) Mr. Broome?

23 MR. BROOME: Thank you, Your Honor.

24 At this time, Defense moved Exhibits 25 and 26 into
25 evidence.

1 MR. THOMAS: Without objection, Your Honor.

2 THE COURT: Without objection 25, 26 into evidence for
3 the Defense.

4 (Defendant's Exhibits 25 and 26 were admitted into evidence.)

5 BY MR. BROOME:

6 Q. (Inaudible) Investigator Pittman, you were
7 testifying that you -- earlier on direct, you testified that
8 when you're looking at the trash can, you didn't quite make
9 it to Mr. Spencer's house, correct?

10 A. That's correct.

11 Q. Okay. That you got Trump Pointe Road, you took a
12 right, you went down Cleveland Road, or whatever?

13 A. Right.

14 Q. All right. Let me show you Defendant's 25 and 26
15 -- put you into evidence and let me show you 25 first.

16 A. Okay.

17 Q. Okay. Okay. Looking at the screen behind you, is
18 this the picture that's in your hands?

19 A. It is.

20 Q. Defense 25?

21 A. It is.

22 Q. All right. And that's a picture of the back of
23 Mr. Spencer's blue Trailblazer, correct?

24 A. That is.

25 Q. Not a blue Envoy, correct?

1 A. That's correct.

2 Q. And that's taken by -- you were with -- you went
3 out to his property with Investigator Wilke and Blackie?

4 A. I was -- it was the three -- it was the three of
5 us that day, yes, sir.

6 Q. And the picture, the -- the date and time on this
7 is December 15th, at 2:50 p.m.

8 A. That's correct.

9 Q. Correct?

10 A. Correct.

11 Q. Okay. Now, I'm going to show you
12 Defendant's Exhibit number 26.

13 A. Okay.

14 Q. Walker number 49. Do you recognize that picture?

15 A. It's a picture of the trash can, yes, sir.

16 Q. What's the date on that?

17 A. It's December the 15, '21.

18 Q. And at what time?

19 A. 3:01 p.m.

20 Q. How'd you get to his house first, if you went to
21 the trash can site first?

22 A. Apparently I -- I could be mistaken about the
23 time, it looks like we came up -- it looks like we passed his
24 house. It looks like we come out the other side and up
25 Cleveland Road. So that's -- you're right, I would've been

1 at the trash can at 3:01.

2 Q. And that's 11 minutes after you're -- property
3 unit up at the trash can -- on the trash can, correct?

4 A. That is correct.

5 Q. And that was about a three, four minute ride from
6 this house to that bridge?

7 A. Well, we were stopping along the road -- along
8 every road and looking at parks, and things of that nature.

9 Q. Were probably driving slower than the speed level
10 too, correct?

11 A. Certainly were, yes, sir.

12 Q. And if you're going the speed limit for 40, 50
13 miles an hour, it might be two to three minutes from his
14 house, Mr. Spencer's house, to where the trash can was found,
15 correct?

16 A. It's a very close proximity to the bridge to
17 Mr. Spencer's house. Yes.

18 Q. But however you all were driving, it took you 11
19 minutes or less to get from his house, and find the missing
20 trash can, correct?

21 A. That's correct. I don't -- we could have been on
22 the bridge before 3:01, but yes, that's when this picture was
23 taken in 3:01.

24 Q. Perhaps you went to Mr. Spencer's house. Did you
25 take any other pictures of Mr. Spencer's house, while you

1 were out there December the 15th?

2 A. I really don't recall.

3 Q. Do you remember if Investigator Wilke took any of
4 the pictures at 2:50 p.m., out there?

5 A. I don't remember.

6 Q. All right. If you did, you would've given them to
7 us, correct?

8 A. Absolutely.

9 Q. The only picture so far that we can find is a
10 picture of that blue Trailblazer, correct?

11 A. That's the only pictures I have in my hand. Yes,
12 sir.

13 Q. Do you have any -- are you aware of any of the
14 pictures that you or Investigator Wilke or
15 Investigator Blackie took of Mr. Spencer's property or
16 vehicles on December the 15th in the daytime hours?

17 A. No, sir.

18 Q. And you learned that Mr. Carlos Gosnell, the
19 neighbor of Ms. Cross, when he spoke to Investigator Knight,
20 he gave a written statement, correct?

21 A. That is correct.

22 MR. BROOME: And -- may I approach, Your Honor?

23 THE COURT: Uh-huh.

24 BY MR. BROOME:

25 Q. Let me show you. Do you recognize that document I

1 handed you?

2 A. Yes, sir. It's a voluntary statement.

3 Q. And that was given by Carlos Gosnell, correct?

4 A. It certainly was, yes, sir.

5 Q. He gave that written statement to

6 Investigator Knight, correct?

7 A. He did, yes, sir.

8 Q. December the 15th, or sorry, that was dated on

9 December the 15th, correct?

10 A. It is.

11 Q. All right. At 1:34 p.m., correct?

12 A. Yes, sir.

13 Q. And Mr. Gosnell signed that statement, gave it to

14 Mr. -- or sorry, Investigator Knight, right?

15 A. I wasn't there, but I'm assuming yes, sir.

16 Q. Assuming based upon what you're looking ---

17 A. Right.

18 Q. And then an hour and 60 minutes later you were at

19 Mr. Spencer's property taking pictures of that

20 blue Trailblazer, correct?

21 A. It appears that way, yes, sir.

22 Q. I mean, you all were so -- you were so convinced
23 that that was him in that Trailblazer at Ms. Cross's house at
24 nighttime hours, but you all used that to get search warrants
25 in the case, correct?

1 A. Oh, that in the trash can, yes, sir.

2 Q. Well that was one of -- one of the big things is
3 you've got a search warrant for his house, and part of the
4 probable cause was supposedly having his car on scene,
5 correct?

6 A. It was a vehicle that matched --

7 Q. That matched?

8 A. -- description. Yes, sir.

9 Q. Right. At that point you didn't have GPS data,
10 right?

11 A. I did not.

12 Q. And as Mr. Thomas asked you, no one had seen a
13 black truck --

14 A. There -

15 Q. -- at Ms. Cross's house, correct?

16 A. There was no eyewitness, no.

17 Q. No one had seen Mr. Spencer. No one described
18 anyone looking like Mr. Spencer to the police at her house on
19 December the 9th, any time?

20 A. That's correct.

21 Q. And you testified under direct that on
22 December the 14th, the date Ms. Cross's body was found, you,
23 Wilke, Knight, Blackman, Hoffia along with at least six,
24 seven, eight plus Anderson County Sheriff's Office deputies
25 went to Mr. Spencer's house, correct?

1 A. That's correct, yes.

2 Q. After you all left the Anderson County Sheriff's
3 office, you know, and developed him as a person of interest,
4 you all went to his house, correct?

5 A. We did go to the Sheriff's office first to get
6 briefed on what they may have located, and then we did go to
7 Mr. Spencer's house, yes.

8 Q. And you had a chance to observe
9 Mr. Spencer's property, correct?

10 A. He was very cooperative, yes.

11 Q. But you had a chance to observe his property,
12 correct?

13 A. You're talking about, like, his house and things?

14 Q. (Inaudible).

15 A. Yes. Yes.

16 Q. His houses or his house?

17 A. His house, yes.

18 Q. The buildings on the property, correct?

19 A. Correct.

20 Q. The vehicles on the property, correct?

21 A. Correct.

22 Q. And you observed that he had several vehicles on
23 the property?

24 A. There were four, I believe maybe more.

25 Q. But there was the black truck in question, right?

1 A. Right. So Sport Trac.

2 Q. There was a Sport Trac?

3 A. I believe there was a green Escape.

4 Q. Green Escape?

5 A. There was one more, I can't remember what it was.

6 Oh, there was a Trailblazer, and another one. I can't
7 remember what it was though.

8 Q. And the blue Trailblazer. One second. And so,
9 you went out there with the rest of the investigators,
10 observed his cars, observed his house, correct?

11 A. Yes, sir.

12 Q. And you made note of what the cars and the -- the
13 house looked like, correct?

14 A. Yes, sir.

15 Q. And specifically, you and Investigator Knight have
16 searched his black truck, correct?

17 A. That's correct.

18 Q. May have searched some other vehicles, correct?

19 A. I may, but I only remember searching the truck,
20 yes.

21 Q. Okay.

22 MR. THOMAS: No objection, Your Honor.

23 THE COURT: All right. Without objection, assuming
24 Mr. Broome was wanting those into evidence 27, 28, 29, 30 for
25 the Defense.

1

2 (Defendant's Exhibits 27, 28, 29, 30 were admitted into
3 evidence.)

4 BY MR. BROOME:

5 Q. All right. I'm going to show you what's been
6 entered into evidence of Defendant's 27 through 30.

7 A. Okay.

8 Q. Okay. All right. Defendant's 27 we have
9 Mr. Spencer's blue Trailblazer, correct?

10 A. That is correct.

11 Q. All right. And it's got mud caked on the tires
12 here, correct?

13 A. There is mud on the tires, yes.

14 Q. And you can see leaves, this isn't the best angle,
15 but you can see some leaves here on the hood, correct?

16 A. There is leaves on the hood, yes.

17 Q. Okay. Let's look at Defendant's 28. Okay. We're
18 looking at the right-side view of Mr. Spencer's. This is the
19 same blue Trailblazer in question, correct?

20 A. Yes, sir, it is.

21 Q. All right. And we've got a better view here of
22 leaves in the windshield and on the hood, correct?

23 A. Yes.

24 Q. And there's actually a stick kind of stuck up
25 under here, underneath that ladder, correct?

1 A. There's a stick on top of the car, yes.

2 Q. Looks like a branch?

3 A. Maybe.

4 Q. May have fallen during a storm --

5 A. Something.

6 Q. -- like a storm, correct?

7 A. Something from a tree, yes.

8 Q. Thank you. Look at Defendant's 29. And here
9 we're looking at the back of the Trailblazer, correct?

10 A. We are.

11 Q. All right. We got leaves and pine straw on the
12 bumper, right?

13 A. We do.

14 Q. And we've got pine straw stuck in the windshield
15 wiper, the rear windshield wiper, correct?

16 A. Yes.

17 Q. We can see that stick stuck underneath the ladder,
18 correct?

19 A. The -- I see the stick, yes.

20 Q. All right. Next picture. Let's look at
21 Defense 30. All right. Left quarter panel or
22 left-front quarter panel view here, we've got do you see the
23 picture -- or sorry, see all the leaves in the -- in the pine
24 straw, on the hood, and on the roof, and on the windshield?

25 A. Yes.

1 Q. Okay. And looking at those pictures, it obviously
2 looks like that car has not been driven at some time,
3 correct?

4 A. It appears that there's debris and things on it,
5 but I can't tell you when the last time it was driven, no.

6 Q. Looks like it hasn't been moved or driven in a
7 while, correct? Based on those pictures?

8 A. I mean, it looks like a blue Trailblazer to me.
9 Just, -- I don't know when it's been driven.

10 Q. What's that?

11 A. I don't know when it was last driven, no.

12 Q. Did it look like it had been driven in the past
13 12 hours?

14 A. It's got a lot of mud on the back tires I don't
15 know. I'm -- I'm not sure when.

16 Q. Do you think if it was driving around, that maybe
17 some of the leaves and pine straw would've blown off or
18 stayed off?

19 A. It would've blown off.

20 Q. Probably would've blown off, right?

21 A. Yeah.

22 Q. And you don't remember if there were any
23 tornadoes, large windstorms, or anything on the 14th?

24 A. I don't recall that, no.

25 Q. Okay. Did you ever take -- make any steps to

1 attempt to learn from -- did you ever take any steps to learn
2 whether or not that Trailblazer actually was running on
3 December the 9th?

4 A. Not to my knowledge. I don't think anybody tried
5 to start that vehicle.

6 Q. Not tried to start it, but learn if it worked and
7 it was running?

8 A. I don't recall. I don't think so.

9 Q. Now, Mr. Spencer was living at the time of
10 (inaudible), correct?

11 A. That's correct.

12 Q. That was his live-in girlfriend, correct?

13 A. It is.

14 Q. And she was present on the 14th when you all out
15 here taking pictures, right?

16 A. She was.

17 Q. And your understanding is that
18 Investigator Blackman and Investigator Wilke spoke with her,
19 right?

20 A. They did.

21 Q. And specifically about that vehicle?

22 A. Yes.

23 Q. Correct?

24 A. Yes.

25 Q. And whether it ran or not, correct?

1 A. Correct.

2 Q. Okay. And did -- based on their conversations
3 with them, you learned it did not run, correct?

4 A. I learned that she said, "It did not run," yes.

5 Q. Okay. But she told them that back on the 14th
6 upon their questioning if it ran or not, correct?

7 A. Yes.

8 Q. And in fact, Investigator Cash questioned
9 Angie Atkins on December the 15th, correct?

10 A. Yes.

11 Q. At the Sheriff's office in Anderson, correct?

12 A. Yes.

13 Q. And you learned that Investigator Cash asked
14 Ms. Atkins about which vehicles Mr. Spencer drove, correct?

15 A. Correct.

16 Q. If he drove a black truck, if he drove a blue
17 Trailblazer, if he drove something else or drove something
18 else, correct?

19 A. Correct.

20 Q. And specifically asked her questions about when
21 or, if and when the blue Trailblazer gear was working and
22 running on December the 9th, correct?

23 A. Correct.

24 Q. And she told them it wasn't, correct?

25 A. Correct.

1 Q. Do you remember watching the video? It was a
2 videotaped interview you gave her, correct?

3 A. I believe so, yes.

4 Q. It was in the same room. To your knowledge, you
5 weren't there?

6 A. I was not.

7 Q. But from your investigation, speaking with
8 Detective Cash, you learned that it was in that same
9 building, probably in that same room, correct?

10 A. Correct.

11 Q. Did you ever attempt after that to start that
12 vehicle to see if it ran?

13 A. We did not.

14 Q. Did you make any -- did you take any steps to
15 learn if Ms. Atkins had ever tried to sell that vehicle?

16 A. No, I did not.

17 Q. For example, on Facebook Marketplace, or
18 Craigslist, or anything like that?,

19 A. No, I didn't.

20 Q. That was because -- probably because you had the
21 GPS on the truck, right?

22 A. That was pretty good evidence.

23 Q. Forgot all about the -- the blue Trailblazer,
24 right?

25 A. Right.

1 Q. Forgot all about -- forgot all about what
2 Mr. Gosnell told Investigator Knight, correct?

3 A. Right.

4 Q. But even before you had the GPS data, you didn't
5 take any steps to learn if this Trailblazer was Mr. Spencer
6 Trailblazer -- Mr. Spencer's Trailblazer, or someone else's,
7 right?

8 A. Are you asking, did I confirm who owned the
9 vehicle?

10 Q. No. So let's -- let me start over. So there are
11 certain things, -- you got a witness saying I've got --
12 looking for a specific vehicle?

13 A. Correct.

14 Q. But you -- ideally you have a license plate as a
15 police officer, right?

16 A. It'd be nice.

17 Q. Before then no.

18 A. Even better.

19 Q. A lot of times you don't have to?

20 A. Never.

21 Q. We don't have any Flock cameras. You know what
22 Flock cameras are?

23 A. I do.

24 Q. What are those?

25 A. They're cameras that are like strategically placed

1 around.

2 Q. (Inaudible).

3 A. It's a license plate reader. They just --

4 Q. The growing increase of big brother watching us.

5 A. Right.

6 Q. They have license plate readers, and they can look
7 and see, without our permission, our license plates being
8 read back, right?

9 A. That's correct.

10 Q. But to your knowledge, there were none in that
11 area, Simpsonville or sorry, Fountain Inn, correct?

12 A. I don't think so.

13 Q. But there are other things you can do. You're
14 familiar with SLED Fusion Center, correct?

15 A. I am.

16 Q. All right. And what's SLED Fusion Center?

17 A. They -- they can do anything from generating photo
18 lineups and running car. -- South Carolina's the only place
19 that doesn't put the color of the car on their registration.
20 They can tell you the color of the vehicle, just small things
21 usually that you would need in your investigation.

22 Q. They were created after 9/11 to help with Homeland
23 Security, correct?

24 A. I don't know that to be true, but yes. If you're
25 telling me that, I believe you.

1 Q. It's a -- it is a -- it's a center for law
2 enforcement to share information with each other, correct?

3 A. Correct.

4 Q. And it's a -- it's a database site as well, right?

5 A. It is.

6 Q. So you can go to the SLED Fusion Center and say,
7 look, I've got a -- I've got a murder case, and I need to
8 find out if there is a 2008 blue Chevy Envoy and I need to
9 find out all registered owners in this Zip Code.

10 A. Okay.

11 Q. You could find that information out through SLED
12 or attempt to find that out, correct?

13 A. You could, yes.

14 Q. And they can tell you, -- they can give you a
15 number that say we've got 20 registered owners that live in
16 Laurens County that drive 2008 blue Chevy Envoy, correct?

17 A. Correct.

18 Q. And if a witness had told you they'd seen that
19 make and model at the victim's house, that'd be very helpful
20 information to have, correct?

21 A. Sure.

22 Q. Same thing though, that part of Fountain Inn is
23 kind of close to Greenville County, correct?

24 A. Yes, sir. It is.

25 Q. Probably like five miles away?

1 A. Probably less than that. It is really close I
2 know.

3 Q. You could have had SLED Fusion check for the
4 Greenville County area as well, correct?

5 A. Sure.

6 Q. Didn't do that, correct?

7 A. Did not.

8 Q. Now, when you were on Mr. Spencer's property back
9 on the 14th, you asked Mr. Spencer if you could search his
10 truck, correct?

11 A. I believe Knight asked him that, yes.

12 Q. You were present with Knight?

13 A. Yes.

14 Q. And you just testified that you didn't search his
15 truck, right?

16 A. I was there, yes, sir. And I was involved.

17 Q. He let you search it and never -- never gave you
18 any problems, correct?

19 A. Not at all.

20 Q. In fact, you told him, "Hey, you don't have to
21 search the vehicle."

22 A. He didn't have to consent, no. That's what we
23 told him, yes.

24 Q. Yeah. So you don't have to consent to search the
25 vehicle, right?

1 A. That's correct.

2 Q. And you told him you could stop at any time,
3 right?

4 A. We did tell him that, yes.

5 Q. He said, "You can go on through there, take as
6 much time as you need." Right?

7 A. He did.

8 Q. Okay. And you all searched it inside and out,
9 correct?

10 A. We did.

11 Q. The front and the back, and the bed, and I think
12 there was a rear compartment, correct? Or like a -- a rear
13 passenger. It was a 4-door.

14 A. It was a 4-door truck, yes.

15 Q. 4-door truck. And you searched it. He didn't
16 find anything, any blood in there that was obvious, correct?

17 A. None to the naked eye, no.

18 Q. And we've heard from Detective Primoore, he didn't
19 find any?

20 A. No.

21 Q. DNA, there's no -- no DNA in that truck, correct?

22 A. That's correct.

23 Q. That went back to Ms. Cross. You couldn't find
24 anything that belonged to Ms. Cross on the truck, correct?

25 A. Not that I recall. Oh, I'm sorry. It was a

1 check. It was a check in there.

2 Q. Oh, the check?

3 A. Yes.

4 Q. That she had given to him that was already in
5 evidence that was voided out?

6 A. Right.

7 Q. She -- that she had written a check to him
8 already?

9 A. That's correct.

10 Q. At that point it became, I guess probably his
11 property?

12 A. It did.

13 Q. And so, you were present when Detective Cash read
14 Mr. Spencer's Miranda rights, correct?

15 A. Correct.

16 Q. Okay. And you knew that -- you heard Mr. Spencer
17 respond back, and he understood all of his rights, correct?

18 A. He did.

19 Q. And he voluntarily waived his rights?

20 A. He did.

21 Q. Okay. He didn't have to speak to you at all. He
22 could have remained silent, correct?

23 A. If he -- if he didn't want to speak to us, he
24 didn't have to, no.

25 Q. And you, you know, if he told you he didn't want

1 to talk, you would've left him alone, right?

2 A. I would've had to. Yes, sir.

3 Q. Yeah, he said, "No, I don't want to talk to you
4 guys." That's typically your practice is to leave him alone,
5 correct?

6 A. They won't talk to me, yes, sir.

7 Q. He had the right to have an attorney present,
8 correct?

9 A. Absolutely.

10 Q. And that was read to him?

11 A. It was.

12 Q. If you had asked one, you would've left him alone,
13 correct?

14 A. I would be required to, yes, sir.

15 Q. Yeah. And he gave up his right to an attorney,
16 right?

17 A. He did.

18 Q. He didn't call me, or Mr. Shaffer, and Ms. McNeill
19 and asked for us, did he?

20 A. He did not.

21 Q. He didn't ask for any of those fine attorneys up
22 to Anderson, did he?

23 A. No, sir. He did not.

24 Q. Right. He told you all, he gave up all of his
25 rights and answered your questions, correct?

1 A. Yes, sir, he did.

2 Q. Told you he had nothing to hide, correct?

3 A. Yes, sir, he did.

4 Q. And as well, he lets you look inside of his house,
5 right?

6 A. I didn't go inside the house, but yes.

7 Q. Your understanding, as the investigator, is that
8 he gave permission for Wilke and Blackman to go inside his
9 house?

10 A. That's correct.

11 Q. And they let him -- and he stayed on the scene,
12 and talked to you all, right?

13 A. He was standing right by the truck as --

14 Q. To your knowledge he didn't say, "Well, don't
15 -- look if you can go in there, but don't look in the
16 kitchen," right?

17 A. He didn't say that, no, sir.

18 Q. He didn't say, "You go in there, but don't look in
19 the closet," right?

20 A. He actually said, do whatever you want.

21 Q. He said, "You do whatever you want," right?

22 A. He did.

23 Q. He said, "I ain't got nothing going on. I got
24 nothing to hide," correct?

25 A. Correct.

1 Q. Same thing for the cell phones. He gave all those
2 up to you voluntarily, correct?

3 A. He did.

4 Q. Showed you where they were?

5 A. He did. One was in his pocket, one was in the
6 house.

7 Q. One was in the pocket. He asked Ms. Atkins to
8 bring one of the cell phones out to you all?

9 A. That's correct.

10 Q. All right. He let you look in his business phone
11 and his personal cell phone, correct?

12 A. He did.

13 Q. Now, I want to talk to you about the
14 Google Nest videos.

15 A. Okay.

16 Q. We saw video of Mr. Spencer's truck leaving?

17 A. Correct.

18 Q. Right? And can I show that to the jury, correct?

19 A. Yes, sir, you did.

20 Q. And you came back and watched hours, and hours,
21 and hours of video footage, right?

22 A. Yes. Yes, sir, I did.

23 Q. And you never found Mr. Spencer's truck coming
24 onto the property?

25 A. Arriving, no, sir. I never found it.

1 Q. Arriving onto the property?

2 A. No, sir.

3 Q. Right. And that was important because you wanted
4 to see, obviously, him show up here and what time it was,
5 right?

6 A. The camera would've been much better, yes. If it
7 had passed, if -- if it would've activated, when he come past
8 the Mr. Ramos's house.

9 Q. What was the last part, I'm sorry?

10 A. I said the camera would've been much better, if it
11 had been captured on the doorbell camera in the front of the
12 house.

13 Q. Right. There was a doorbell camera and then there
14 was a driveway camera, correct?

15 A. Yes, sir. At the back of Mr. Ramos's house.

16 Q. Okay. And so, when you got a search warrant for
17 the Google Nest camera. --

18 A. Uh-huh.

19 Q. You got a bunch of video back, right?

20 A. I did.

21 Q. And actually, you requested from Google, -- you
22 wrote them a preservation letter, right?

23 A. I did.

24 Q. And it was requesting a very specific time period.
25 Do you remember that?

1 A. Yes, sir.

2 Q. It was on -- you requested all time periods from
3 December 8, 2021, at 5:00 p.m., through December 10th at
4 3:00 p.m.?

5 A. Yes, sir.

6 Q. Right. But when you got the Google Nest cameras
7 back? --

8 A. Right.

9 Q. That's 46 hours, right?

10 A. Yes, sir.

11 Q. You did not get 46 hours of video (inaudible), did
12 you?

13 A. I -- I did not.

14 Q. Google sent you chunks of video, right?

15 A. They sent it in chunks, and then it's just broken
16 down, and, like, when the time starts, -- it's unusual.

17 Q. Right. So we've shown the jury -- you've shown
18 the jury, Mr. Spencer leaving at 12:31, correct?

19 A. Correct.

20 Q. And that video is say 15 minutes long, right?

21 A. Yes.

22 Q. But then, there's a big gap in time where we don't
23 have -- we have missing from say 12:45 until 1:00, right?

24 A. Correct.

25 Q. And that repeats many times in the -- in the

1 Google videos, right?

2 A. It does.

3 Q. It's incomplete. There's missing videos, right?

4 A. There isn't. There's at least one I know of, yes,
5 sir.

6 Q. Okay. And that might be because Google Nest on
7 Mr. Ramos's house might be motion activated, correct?

8 A. Perhaps.

9 Q. And that means that his camera, while it may be
10 reporting 24/7, it may only capture certain events, if it's
11 motion on his property, correct?

12 A. Correct.

13 Q. And that might be why when Investigator Knight
14 showed a video, there was no video of the headlights coming
15 on or leaving the property, when you all were looking for
16 this blue Envoy at 10:30 p.m., correct?

17 A. I never saw an Envoy there. Yeah, no, sir.

18 Q. So as established, it might be we're missing
19 chunks of time. It might be that Google just didn't capture
20 that event?

21 A. Could be.

22 Q. Didn't capture Mr. Spencer's truck going onto the
23 scene, right?

24 A. It didn't capture him arriving. No, sir.

25 Q. Arriving at her house, right?

1 A. No, sir. Yes, sir.

2 Q. I want to show you what's in evidence already,
3 which is State's exhibits, which is the Google Nest videos,
4 which are already into evidence.

5 A. Okay.

6 Q. I want to show you the timestamp of December 21st,
7 December 10th. Let me see. Yeah. That one at 10:06:27.
8 And can you convert that to you?

9 A. I'm sorry, what was the question?

10 Q. Sorry. You're looking at that. So the -- the
11 time -- the UTC time on the top left corner here, Mr.
12 Pittman, is 12-10-10:06:27. And so my understanding is that
13 would be December -- it's written December the 10th. This is
14 in UTC time.

15 A. In order to watch the late videos on
16 December the 9th, you got to play the December the 10th ones.

17 Q. Right. You have to convert it.

18 A. And I -- I just can't see that time. What does it
19 say?

20 Q. It's 10:06 and 27 seconds.

21 (Video played - inaudible.)

22 BY MR. BROOME:

23 Q. Can see the truck? This looks like I may have
24 already been converted. It's like 10:06:06 (inaudible).

25 A. I haven't converted that.

1 Q. Okay. This looks like December the 10th and if
2 you can -- yeah, December the 10th, but if you converted that
3 from UTC time to Eastern Standard Time, that would be
4 5:06 a.m.?

5 A. 5:06 in the morning, yes.

6 Q. Okay.

7 THE COURT: Can you play?

8 MR. BROOME: I'm sorry, I thought it was (inaudible)
9 sorry.

10 THE COURT: Can you play.

11 BY MR. BROOME:

12 Q. Now, watching -- yes. Now, Investigator Knight
13 testified that these headlights, which you now are seeing are
14 house lights were -- that was at 10 -- 10:06 p.m., on 9th,
15 correct? That he was looking at.

16 A. Yes, sir.

17 Q. The video we saw yesterday. Now at -- this is
18 5:00 -- this is 5:00 a.m., the next morning. Did we see any
19 lights now?

20 A. At (inaudible) I'm sorry.

21 Q. Well, let me direct you, we've got this car right
22 here, correct?

23 A. There's a car at a streetlight.

24 Q. Streetlight. And this period between this tree
25 and this tree, there will be headlights or highlights,

1 correct?

2 A. There would -- would be the wrong, yes, sir.

3 Q. Yeah. And that's the area that

4 Investigator Knight showed you today, correct?

5 A. That's correct.

6 Q. All right. And now those lights are missing,
7 right?

8 A. They are not there. Yes, sir.

9 Q. And there's some other things that you saw on
10 video on the day that Ms. Cross went missing, that was super
11 important, correct?

12 A. But this is -- this is 5:00 a.m., there.

13 Q. That is 5:00, correct?

14 A. I thought we were looking for the video, sir.
15 They cannot --

16 Q. This is -- this is December -- this is
17 December the 10th, the day after -- sorry, this is
18 December the 10th at 5:00 a.m. You're correct.

19 A. Okay.

20 Q. Yeah. And so if the vehicle --

21 A. I guess I'm misunderstanding that. Knight was
22 watching the video from December the 9th.

23 Q. At 10 -- 10 a.m., right?

24 A. 8:00.

25 Q. Sorry.

1 A. 10:00 p.m.

2 Q. At 10:00 p.m. Correct.

3 A. Okay. I just make sure I was looking at, -- this
4 is 5:00 a.m., on the 10th.

5 Q. That's 5:00 a.m., on the 10th.

6 A. Okay.

7 Q. It would've been dark at 10:06 p.m., on the 9th,
8 correct?

9 A. Yes.

10 Q. And the sun would not have risen at 5:06 a.m.,
11 correct?

12 A. No, sir.

13 Q. So this is the same night that Investigator Knight
14 showed us, correct?

15 A. No, sir.

16 Q. Well, the sun had not risen from 10:06 on the 9th?

17 A. Oh, I understand what you're saying, yes.

18 Q. I'm trying to -- I'm not trying to trick you.

19 A. No, I was just trying to make sure I got the dates
20 right. Okay.

21 Q. Same night the sun had risen up. It's early the
22 next morning.

23 A. It's early into the 10th. Yes, sir.

24 Q. So those lights were a vehicle now that
25 disappeared, correct?

1 A. They're not there, yes.

2 Q. And we've got no video if any lights were coming
3 or going on that property, right?

4 A. Not in this video, no, sir.

5 Q. Because the Google videos are incomplete, right?

6 A. That's correct.

7 Q. Now, there is -- on December the 10th, you all
8 found something important on the videos. Let me show that.
9 You all were looking for -- you all found the lady walking on
10 Fairview Road?

11 A. I think (inaudible) did. Yes, sir.

12 Q. Well, you were -- you watched the video as well,
13 correct?

14 A. I believe at the time I was across the street,
15 yes.

16 Q. One second.

17 A. Or maybe I was there. I don't recall.

18 Q. One second. Correct. So Investigator Wilke was
19 looking for videos and found a video of a lady walking at
20 about 1:16.

21 A. I think it was, like, 1:16. Yes, sir.

22 Q. You got it. Okay. Go ahead.

23 (Video played.)

24 BY MR. THOMAS:

25 Q. And -- and so we've got a person according to

1 Wilke, with someone who looked very similar to, Ms. Cross
2 walking back and forth kind of bizarrely, right?

3 A. That's correct.

4 Q. So we had that car that had to stop, -- looked
5 like the car may have almost hit that person, correct?

6 A. Correct.

7 Q. Did you make any attempts to find out if that was
8 Ms. Cross or not?

9 A. Ms. Cross, she has to use a walker to walk. That
10 lady didn't have a walker.

11 Q. I mean, -- was understood that she used a walker
12 sometimes, but it could have been Ms. Cross, correct?

13 A. I don't think so. Not at all.

14 Q. Did you go knocking onto the neighbor's door to
15 confirm if it was any of them?

16 A. I did speak to a neighbor, but no one could
17 confirm who this lady was.

18 Q. What's that?

19 A. I did speak to the neighbors, yes.

20 Q. Okay. But not to confirm who that lady was?

21 A. Nobody -- they didn't know who she was.

22 Q. You didn't know who it was?

23 A. No.

24 Q. Now, a couple of questions about the Housecall Pro
25 you testified about, you went through with Mr. Thomas about

1 how Mr. Spencer, -- there was a text message saying that the
2 order had been processed, correct?

3 A. That's correct.

4 Q. But the money actually went through Housecall Pro.
5 It was never deposited into Mr. Spencer's bank accounts,
6 correct?

7 A. From the bank account information I have, no, I
8 think it was in Housecall Pro.

9 Q. It did go through Housecall Pro, but it didn't
10 process and go through the bank accounts, correct?

11 A. It went from Ms. -- Ms. Cross's bank, USAA Bank to
12 Spencer's HVAC.

13 Q. Looking back at Defendant's number 26.

14 A. That's the Trailblazer?

15 Q. Correct.

16 A. Okay.

17 Q. Now, if you noticed that there were -- there were
18 a couple of Bud Light cans on the ground?

19 A. Those are Bud Light cans. Yes, sir.

20 Q. Look at the, -- maybe Tall Boys could be 12
21 ounces.

22 A. I think there's -- I think they're 12 ounces.
23 Yes, sir.

24 Q. Did you ever collect those?

25 A. Did not.

1 Q. Okay. They were found next to the trash can,
2 which Ms. Cross's body was in. Would that have been
3 something pertinent to collect and look for DNA?

4 A. It would've been, but Mr. Spencer doesn't drink.

5 Q. Mr. Spencer doesn't drink?

6 A. He doesn't.

7 Q. Is that something that you asked Mr. Spencer?

8 A. He actually told us that.

9 Q. That was in his interview?

10 A. It was.

11 Q. That we played here?

12 A. I just remember him saying he didn't -- he didn't
13 drink alcohol.

14 Q. That was -- so that would be in any of these
15 videos or audios that the State's already introduced, and you
16 would pull him up in the plan?

17 A. I don't recall. I don't.

18 MR. BROOME: Beg the Court's indulgence.

19 THE COURT: Sure

20 BY MR. BROOME:

21 Q. Take the (inaudible). But if you'd taken the beer
22 can and sent them for SLED -- the SLED for DNA testing, that
23 could have excluded Mr. Spencer, right?

24 A. It could have excluded Mr. Spencer, yes.

25 Q. It could have been important evidence -- evidence

1 to see who would have been the last in that trash can,
2 correct?

3 A. It could have been somebody who had a beer at the
4 trash can, yes.

5 Q. Now, you all's theory is that Mr. Spencer killed
6 Ms. Cross in her house, put her in her trash can, and pulled
7 her onto the bed of his truck, and drove away, correct?

8 A. That's correct.

9 Q. Did you play football in high school?

10 A. Absolutely not.

11 Q. What'd you play?

12 A. I'm not an athlete.

13 Q. Not an athlete?

14 A. No.

15 Q. Okay. Do you lift weights?

16 A. I have before.

17 Q. Okay. Not now?

18 A. Absolutely not. I like the --

19 Q. (Inaudible) question. I gave it up because --
20 back. Did you or anyone from the Sheriff's office at any
21 point in time, attempt to test out your theory? Did you put
22 -- you ever take a trash can that weighed 180 pounds.

23 A. Uh-huh.

24 Q. Like Ms. Cross did, and see if you could lift up
25 and pull a trash can by yourself onto the bed of a

1 32-inch Dodge Ram. Did you attempt to do that?

2 A. No, we did not.

3 Q. Has anyone attempted to do that?

4 A. In -- from the sheriff's office?

5 Q. Sheriff's office.

6 A. No.

7 Q. What about for the solicitor's office?

8 A. No.

9 Q. So as far as we know, it's not even possible?

10 A. I'm not going to say it's not impossible or
11 possible, but we didn't do an experiment.

12 Q. What's that?

13 A. We didn't perform an experiment, no.

14 Q. Never been tried, correct?

15 A. No, we didn't.

16 MR. BROOME: Beg the Court's indulgence. No further
17 questions.

18 THE COURT: You -- you finished cross?

19 MR. BROOME: I am.

20 THE COURT: Solicitor, any re-direct?

21 MR. THOMAS: Oh, couple brief points I think,
22 Your Honor.

23 THE COURT: Sure.

24 RE-DIRECT EXAMINATION

25 BY MR. THOMAS:

1 Q. Investigator Pittman, that trash can that we've
2 heard so much about?

3 A. Yes, sir.

4 Q. If I show you State's Exhibit 78, we've lost our
5 -- lost our light block here. Mr. Spencer's residence is
6 along Trump Pointe here?

7 A. Yes, sir. That's correct.

8 Q. Where was the point to where that trash can was
9 found? One more time.

10 A. Okay. One second. This is Trump Pointe right
11 here. Cleveland Road is right here (inaudible).

12 Q. What's --

13 A. (Inaudible) somewhere.

14 Q. -- what plant is this right up here?

15 A. It's Michelin.

16 Q. Okay. Is there another way to get to that
17 Michelin plant other than coming up Cleveland Road? Can you
18 get to this Richland Drive right here any other way?

19 A. It -- go down (inaudible) right here (inaudible)
20 across back around.

21 Q. So there's this road -- this is the road right
22 here that runs back?

23 A. Yes, sir.

24 Q. Okay. Is it possible that's the route you took
25 the day you all took those photographs?

1 A. Could (inaudible) two, three years ago almost.

2 Q. But you're sure of where you found the trash can
3 at?

4 A. Absolutely no doubt.

5 Q. As far as that trash can goes, and a picture of
6 that blue Chevy of Mr. Spencer's, explain to this jury again
7 why you didn't follow up on that?

8 A. Once we got the truck GPS, it was -- we didn't --
9 the Trailblazer became irrelevant.

10 Q. And that truck, GPS again, where does that show
11 his truck going on the 9th?

12 A. It goes from the casino to Ms. Cross's house. It
13 goes from Ms. Cross's house to the parking lot in Honea Path.
14 He goes from Honea Path to his house. From his house to
15 where the body was located. From where the body was located,
16 to where the trash can was located, then back home.

17 Q. And would you say you were mistaken about your
18 times on those -- those pictures were taken?

19 A. I was.

20 Q. All of these records you've got in front of you?

21 A. Yes.

22 Q. These bank records, these cell phone records,
23 these Housecall Pro records, do all of those include an
24 affidavit of authenticity?

25 A. They certainly do.

1 Q. What does it mean about those records? What does
2 that mean?

3 A. That they're accurate and correct?

4 Q. The Google records, did you just get what Google
5 sent you?

6 A. I got what Google sent me.

7 Q. Based upon what they sent you, you did your best
8 investigation?

9 A. I did.

10 Q. Last question I'm going to ask, because this was
11 brought up on direct, -- talked about tower dumps?

12 A. Right.

13 Q. And he asked you if you could get all the phones
14 that were on a tower in a certain area?

15 A. Right.

16 Q. And I know this may not be a question for you, but
17 you might know the answer. Do you know if there's a -- a
18 T-Mobile tower near Mr. Trump -- Mr. -- Mr. Spencer's house?

19 A. I do know that there is one, yes.

20 MR. THOMAS: Thank you. No further questions.

21 THE COURT: Anything in recross in response to
22 redirect?

23 RE-CROSS EXAMINATION

24 BY MR. BROOME:

25 Q. You had a chance to ask Google for the missing

1 videos, but you chose not to, correct?

2 A. That's not correct. I actually asked and reached
3 out to them, but I -- getting in touch with Google is very
4 difficult.

5 Q. So when the Google videos were complete, you
6 learned they were incomplete. You didn't issue a second, you
7 -- you reached out to them, but did you issue a second search
8 warrant or get a second court order?

9 A. No, I did not.

10 Q. (Inaudible) videos?

11 A. I did not.

12 Q. You testified that the Trailblazer became
13 irrelevant once you found the GPS, correct?

14 A. That's correct.

15 Q. And that's because it didn't fit your theory of
16 the case, correct?

17 A. It's because it's where the evidence led me.

18 Q. Did the unidentified DNA on Ms. Cross's shirt
19 become irrelevant?

20 A. I'm not --

21 Q. Based on Mr. Spencer's GPS?

22 A. Did the -- I'm sorry, ask me again.

23 Q. Is the unidentified person on Ms. Cross's shirt,
24 -- the unidentified person's DNA on Ms. Cross's shirt -- that
25 become irrelevant when she found Mr. Spencer's GPS?

1 A. No.

2 MR. BROOME: Thank you. No further questions.

3 THE COURT: Step down, sir.

4 INVESTIGATOR PITTMAN: Thank you, Judge.

5 THE COURT: Let me see the lawyers just (inaudible)
6 balance that and then --,

7 (Bench conference.)

8 THE COURT: All right. Ladies and gentlemen, we're
9 going to take a very short break for the State's next
10 witness. And so just go back to the jury room, and we'll get
11 you back out shortly, okay?

12 (Jury exits courtroom.)

13 THE COURT: Okay. Mr. Shaffer, you said you had a
14 matter of law that relates to the SLED agent, who's going to
15 testify to the State next?

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

17 THE COURT: Wait one second. And, Solicitor, that the
18 name of that SLED agent over here is what?

19 MR. THOMAS: Brett Auckland.

20 THE COURT: Got it. Okay.

21 All right. With respect to Brett Auckland,
22 Mr. Shaffer?

23 MR. SHAFFER: Yes, Your Honor. The -- this -- the
24 witness is going to testify about, and provide charts based
25 off of historic cell tower records and cell site location

1 data. The issue that I have with it, well, I'd renew my
2 previous objection based off of what we raised pretrial, and
3 what we raised mid trial about the search warrant. But in
4 addition to that, the only other objection we have is that he
5 -- he got the information from the victim's phone from
6 T-Mobile, but he didn't get the tower key from T-Mobile.

7 See, in order to do this, you have to have two parts.
8 You have to know where the tower is located, and then they
9 try to find a location in relation to that tower. He
10 obtained his tower key, not directly from T-Mobile, but from
11 a -- a third-party database.

12 Your Honor, I don't think that that the tower key
13 information is a business record. I think it's hearsay for
14 him to rely on this -- this tower key that is not based off
15 of stuff that's contained in the business records from
16 T-Mobile.

17 And because of the fact that he did not obtain the
18 tower key directly from T-Mobile, I think that his -- his
19 presentation and his location information on the victim's
20 cell phone should be suppressed, Your Honor, because it's all
21 relying on that third-party database information.

22 THE COURT: Okay. Solicitor, this -- this bit of
23 information that Mr. Shaffer is objecting to that, didn't
24 come directly from T-Mobile, is that information -- that
25 typically is relied by experts such as your SLED agent,

1 Brett Auckland?

2 MR. THOMAS: It is, Your Honor. So basically it
3 doesn't come from a third party, it comes from the FBI. The
4 FBI maintains a database that this information for law
5 enforcement use in this manner.

6 Again, he's going to be qualified as an expert in
7 cellular telephone location. And that will be based upon
8 using this tower data.

9 Obviously, Rule 703 allows experts to base their
10 opinions on information that's not necessarily admissible in
11 evidence. It's sort of the same thing we did when Dr. Shaw
12 was testifying about body decomposition and temperatures. We
13 allowed in the -- the temperature records and historical
14 temperature stuff, because that's the basis of his opinion,
15 while it may.

16 I would argue, probably this isn't technically hearsay
17 because it comes from FBI database, it's something that
18 they're maintaining themselves, but either way it's being
19 utilized by him to render his opinion, which will be where
20 the cell phone is located.

21 THE COURT: You know, if -- if this is information that
22 he will say, if he customarily uses -- another expert
23 customarily uses the information in being able to render an
24 opinion, then I'm going to allow it.

25 MR. SHAFFER: And, Your Honor --

1 THE COURT: So that's -

2 MR. SHAFFER: -- there's -- there's one -- one caveat.

3 THE COURT: -- to that.

4 MR. SHAFFER: Here -- here's the thing he's saying, the
5 State may say it's customarily used by an expert, but it's
6 not available. That's the thing. It is only available to
7 law enforcement agencies.

8 There's no way to bet whether or not the information is
9 correct. There's no way to -- for us to compare that to the
10 -- to the T-Mobile information itself, to -- to bet whether
11 or not that information is correct.

12 That's the reason that I -- I think that we -- we have
13 serious concerns about it, but I don't think it fits the rule
14 because of the fact this isn't really based off an opinion,
15 so much as it's not an opinion to say this tower is located
16 at this place. That's a fact. That's not an opinion,
17 Your Honor.

18 And, I mean, the location of a -- of a tower is a fact
19 and not an opinion. So I -- I think that it does -- does not
20 fit within the exception there. And also, we have problems
21 with the fact that we actually can't even vet the information
22 because we can't come back and say, you know, what -- where's
23 the FBI getting this information? Clearly, the FBI's not a
24 party of (inaudible) or not an opponent, you know, we -- we
25 can't figure out where they're getting their information

1 from.

2 MR. THOMAS: And -- and I'll just read the first two
3 words of the rule, "The facts." So the fact of the location
4 of this tower upon which he's basing his opinion, and then we
5 go on, need not be admissible in evidence.

6 THE COURT: I'm going to allow it in, you know, it's
7 pretty standard for experts to -- to rely on all sorts of
8 information that doesn't come into evidence, but is a -- a
9 basis for rendering opinion.

10 MS. MCNEILL: Your Honor, I would also like to put on
11 the record that while, Your Honor, is saying if the expert
12 witness testifies X, Y, Z, that he is relying on the
13 information, then Your Honor's going to allow to come in.

14 I would like the Court to take notice that the exact
15 expert that they're willing -- that they're about to call is
16 sitting in the courtroom, and Your Honor is saying what he
17 needs to say, Your Honor, to allow it.

18 THE COURT: I would hope I don't know Agent Auckland, I
19 don't think he's ever been in my courtroom before. I -- I
20 have to assume that whatever I ruled on is not going to
21 influence his testimony, that he's going to testify with
22 something truthful. I mean, I, -- you know, you've got your
23 experts sitting here too, so, I mean --

24 MS. MCNEILL: I understand, Your Honor, but when
25 Your Honor is saying what you want -- what Your Honor -- what

1 the Court wants to hear in order to allow certain testimony,
2 -- and I think it's problematic.

3 THE COURT: Well, I -

4 MR. THOMAS: Your Honor, I -- I -- I trust that Mr.
5 Auckland values his professional reputation enough to not
6 make something up on the stand just to get some evidence.

7 THE COURT: I -- I would hope that I would not
8 influence anything that he testifies to.

9 MR. SHAFFER: Okay.

10 THE COURT: And the -- it was agreed at the very outset
11 of this case that only non-expert witnesses will be
12 sequestered. So I'm going to allow him to testify. And
13 again, hopefully nothing I said has influenced him in any
14 manner whatsoever. All right.

15 MR. SHAFFER: And, Your Honor, may I go grab a tablet
16 real quick? My tablet.

17 THE COURT: Oh, yeah. We're going to take -- take a
18 very short break. Anybody needs to use restroom before we
19 break? Let's just cover this now.

20 MR. THOMAS: He did, -- obviously he's got a
21 presentation he's going to give, they've had a copy of it for
22 a while. It's going to be marked as State's Exhibit number
23 117. So I guess we just need to -- so there's any objections
24 to this? Let's get it out of the way before we have to send
25 them out again.

1 THE COURT: What -- what number is that?

2 MR. THOMAS: 117.

3 THE COURT: Let's do this. We'll review (crosstalk).

4 MR. SHAFFER: I actually would object to it,
5 Your Honor. I don't really have a problem with his pictures
6 coming in, if -- if they want to include that. I do have a
7 problem with his conclusions coming in, but I have no problem
8 with the pictures and diagrams he -- he makes coming in, but
9 I don't think that his conclusions are admissible or anything
10 like that. I -- I -- I don't really have a problem with the
11 pictures that he -- he drew that coming in.

12 MR. THOMAS: I -- I don't think. Okay. I don't --

13 THE COURT: You know --

14 MR. THOMAS: I'm not sure I understand that. We'll
15 take it up when we get back from the break.

16 THE COURT: Yeah. Yeah. And typically, you know, an
17 expert's conclusions or reports typically, not always, but
18 typically don't come in. I mean, certainly the pictures,
19 charts, whatever he is, relying on. You all take a look at
20 that -- we break.

21 (Off the record.)

22 THE COURT: Back on the record. And there was some
23 discussion about the Agent Auckland's report. Is that still
24 an issue?

25 MR. SHAFFER: Your Honor.

1 MR. THOMAS: Yeah. State's 117 is going to be -- it's
2 not his report as much as it is -- is slideshow summary.
3 We're going to show the slideshow to the jury. I was just
4 going to put it in as an exhibit so the Defendant goes
5 back -- if they will look at it. All right. Don't know what
6 Mr. Shaffer (inaudible).

7 THE COURT: Okay. Mr. Shaffer, you object to the first
8 couple pages of his presentation because it -- it contains
9 maybe conclusions. I'm not seeing it, so. --

10 MR. SHAFFER: Your Honor, and really, I -- I have a
11 problem with the fact that they are basically summarizing
12 what he's going to say into a PowerPoint, and then submitting
13 that into evidence.

14 I don't have a problem with summarizing this, which is
15 what -- what he actually did mapping. I -- or I have no new
16 objection, I guess to pages seven to the end, which is
17 mapping basically.

18 I -- I mean, I -- I -- I think that based off the
19 Court's previous rulings, they could probably get into all of
20 these. I just have a problem with the fact that they're
21 basically just summarizing every single thing he's going to
22 say into a PowerPoint. And then --

23 THE COURT: So what you -- I guess what you would
24 object to would be the blue pages?

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

1 THE COURT: Yeah. I'll take a look.

2 MR. THOMAS: Whenever you're ready, Your Honor.

3 THE COURT: A brief response?

4 MR. THOMAS: Yeah.

5 THE COURT: All right. Does the Defense have any
6 objection to this date on the screen, while he's testifying
7 to aid?

8 All right. So here's what I'm going to do, then allow
9 the State to call them, put them up, put this up on the -- on
10 the TV screen. And let -- let me just kind of compare his
11 testimony to what he has here that you object to, -- that I
12 can make a ruling at the conclusion of his testimony.

13 MR. SHAFFER: And -- and, Your Honor, and -- and I'm
14 fine with that obviously. Here -- here's a couple issues I
15 have with it. And just so you understand that I'm not just
16 making a generalized objection.

17 I -- I don't think it's the proper way of doing it
18 because of the fact that the information he's providing
19 doesn't need summarizing. It's not from a document that's
20 voluminous. And we need summarizing.

21 Also, I -- I think, Your Honor, it's analogous, it's a
22 hearsay objection as well, because of the fact that it is --
23 you can't -- I can't tell a witness, "Hey, prepare me an
24 affidavit, and come testify, and then submit the affidavit,
25 which is consistent with their testimony and as an exhibit --

1 THE COURT: Sure.

2 MR. SHAFFER: -- for that." I mean, that's not
3 appropriate.

4 THE COURT: Yeah.

5 MR. SHAFFER: They're basically doing the same thing
6 with a -- a PowerPoint. Here's your testimony and also
7 here's a copy to send back to the jury.

8 THE COURT: Right. Right. And -- and -- and quite
9 candidly, more than likely I will sustain the objection, but
10 I want to hear the testimony first. Mr. Shaffer says he does
11 not have objection to these column blue pages being put up on
12 the screen -- by Agent Auckland is testifying. Typically,
13 you don't put in a written document, that is what has been
14 testified to.

15 MR. THOMAS: Yes.

16 THE COURT: And I guess --

17 MR. THOMAS: Your Honor, my response to that would be,
18 I -- I agree with you. We have put in several written
19 documents as to what was testified to, yeah. In this case,
20 but this is a little different from those. This is -- it is
21 a summary to the extent that these records are voluminous.
22 And I think him just talking out loud about where things are
23 when they happen isn't really anything that we haven't gotten
24 -- Pittman -- what this does is it helps the jury understand
25 the substance testimony.

1 It does summarize the records that he's using, that
2 Investigator Pittman's already testified about. To the
3 extent that it makes it easier for them to understand it.
4 It's the same thing, sort of like the autopsy figure. Does
5 this help explain your testimony to the jury? Yes.

6 THE COURT: And -- and kind of -- certainly I -- I'll
7 view this, maybe certainly different, because we're dealing
8 with an expert as opposed to a lay witness. And I do recall,
9 for whatever this is worth, that Agent Mike gave some summary
10 opinions on the document that went into evidence.

11 MR. SHAFFER: And, Your Honor, that's because there --
12 there's like 60 pages of a report in evidence. That actually
13 was a summary of her 60-page report. This -- the first six
14 pages are not a summary of the other -- the -- the mapping
15 definitely is, Your Honor, I --

16 THE COURT: Sure.

17 MR. SHAFFER: -- I agree with them that the mapping is
18 a summary of things that are in the --

19 THE COURT: Yeah. Right. Let's -- let's wait and hear
20 him testify, and then -- then I'll -- I'll make a ruling at
21 the conclusion of his -- of his testimony. Okay.

22 And as we've talked about too, you know, depending upon
23 how long direct examination takes, and even though Mr.
24 Shaffer indicated at -- at bench conference that he would --
25 might be short on cross, we don't know how that's going to

1 develop. And so, what I'm -- I'm -- I'm leading up to Agent
2 Auckland. We will do our very best to try to get you in and
3 out, but there may be a possibility you'll have to come back
4 in the morning. Okay.

5 All right. Let's bring jury out.

6 (Jury enters courtroom.)

7 THE BAILIFF: All jury present, Your Honor.

8 THE COURT: All right. Thank you, Mr. Bolt.

9 State ready to call its next witness.

10 MR. THOMAS: Your Honor, the State calls Agent Brett
11 Auckland to the stand.

12 THE COURT: Come around (Inaudible).

13 AGENT BRETT AUCKLAND,

14 having been duly sworn, testifies as follows:

15 THE CLERK: Thank you. You may have a seat.

16 DIRECT EXAMINATION

17 BY MR. THOMAS:

18 Q. Agent Auckland where do you work?

19 A. The South Carolina Law Enforcement Division or
20 SLED.

21 Q. And what division do you work in SLED?

22 A. I work in the Fusion Center. I work for SSI or
23 State Surveillance and Intelligence.

24 Q. And what does that division do?

25 A. We utilize cell phone records to locate and

1 apprehend fugitives and missing persons.

2 Q. And what are your responsibilities in that unit on
3 a day-to-day basis?

4 A. We analyze cell phone records, call detail
5 records, Timing Advance records, RTT, and assist --

6 THE COURT: Hey, can you speak up just a little bit?

7 THE WITNESS: Yes, sir, I can.

8 THE COURT: Sorry.

9 THE WITNESS: Is that better?

10 BY MR. THOMAS:

11 Q. Good. All right. So back up again. What -- what
12 do you do on a day-to-day basis?

13 A. On a day-to-day basis, we handle different
14 requests from statewide agencies to assist them in locating
15 and apprehending fugitives and missing people.

16 Q. Can you use sort of fancy advanced technology to
17 do that?

18 A. Yes.

19 Q. How long have you worked at SLED?

20 A. I've worked at SLED since 2019.

21 Q. And just -- have you always worked for the Fusion
22 Center or the Fusion Center or has it had other roles there?

23 A. I started with SLED as an intelligence analyst in
24 the Fusion Center handling different requests across the
25 state for requests for different intelligence. And then, I

1 went to the administration unit in the Fusion Center where I
2 became a special agent over the crime Intel database, as well
3 as facial recognition. And I left SLED briefly and became a
4 federal probation officer and then returned to SLED as a SSI
5 team three agent.

6 Q. Okay. And I guess before working at SLED, I think
7 you actually, you're a Blue Hose?

8 A. I was.

9 Q. Welcome back to Laurens. What -- what kind of
10 more specific training have you had, as it relates to your
11 current role in the intelligence unit?

12 A. So on a day-to-day basis, we're communicating with
13 all the cell phone carriers, Verizon, T-Mobile, AT&T. So
14 we're constantly conversing with them, looking at records.
15 I've had some training in Penlink, Gladiator Forensics and
16 I've also completed the FBI CAST or Cellular Analysis Survey
17 Team training.

18 Q. So that's a training that the FBI puts on?

19 A. Yes.

20 Q. Is that considered sort of the benchmark of -- of
21 training in this field?

22 A. It is. They teach you how to analyze, call detail
23 records and Timing Advance, RTT records as well.

24 Q. Is that something that -- what you call -- call
25 detail records, RTT, stuff like that? That's all what we

1 sort of know of as cell phone records, right?

2 A. Correct.

3 Q. And I guess when we talk about studying and
4 analyzing it, the FBI, that CAST unit, they -- is this a sort
5 of a science that they do? They go out, they test that --
6 they experiment with it, they make sure it's all valid. Your
7 -- your techniques and your --

8 A. Yes.

9 Q. -- the way you do it?

10 A. Yes.

11 Q. Okay. When we're talking about -- I think we call
12 it cell site location information. Does that sound right?

13 A. Uh-huh.

14 Q. That the word -- I'm not going to CSLI, I'll
15 butcher it if I try to do that. So we'll just say cell phone
16 location.

17 A. Uh-huh.

18 Q. That work?

19 A. Yeah.

20 Q. Okay. What do we -- what do we mean when we talk
21 about using cell site location information in broad service?

22 A. So in reference to call detail records. The call
23 detail records are -- when you're looking at those, it's sort
24 of like the bill you used to receive in the mail with your
25 phone bill back in the day, instead of just including who

1 you're calling, and who you're receiving calls from. Your
2 CDRs or call detail records, will show the duration of that
3 call, the sector of the cell phone tower that it was
4 connected to when the call was made, as well as the azimuth
5 of that tower.

6 Q. And when we talk about cell phone towers and how
7 that works, I know this is probably elementary, but how does
8 cell phone work?

9 A. So cell phones use radio signals. Your cell phone
10 likes typically the closest tower to you, although it doesn't
11 always have to be that way. And your cell phone sends a
12 signal to the tower, tower sends a signal back to your cell
13 phone, and allows you to communicate.

14 Q. So basically they communicate via radio waves?

15 A. Yes.

16 Q. And you talk about call detail records that's
17 keeping track of. -- What kind of information is in there. I
18 guess numbers dial, dates, times, durations, tower use. I
19 think you just testified to that. Does that sound right?

20 A. Correct.

21 Q. Okay. You also talked about something called RTT
22 or Timely Advance, NELOs. What are those things? What are
23 those when you talk about those?

24 A. So that's also known as call measurement data.
25 RTT is specific to Verizon wireless. Timing Advance is

1 specific to T-Mobile. Basically what it is -- is it's the
2 phone company's best estimate of where the phone is located
3 at that time, through sending out a signal to that phone, the
4 phone sends a signal back to the tower letting it know what
5 sector it's on in the azimuth.

6 Q. So I guess it basically measures how long the
7 signal takes to get there and get back?

8 A. Correct.

9 Q. Is there a certain mathematical formula, I mean,
10 it's just measuring distance, time --

11 A. It's distance over time. The signals move at the
12 speed of light.

13 Q. So that's a known constant. You know how fast the
14 signal moves?

15 A. Correct.

16 Q. So basic -- some basic math and you can determine
17 the distance from a tower home maybe?

18 A. Correct.

19 Q. This -- this RTT, this Timing Advance stuff, I --
20 specifically in this case, we'll just talk about Timing
21 Advance because T-Mobile calls it that?

22 A. Uh-huh.

23 Q. Okay. Did you have any Timing Advance from
24 T-Mobile to look at?

25 A. I did.

1 Q. Did you have any of the RTT from Verizon?

2 A. I did not.

3 Q. Okay. So that wasn't provided?

4 A. No.

5 Q. Okay. Talking about the -- the Timing Advance and
6 time measurement, is that something that the FBI regularly
7 uses with that CAST program?

8 A. Yes, it is.

9 Q. Do they have sort of -- do they go out and test
10 that regularly to make sure the technology and the science
11 behind it is accurate?

12 A. I don't know what tests they conduct, but they may
13 or -- I don't know.

14 Q. Okay. In terms of you utilizing it though, what's
15 your experience utilizing it?

16 A. So it's one of the main records that we use to
17 help us locate missing people and fugitives on a day-to-day
18 basis.

19 Q. How often do you use that?

20 A. Daily.

21 Q. Daily. How often do you successfully use it?

22 A. Daily.

23 Q. Is that one of those sort of the "proof is in the
24 pudding-type situations?"

25 A. I would say so.

1 Q. The FBI uses it?

2 A. They do.

3 Q. And is it something that the FBI utilizes in
4 federal courts all the time?

5 A. I believe so.

6 Q. Is it something that your unit uses in state court
7 frequently?

8 A. It is.

9 Q. The information you use to reach those
10 conclusions, is that sort of provided by the provider? Did
11 they provide you with that tower information and how their
12 systems are communicating and working?

13 A. Like a tower list?

14 Q. Yes. Yeah. I mean does the -- does the provider,
15 does the T-Mobile or Verizon, do they keep -- do they have to
16 maintain their towers? Do they have to make sure that's in
17 working order?

18 A. They do, and this data helps them be able to
19 maintain them and make sure they're serving their customers
20 the best way.

21 Q. And so, they do that for their own internal
22 customer service reasons?

23 A. They do.

24 Q. They're also required by law, I think to comply
25 with 911 regulations?

1 MR. SHAFFER: Objection leading.

2 BY MR. THOMAS:

3 Q. Is there also some requirement for them to keep it
4 work -- in working order?

5 A. I believe so.

6 Q. And is there -- is there any published studies on
7 it?

8 A. There's multiple.

9 Q. And you're familiar with those?

10 A. I am.

11 MR. SHAFFER: Objection leading.

12 THE COURT: Are you -- are -- I think the question was,
13 are you familiar with these -- was that the question?

14 MR. SHAFFER: I think it was, and you are familiar with
15 that?

16 THE COURT: Okay. All right. Try -- try to watch a
17 little lead as you can Solicitor Thomas.

18 BY MR. THOMAS:

19 Q. Are you familiar with those?

20 A. I am.

21 Q. Okay. And again, we're just developing your
22 testimony here; is that right?

23 A. Yes.

24 Q. Okay. So does every provider use some sort of
25 similar technology to that Timing Advance?

1 A. They do. AT&Ts is more recent.

2 Q. Okay. And in your experience, does this
3 technology produce an accurate result?

4 A. It does.

5 Q. And you say you use this every day on a -- on a
6 day-to-day basis?

7 A. I do.

8 Q. Have you ever been qualified -- have you ever
9 testified in court about it before?

10 A. I have not.

11 Q. Is this your first time?

12 A. It is.

13 Q. But have you -- you've used this in your daily
14 work?

15 A. Yes.

16 Q. And you've had trainings from the FBI that's gold
17 standard?

18 A. Correct.

19 Q. And you also work with a team of people that have
20 been doing this for a long time?

21 A. Correct.

22 Q. And talk with them about it and -- and how it
23 works, and how the science works?

24 A. That's correct.

25 Q. And you've reviewed the -- the articles and

1 studies on it?

2 A. That's correct.

3 MR. THOMAS: Your Honor, at this time the State would
4 offer Special Agent Auckland as an expert in the cell site
5 location.

6 MR. SHAFFER: No objection.

7 MR. THOMAS: Cellular telephone location.

8 MR. SHAFFER: No objection, Your Honor.

9 THE COURT: Without objection. So -- so found to be
10 expert in that area.

11 BY MR. THOMAS:

12 Q. And part of what you use when we talk about, you
13 said they communicate with towers?

14 A. Uh-huh.

15 Q. Where do you get your list of towers?

16 A. So the list of towers that we obtain is from the
17 FBI database or the INAC database. And the providers provide
18 that to the FBI, and the FBI maintains that database for all
19 the cell phone towers.

20 Q. And you said this is something that's commonly
21 used in the field?

22 A. Yes.

23 Q. In the field of cell site -- cell phone location?

24 A. Correct.

25 Q. Everybody on your team uses them?

1 A. Correct.

2 Q. The FBI uses them?

3 A. They do.

4 Q. Okay. And did you use those in this case to
5 render opinion?

6 A. I did.

7 Q. Let's talk about some of the records you reviewed.
8 These are already in -- you've already gone through some of
9 them.

10 A. All right.

11 Q. You also -- let me just ask you this, in addition
12 to cell phone information, cell tower data, did you have some
13 GPS stuff?

14 A. I did.

15 Q. Okay. That is State's Exhibit 8 up here. You --
16 you've got all this, you've looked at it, but, -- so you had
17 cell phone info -- you had GPS information from a truck?

18 A. Correct.

19 Q. Were you able to plot that onto maps?

20 A. I was.

21 Q. Okay. You had records from T-Mobile. Were you
22 able to use those to locate some cell phones in this case?

23 A. Yes.

24 Q. And then, you had some Verizon records -- also
25 able to use those?

1 A. I was.

2 Q. How'd you get involved in this case?

3 A. I received an email from my lieutenant who
4 received the information from Investigator Pittman. That's
5 kind of how our case assignments go. Our lieutenant gets it
6 and he passes it on to us.

7 Q. Okay. And what kind of software programs do you
8 use to map this stuff out?

9 A. We use a program called Gladiator Forensics.

10 Q. And what does that do?

11 A. It's a mapping software that can ingest records,
12 and assist in plotting them on the map, and make it, for lack
13 of a better term, nice and fancy.

14 Q. Okay. And when we talk about mapping that out,
15 let's just start with the Verizon records. What -- what from
16 the Verizon records did you use to locate those cell phones?

17 A. I use the call detail records.

18 Q. And is that what we would just typically call,
19 like, tower data?

20 A. Correct. CDRs.

21 Q. Okay. So how did the -- how did the towers work?

22 A. So your typical tower is going to be a three-
23 sector tower, 360 degrees. They're all differently spaced
24 apart depending on the network. There's multiple towers all
25 over the place, but the multiple sectors allow for different

1 coverage areas, so customers in a certain sector are able to
2 receive service versus customers on another sector. So just
3 provides more better service for the people in the area.

4 Q. And those are sort of directional?

5 A. Correct.

6 Q. Okay. So how do you use those call records, those
7 call detail records? How do you use those to locate a cell
8 phone?

9 A. So the call detail records contain the specific to
10 the Verizon records, correct?

11 Q. Just specific to Verizon.

12 A. The call detail records provide a tower location,
13 and we will reference that tower database that I referenced
14 earlier, to get the exact GPS coordinates of that tower.

15 Q. And so when you plot that out on the map, it
16 makes, I guess like a little pie slice. I think you've heard
17 it called that in here?

18 A. Correct. Depending on the sector, yes.

19 Q. So you can tell, I guess without -- with just the
20 -- with just the call detail records, you can tell the
21 general direction a phone is from the tower?

22 A. Yes.

23 Q. As it relates to the T-Mobile records.

24 A. Uh-huh.

25 Q. You have -- did you have that same information

1 about call detail records?

2 A. I had the call detail records, as well as
3 Timing Advance records.

4 Q. And again, the Timing Advance records. How does
5 that differ from the -- the call detail records?

6 A. The Timing Advance records are going to give you
7 an estimation of the distance that a device is from the tower
8 at that specific -- specific time.

9 Q. And when you use those records, in your experience
10 and in -- in the studies inside the literature, how accurate
11 are those records in terms of timing the distance?

12 A. They can vary. To give an example, if we're
13 sitting inside of a courthouse with brick walls, it's going
14 to take a different amount of time for cell signal to travel
15 in here. And it may say that I'm further from the tower. If
16 I'm standing out in the middle of the parking lot, it will be
17 more accurate.

18 Q. So there's a little bit of a margin error?

19 A. There is.

20 Q. But as it relates to those records, in your
21 experience, is that -- what is that margin error,
22 experiential error?

23 A. I can't put an exact number on it, but I can tell
24 you that I've had many success stories utilizing
25 Timing Advance records.

1 Q. And I'm going to show you what's marked as
2 Defense's Exhibit 24. Go ahead and get that out of the way.
3 Can you take a look at that?

4 A. Sure.

5 Q. Do you recognize that?

6 A. I do.

7 Q. What is that?

8 A. That is what T-Mobile sends to help you interpret
9 the records whenever you receive them.

10 Q. So when it talks on there about low confidence. --

11 A. Uh-huh.

12 Q. What are they talking about with low confidence?

13 A. So --

14 MR. SHAFFER: Objection, Your Honor. Speculation. He
15 was asking someone not from T-Mobile what T-Mobile means.

16 THE COURT: Well, I mean that he knows if he can answer
17 without speculating.

18 MR. THOMAS: He's an expert, this is within his field
19 of expertise.

20 THE COURT: So I'll overrule at this time. Let's see
21 what (inaudible).

22 THE WITNESS: We -- when we're mapping
23 Timing Advance records, we don't even recognize, or we don't
24 look when we're mapping, at the low or high confidence
25 portion of the Timing Advance records.

1 BY THOMAS:

2 Q. So those records include some sort of information.
3 I guess -- does T-Mobile try to give you a location of that
4 phone themselves?

5 A. It's the tower attempting to tell you where it
6 thinks the phone is.

7 Q. And so, T-Mobile assigns the confidence level to
8 their guess as to where the phone is?

9 A. Correct.

10 Q. Do you use T-Mobile's guess as to where the phone
11 is?

12 A. I do not.

13 Q. Okay. So the low confidence, medium confidence,
14 high confidence. This has nothing to do with your analysis
15 of these cell phone records?

16 A. It does not.

17 Q. All right. We've talked a lot about sort of the
18 technical aspects of it. You actually mapped all this stuff
19 out, did you?

20 A. I did.

21 Q. Did you prepare all of that onto a presentation
22 that would help you discuss this with the jury?

23 A. I did.

24 Q. And did that -- would that actually help you
25 explain where these cell phones were?

1 A. It will.

2 MR. THOMAS: Your Honor, at this time I'll publish. --
3 Yeah. -- State's Exhibit 117 and I we haven't moved the
4 exhibit in yet.

5 THE COURT: Right.

6 MR. THOMAS: (Inaudible) publish it.

7 THE COURT: It -- it is 117 for identification only at
8 this time.

9 BY MR. THOMAS:

10 Q. All right. Let's go through this. This is just
11 your introductory, -- we got your case number on there.
12 Let's skip that to this. Again, what is the slide telling
13 us?

14 A. It's pretty standard with us doing our
15 presentations for trial. Just sort of gives a little
16 background how we came about doing what we did. Explains
17 cell site locations, the fact that there were GPS coordinates
18 in this case, and then conclusions as well.

19 Q. But nothing in here technical or groundbreaking?

20 A. No.

21 Q. And again, we were talking about towers earlier.
22 What are we looking at here?

23 A. You're looking at a three-sector tower with the
24 panels facing different directions to display the sector.

25 Q. So when you talk about an azimuth, what do you

1 mean by that?

2 A. Azimuth is a fancy word for direction. It is the
3 direction that a certain sector is facing.

4 Q. So -- so it's like 120, or 90, or 60, or something
5 like that?

6 A. Correct.

7 Q. And every azimuth has a -- we'll go to the next
8 one. There you go. So explain what we're looking at here?

9 A. So --

10 Q. And there's a pointer there -- that helps you out.

11 A. Oh. So what we're looking at here is multiple
12 towers in a certain area, and you can kind of tell that
13 they're overlapping. And the reason that they overlap is to
14 show or give the opportunity for a handoff. A handoff-call
15 is if a device is moving, it can have an opportunity to jump
16 to a new tower to continue whatever's going on in the -- with
17 the phone.

18 Q. So I guess the more towers you have in an area,
19 the better your signal is?

20 A. Correct.

21 Q. But in terms when we talk about azimuth, we see
22 these little pie slices. Is that what we're talking about
23 when we talk about tower face? That's what the tower face
24 looks like when you map it?

25 A. So. Right. That's what the sector's going to

1 look like. The azimuth is going to be the direction of which
2 the sector is facing.

3 Q. Okay. And then again, were you given any points
4 of interest that you needed to plot out as well, to sort of
5 determine where these phones were?

6 A. I was.

7 Q. What were those points of interest?

8 A. Mr. Spencer's residence, [REDACTED],
9 Ms. Cross's residence, [REDACTED]. The body dump
10 location, the trash dump -- trash can dump location, and the
11 casino in Kings Mountain.

12 Q. And I see we've got, -- some of these are
13 addresses, some of them are GPS coordinates. Does that help
14 you just be a little more precise?

15 A. Correct.

16 Q. (Inaudible) things? And so, you provide -- you
17 looked at -- just tell us again what you looked at. I know
18 you've already testified this, right?

19 A. I looked at the call detail records from both of
20 Mr. Spencer phones, the call detail records, and
21 Timing Advance for Ms. Cross's phone, and the GPS records
22 from the Dodge Ram.

23 Q. Okay. What are we looking at here?

24 A. This is just an overview of -- that contains all
25 the locations, and all of the towers for T-Mobile and

1 Verizon, and just all the locations of interest.

2 Q. Okay. So where -- let's go down. Where is
3 Ms. Cross's residence? That's the yellow box.

4 A. Right there.

5 Q. And where is Cumming Springs Road?

6 A. There we go.

7 Q. I have no clue how to undo that.

8 While we're there what is the blue box in the
9 (inaudible)?

10 A. That is the trash unit application.

11 Q. And what's the dark red box?

12 A. That's going to be Trump Pointe.

13 Q. And the orange box in the upper right-hand corner?

14 A. It's the casino in Kings Mountain.

15 Q. What's the first thing you plotted here?

16 A. So this is the GPS of the truck going from Trump
17 Pointe to the casino in Kings Mountain.

18 Q. And what time does he leave Trump Pointe?

19 A. He leaves at 7:02:27 and arrives at 8:57.

20 Q. Then what is the second plot you got here?

21 A. This is the truck leaving the casino in
22 Kings Mountain and traveling to [REDACTED], and
23 arriving at 11:31:53.

24 Q. What time does he leave the casino?

25 A. He leaves the casino at 10:13:53 a.m.

1 Q. And what time does he arrive on Fairview Road?

2 A. 11:31:53.

3 Q. I see we've got a plot pointed here in between
4 that with a couple things on. What are those?

5 A. Sure. That is the --

6 Q. I recognize the purple box. What's the dark green
7 box?

8 A. So that is going to be the tower that
9 Mr. Spencer's phone first utilized, as he was traveling to
10 [REDACTED].

11 Q. Is that what we're looking at here, closer up to
12 that?

13 A. Yes. This is just a zoomed-in version showing
14 that a phone call from Mr. Spencer's work phone was made to
15 Mrs. Cross's phone at 11:09:19.

16 Q. So that 11:09, that's a transaction to the tower;
17 is that right?

18 A. Correct.

19 Q. Is that the right terminology?

20 A. Uh-huh.

21 Q. Where is that cell phone at -- at 11:09 when it
22 makes that phone call?

23 A. It is utilizing that sector on that tower and
24 traveling -- consistent with traveling down 385.

25 Q. So and this just helps us out here. So when we

1 talk about the sector, we're talking about these blue lines
2 coming out here?

3 A. Correct.

4 Q. So that phone is somewhere inside of those blue
5 lines? Not necessarily we can -- these go out sort of to
6 infinity, right?

7 A. They -- they have a certain spot where they -- no,
8 I mean they reach, -- don't have coverage anymore, but it
9 just -- it's not 100 percent that he's on that sector. He
10 could be utilizing another sector and be on 385, but it's
11 consistent with being on 385.

12 Q. But the phone is utilizing that tower?

13 A. And that sector, correct. To make that phone
14 call.

15 Q. And at the same time, so -- so that's at 11:09:19.

16 A. Uh-huh.

17 Q. And then, what's the time on that GPS for -- for
18 that truck?

19 A. The time on the GPS for the truck is 11:09:53 a.m.

20 Q. So the truck is -- what's -- what's the
21 relationship to the truck and the cell phone at that --
22 around 11:09. Are they in the same place or at different
23 places?

24 A. They seem to be in the same area.

25 Q. Same area?

1 A. Uh-huh.

2 Q. Okay. Let's get to this. This is -- what are we
3 looking at here?

4 A. So here we're looking at Timing Advance data for
5 Ms. Cross's phone.

6 Q. All right. So what are these -- what are these
7 towers here on your side? Can you point those out to the
8 jury? Which towers is she using for these towers?

9 A. So her phone is -- just because -- just because
10 her phone is closest to this tower doesn't mean it's always
11 using that tower, but at 7:10:52 a.m. and 11:28:43 a.m., it's
12 using this tower. And then at 10:57:27 it bounces to the
13 other tower.

14 Q. So between the hours of, I guess 7:00 a.m. and
15 11:30, her phone is utilizing those two towers?

16 A. Correct.

17 Q. What are these arcs that you've got drawn here?

18 A. Typically, when a -- a cell phone jumps from
19 sector or tower to tower, when those Timing Advance arcs are
20 created and they cross, is a more likely spot where we tend
21 to find devices.

22 Q. Okay. But those arcs that you've drawn, that's
23 you drawing the -- the timing data, I guess?

24 A. Correct. The distance, yes. Call measurement
25 data.

1 Q. So how do you -- how do you know where to draw
2 those?

3 A. So it tells you the distance from the tower, the
4 azimuth that you have, and the sector that it's utilizing.

5 Q. So that's basically just it -- it took the phone
6 however long to respond to the ping?

7 A. Correct.

8 Q. And so, that means it's that distance away?

9 A. Correct. It is telling you that it, the device,
10 is somewhere on or in front of the arc.

11 Q. Okay. So somewhere within the arc?

12 A. Correct.

13 Q. And you said a second ago when you have crossing
14 arcs like that, how does that -- how do you use that in your
15 professional job?

16 A. Typically, when we have a crossing sector, or
17 crossing, or tower switch, and a different arc is drawn when
18 those two are crossing, that's typically where we tend to
19 find people that we're looking for.

20 Q. Like a missing person?

21 A. Missing person or a fugitive, correct.

22 Q. So where the arcs cross is the general area where
23 you're looking for someone?

24 A. Correct.

25 Q. On this one, do those arcs cross at any

1 significant point?

2 A. They do, they cross in two separate locations.
3 One in the unknown location to me, and once over being
4 consistent with [REDACTED].

5 Q. If Ms. Cross were a missing person at the time
6 you're looking at those records, where would you send your
7 team to go look for her?

8 A. To [REDACTED].

9 Q. All right. Talking about arcs, this one is kind
10 of complicated, so I want you to break it down for us.

11 A. Sure.

12 Q. Starting with this call detail record up in the
13 upper right-hand corner of the red one. What is that?

14 A. So that is Mr. Spencer's work phone utilizing a
15 tower near Ms. Cross's home.

16 Q. And what time is that phone using that tower?

17 A. 12:34:38 p.m.

18 Q. And what's that pink tower just below it?

19 A. That is Ms. Cross's phone using a tower consistent
20 with her address at 12:34:24.

21 Q. And so, those time stamps are based on call detail
22 records?

23 A. Correct.

24 Q. Looking back at it, that's the phone call between
25 the two numbers. Is that your recollection?

1 A. I would have to look back, but I believe so.

2 Q. Okay. I see some Timing Advance arcs on there.
3 What -- though, I guess, starting working our way sort of
4 around, explain to us what we're looking at there?

5 A. So there's multiple Timing Advance arcs that are
6 plotted. And this, -- the fact that the Timing Advance arcs
7 are moving is showing that the device is consistent with
8 moving.

9 Q. So at 12:34, where -- where's the Timing Advance
10 arc at 12:34?

11 A. 12:34 it is south of [REDACTED].

12 Q. Could you just point that --

13 A. Sure.

14 Q. -- out which one we're talking about?

15 A. Yeah

16 Q. So that's -- that's the 12:34. So 12:34, where
17 would you say that phone is?

18 A. Somewhere on that arc.

19 Q. Somewhere on that arc. Okay. Where does the
20 phone -- where is the 12:35 arc?

21 A. 12:35 moves slightly west.

22 Q. And then, what's the 12:36 arc?

23 A. 12:36 is the next one.

24 Q. And then, what's -- well, that's 12:36:04. What's
25 the next one?

1 A. 12:36 eight or six -- six, I believe.

2 Q. Yeah. 12:36.

3 A. 12:36:45.

4 Q. Right. And then continuing to move to the left.

5 What's that last one? I think you can extend that point a
6 little bit or if you need to get up and --

7 A. Sure.

8 Q. -- point it out.

9 A. It's 12:39:48.

10 Q. Okay. So and again, all of these arcs are her
11 phone interacting with the tower?

12 A. Correct.

13 Q. So does that mean that something's going on -- on
14 the phone or is that an automatic process sometimes?

15 A. It is sometimes an automatic process.

16 Q. Can it also happen if you're making a phone call,
17 or sending a text message, or using the internet?

18 A. It could.

19 Q. Okay. And you said based on your expert opinion,
20 the way these arcs, especially the 35, 36, and 36, what does
21 that tell you about what that phone is doing over that minute
22 or so?

23 A. It should, -- it tells me that it's moving.

24 Q. Okay. Did we all -- did you also plot some --
25 some GPS coordinates from his truck on here?

1 A. I did.

2 Q. Where's this truck at at 12:35:33?

3 A. It is on -- it is on the Timing Advance arc from
4 12:35:21.

5 Q. And then, where -- this is kind of tricky. Where
6 is his -- where is his phone -- where is his truck at
7 12:39:33?

8 A. It is on that Timing Advance arc or close to it at
9 12:39:48 or 49.

10 Q. And when we say on the arcs, we mean very -- very
11 close, but not necessarily 100 percent accurate?

12 A. Correct.

13 Q. There's no margin there?

14 A. There is.

15 Q. Okay. Let's go back to this one. We're talking
16 about margin error. This one right here where his phone is
17 bouncing off the tower, it's like just north of Simpsonville,
18 right where 385 and 85 come in --

19 A. Uh-huh.

20 Q. -- together. Is it possible for that phone to
21 have been in Chesnee up here in North Carolina border at that
22 time?

23 A. No, it is not.

24 Q. And that's because -- I think you -- what did you
25 say? Tower -- that they don't go home forever?

1 A. Right.

2 Q. If that phone were up somewhere near the
3 North Carolina border, where would you expect to see it
4 bouncing off the tower?

5 A. Near the North Carolina border.

6 Q. All right. So back to this slide right here,
7 moving along. What are we looking at on this slide?

8 A. These are the zoomed-in versions of the GPS points
9 of Mr. Spencer's truck arriving to Ms. Cross's house.

10 Q. So in terms of -- which direction is he coming
11 from?

12 A. He's coming north.

13 Q. So he's coming from -- is he coming from the
14 direction where that phone call would've been made?

15 A. Yes.

16 Q. What time does he arrive at Ms. Cross's house?

17 A. 11:31:53 a.m.

18 Q. Then what is this next slide?

19 A. This is Mr. Spencer's truck leaving.

20 Q. Which direction is he heading?

21 A. He's heading south down Therapy Road.

22 Q. And then, what is the slide looking at?

23 A. This is just an overview showing Mr. Spencer's
24 truck traveling or leaving at 12:31:33 and traveling to the
25 Trump Pointe address at 2:10:42 p.m.

1 Q. And just generally, what's the path of that truck?

2 A. It travels up towards McKelvy Crossroads, cuts
3 down towards Princeton into Honea Path, and then down through
4 and back into Anderson.

5 Q. And that's the time frame from 12:31 to 2:10?

6 A. Correct.

7 Q. Did you have Timing Advance data from
8 Ms. Cross's home for that time period?

9 A. I did.

10 Q. Did you plot that on this -- on your presentation?

11 A. I did.

12 Q. What are we looking at here?

13 A. This is showing the Timing Advance from
14 Ms. Cross's phone during that time, and showing the movement
15 of the device.

16 Q. Where does her phone go from 12:31 to 2:10?

17 A. It goes from the area consistent with her home,
18 down through, up towards McKelvy Crossroads, down -- and down
19 into Honea Path, and over into Anderson near an area near

20 [REDACTED]

21 Q. So each of these plot (inaudible)?

22 A. Uh-huh.

23 Q. And those are transactions for phones having
24 towers?

25 A. Correct.

1 Q. And in your opinion, what's her phone doing?

2 A. Moving.

3 Q. Just come back to that in a minute. We've also
4 got some more points. So you say he gets back to his house
5 at 2:10?

6 A. Uh-huh.

7 Q. What does the truck do after 2:10?

8 A. It -- I believe it stops, and then he leaves his
9 home again at 2:24:56 and starts driving around
10 Lake Hartwell.

11 Q. And where -- okay. Driving around Lake Hartwell.
12 Just -- do you -- describe to the jury, and point out sort of
13 the general path.

14 A. Sure -- sure. It's about 10-minute increments
15 there, obviously more GPS points, but this explains it.
16 2:24:56 to 2:34 to 2:54, 3:00, 3:08, 3:29, 3:39, 3:49, 4:01,
17 4:43, 5:01, 5:08, 5:14:47.

18 Q. What's the significance of that 5:14:47 point?

19 A. That is when the GPS of the truck is in the area
20 of the body dump location.

21 Q. So then, we're going to zoom in a little bit.
22 About how long was the truck there? Do you remember?

23 A. I can't remember off the top of my head.

24 Q. Does it start moving after a little while ago?

25 A. It does.

1 Q. Where does it go after that?

2 A. At 5:22:50, 5:16:41 it starts its movement.

3 5:22:50 continues to move. 5:24, 5:26, 5:28, 5:30, 5:32,
4 5:34, 5:36, and 5:38.

5 Q. I think especially when we get to the -- those are
6 about too many increments?

7 A. They are.

8 Q. So we're talking about how long will it take him
9 to get from this location down here in Starr back up to --
10 back Cleveland Road address?

11 THE COURT: (Inaudible) that question, Solicitor.

12 BY THOMAS:

13 Q. How long does it take him to get from the location
14 in Starr back up to the Cleveland Road address?

15 A. About 20 minutes, 22.

16 Q. Okay. Again, I want to back up a little bit here.
17 What are we looking at on this slide?

18 A. These are transactions being made from
19 Mr. Spencer's personal and work cell phone at a tower near
20 [REDACTED].

21 Q. So the 11:52:08 a.m., and what phone number is
22 that from?

23 A. That's from the one that ends in 3996 I believe.
24 That's the personal.

25 Q. Did you have any other records from that time

1 period you use?

2 A. No.

3 Q. Okay. So the phone just wasn't being used at that
4 point?

5 A. Correct.

6 Q. And then that 12:34:38, what phone call is that
7 he's making? That's his what -- what number is that?

8 A. That's his work cell phone.

9 Q. Okay. And who did he call at that point?

10 A. Ms. Cross.

11 Q. So that's the same tower we saw in that previous
12 slide?

13 A. Yes.

14 Q. And is that the same tower his personal phone was
15 using?

16 A. It was.

17 Q. Let's go back and talk about Timing Advance R2,
18 what's one of the places you said her phone went through?

19 A. Honea Path.

20 Q. What are we looking at on this slide?

21 A. This is Timing Advance records for
22 Ms. Cross's phone in Honea Path for the time of 1:03:33 and
23 1:03:34. And that's -- this is showing the larger arc.

24 Q. So if we zoom in on Honea Path on this slide, how
25 many different data transactions does her phone have in

1 Honea Path?

2 A. She has Timing Advance transactions for -- she has
3 five of them.

4 Q. And what are the times of those five?

5 A. 1:03:33, 1:03:34, 1:08:46, 1:17:22, and 1:18:04.

6 Q. And we talked earlier about sort of having the
7 crossing arcs. Do we have any crossing arcs here?

8 A. We do.

9 Q. In the general area of where those arcs cross.
10 What else do you have plotted?

11 A. Some GPS locations from the Dodge Ram.

12 Q. And what times are those GPS locations from the
13 Dodge Ram?

14 A. 1:07:35, 1:07:36, and 1:21:35.

15 Q. So in your opinion, where is that phone during
16 that time frame 1:03 to 1:18?

17 A. Somewhere on those arcs.

18 THE COURT: What was that?

19 THE WITNESS: Somewhere on those arcs.

20 BY MR. THOMAS:

21 Q. And do those two arcs intersect in Honea Path?

22 A. They do.

23 Q. What are we looking at on this slide?

24 A. This is -- this is the tower that
25 Mr. Spencer's personal phone utilizes.

1 Q. Okay. Roughly how far away is that from his
2 house, close or far? Just proximity generally.

3 A. Generally pretty close, for if it being that it's
4 sort of a rural area.

5 Q. You've posted -- you -- you've got two call detail
6 records there, but I think you said that's the phone --
7 that's the tower his phone likes to use?

8 A. Uh-huh.

9 Q. Which phone was that?

10 A. His personal.

11 Q. Okay. And what time is -- is that phone? What
12 time are those transactions that you plotted?

13 A. At 1:59:13.

14 Q. Okay. So at 1:59, where would you say -- and you
15 can't be exact based on this, but where is his phone at 1:59?
16 His personal phone?

17 A. It is in --

18 Q. (Inaudible) for the jury.

19 A. -- utilizing the sector on this tower.

20 Q. Okay. So where -- let's go back to here. That
21 was about 2:00. What time did he get back to --

22 A. 2:10:42.

23 Q. So where was his truck around 2:00, a little after
24 2:00?

25 A. At his -- consistent with being at his house. The

1 GPS locations are.

2 Q. And where was his personal cell phone?

3 A. Utilizing the tower near his house.

4 Q. Is there any other towers in that area that were
5 relevant to your analysis here?

6 A. Not in reference to the call detail records, no.

7 Q. What about in reference to the T-Mobile records?

8 A. Yes, there were.

9 Q. What are we looking at here?

10 A. This is a T-Mobile tower that Ms. Cross's phone
11 was utilizing at 2:07, 2:08:09, 2:08:38, 2:13:18, 2:13:52,
12 2:15:19, 2:17:11, and 2:20:31.

13 Q. How many different transactions is that?

14 A. Eight.

15 Q. And between the hours of 2:07 and 2:20?

16 A. Correct.

17 Q. So if you could show the jury in your professional
18 opinion, where is her phone during that time?

19 A. During that time her phone is somewhere on the
20 arc.

21 Q. Okay. The arc that you've drawn there?

22 A. Uh-huh.

23 Q. Is there anything else that falls along that arc?

24 A. Not that was brought to my attention, other than

25 [REDACTED].

1 Q. [REDACTED] is within the general area where
2 that arc is?

3 A. Correct.

4 Q. Let's talk about some GPS stuff again. What are
5 we looking at here?

6 A. This is a zoomed-in version of the Dodge Ram being
7 at Ms. Cross's house.

8 Q. And what's the time frame where the -- the
9 Dodge Ram is at her house?

10 A. We've got from 11:31 to 12:31, 11:31:53, 11:32:59,
11 12:07:20, and 12:31:33 p.m.

12 Q. So roughly about an hour?

13 A. Uh-huh.

14 Q. And then this just shows, what does this show?

15 A. This is showing the Dodge Ram being at
16 [REDACTED]. And this goes from -- this is all after
17 2:10, so 2:10:42, 2:09:03, 5:57:47, 6:58:02, 7:58:02,
18 8:08:44, 8:58:17, and 9:58:15.

19 Q. So, basically, from 2:10 about 2:24, it's there,
20 and then it leaves, and comes back sometime 5:45-ish. Does
21 that sound right?

22 A. That's correct.

23 Q. And then, it's there the rest of the night?

24 A. Correct.

25 Q. Just looking at this map, none of these points are

1 on top of each other. Why is that?

2 A. I believe it's -- it's due to GPS points can be a
3 little bit off, but...

4 Q. Then I know you weren't here for, -- but if the
5 GPS company representative said 15 to 30 feet, is that sort
6 of consistent with what you're looking at here?

7 A. I would say so.

8 Q. Why is this slide showing this?

9 A. This is showing three different GPS points from
10 the Dodge Ram starting at 5:14:57 or 47, excuse me, 5:16:41
11 and 5:22:50 at 110 Cumming Spring Road or the body dump
12 location.

13 Q. Okay. And then what are we looking at here?

14 A. We're looking at GPS data from Mr. Spencer's truck
15 from 5:38:50 and 5:40:50. And that is the coordinates for
16 the trash can location.

17 Q. So that's -- those two coordinates are two minutes
18 apart basically?

19 A. Roughly, yes, exactly actually.

20 Q. And so, that's at 5:38, 5:40. I want to go back
21 to something here. What time does Mr. Spencer's truck leave
22 his house after he gets back at 2:00?

23 A. After he gets back at 2 -- 2:24:56.

24 Q. What's the last transaction Ms. Cross's phone has
25 on the tower near his house?

1 A. 2:20:31.

2 Q. Were there any more transactions in her records
3 after that time period?

4 A. Not to my knowledge.

5 Q. And again, prior to that -- prior to that 2:07,
6 this map right here shows where her phone was?

7 A. It does, it shows the movement of her phone.

8 MR. THOMAS: Beg the Court's indulgence.

9 THE COURT: Sure.

10 BY MR. THOMAS:

11 Q. In your experience looking for missing persons or
12 fugitives, if you had this information, where would you send
13 your team to look for Ms. Cross at roughly 2:00 on
14 December 9th?

15 A. [REDACTED] in Anderson.

16 MR. THOMAS: No further questions. Thank you so much.
17 I'll let you answer anything Mr. Shaffer may have for
18 you?

19 THE WITNESS: Yes, sir.

20 MR. SHAFFER: Court indulgence?

21 THE COURT: Sure.

22 Mr. Shaffer (crosstalk) without holding you to any sort
23 of time frame, do you have a generalized idea about how long
24 you may be with this witness?

25 MR. SHAFFER: Your Honor, I think it'll be relatively

1 short.

2 THE COURT: Okay.

3 MR. SHAFFER: Can I get that (inaudible)?

4 MR. THOMAS: Do you want me to start it?

5 CROSS-EXAMINATION

6 BY MR. SHAFFER:

7 Q. Your Timing Advance arcs, why -- why do you refer
8 to them as Timing Advance arcs?

9 A. That is how T-Mobile describes them.

10 Q. Okay. Because it's based off their
11 Timing Advance system, correct?

12 A. Correct.

13 Q. And you're not able to give a confidence level of
14 what -- how accurate Timing Advance is, correct?

15 A. Correct.

16 Q. Can you give a confidence level of how accurate a
17 GPS is?

18 A. I cannot.

19 Q. Okay. Because it depends on the -- the
20 manufacturer of the GPS, right?

21 A. Sure.

22 Q. Because some GPSs are super, super precise,
23 correct?

24 A. Correct.

25 Q. Like some GPSs are used for surveying and can tell

1 the difference between a point right here and a point at the
2 other end of that table, correct?

3 A. Correct.

4 Q. Okay. But it just depends on the manufacturer,
5 correct?

6 A. Sure.

7 Q. And you didn't do anything to manipulate the GPS
8 information, correct?

9 A. Correct.

10 Q. It's the same GPS information we got, I guess two,
11 three days ago from the -- I know you weren't here, but from
12 the -- the guy from the -- from the cop GPS place, right?

13 A. It was.

14 Q. So you took his back, correct?

15 A. I did.

16 Q. Okay. Same data that me and him went over,
17 probably with a little spreadsheet. I know you weren't here,
18 but comes in a spreadsheet and it has a bunch of points,
19 right?

20 A. Yep. It's got the date, time, how long.

21 Q. Okay. And you wouldn't have any reason to
22 disagree with his idea of the accuracy of his GPS, correct?

23 A. I would not.

24 MR. SHAFFER: Okay. Court's indulgence.

25 BY MR. SHAFFER:

1 Q. Defendant's Exhibit 24 is already in evidence and
2 it is an attachment for the tape T-Mobile records that reads,
3 "Interpreting Timing Advance records." Correct?

4 A. Correct.

5 Q. You've never worked for T-Mobile, correct?

6 A. Correct.

7 Q. If -- if they say that their confidence level --
8 and a low confidence is a range 300 or more meters, you
9 wouldn't have any reason to doubt that, correct?

10 A. In reference to the low and high confidence
11 levels?

12 Q. Yeah.

13 A. I wouldn't have any reason to doubt it, but I
14 don't -- I -- I didn't use that for my mapping report.

15 Q. Okay. But you used -- used the
16 T-Mobile Timing Advance records, correct?

17 A. Correct.

18 Q. How did they come up with the distance from the
19 Timing Advance records?

20 A. It is the tower communicating, sending out a
21 signal to the device. The device receives the signal and
22 sends the signal back to the tower.

23 Q. I think you testified that it was just distance
24 over time, correct?

25 A. That is the formula that -- one of the formulas

1 that is used, yes.

2 Q. Is that the formula that is used by the
3 Timing Advance records that were analyzed in this case?

4 A. I'm not sure.

5 Q. Okay. You wouldn't know that because you don't
6 work for T-Mobile, correct?

7 A. Correct.

8 Q. Okay. Because you're just assuming that it is
9 distance over time, correct?

10 A. Sure.

11 Q. Okay. You don't have the ability to sit there and
12 say that T-Mobile is correct or not correct in their low
13 confidence, that they put on the -- the type of data,
14 correct?

15 A. Correct.

16 Q. Because you're not the one who actually analyzed
17 that data, T-Mobile was, right?

18 A. Before they sent it to Investigator Pittman?

19 Q. Yeah.

20 A. Correct.

21 Q. Okay. So your Timing Advance arcs are based upon
22 information that's analyzed by T-Mobile that they put a low
23 confidence rating in, correct?

24 A. In reference to which?

25 Q. Yeah. Your -- your distance -- your distance

1 measurements are based off of

2 T-Mobile Timing Advance distance reference, correct?

3 A. That has nothing to do with how I used it for
4 mapping though.

5 Q. Okay.

6 A. It -- it -- them telling me that it's a low
7 confidence, I didn't -- I don't even acknowledge it.

8 Q. Okay. You don't even acknowledge the fact that --
9 that T-Mobile says it's low confidence?

10 A. That's correct. I did not use that in my mapping
11 report.

12 Q. Okay. You don't acknowledge the fact that
13 T-Mobile uses it, says it's low confidence, but you're
14 accepting the fact that T-Mobile's Timing Advance -- their
15 distance that they calculate is correct, correct?

16 A. Correct.

17 Q. You're -- you're assuming that T-Mobile's correct
18 in their distance that they calculate, correct?

19 A. Correct.

20 Q. And you don't know how they came up with that
21 distance, correct?

22 A. Correct.

23 Q. And you're just saying it has nothing to do with
24 the fact that they say Timing Advance records low confidence.
25 That low confidence has nothing to do with that, but you

1 don't know how it's created, right?

2 A. Right. The low confidence or high confidence
3 depending on what T-Mobile says, it's -- its an attempt to
4 tell you where the device is.

5 Q. Okay. And that's how they measure distance,
6 right?

7 A. Sure.

8 Q. And they're saying it's low confidence, when
9 you're saying you're ignoring the low confidence because of
10 the fact that it has nothing to do with anything, right?

11 A. It just didn't go into my mapping report.

12 Q. Of course, it didn't go into your mapping report
13 because you're relying on the distance that
14 T-Mobile's Timing Advance tells you it's, right?

15 A. Sure.

16 Q. And you have no idea how they came up with that
17 distance, correct?

18 A. I know that they send a signal to the phone, and
19 the phone sends a signal back to the tower, and the distance
20 is created, yes.

21 Q. But you don't know the formula that they use,
22 correct?

23 A. I do not.

24 Q. Okay. But you're assuming that they don't -- that
25 that low confidence has nothing to do with that formula that

1 you're using, even though they call that

2 Timing Advance distance, correct?

3 A. Sure.

4 Q. Okay. And you've never worked for T-Mobile?

5 A. Never.

6 MR. SHAFFER: Okay. Court's indulgence.

7 BY MR. SHAFFER:

8 Q. Showing you part of the slide. It is slide

9 number, -- looks like 22.

10 A. Okay.

11 Q. You said that when it -- during direct, you said
12 that that is showing where this -- where Mr. Spencer's house
13 is, correct? In the little red down there, dark red?

14 A. Yeah. Mr. Spencer's house is mapped, yes.

15 Q. Yes. And it's showing the tower that he's off of,
16 correct?

17 A. Correct.

18 Q. And it is -- what's that little red dot there?

19 (Inaudible).

20 A. That is another tower.

21 Q. Okay. What's this slide on here?

22 A. That's another tower.

23 Q. Okay. Do you have any specific idea as to why
24 Mr. Spencer's phone is pinging off that tower up there as
25 opposed to the closer tower?

1 A. Phones don't have to go with the tower that is
2 closest to them.

3 Q. They go with the strongest signal (inaudible).

4 A. Strongest signal, correct.

5 Q. And sometimes the strongest signal is a -- a tower
6 that's close, correct?

7 A. Sometimes.

8 Q. And sometimes the stronger signal was the tower
9 that's far away, correct?

10 A. Sometimes.

11 MR. SHAFFER: Court's indulgence.

12 BY MR. SHAFFER:

13 Q. Now, all this stuff you -- you shared with the
14 mapping, does any of it explain why someone else's DNA is on
15 victim's shirt?

16 A. I have no knowledge of that.

17 MR. SHAFFER: Okay. No further questions.

18 THE COURT: Solicitor, any redirect of this witness?

19 MR. THOMAS: Briefly, Your Honor. I think (inaudible)
20 this the risk of inviting recross.

21 RE-DIRECT EXAMINATION

22 BY MR. THOMAS:

23 Q. This slide we're looking at here with these arcs.

24 A. Uh-huh.

25 Q. And specifically this 18:18:04 right here.

1 A. Okay.

2 Q. That 18:18:04 to draw that arc, what raw
3 information do you need to draw that arc?

4 A. You need the GPS locations of the tower, the
5 sector, and the azimuth.

6 Q. Okay. And what --

7 A. And the distance from the tower.

8 Q. Okay. Distance from the tower. Is that a special
9 proprietary secret formula that nobody has or is that
10 basically a simple math equation of time over distance?

11 A. It's provided from T-Mobile.

12 Q. Okay. So let me show you -- and when we talk
13 about Timing Advance. -- T-Mobile has their own proprietary
14 sort of method for trying to determine where a cell phone is;
15 is that right?

16 A. Yes.

17 Q. Why would they have that? Why would they try to
18 determine where cell phones are?

19 A. They're -- they maintain these -- some of these
20 records for -- to make sure their customers are getting the
21 best service, and if they can time how long it takes a phone
22 to bounce back to a tower, they can better serve their
23 customers.

24 Q. Okay. So I'm going to show you the records they
25 provided the Timing Advance. So they actually assigned GPS

1 coordinates to it. Is that what we're looking at here,
2 latitude, longitude?

3 A. For the high and low confidence.

4 Q. Okay.

5 A. Correct.

6 Q. That is -- that is where they assign their high
7 and low confidence?

8 A. That is where T-Mobile thinks the phone is.

9 Q. So looking at that 18:18:04 transaction right
10 there, what numbers did you use? And I already underlined
11 them here, so it's probably given up the -- the secret here,
12 but what numbers did you use to determine how far away that
13 phone is from the tower?

14 A. It's the distance from the tower. Yeah, right
15 there.

16 Q. So that's what I moved up here.

17 A. The start Timing Advance and the end Timing
18 Advance, but we use the start.

19 Q. Timing Advance is what T-Mobile calls it. What
20 does Verizon call it?

21 A. RTT.

22 Q. What does AT&T call it?

23 A. They call it their TA report. So I assume that's
24 Timing Advance. Oh, they also refer to it as NELOs.

25 Q. NELOs. So everybody sort of calls it something

1 different, but it's all the same thing. It's their attempts
2 to locate phones.

3 A. Uh-huh.

4 Q. Is that correct?

5 A. Correct.

6 Q. Okay. Part of that is knowing how long the signal
7 takes, and that calculates that distance?

8 A. Right.

9 Q. Okay. So this low confidence, high confidence,
10 all of that doesn't factor in to your analysis of where those
11 phones are?

12 A. Correct.

13 Q. For your confidence in rendering opinion, and in
14 doing your job, and locating missing people, and locating
15 fugitives, how confident are you in what that phone is doing
16 right there?

17 A. I'm extremely confident that the phone is moving.

18 Q. And how confident are you as to where that phone
19 is between 2:00 and 2:20?

20 A. Confident enough to send a team there.

21 MR. THOMAS: Thank you. That's all the questions I
22 have.

23 THE COURT: Any recross?

24 MR. SHAFFER: Yeah. And we can pull it up (inaudible).

25 MR. THOMAS: Yeah, it's kind of awkward that way.

1 RECROSS EXAMINATION

2 BY MR. SHAFFER:

3 Q. Okay. Solicitor just asked you if the distance is
4 just a measure of -- of time it takes to get there and you
5 responded it is provided; is that fair?

6 A. The -- the distance from the tower is provided.

7 Q. Is provided?

8 A. Not the time. If that -- if that's what --

9 Q. And it's provided in this column right here, it
10 says "Start Timing Advance." Correct?

11 A. Correct.

12 Q. And Timing Advance is not "little t" "little a"

13 it's -- Timing Advance is the name of a product, correct?

14 A. Correct.

15 Q. And can you tell me how that product,-- the
16 calculation they use to calculate that distance?

17 A. I cannot explain to you the specific formula, no.

18 Q. Okay. You're relying on them to say that -- that
19 the distance is there, and that -- that formula is accurate,
20 correct?

21 A. Yes.

22 Q. Okay. And we talked about the fact that there's a
23 sheet that says, "Timing Advance data needs to be used with
24 caution and there's different ratios." Right?

25 A. We did.

1 Q. So you're telling me that this distance right here
2 is not the calculation of the distance from the tower to the
3 -- their best guess of where -- where the phone is at?

4 A. Can you ask that one more time?

5 Q. Is there -- is their Timing Advance distance, a
6 measurement of the distance from the tower to their
7 approximation where the phone is at?

8 A. Their Timing Advance is using the coordinates of
9 the tower, using the distance from the tower, the sector that
10 the phone is utilizing in the azimuth.

11 Q. To -- how -- how do they --

12 A. To --

13 Q. -- measure, how do -- they measure that line?
14 That -- that line is measured to the point that they're
15 estimating where the phone is at, right?

16 A. Okay.

17 Q. Is that fair to say?

18 A. It is.

19 Q. Okay. And they have low confidence in the place
20 where the phone's -- phone is their estimation of where the
21 phone is at, right?

22 A. Right.

23 Q. So you're saying that that low confidence, which
24 gives you this coordinate, which ultimately gives you the
25 distance between there and here, that low confidence has

1 nothing to do with your distance?

2 A. It does not -- it did not go into my mapping
3 report.

4 Q. But did it have anything to do with T-Mobile's
5 mapping, -- T-Mobile's Timing Advance business?

6 A. Not to my knowledge.

7 Q. Okay. But you don't even know how the system
8 works, right?

9 A. I'm not a T-Mobile employee, no.

10 Q. Okay. And you can't say for sure that that low
11 confidence has nothing to do with the distance to the -- that
12 distance measurement under Timing Advance, correct?

13 A. I can tell you that I did not use the low
14 confidence level in my murder report.

15 Q. You didn't use it, but did T-Mobile use it in
16 telling you what distance it was from the tower?

17 A. I'm not sure.

18 MR. SHAFFER: Okay. Thank you.

19 THE COURT: Okay. You -- you can step down, sir.
20 Thank you.

21 All right. Ladies and gentlemen, straight up 5:30.
22 This will be a good time to break for the evening. Once
23 you're back here at 10:00 in the morning, we'll -- we'll
24 proceed forward. Again, get some -- get some good rest and
25 we'll see you back here at 10:00 in the morning. Have a good

1 evening, okay? Okay. You all have a good evening. See you
2 back in the morning.

3 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
4 5:30 P.M.)

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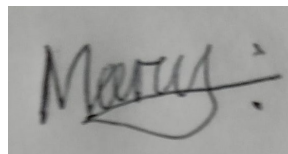
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CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a Court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 8 of Laurens County, South Carolina, on the 22nd Day of April, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 9, 2024

A rectangular box containing a handwritten signature in dark ink. The signature appears to be "Mary" followed by a stylized flourish or initial.

Mary Ragsdale

Transcriber

1 CONTINUATION OF PROCEEDINGS - APRIL 23, 2024

2 THE COURT: Let me go ahead and -- and make my ruling
3 as it relates to the Auckland report, which is
4 State's Exhibit 117. While we all recognize that it is not
5 common to submit expert's report in addition to actual
6 testimony.

7 In this case, since Defense did not object to all of
8 the mapping pages, and these pages basically contain the
9 information on the blue pages, phone numbers, addresses, that
10 sort of thing, then I'm going to allow the entire report to
11 come in.

12 Now I assume the State's not planning to call any other
13 witnesses?

14 MR. THOMAS: No, Your Honor. We -- we're ready to
15 rest.

16 THE COURT: All right. Well, you can rest on the
17 record. Let's go ahead, and Defense put their motion for
18 directed verdict on the record, even though no -- no sense in
19 bringing jury out. State rest. And then send them right
20 back in for the motion, so --

21 MR. SHAFFER: Actually, Your Honor, I think that there
22 may be justification for doing that. We prefer if the Court
23 was to do that, we would be very quick on motion for directed
24 verdict, but --

25 THE COURT: What's -- what's your justification for

1 doing it differently?

2 MR. SHAFFER: Your Honor, because we may -- we may have
3 an additional motion at that point.

4 THE COURT: Okay. All right. So you -- you may or may
5 not, but if you, do you want to make this additional
6 motion --

7 MR. SHAFFER: At the --

8 THE COURT: -- same time as DV?

9 MR. SHAFFER: That's correct. After the State rest.

10 THE COURT: Okay. All right. Okay.

11 MR. THOMAS: Judge, I don't know, again, if all we're
12 going to do is they're going to come out, and I'm going to
13 stand up and say, Your Honor, the State rests. We can just
14 address that now.

15 THE COURT: All right. Let -- let me ask you this,
16 what would -- what's going to happen that will cause you to
17 make the decision whether or not to make this additional
18 motion, when all we're going to do is -- Solicitor Thomas is
19 going to say "State rest."

20 MR. SHAFFER: I -- I -- I don't have a problem with it,
21 Your Honor, making it now, as long as the State is
22 irrevocably resting at this point, where they're not going to
23 change their position.

24 THE COURT: Right. If -- if Solicitor Thomas tells me
25 right now, that they are going to rest, and not call any

1 other witnesses, I'll hold his feet to the fire.

2 MR. SHAFFER: All right.

3 THE COURT: So let (inaudible).

4 MR. THOMAS: Yeah. Yeah, Judge, I -- I -- I can't
5 think of anybody else I could call. I -- I feel like I've
6 satisfied all the elements for DV motion, so...

7 THE COURT: Sure. Okay. All right. So you plan to
8 rest, and -- and as I said, I'm just -- I'll -- I'm -- I'm
9 not expecting you to renege on that, but I'm going to hold
10 your feet to the fire.

11 MR. THOMAS: Well, and if -- if something comes up,
12 then obviously I'll make a motion to reopen the records,
13 Your Honor, as -- as is allowed under the rules.

14 THE COURT: Okay. All right. Now, Mr. Shaffer, you
15 want to put a motion for directed verdict on?

16 MR. SHAFFER: Your Honor, we -- we are moving for
17 directed verdict. We'd ask the Court to consider the case of
18 *State v. Arnold*, 361 S.C. 386 as part of our motion.

19 The other part of our motion, we -- we argued that they
20 have not presented sufficient evidence that it occurred in
21 Laurens County that -- that the actual death could have
22 likely occurred actually in Anderson County, Your Honor.

23 So we'd move for directed verdict on both of those
24 grounds, and we'd ask that you consider the arguments raised
25 in *Arnold* because --

1 THE COURT: All right. Well, concerning the issue of
2 where the death occurred, I think we've -- we've gotten into
3 your motion to change video, -- I mean. I think twice
4 pretrial a week or two ago, three weeks ago, and then when we
5 started this case. And my ruling remains the same on -- on
6 that issue.

7 As it relates to your motion for directed verdict
8 course, we know what the standard is. There is any direct
9 evidence or substantial circumstantial evidence to justify
10 this case going to the jury. I do find that there is
11 significant substantial circumstantial evidence and purposes
12 of the record. I'm going to state what I made -- I made a
13 continuing list as we went through the State's case -- may
14 have missed something, but here's what I have found.

15 Number one: Victor told mom on 12/9 that she was
16 waiting on a man to work on her HP or HVAC system.

17 Number two: Defendant's home, body and trash can found
18 in close proximity to each other.

19 Three: Defendant and victim communicated by the phone
20 on 12/9 in the a.m.

21 Four: Defendant untruthful and second interview that he
22 had not seen the victim on 12/9.

23 Five: The GPS tracker has Defendant at victim's home on
24 12/9 around the time of 11:30 to 12:30.

25 Next number six: Cell phone evidence, has attended a

1 victim's home 12/9, around 11:30 to 12:30. Dr. Shaw ending
2 his testimony said, "It was possible that occurred on 12/9."

3 Eight: Video footage from Google Nest has black truck
4 pulling out of victim's driveway on 12/9.

5 Next, cell phone evidence has Defendant traveling to
6 where the body and the trash can are located.

7 Ten: Defendant untruthful about being paid the \$2,500
8 by a victim over the phone on 12/9.

9 Eleven: Victim's cell phone and Defendant's possession
10 on 12/9.

11 And 12: After the -- the death of Ms. Cross, the
12 Defendant attempted to withdraw \$4,500 out of the
13 Housecall Pro account that was unsuccessful, but was
14 successful at withdrawing \$2,500.

15 So I did find that there is significant substantial
16 circumstantial evidence and respectfully deny the Defense
17 motion for directed verdict.

18 MR. SHAFFER: Thank you, Your Honor.

19 THE COURT: Let me go ahead at this time -- advise
20 Mr. Spencer of his rights, since we've got the jury out. And
21 if you haven't already given him a little advice notice of
22 what I'm going to do, if you do that now -- I'm pulling up
23 the script.

24 MR. SHAFFER: And, Your Honor, real -- real quick, just
25 because our second motion is kind of time-related. The other

1 motion I plan on making, Your Honor, is to require the State
2 to release the vehicle into the custody of the tow truck and
3 have it brought here for the view for the jury to see.
4 Because of the fact that involves a tow truck driving from
5 the Sheriff's office to here, I wanted to make that as quick
6 as possible.

7 THE COURT: Okay. All right. What would be the
8 position of the State?

9 MR. THOMAS: Your Honor, there are photographs of the
10 truck in evidence. There -- there -- there's only one in
11 evidence obviously, but there were multiple other
12 photographs. They've already entered some evidence. If they
13 want the jury to see the truck, they're welcome to enter some
14 pictures of the truck.

15 I don't think towing the truck to the back parking lot,
16 and having the jury go view it adds anything that those
17 pictures would not add.

18 MR. SHAFFER: And, Your Honor, it does add a couple of
19 things. It adds the -- the fact that there's a -- there's a
20 3D component to where -- where you see the height of the bed
21 of the truck.

22 THE COURT: What that --

23 MR. SHAFFER: There's a 3D component to that where --
24 just showing a picture of the truck doesn't -- doesn't show
25 what we want to show to the jury. We want the jury to be

1 able to see the truck, see the height of the bed of the
2 truck, understand the fact that, yes, essentially she weighed
3 180 pounds, Your Honor.

4 He -- the State's theory is that he lifted her in a
5 trash can, 180 pounds to the height of the bed of that truck.
6 I think that it is certainly probative of whether or not it
7 could have happened, the way the State's alleging that it
8 happened.

9 I think that -- I don't think you get the same image
10 from looking at -- at a picture of the truck. And there has
11 to be a reason that the State decided to hold this piece of
12 evidence, this collateral, this valuable piece of property
13 for two and a half years in (inaudible).

14 There has to be some reason. The reason is, is because
15 the State thought, "Well, maybe we'll -- we'll use it
16 someday, therefore we're going to hold it until the end of
17 the case, in case we need it."

18 Your Honor, there's -- we -- we're going to pay for the
19 tow truck. There's no reason that there's a problem with
20 that. We're happy for our investigator and someone from the
21 -- the sheriff's office to -- to watch the truck the entire
22 time. It's getting towed over here and it -- it really isn't
23 -- so yeah, it is not like I'm asking us to drive up and fall
24 in with the jury. I'm asking for the jury to be able to walk
25 around the back to the parking.

1 THE COURT: Okay. All right. Well, let -- let -- let
2 me ask you this. Of course, I -- I view your request now --
3 this to a request to go review a scene of the crime. This
4 analogous -- analogous to that. So I -- I want to give it a
5 little bit of thought. So I'm leading up to my next
6 question.

7 Does the Defense intend to put up any actual witnesses?

8 MR. SHAFFER: Yes.

9 THE COURT: Okay. Can we do this then? You go ahead
10 and put up whatever witnesses that you intend to do. Give me
11 some time to give it some thought, and then we can address it
12 down the road just a little bit.

13 MR. SHAFFER: And -- yes, Your Honor.

14 THE COURT: And I realize that if I were to grant your
15 motion, of course we need some time to get -- get it over
16 here, but I want to give it a little thought for --

17 MR. SHAFFER: Thank -- thank you, Your Honor. We -- we
18 would, -- we were actually planning on being the last
19 witness. So if you want to -- it -- it -- we were not
20 planning on showing them the truck until our last -- last
21 witness, so if you wanted to -- we got three witnesses we can
22 put up ahead of time.

23 THE COURT: Okay.

24 MR. SHAFFER: And I have an order prepared for you, if
25 you need it -- need it, Your Honor.

1 THE COURT: Okay. All right. Let me -- let me give a
2 little thought.

3 Anything further on this point, Solicitor?

4 MR. THOMAS: No, Your Honor. I -- I've -- I've been
5 told a lot by Mr. Shaffer -- what I'm thinking this week, so
6 I won't say what I'm thinking right now.

7 And quite frankly, I -- I think we've had enough
8 theatrics in this case. I think that's what this is headed
9 towards. They're going to go out there, and do some fun
10 demonstration with the trash can. I don't think that gets us
11 further towards a resolution, but I will leave it in your
12 discretion.

13 THE COURT: Sure.

14 MR. SHAFFER: And, Your Honor, if not, we'd like to
15 proffer our demonstration via video.

16 THE COURT: Okay. Well, let -- let me just kind of
17 come back to this. What -- what was your -- all right. Your
18 plan was: If I were to allow the truck to be brought to the
19 courthouse, were you planning on doing a demonstration with
20 the truck?

21 MR. SHAFFER: Your Honor, either with the truck or with
22 -- with a different trash can. Essentially what we were
23 going to do is either have the truck brought over here, and
24 then let -- let someone attempt to load it to see the
25 practicality of that, or allow someone to attempt to load a

1 trash can with 180 pounds and lift it 32 inches.

2 THE COURT: Yeah, I -- I -- very unlikely that I'll
3 allow any demonstrations. Now, let me give you some
4 consideration about this. Them going around looking at the
5 truck, nothing being done or said. Because when you go view
6 a scene of a crime, typically they view it, but no one is
7 talking, or demonstrating, or telling them what they or -- or
8 seeing -- seen.

9 So I doubt very seriously, I'm going to let you go so
10 far as doing a demonstration. Certainly, that's a -- a right
11 argument for closing. And I certainly expected both sides to
12 address that, but let me -- let me give us some thought.
13 Just if I'm going to allow a truck to be brought up.

14 MR. SHAFFER: And -- and, Your Honor, there's also a 3D
15 component to -- just so that the record is clear, so not
16 re-arguing stuff later if you deny the motion.

17 There's also a 3D component to the stuff that's
18 actually in the bed of the truck that was there at the time.
19 There is a whole bunch of stuff in the back of the truck,
20 that we would like the jury to see that stuff and understand
21 the improbability of the trash can actually going in there.

22 The demonstration, -- if -- if you're not -- if you
23 would not allow us to do it on the truck, which we think is
24 it -- it's partner, we would ask to be allowed to do the
25 demonstration inside the actual courtroom with, I mean, you

1 know, essentially, they're saying that someone put 180 pounds
2 in that trash can, and lifted it 30-something inches. I
3 don't think that they would -- I don't think that one person
4 could have done what they're claiming happened.

5 And that's going to be our position. The only way to
6 actually show that, Your Honor, because of the -- the
7 awkwardness of, yeah, I mean, I could pick up 180 pounds. If
8 you wanted me to deadlift 180 pounds, I could probably do it
9 -- deadlift 180 pounds right now. If it's a barbell and I'm
10 squatting down, and grabbing, and lifting it up.

11 There's a very big difference between that and lifting
12 something the size and shape of a trash can in -- in the
13 confines of trying to move it into the truck. And that's
14 what we want to show.

15 MS. MCNEILL: And, Your Honor, just to also add to
16 that, if Your Honor's not going to allow us to do the
17 demonstration with the actual truck that belongs to
18 Mr. Spencer, then we do have a smaller truck that we would be
19 able to do the demonstration on, so it's not using the actual
20 truck, it's a smaller truck.

21 MR. SHAFFER: Or we could do it inside the courtroom
22 with tables, Your Honor, we just need to -- you just need to
23 give us a little bit of time and set up tables.

24 THE COURT: All right. I'll -- I'll -- I'll give it
25 some thought.

1 MR. THOMAS: And I would just, -- while you're thinking
2 about it, Your Honor, I'll direct you to
3 *State v. Brown*, 389 South Carolina 84. They wanted to go see
4 the house in that case. A picture, a diagram of the house
5 was admitted. The diagram was sufficient. I won't go into
6 any further details. You can review that.

7 THE COURT: What was that?

8 MR. THOMAS: 389 South Carolina 84.

9 THE COURT: Okay. All right. Well -- we'll -- we'll
10 get some thought. We'll discuss it more.

11 MR. SHAFFER: Thanks.

12 THE COURT: Let me go ahead. Mr. Spencer, would you
13 please stand up.

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

15 TIMOTHY PAUL SPENCER,

16 having been duly sworn, testifies as follows:

17 THE COURT: All right. Mr. Spencer, at this time I'm
18 going to explain to you certain of your rights. If you do
19 not understand anything I say, please let me know that. If
20 you want me to explain anything in more detail, please let me
21 know that as well. You understand, sir?

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. We have now reached the stage of the
24 trial, where you may present your defense. You have the
25 right to claim the protections given to you by the Fifth

1 Amendment to the Constitution of the United States.

2 This amendment states in part, "No person shall be
3 compelled in any criminal case to be a witness against
4 himself." This means that you cannot be required to testify
5 in this case. You have the right to testify on your own
6 behalf. However, no one can make you testify. This is a
7 personal right, and no one can waive this right except you,
8 sir.

9 If you decide to testify, you'll be subject to the same
10 rules that govern other witnesses, and you may be examined
11 and cross-examined on any relevant issue in this case.

12 In addition, if you have any convictions involving
13 dishonesty, or false statement, or for crime punishable by
14 imprisonment for more than one year, this Court determines
15 that the probative value of admitting this evidence outweighs
16 its prejudicial effect to you. Solicitor would be able to
17 introduce your record to attack the credibility.

18 If you decide to testify, Mr. Spencer, this decision on
19 your part must be freely, voluntarily, and intelligently made
20 with knowledge of the protections given to you by the
21 Fifth Amendment, and the consequences of your decision to
22 testify.

23 If you decide not to testify, this decision also needs
24 to be voluntarily, freely, and intelligently made by you.
25 And if you decide not to testify, I will specifically

1 instruct the jurors that they cannot give the fact that you
2 did not testify any consideration whatsoever, and that there
3 should be absolutely no prejudice to you because you did not
4 testify.

5 This is left entirely up to you whether or not you
6 testify. Certainly you have the right, I'm sure you've
7 already discussed this with your attorneys, family members,
8 friends, but the final decision will be left entirely up to
9 you. Do you understand what I've explained to you?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Do you have any questions about what
12 I've explained to you?

13 THE WITNESS: No, sir.

14 THE COURT: Okay. Are you prepared to tell me now
15 whether or not you'll testify?

16 THE WITNESS: Yes, I'm prepared.

17 THE COURT: Okay. And are you going to testify or not?

18 THE WITNESS: I'll not be testifying.

19 THE COURT: You'll not be testifying?

20 THE WITNESS: Yes, sir.

21 THE COURT: Has this decision been made by you freely,
22 voluntarily, and intelligently made?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. Thank you, sir. You can have a
25 seat.

1 MR. SHAFFER: Your Honor, related to the -- the truck,
2 we don't think that pictures are sufficient, and I just want
3 to put -- point this out. The problem with this is that
4 there's a whole bunch of stuff in the back of the truck, and
5 we want the jury to see all the stuff in the back of the
6 truck. The pictures from the State that showed that, because
7 they showed what part snapped down to the back of the truck.

8 We want the jury to see what's all up underneath that
9 part. And the problem is we -- I don't know if we have the
10 ability to really show them that, unless we get the truck
11 here or send someone out there to go take pictures of it. So
12 in the event that you deny our request, we would ask that we
13 take a break, since we can have someone drive out there to go
14 take pictures of it.

15 MR. THOMAS: Judge, pictures of the bed of that truck
16 were provided in discovery. They were in there. Their
17 materials, they can enter those as exhibits.

18 THE COURT: Okay.

19 MR. SHAFFER: Underneath this -- underneath the truck.

20 MR. THOMAS: No, the truck was pulled back. Yes.

21 THE COURT: Yeah, I mean, take -- take a look to see if
22 you got them and certainly deal with that.

23 MR. SHAFFER: All right. And, Your Honor, at -- at
24 some point, we'll -- we'll show you the pictures that they're
25 talking about.

1 THE COURT: Sure.

2 MR. SHAFFER: (Crosstalk) not.

3 THE COURT: Yeah. We'll -- we'll get into all of this
4 about the bed of the truck, demonstration, truck being
5 brought to court, whatever. We -- we will get into all that.

6 All right. Anything?

7 MR. THOMAS: No, Your Honor. I think just for the
8 record, so we're clear, 117 is in evidence. I know we went
9 over that. That's the map from SLED. Just, I don't -- I
10 don't think I formally moved it. I think we saw we're
11 waiting on that.

12 THE COURT: Yeah. It's in evidence.

13 MR. THOMAS: Okay.

14 THE COURT: 117.

15 MR. THOMAS: I'm ready to rest, Your Honor.

16 THE COURT: All right. Okay. Let's -- let's bring the
17 jury out, and I'll just ask the State to rest on the record
18 in front of the jury, and then we'll turn it over to Defense.

19 (Jury enters courtroom.)

20 THE BAILIFF: All jury present, Your Honor.

21 THE COURT: Okay. Thank you, Mr. Bolt.

22 Good morning, ladies and gentlemen.

23 THE JURY: Morning.

24 THE COURT: All doing well, feeling good. And ready to
25 get back to work.

1 The State had any other witnesses?

2 MR. THOMAS: Your Honor, Agent Auckland was our last
3 witness. The State rests.

4 THE COURT: Okay. Very good. All right. Ladies and
5 gentlemen, the State has rested. Now, the Defense has an
6 opportunity to put up their case, if they so choose. They
7 don't have to even though they have put in some documents as
8 exhibits. Once again, the Defense has no burden of proof.
9 Burden rests on the -- the State, but if they want to put up
10 a case, certainly they have every right to.

11 Defense, want to call any witnesses --

12 MR. SHAFFER: Yes.

13 THE COURT: -- from the case?

14 MR. SHAFFER: Oh, Major Robert Wilke.

15 THE COURT: Okay. There he is right there. Come
16 around.

17 CAPTAIN ROBERT WILKE,
18 having been duly sworn testifies as follows:

19 THE CLERK: Thank you. You may have a seat.

20 DIRECT EXAMINATION

21 BY MR. SHAFFER:

22 Q. Major Wilke, tell us what your job is?

23 A. The captain of investigations at
24 Laurens County Sheriff's Office.

25 Q. Okay. And you currently work there, right?

1 A. Yes, sir.

2 Q. And you worked there in 2021, right?

3 A. Yes, sir.

4 Q. And you helped investigate this case, right?

5 A. Yes.

6 MR. SHAFFER: Okay. Court's indulgence.

7 BY MR SHAFFER:

8 Q. Okay. Is it fair to say that you're associated
9 with the prosecution and investigation in this case?

10 A. I was involved in the investigation, yes, sir.

11 Q. Okay. And you're -- you're certainly associated
12 with the State, which is the party over here, right?

13 A. Correct.

14 Q. Okay. Now, I'm going to ask you a couple of
15 questions. You -- you had a chance to look over some
16 Nest videos, right?

17 A. Yes.

18 Q. And you know generally about the time frame of
19 what happened as part of this investigation, right?

20 A. Right.

21 Q. And generally, the State's theory is that the --
22 is that she would've been killed sometime around 12:30 on the
23 night, right?

24 A. That would be a question for the pathologist.

25 Q. Okay. Okay. You don't know that she was killed

1 at 12:30 on the night?

2 A. I can't give you a specific time, no, sir.

3 Q. Okay. So we've had to rely on what the
4 pathologist said about that, right?

5 A. I would refer you back to the pathologist for that
6 question.

7 Q. Okay. And if he said it's unlikely it happened on
8 the night, it would be unlikely it happened on the night,
9 right?

10 A. I -- like I said, I'm not a -- a pathologist or
11 medical examiner. I would defer back to her.

12 Q. Okay. Are you familiar with a
13 Google Nest camera video that shows some -- someone walking
14 back and forth at approximately 11:16 of the night? I mean,
15 sorry, not 11:16, 1:16 in the night?

16 A. A.m. or p.m.?

17 Q. That would be p.m.

18 A. I think I'm familiar with what you're referring
19 to.

20 Q. Okay. I'm going to show you a camera, just see if
21 we're talking about the same thing. State's 66. Okay. Do
22 you have it clipped off? Okay. I'm going to have you start
23 watching State's 66. The clip is called 2021 -- or
24 _12_9_17_51_27. And we're going to have you watch it about
25 24 minutes, okay?

1 A. Okay.

2 Q. Okay. You familiar with that clip?

3 A. Yes, sir.

4 Q. You viewed that clip back on 12:13:21, correct?

5 A. Yes, sir.

6 Q. Okay. And after viewing that clip at 12:13:21,
7 you called Investigator Pittman and said, "In December 9th,
8 2021, around 1:00 p.m., a person that was similar to Billy
9 walks out of her driveway to the roadway, she paces back and
10 forth for a moment, and then walks back toward the Laurens
11 County."

12 MR. THOMAS: Your Honor, I'm going to object to him
13 reading from the report. Can he ask a question and maybe
14 format it a little better?

15 MR. SHAFFER: I'm trying to ask him if that's what he
16 said, Your Honor.

17 THE COURT: Well, just show him. I -- I -- I guess you
18 got a (inaudible) report or something. Just show him and --
19 and ask him if he -- you have it highlighted?

20 MR. SHAFFER: Yes, Your Honor.

21 THE COURT: Okay. Just hand it to him and -- and see
22 what he says about it.

23 BY MR. SHAFFER:

24 Q. Okay. You called Investigator Pittman and told
25 him that, correct?

1 A. Yeah. I don't dispute what this is.

2 Q. Okay. And you -- you called Investigator Pittman,
3 and told him that you saw someone similar to Billy walking
4 out -- out around 1:00 p.m., correct?

5 A. I would say that I called him and informed him
6 that we did see someone walking, but it's also important to
7 understand an investigation that's fluid.

8 Q. Yeah.

9 A. At the time that was, you know, obviously
10 important to us, but according to the family, Ms. Cross could
11 not get around without a walker.

12 Q. Okay.

13 A. She was in -- very feeble and in bad shape.

14 Q. And you wouldn't have known that, whenever you
15 watched that video you're saying?

16 A. Probably not at the time, no.

17 Q. You wouldn't have known that the fact that they --
18 they said a walker was missing at the scene whenever they
19 initially found that the house was empty?

20 A. I don't recall the time line of when that
21 information came in.

22 Q. Okay.

23 A. I just knew that they had.

24 Q. It is fair to say, you would've been looking at
25 this after they viewed the house, right?

1 A. After what?

2 Q. After they went inside the house after Laurens
3 County went inside the house?

4 A. Correct.

5 Q. This wouldn't have been beforehand, right?

6 A. Probably not. No.

7 Q. Right. Because you would've no reason to be
8 looking at that Nest camera until after they went inside her
9 house, right?

10 A. Yeah. When she wasn't located.

11 Q. And at the time they went inside the house, isn't
12 it true that they -- that there was a -- a walker that was
13 seen as being missing, correct?

14 A. That's my understanding, yes.

15 Q. Okay. So you would've known that she was using a
16 walker at the time that this -- you viewed this video,
17 correct?

18 A. I would've known, according to the family and
19 conversations I had with them across the span of time, that
20 she was very feeble, and could not move around without a
21 walker.

22 Q. Okay. And you would've known that at the time you
23 viewed this video, correct?

24 A. Most likely, yes.

25 Q. And you would've known that at the time you called

1 Investigator Pittman, and said that there was someone who was
2 similar to Billy walking around, right?

3 A. But like I said, investigations are fluid, and
4 that time we didn't know where she was, so this was obviously
5 something we needed to look at.

6 Q. Okay. I -- I'm not -- I understand that, but you
7 would've known that she used a walker at the time you called
8 (inaudible) and told him that, right?

9 A. I knew that she was not in good health.

10 Q. You would've known she needs a walker, right?

11 A. Potentially.

12 Q. Okay. Potentially. Potentially means yes, it
13 could have happened or maybe not?

14 A. Well, I mean, you have to understand there were a
15 lot of people involved, and a lot of things going on.

16 Q. Okay. I am going to ask you about something else.

17 A. Okay.

18 Q. You're in charge of investigations now, correct?

19 A. Correct.

20 Q. Investigator Hoffia used to be up underneath you,
21 right?

22 A. Correct.

23 Q. Before he moved to a different job, correct?

24 A. Yes, sir.

25 Q. And you have AFIS certification, correct?

1 A. Correct.

2 Q. And tell us what AFIS is?

3 A. It's a fingerprint identification system,
4 essentially.

5 Q. Okay. And whenever you submit something to AFIS,
6 it checks a computer database and sees if there's matches
7 that are similar, correct?

8 A. Correct.

9 Q. Does it continue in the future and connect, --
10 send stuff back to you, and let you know when it comes back
11 as a match?

12 A. It will.

13 Q. Okay. So how would you get that notification, if
14 it came back as a match later?

15 A. The only person we have doing AFIS right now with
16 our agency is Sergeant Cook.

17 Q. Okay. So Sergeant Cook would be getting things
18 back from AFIS if a fingerprint that was previously submitted
19 as part of the department came back as being a hit, correct?

20 A. Yes, my understanding that she would, yes. If it
21 was for our -- our department.

22 Q. Okay. And that hasn't happened in this case,
23 correct?

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

25 Q. AFIS keeps a log of everybody who submits things,

1 right?

2 A. Yes.

3 Q. And you went last weekend -- checked -- or the
4 week before last maybe, and check whether or not Hoffia
5 actually did submit a fingerprint to AFIS, correct?

6 A. I couldn't get into the system.

7 Q. Okay. You couldn't get into any system?

8 A. The AFIS.

9 Q. Okay. You didn't inform the Solicitor's office
10 that there's no record of Hoffia doing that?

11 A. According to Hoffia.

12 Q. Did -- no, I'm -- I -- I guess my question may
13 have been a little bit. -- Did you inform the solicitor's
14 office in the last two weeks, that there was no indication
15 that Hoffia actually ran the work through AFIS?

16 A. I couldn't get into Hoffia's account. I don't --
17 I wasn't able to access it.

18 Q. Okay. Are you -- you don't have that
19 AFIS certification?

20 A. I went through the class, but I've -- the -- the
21 short, like, however many hour-long class for AFIS, but I've
22 -- I mean, I don't do AFIS on a daily basis.

23 Q. Okay. But the solicitor's office asked you to
24 look and see whether or not Hoffia actually submitted
25 something to AFIS, correct?

1 A. Yeah, I -- I looked for it, correct.

2 Q. And you were not able to provide anything,
3 correct?

4 A. No, I couldn't access it.

5 Q. Okay.

6 A. He's been gone so long. I'm assuming his access
7 is denied. I don't know.

8 Q. All right. And there's no way that you know of to
9 -- to look into that?

10 A. No.

11 Q. Now, and I don't think this necessarily, and I
12 really can't even (inaudible) into the Court, but it's my
13 understanding that there may have been a lot of weed that was
14 found at her house, right?

15 MR. THOMAS: Objection, Your Honor. Relevance.

16 THE COURT: All right. I didn't hear the question.

17 MR. SHAFFER: (Inaudible) Hoffia, I'm just asking.

18 THE COURT: Repeat the question again, but don't
19 answer, Officer Wilke, until I hear the question. Okay?

20 MR. SHAFFER: Is it my understanding that a bunch of
21 weed was found at her house?

22 THE COURT: A bunch of what?

23 MR. SHAFFER: Weed, marijuana, Your Honor.

24 THE COURT: Oh, did -- did Hoffia testify to that?

25 MR. THOMAS: Neither Mr. Simmons, nor I, have an

1 independent recollection of it, Your Honor, but I'm not --
2 we're not going to pull the transcript and check, but I don't
3 think that that has any relevance to anything in this case
4 whatsoever.

5 And if it does have any relevance, the prejudicial
6 effect of that is greatly outweighed -- the -- the effect of
7 it confusing the jury, greatly outweighs the probative value.

8 THE COURT: If you can -- if you can tell me that
9 previous witness testified to that, but otherwise, I mean, we
10 don't have proof that that's been brought by the other
11 witness, which I don't recall, but that's just my
12 recollection. I -- I will sustain the objection.

13 MR. SHAFFER: And, Your Honor, I would -- I was -- I
14 had earbuds in whenever that witness testified. I will ask
15 my co-counsel --

16 THE COURT: Video (inaudible).

17 MR. SHAFFER: -- come out.

18 THE COURT: Just everybody at ease. Just a moment.

19 MR. SHAFFER: You saying that came out? How did it
20 come out?

21 Your Honor, I -- there were -- there apparently was a
22 question about containers, and that there was a green, leafy
23 substance found in those containers that came out through, --
24 Your Honor, like I said, I didn't have your (inaudible).

25 THE COURT: I understand. This -- everybody's remained

1 at ease. Just a moment. I'm going to go back through my
2 notes.

3 Solicitor, you know about when Hoffia testified --
4 about what day? I think it's probably Wednesday?

5 MR. THOMAS: Wednesday morning, I believe.

6 MR. SIMMONS: Tuesday.

7 MR. THOMAS: Tuesday. Tuesday afternoon.

8 THE COURT: Okay. All right. This -- okay. All
9 right. Ladies and gentlemen, if -- if you don't mind, just
10 go back to the jury room for just a minute, before we talk
11 with the lawyers briefly.

12 (Jury exits courtroom.)

13 THE COURT: Okay. I have looked at my notes. I'm not
14 trying to suggest that my notes are completely accurate.
15 Okay. My notes don't, nor does my memory, reflect that
16 Hoffia mentioned anything about a green-leaf substance in the
17 jar, or weed, or pop, whatever.

18 I -- I understand what you're telling me that
19 co-counsel indicates that he testified along those lines.
20 The Solicitor indicates they don't recall that, the only way
21 to resolve this is -- is to go back.

22 Do you have any (inaudible) stuff last week?

23 THE REPORTER: I can -- I can pull it up.

24 THE COURT: Okay. I think she left you all her stuff,
25 right? Okay? Here -- here's the only way we could address

1 this is for the court reporter to go through, find Hoffia's
2 testimony, and play it from start to finish.

3 Again, if he testified to that, then I would -- I -- I
4 would allow questioning of Major Wilke, but if he did not,
5 I'm not going to allow it. So that's where we are. If you
6 want to pursue it, that's what we'll do. If you want to
7 withdraw the question, then we can move on.

8 MR. THOMAS: Your Honor, I -- I will let Mr. Shaffer,
9 -- since the way you phrased that question, I'll let him
10 answer before I say anything.

11 THE COURT: Okay. All right. You want -- you want
12 Mr. Shaffer to rephrase the question or ask the question?

13 MR. THOMAS: Yeah, no, the way you just asked that --
14 the way -- the way you just asked it -- it seemed like you
15 were asking if Mr. Shaffer wanted to pursue that line of
16 questioning.

17 THE COURT: Well, I -- I don't know if he -- if he
18 still wants to pursue this line of questioning. If so, then
19 we're going to have to go and listen to Hoffia's --

20 MR. THOMAS: I just -- I -- I'm not sure what the
21 probative value of it is, and even if it was brought out
22 through Investigator Hoffia, it's -- it's cumulative, at this
23 point would be --

24 THE COURT: Well --

25 MR. THOMAS: -- additional objection, so.

1 THE COURT: You know, I -- I'm -- I'm not sure about
2 probative value either, but if a previous witness already
3 testified to it.

4 MR. THOMAS: I understand.

5 THE COURT: Very well, can't deny Defense to ask this
6 witness about it, if he has any knowledge about it.

7 So, Mr. Shaffer, you want to pursue this or?...

8 MR. SHAFFER: And, Your Honor, maybe I can ask two or
9 three questions, and just figure out if I want to pursue it.

10 THE COURT: Okay. All right. Since we're in camera,
11 go ahead and ask Major Wilke. What -- what do you feel like
12 you need to ask?

13 BY MR. SHAFFER:

14 Q. Major Wilke, you -- you -- are you familiar with
15 the fact that they found a large quantity of marijuana there?

16 A. First of all, I appreciate the promotion, but it's
17 -- I'm captain, not a major.

18 Q. Oh, I'm so sorry. I'm so sorry. I keep calling
19 you major.

20 THE COURT: Major -- major --

21 THE WITNESS: But, no.

22 THE COURT: Yeah.

23 MR. THOMAS: Think you're (inaudible).

24 THE COURT: Captain then.

25 THE WITNESS: I did note that we found three bags of a

1 green, leafy substance in a yellow container with a clear lid
2 containing a green, leafy substance. I wouldn't necessarily
3 say it was a large quantity.

4 BY MR. SHAFFER:

5 Q. Okay.

6 A. And I can't even testify to this marijuana.

7 MR. SHAFFER: Okay. Your Honor, based on that, I think
8 that I'm just going to move on.

9 THE COURT: Okay.

10 MR. SHAFFER: Withdraw that question.

11 THE COURT: Okay. All right. So we'll bring jury out,
12 just put out the record here, withdrawn the -- that last
13 question, and then we can continue on. Let's break jury out
14 or back up.

15 (Jury enters courtroom.)

16 THE BAILIFF: All jury present.

17 THE COURT: Thank you.

18 MR. SHAFFER: And, Your Honor --

19 THE COURT: Mr. Shaffer?

20 MR. SHAFFER: I'm going to withdraw the last question,
21 but I will -- I do have a couple other things.

22 THE COURT: Sure, yeah. Take a seat.

23 BY MR. SHAFFER:

24 Q. So -- and I -- I kept calling you Major Wilke and
25 you're Captain Wilke, correct?

1 A. Correct. Yes.

2 Q. Fair enough. The -- at least I'm not calling you
3 Sergeant Wilke, right?

4 A. Yes, that's true.

5 Q. Okay. So Captain Wilke, you -- as part of this
6 investigation, there was a blue Chevy Trailblazer that you
7 looked at, correct?

8 A. Yes, sir.

9 Q. And that was the reason you -- you thought that
10 that may be relevant to this case, is that a witness
11 indicated that there may have been a blue Envoy there at some
12 point, right?

13 A. Correct.

14 Q. So -- and Trailblazers on -- always look basically
15 the exact same except the front, right?

16 A. They're similar, yes.

17 Q. Yeah. So you thought that maybe, perhaps the
18 witness may have mistaken that there was a Trailblazer and
19 not Envoy, right?

20 A. At the time, that was a possibility and up until
21 the point of finding out that he had GPS on his Dodge truck.

22 Q. Okay. But whenever you saw the -- the
23 Trailblazer, there was a whole bunch of leaves all over the
24 top, right? Pine straw?

25 A. I think so.

1 Q. All right. If I showed you a picture of it, would
2 that help refresh your recollection?

3 A. That's fine.

4 Q. Okay. I have this handy, so I'm just going to
5 hide for the purposes of (inaudible). Showing
6 Defendant's 27, 28, 29, and 30. These are already in
7 evidence. And those appear to be the pictures of the
8 Trailblazer?

9 A. Yes, sir.

10 Q. Okay. And it is fair to say there's leaves, and
11 maybe pine straw, and maybe just leaves?

12 A. Yes.

13 Q. And dropped sticks, right?

14 A. Yep.

15 Q. Okay.

16 A. Mud on the tires.

17 Q. Mud on the tires. It's fair to say that you
18 developed at least some information about that Trailblazer
19 and it's been parked for a while, right?

20 A. I can't say how long it was parked.

21 Q. You don't know if it was parked for sure, right?

22 A. I don't know.

23 Q. But someone told you it was parked, it wasn't
24 running right?

25 A. Yeah, that came from his girlfriend, Angie Atkins.

1 Q. Okay. Do you recall anything about it saying that
2 it had a blown motor?

3 A. She may have.

4 Q. Okay. You remind us what date that those pictures
5 were taken in (inaudible)? You may not have, -- is that --

6 A. I don't.

7 Q. It's fair to say it's sometime between the 9th and
8 the 15th?

9 A. I would think so, yes.

10 Q. Probably the 15th, right?

11 A. Probably.

12 Q. Okay. The 15th is when you all went out there,
13 right?

14 A. I believe so.

15 MR. SHAFFER: Okay. Court's indulgence.

16 THE COURT: Sure. Take your time.

17 MR. SHAFFER: Your Honor, we're printing something off,
18 so --

19 THE COURT: Okay. (Inaudible)?

20 MR. SHAFFER: Yes, Your Honor.

21 THE COURT: Yeah.

22 BY MR. SHAFFER:

23 Q. Showing you Defense's 31. Can you tell me what
24 that picture is?

25 A. Appears to be a shoe.

1 Q. Okay. What else is in that picture?

2 A. Toolbox.

3 Q. Okay. Was that taken from the back of the
4 Defendant's truck?

5 A. Looks like it.

6 Q. Okay. Can you tell me everything that's in the
7 back of the Defendant's truck based upon that picture?

8 A. I see a ladder, blue container, another container.
9 I don't know what -- PVC pipe maybe. I don't know what that
10 other thing is.

11 Q. Okay. Is there anything else in that -- is there
12 anything else that was found in the back of the truck or do
13 you recall?

14 A. Not that I'm aware of.

15 Q. Okay.

16 A. I don't know.

17 Q. Does that picture adequately show every --
18 everything in the back of that truck?

19 A. Well, obviously it's a close-up picture of the
20 shoe.

21 Q. So it doesn't show the entire -- entirety of the
22 back of the truck, correct?

23 A. Not necessarily. It's not a broad shot, no.

24 Q. Okay. It's also dark, correct?

25 A. It is.

1 MR. SHAFFER: Okay. Your Honor, I move Defendant's 31
2 into evidence.

3 MR. THOMAS: Without objection, Your Honor.

4 THE COURT: Okay. Without objection 30 -- would you
5 say 31.

6 (Defendant's Exhibit 31 was admitted into evidence.)

7 BY MR. SHAFFER:

8 Q. Fair to say there was a whole bunch of stuff in
9 the back of his truck, right?

10 A. There was a good bit, yes.

11 Q. Okay. That's the way you all found it there,
12 whenever you all went there on the 15th, correct?

13 A. Correct.

14 Q. Okay. You all wouldn't have moved anything other
15 than the shoe being picked up in that picture, correct?

16 A. Well, that would've been done by Anderson's crime
17 scene.

18 Q. Okay.

19 A. Not us.

20 Q. Okay. Did you all find any bloody clothes?

21 A. No, not that I'm aware of.

22 Q. And you're saying that you can't say for sure
23 whether or not that truck, which that Trailblazer was or was
24 not driven -- was drivable on 15?

25 A. I don't know.

1 Q. You all try to start it?

2 A. No.

3 Q. Why not?

4 A. Well, like I said, investigations are fluid and,
5 you know, we looked at it up until the point that the GPS put
6 Mr. Spencer at the victim's residence, as well at the dump
7 site where her body was located.

8 Q. Fair to say that the lady back there, Angie, was
9 asked about a dozen times whether or not that vehicle is
10 right?

11 A. I did not ask her a dozen times, no sir. I don't
12 know who else did.

13 Q. Do you -- do you know if another investigator
14 asked her a dozen times?

15 A. I don't know.

16 Q. But it's fair to say you all never did anything to
17 attempt to start the vehicle, correct?

18 A. Correct.

19 MR. SHAFFER: Okay. No further questions.

20 THE COURT: Okay. Any cross-examination about the --
21 State?

22 MR. THOMAS: Two points.

23 CROSS-EXAMINATION

24 BY MR. THOMAS:

25 Q. Mr. Shaffer asked you about trying to determine a

1 call -- a time of death. Ms. Cross's mother last spoke to
2 her on December 9th at 11:16?

3 A. Correct.

4 Q. And then, by 3:13 that afternoon, her phone was
5 going to voicemail?

6 A. Correct.

7 Q. All right. So communication with Ms. Cross was
8 over, was basically cut off by 3:00 on that day?

9 A. Yes, sir.

10 Q. All right. Mr. Spencer's truck, however, from
11 11:30 to 12:30 was at Ms. Cross's house; is that right?

12 A. Yes, sir.

13 Q. And then, at 5:14 -- that or so -- that afternoon
14 was where Ms. Cross's body was located?

15 A. Yes.

16 Q. And Ms. Cross's phone was also able to be later
17 located -- not located physically, but digitally located?

18 A. Digitally, yes.

19 Q. At Mr. Spencer's house?

20 A. Correct.

21 Q. And that would've been sometime between -- between
22 12:30 and 3:00?

23 A. Correct.

24 Q. The AFIS result, -- you can't view other people's
25 AFIS accounts. That's basically what you're trying to say?

1 A. Yeah. I couldn't get into it. Correct.

2 Q. So only Investigator Hoffia would be able to
3 access it?

4 A. Yes.

5 Q. Yeah. Assuming he still had access to it?

6 A. Correct.

7 Q. That video of the lady walking in the street, did
8 it appear she came up from Turlington from the right hand --
9 from the, -- I guess the right-hand side of Turlington? Is
10 that what you remember?

11 A. Yeah, I think so. Yes.

12 Q. And then she walked down Fairview and back up?

13 A. And back, yes.

14 Q. Okay. You were able to confirm to the family that
15 that couldn't have been Ms. Cross, based on her medical
16 conditions?

17 A. Right. According to the family, she was very
18 feeble, and could barely get around even with a walker.

19 MR. THOMAS: No further questions.

20 THE COURT: Any redirect, Mr. Shaffer?

21 RE-DIRECT EXAMINATION

22 BY MR. SHAFFER:

23 Q. Did you document the fact that you confirmed that
24 with her family?

25 A. I -- I'd have to read back through all the notes.

1 I don't remember.

2 Q. And that --

3 THE COURT: Do you have what you need to look at,
4 Captain Wilke, in front of you?

5 THE WITNESS: Yes, sir. It's mine.

6 THE COURT: Okay. All right. Take your time.

7 THE WITNESS: (Inaudible) Yeah, I don't see where I
8 documented that. No, sir.

9 BY MR. SHAFFER:

10 Q. The answer is: "No you did not document that?"

11 A. No.

12 MR. SHAFFER: Okay. No further questions.

13 THE COURT: Okay. Any recross?

14 MR. THOMAS: Nothing from the State, Your Honor.

15 THE COURT: Captain Wilke, you can step down, sir.

16 CAPTAIN WILKE: Thank you.

17 THE COURT: Mr. Shaffer, no witness?

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

19 THE COURT: Sure.

20 (Bench conference.)

21 THE COURT: All right. Ladies and gentlemen, we need
22 to discuss a prior ruling that I made in this case, and made
23 a lot of rulings in this case. And then we're going to
24 discuss that and how they going, kind of bring me up to speed
25 where we were with that.

1 And so once again, I need to go back to the jury room,
2 hopefully not too long and back out. Remember the walking
3 exercise. Remember that.

4 (Jury exits courtroom.)

5 THE COURT: Okay. Mr. Shaffer at -- at the bench, it
6 was mentioned about a previous ruling that I made concerning
7 a cash app that was being used, discussed whatever with
8 Mr. Spencer and his girlfriend kind of refreshed my memory on
9 that discussion and the ruling that I made. And if I gave
10 any reasons, I -- I remember us getting into that, but I
11 don't remember all the specifics.

12 MR. SHAFFER: And -- and Your Honor, what happened --
13 there's a cash app that he received while at the casino from
14 Angie his girlfriend. The ruling -- essentially part of what
15 got redacted from the statement, and I think the ruling was
16 that they couldn't get into why she would've sent him that
17 cash app.

18 THE COURT: Okay.

19 MR. SHAFFER: Because of the fact that they're -- it
20 would go into a prior bad act, essentially a lie. It was
21 told -- we were planning on calling Angie, and we just wanted
22 to confirm that the Court was not going to allow them to go
23 into why the cash app actually got sent.

24 THE COURT: Yeah.

25 MR. SHAFFER: We don't not plan on asking anything

1 about the cash app, but we just want to confirm that they're
2 not going to go --

3 THE COURT: My -- my ruling on that will remain the
4 same.

5 MR. SHAFFER: Okay. Thank you, Your Honor.

6 THE COURT: Do you want to be heard on this?

7 MR. THOMAS: No, I think I'm good with that. I mean,
8 not going to argue with your prior ruling, I just, I don't
9 know what they're going to ask. So if I feel like the door
10 has been opened, I'll certainly approach before we --

11 THE COURT: Sure.

12 MR. THOMAS: -- before we run through it.

13 THE COURT: That's fine. That -- that -- that's fair
14 enough.

15 MR. SHAFFER: Okay. That's it, Your Honor.

16 THE COURT: Okay. Thank you. All right. Does anybody
17 need a five-minute break while we're --

18 MR. SHAFFER: And well, we're going to introduce some
19 exhibits through them, if the Court, -- and we're happy to
20 take a break if anyone needs to, but. --

21 THE COURT: Yeah. Let's -- let's take a five-minute
22 break.

23 From the State?

24 MR. THOMAS: Yes, sir.

25 THE COURT: Defense?

1 MS. MCNEILL: Yes, Your Honor.

2 MR. SHAFFER: Yes, Your Honor.

3 (Off the record.)

4 THE COURT: Okay. All right. Mr. Bolt, let the jury
5 in.

6 (Jury enters courtroom.)

7 THE BAILIFF: All jury present.

8 THE COURT: All right. Thank you Mr. Bolt.

9 Ms. McNeill, next witness.

10 MS. MCNEILL: Defense calls Ms. Angie Atkins.

11 THE COURT: Come on up (inaudible) ma'am.

12 ANGIE ATKINS,

13 having been duly sworn, testifies as follows:

14 THE CLERK: Thank you. You may have a seat.

15 DIRECT EXAMINATION

16 BY MS. MCNEILL:

17 Q. Good morning.

18 A. Good morning.

19 Q. Would you please state your name for the record?

20 A. It's Angie Atkins. Last name is spelled
21 A-T-K-I-N-S.

22 Q. Okay. Ms. Atkins, how do you know -- do you -- do
23 you know Mr. Timothy Spencer?

24 A. Yes, I do.

25 Q. How do you know him?

1 A. We've been in a relationship since 2019. We had
2 known each other for a year prior to that.

3 Q. Okay. And did you live with Tim on
4 December 9th, 2021?

5 A. Yes, ma'am.

6 Q. Okay. What address did the two of you live at on
7 December 9th, 2021?

8 A. [REDACTED].

9 Q. Do you currently still live at that address?

10 A. Yes, I do.

11 Q. I'm going to show you what's been marked for ID
12 purposes only at this point as Defendant's Exhibit number 32.

13 A. Yes, ma'am.

14 Q. Would you take a look at those?

15 A. Yes, ma'am.

16 Q. Do you recognize what's in those photos?

17 A. Yes, ma'am.

18 Q. Okay. Can you tell -- explain what is that --
19 those photographs of?

20 A. This is a 2006 Trailblazer, Chevy Trailblazer and
21 this was put up for sale.

22 Q. Well, before you get into that.

23 A. I'm sorry.

24 Q. You're fine. So it's a picture of a Trailblazer?

25 A. Yes, ma'am.

1 Q. Okay. And who owns that Trailblazer?

2 A. Timothy Spencer.

3 Q. Okay. And when is the last time you saw that
4 Trailblazer?

5 A. This morning when I walked out the door to leave.

6 Q. Okay. So is it currently on your property?

7 A. Yes, ma'am.

8 Q. All right. And those pictures that you're looking
9 at there, were those taken on your property that you live at?

10 A. Yes, ma'am.

11 Q. Okay. Did you take those pictures?

12 A. No, Timothy did.

13 Q. All right. Is it a fair and accurate
14 representation of the Trailblazer that you -- and that is on
15 your property that you and Timothy have?

16 A. Yes.

17 MS. MCNEILL: All right. At this time, I'd like to
18 move Defendant's Exhibit 32 into evidence.

19 THE COURT: Is 32 multiple pictures or just one?

20 MS. MCNEILL: Multiple.

21 THE COURT: Okay. All right. You want as one exhibit?

22 MS. MCNEILL: Yes, sir.

23 MR. THOMAS: No objection, Your Honor.

24 THE COURT: Without objection 32 for the Defense into
25 evidence.

1 (Defendant's Exhibit 32 was admitted into evidence.)

2 BY MS. MCNEILL:

3 Q. All right. And now I'm going to publish picture
4 number 60, which is Defendant's Exhibit 32 at 60 in our
5 records. Ms. Atkins, can you see that okay?

6 A. Yes.

7 Q. Okay. So where -- underneath where it says
8 "Needs attention." Do you see where it says "2006 Chevrolet
9 Trailblazer LT Extended Sport Utility Ford 4D"?

10 A. Yes, ma'am.

11 Q. Okay. How much did -- was it listed for sale on?

12 A. For \$600.

13 Q. Okay. And what date is -- was it listed for sale?

14 A. It's November the 12th of '21.

15 Q. Okay. Now, I'm going to show you what we have as
16 Defendant -- again, number 32, but picture 62 for our
17 records. All right. Can you see that okay, Ms. Atkins?

18 A. Yes, ma'am.

19 Q. All right. Where was it listed for sale? Where
20 does it say it's listed for sale at? What town?

21 A. It -- it says Anderson, that's in our backyard.

22 Q. Okay. So that's at the --

23 A. At [REDACTED]. That's in the backyard.

24 Q. All right. And moving down that page, what was
25 the exterior color of that Trailblazer? Or what is the

1 exterior color?

2 A. It's a blue.

3 Q. Okay. What year is it?

4 A. 2006.

5 Q. All right. And what's the interior color?

6 A. It's a grayish, it's cloth, so it's a grayish
7 color.

8 Q. Okay. And under seller's description, because
9 you're only asking \$600 for this Chevrolet Trailblazer, what
10 was the reason in the seller's description that it was so
11 cheap?

12 A. The wording on it's going to be that the engine
13 was blown.

14 Q. Okay. So was it running? Does it run?

15 A. It will crank, but the engine is blown. It's
16 blowing oil everywhere.

17 Q. Okay. So it is -- in other words, is it usable?

18 A. No, ma'am.

19 Q. Okay. And at what point in time -- what date do
20 you recall it becoming unusable?

21 A. It blew up on October the 29th of '21.

22 Q. Okay. And again, when was it listed for sale?

23 A. November the 12th of '21.

24 Q. Okay. And I'm going to show you what we have is
25 61, which again is still Defendant's Exhibit 6 -- I'm sorry,

1 32. And this is still the picture of the Trailblazer?

2 A. Yes, ma'am.

3 Q. Okay. Is that taken on your property?

4 A. Yes, ma'am.

5 Q. Okay. And it is -- it has a lot of mud all over
6 the tires. How did that mud get there?

7 A. When it was unloaded off of the tow dollies, the
8 yard is muddy and everything, so just getting it up into the
9 yard, it's got mud all over the tires.

10 Q. Okay. Has it been sitting in the same spot as it
11 currently is on your property as it was when this picture was
12 taken?

13 A. It is not, now. I moved it to clear it out and
14 unload it. This was well after the investigations. This
15 would've been May of '22.

16 Q. Okay. But has it been moved off of your property?

17 A. No, ma'am. It can't be.

18 Q. It can't be?

19 A. It can't be. You can barely move it across the
20 yard. There's no compression. It sounds like a hammer mill.

21 Q. Okay. Do you recall December 9th of 2021?

22 A. Yes, ma'am.

23 Q. All right. And you went -- did you go to work
24 that day?

25 A. Yes, ma'am.

1 Q. What time did you get home from work on
2 December 9, 2021?

3 A. It would've been just a couple of minutes before
4 3:00.

5 Q. 3:00 in the afternoon, p.m.?

6 A. Wait.

7 Q. (Inaudible)?

8 A. No, I would've left work right at 3:00, and I
9 would've gotten home after stopping at the grocery store,
10 right about 4:00, I'm sorry.

11 Q. All right. So you got home around 4:00 p.m., on
12 December 9th of 2021?

13 A. Yes, ma'am.

14 Q. Okay. At that time, was Mr. Timothy Spencer at
15 home?

16 A. No.

17 Q. All right. What time did he get home on
18 December 9th of '21? Do you remember?

19 A. Five something. It would've been after 5:00.

20 Q. After 5:00 p.m.?

21 A. Yes, ma'am.

22 Q. Okay. So you were at your house before he arrived
23 home?

24 A. Yes, ma'am.

25 Q. All right. Did you observe him when he first

1 walked in the door?

2 A. Yes, ma'am, because I was in the kitchen cooking.

3 Q. All right. When you saw Tim when he got home, did
4 you observe him to be muddy?

5 A. No, ma'am.

6 Q. Did you observe him to be bloody?

7 A. No, ma'am.

8 Q. Did you observe him to be sweaty?

9 A. No.

10 MS. MCNEILL: Beg Court's indulgence.

11 THE COURT: Sure.

12 MS. MCNEILL: Thank you, Ms. Atkins. No further
13 questions. Please answer anything that Solicitor will ask
14 you.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: State have any cross-examination?

17 CROSS-EXAMINATION

18 BY MR. THOMAS:

19 Q. Ms. Atkins, you've been -- you've been in court
20 all this week?

21 A. Yes, I have.

22 Q. That's because you love Mr. Spencer very much?

23 A. We've been in a relationship for quite a few
24 years.

25 MR. THOMAS: No further questions.

1 THE COURT: You can step down, ma'am. Thank you.

2 MR. SHAFFER: We call Mr. -- call Mr. Gosnell to the
3 stand.

4 THE COURT: Okay.

5 CARLOS GOSNELL,

6 having been duly sworn, testifies as follows:

7 THE CLERK: Thank you. You may have a seat.

8 DIRECT EXAMINATION

9 BY MR. SHAFFER:

10 Q. Morning, Mr. Gosnell. Back in 2021, where'd you
11 live?

12 A. 2021?

13 Q. Yeah. In December of 2021?

14 A. I lived in -- at Turlington, Simpsonville,
15 Fountain Inn.

16 Q. Okay. And you live right down the
17 Roseburg village and Cross, right?

18 A. Yes, sir. I lived two -- it was a house, one
19 house between us.

20 Q. Okay. Now, back then, you ended up at some point
21 giving a statement to law enforcement, right?

22 A. Yes, sir.

23 Q. And that statement, if I told you it was on
24 December the 15th 2021, did you have any reason to doubt that
25 that's true?

1 A. No, sir.

2 Q. Okay. And tell us what you told law enforcement
3 that day?

4 A. Yes. I worked a second shift and in Simpsonville,
5 and I was coming home one night, and the night -- on that
6 night I was coming home, I went to pull in the top of my road
7 that I lived in Turlington Drive, and I seen an SUV sitting
8 in her yard, and it was late, and I -- it just threw a red
9 flag because I lived there for about two months. I just had
10 sold my house and moved there. And I've got around the
11 neighbors, and stuff like out there, and the older couple and
12 stuff that lived across the street. And I'd come out morning
13 time, nighttime, all kinds of hours. And I never seen a
14 vehicle there, other than her little red car that was there.

15 And then, that night it just blew my mind because I was
16 going -- I got off work, I was going on vacation and the way
17 I pull in pretty much, my headlights shine in her yard.

18 And then that night when I pulled in, I noticed that
19 there was an SUV sitting in her front yard and I -- it just
20 caught my eye. And when I got home, I was telling my wife
21 how there was an SUV sitting up there, how we never seen
22 nobody ever sit up there. And she said the same thing pretty
23 much.

24 And the next morning I woke up, and I went to take my
25 kids to school before we went on vacation, and the car was

1 gone. And I pretty much come back off vacation, and that's
2 when the officer was sitting out my -- well, he's sitting in
3 the road in front of my house, and he asked me to come and I
4 talked to him, and give the statement.

5 Q. Okay. And do -- you don't recall the specific day
6 of the -- the month, the date that any of this happened? And
7 off the top of your head, did you?

8 A. Not with having -- not having to go back and look
9 through all that stuff.

10 Q. If I showed you that, your statement, would that
11 help refresh your recollection?

12 A. Yes, probably.

13 Q. Okay.

14 A. Like I said -- like I said, it's been. --

15 Q. Okay. And what date did you see that vehicle
16 there on her property?

17 A. Like I said, it had to be that Thursday. Like I
18 said, the only reason, like I said, the only I -- I have no
19 -- like, I -- the only reason that I actually physically even
20 remember all of it was because I just had sold my house I had
21 on the lake, and me and my wife went on vacation because of
22 that. We was pretty much doing our honeymoon thing.

23 Q. Okay.

24 A. But yes, sir.

25 Q. So you -- so when the officers asked you on the

1 15th to tell them the -- the date that you saw that vehicle
2 there at Ms. Cross's property, you knew the date because that
3 was the -- the night before you went on your vacation, right?

4 A. Yes, sir.

5 Q. Okay. And that would've been Thursday the night,
6 correct?

7 A. Yes, sir. Yes, sir.

8 Q. Okay. And that what you described it as a blue
9 Envoy, right?

10 A. Yeah, I -- yeah, it was an Envoy. That's why I
11 told him an Envoy. I meant SUV, he asked me several times,
12 and I told him I just knew it was a dark-colored SUV, but it
13 looked like an Envoy to me.

14 Q. Do you recall whether or not it had a ladder on
15 the top or anything?

16 A. No, sir. Like I said, when it comes to stuff like
17 that there, -- like I said, the only reason that I even
18 remotely seen the SUV sitting there is because the, -- and
19 even paid it any attention was because there was never no
20 other car there. I've been through there, like my neighbors,
21 everybody said that her car is the little red one, and it sit
22 in the back of her house pretty much right there at the back
23 deck that she lived at. And it stayed there 24/7 and there
24 was never no other car there.

25 Q. Okay. So it was very odd at nighttime to see that

1 then?

2 A. Yes, sir.

3 Q. And what time -- around what time would that have
4 been?

5 A. I'd have said it, -- I left work between
6 11, 12:00. It was probably between 11:30, 12:00, 11:30,
7 12:30, around in there when I got there.

8 MR. SHAFFER: Okay. Court's indulgence.

9 BY SHAFFER:

10 Q. And her house is the house that's on the corner of
11 Fairview and Turlington, right?

12 A. Yes, sir.

13 Q. Okay. And that's the house we're talking about?

14 A. Yes, sir.

15 MR. SHAFFER: Okay. No further questions.

16 THE COURT: State have any cross-examination?

17 CROSS-EXAMINATION

18 BY MR. THOMAS:

19 Q. Mr. Gosnell?

20 A. Yes, sir.

21 Q. Where in her yard was that car parked?

22 A. The -- that night? It's hard as -- well, it's
23 kind -- it's pretty much, -- it would be more of her front
24 yard because she usually parked on the side or in the back of
25 her house, but -- his was the, -- the car was more towards

23 kind -- it's pretty much, -- it would be more of her front

24 yard because she usually parked on the side or in the back of

25 her house, but -- his was the, -- the car was more towards

1 the road. I live on pulling in like Turlington instead of
2 Fairview.

3 Q. Okay. So let me -- I'm going to show you
4 (inaudible). I thought I was done too. Show you State's 118
5 for ID at this time. Do you recognize that location?

6 A. Yes, sir.

7 Q. And that's -- that's -- that white house there on
8 the right-hand side, that's her house?

9 A. The -- well, yes, the left. That trailer that's
10 sitting right there, yes, sir. That'd be her house.

11 Q. Okay. So that's -- this is basically as you're
12 turning on Fairview Road?

13 A. Yes, sir.

14 Q. Okay. And this true and accurately depicts what
15 the area looks like?

16 A. Yes, sir. And the car was sitting, like, right on
17 this area, more towards the front where the trees are right
18 here.

19 MR. THOMAS: Your Honor, State moves 118 into evidence.

20 THE COURT: Okay. And --

21 MR. SHAFFER: No objection.

22 THE COURT: Without objection 118 into evidence for
23 State.

24 (State's Exhibit 118 was admitted into evidence.)

25 BY MR. THOMAS:

1 Q. So when you say her car sat at the back, you mean
2 her car normally sat around on this side where that
3 (inaudible) is?

4 A. Yes, sir. Her car used to sit right in this area,
5 right here.

6 Q. Mr. (Inaudible), you --

7 A. (Inaudible) always was by -- it was always right
8 there at the ramp. There's a -- she had a big deck, and she
9 had a ramp that went down, and her car always sit at the end
10 of the ramp, and it was right in there.

11 Q. So point -- point out to the jury where you saw
12 this blue car parked.

13 A. It was more right here, in between up here.

14 Q. In -- in the front of the house?

15 A. Yes, sir. It was (inaudible) in the front of the
16 house, like, the front end of the car was facing towards the
17 house.

18 Q. Okay. Were the lights on in the car?

19 A. No, sir. Like I said, with her house, -- like,
20 literally when you pull in that top of the road, the only
21 light that I ever seen that was ever on in her house the
22 whole time we pretty much lived there. I never really seen
23 her, -- was her kitchen light. And in that -- in that
24 picture you showed me, it's the window right there. I guess
25 that would be in her kitchen, but it's a little, small window

1 right up front. And that light stayed on no matter what.

2 Q. And the kitchen light was on that night too?

3 A. Yes, sir.

4 Q. But you don't know how long that car was there,
5 you just know it wasn't there?

6 A. I -- I just knew it wasn't there that morning when
7 I got up to take my kids to school.

8 MR. THOMAS: No further questions. Thank you.

9 MR. SHAFFER: No, Your Honor.

10 THE COURT: Okay. You step down, sir.

11 MR. GOSNELL: All right.

12 THE COURT: Free to leave the courthouse. You're more
13 than welcome to remain with us.

14 MR. GOSNELL: All right.

15 THE COURT: Defense have any further witnesses as far
16 as here in the courthouse?

17 MR. SHAFFER: Your Honor, we -- we don't have.

18 THE COURT: Okay.

19 MR. SHAFFER: We may need to take a break before our
20 next witness.

21 THE COURT: Okay.

22 MR. SHAFFER: But we are going to have additional
23 witnesses on (inaudible).

24 THE COURT: Okay. Let's -- ladies and gentlemen, just
25 stay seated where you are. I'm at a conference with the

1 lawyers back here for just a second. I'm going to send you
2 on for lunch. Have a little bit longer lunch break. I want
3 you back at 2:00. There'll be a little bit left to do in the
4 case as far as presenting to you. I think maybe one more
5 witness possibly for the Defense.

6 And then, the State does have the right to put up what
7 we call a replied case and whether or not that's done or not.
8 And then after that, I'm going to excuse you for the
9 remainder of the day, get you to come back in the morning,
10 and then, that's when the lawyers will make their closing
11 arguments to you. And I will charge you the law. There is
12 -- that you are to apply to the facts as you find it. And
13 then after that's done, then I'll instruct you to begin your
14 deliberation. So that's kind of the -- the plan.

15 The reason why we're not going to do the closing
16 arguments and the charge this afternoon, because I'm always a
17 little reluctant to give a case to the jury to decide kind of
18 late in the afternoon. So I'd rather you come back fresh in
19 -- in the morning for us to begin that process. So lunch
20 break until 2:00 and see you back at 2:00. Have a good
21 lunch.

22 (Jury exits courtroom.)

23 THE COURT: Let me put on the record my decision
24 concerning the Defense motion. First, the Defense made a
25 request for the jury to view the truck that has been

1 impounded since -- since day one. And have the truck brought
2 over to the courthouse for the jury to view the truck.

3 *State v. Jones*, 268 S.C. 287 had a similar request for
4 the jury to view an automobile apparently that had some
5 discrepancy and witnesses describing the vehicle. And the
6 Court upheld the trial court's decision to deny that finding
7 that such a -- a -- a decision on that type of request is
8 discretionary with the Court. And in light of the fact that
9 there was testimony in that case as well as photographs of
10 the subject vehicle, the Court found that that was sufficient
11 and again, affirmed the denial by the trial court.

12 I would also mention that the -- the statute concerning
13 viewing of a crime scene, which would be certainly analogous
14 as I mentioned earlier, to viewing the truck 14-7-1320. I
15 have to make a finding of necessity, and I think in light of
16 the fact that there is testimony and photographs of the
17 truck, that I don't find a necessity to have the jury view
18 the truck.

19 Now, with that said, I have instructed the Defense that
20 they certainly cannot have some more pictures taken of the
21 truck. And I think they're planning to do that over lunch
22 and also with them if they want to -- to take the measurement
23 of the truck insofar as the distance from the back to the
24 ground. And so, I'm -- I'm allowing that.

25 The second request to do in-court demonstration. I'm

1 not going to allow that. I just -- I just envision that that
2 could create some -- some issues that we want to avoid.
3 Certainly not insinuating that the Defense would do anything
4 intentional or intentionally wrong, but I -- I just don't
5 believe that that is necessary to have that for the -- for
6 the jury.

7 However, I am allowing that -- that you request a
8 proffer outside the presence of the jury, of -- of some sort
9 of demonstration. So the -- and -- and I think you want to
10 video that -- that be a part of the record, and you're
11 protected on the record, if I have made it an error into deny
12 your -- your request, so that -- that can be done at the
13 conclusion of this case.

14 MR. SHAFFER: And, Your Honor, as part of that, we also
15 had asked that the jury be allowed to feel the weight of
16 180 gallons inside the -- the trash can or a comparable trash
17 can, just to feel how heavy that actually is.

18 THE COURT: And -- and I've denied that. I'm glad you
19 brought that up. That request was also made in the hallway
20 when we had a conference. And I'm just going to allow the --
21 the jury to -- to use whatever common sense they have to make
22 a determination as to that particular issue.

23 And, Mr. Broome, you had requested whether or not I
24 would allow you to -- to do some sort of similar-type
25 demonstration when you make your closing. And I'm not

1 allowing that demonstration to be done.

2 However, certainly with whatever's in evidence, the
3 both sides can -- can argue that particular issue to -- to
4 the extent you feel like it's necessary for your (inaudible).

5 MR. SHAFFER: And, Your Honor, just so also to make
6 sure the record's clear, in addition to us doing the
7 demonstration with that, we had envisioned after that, if the
8 Court was to allow us to do the -- that to actually call --
9 recall Mr. Pittman or Mr. Cash to ask them to attempt to do
10 it, because we don't think it's physically possible to do it
11 the way that they said it.

12 So we would've wanted -- we want that to be included in
13 our proffer as a secondary issue that we would've asked for
14 had you allowed us to do the trash can.

15 THE COURT: Well, after you do your video proffer that
16 -- not make a decision whether or not I'm going to allow you
17 to call Pittman to -- to do some sort of demonstration. Just
18 remind me of your request and I'll -- I'll --

19 MR. SHAFFER: Thank you, Your Honor.

20 THE COURT: -- I'll move on that. Okay? All right.
21 So we're down till 2:00. We'll get back together and -- and
22 I would mention too that the both sides are -- are fine with
23 arguing and charging in the morning, just to give enough time
24 for that to get done, and not be so late for the jury to --
25 to, you know, get -- get the case for their deliberation.

1 Okay? All right. Thank you very much. See you. Bye.

2 (Off the record.)

3 THE COURT: Back. Good. Okay. We good.

4 MR. SHAFFER: Thank you, Your Honor. The -- and -- and
5 -- I -- I'm not sure if my rule -- my actual argument maybe
6 into the record that I made back there. Essentially, my
7 argument is that there -- because we're dealing with weight
8 and leverage, there's no way for the -- for the jury to
9 understand weight and leverage, unless they're given an
10 opportunity to see it or feel the weight and leverage.

11 And I think he has -- arrived under the state and
12 federal constitution to present it. I'm not trying to
13 reargue it, I don't think I specifically said state and
14 federal constitution back there. However, I would hope that
15 the Court would understand that, I think as a right to
16 present the full complete defense. And that was my basis.

17 THE COURT: I -- I understand.

18 MR. SHAFFER: Thank you, Your Honor.

19 THE COURT: (Inaudible).

20 MR. SHAFFER: Now, related to that, we plan on calling
21 Mr. Jimmy Howard next.

22 THE COURT: Right.

23 MR. SHAFFER: I don't want to run afoul of the -- the
24 Court's ruling. I plan on asking him things related to what
25 would've been our demonstration text. Is that going to cause

1 a problem?

2 THE COURT: Not -- who I -- I'm allowing you to proffer
3 a demonstration video. And I understand it may have already
4 been done, or if not, you're going to do it.

5 MR. SHAFFER: We're going to do it in court tomorrow,
6 probably if -- while the jury's out. That's what I figured,
7 because the backup to that, -- obviously I was going to call.

8 THE COURT: Yeah. What we do this afternoon after you
9 go ahead and rest before the jury. But I'll certainly give
10 you that opportunity to proffer, but no, I -- I don't want
11 you asking Mr. Powers any questions about a demonstration,
12 what you all are planning to do, what it may show, et cetera,
13 et cetera. I'm not going to allow that.

14 MR. SHAFFER: Okay. And what I was going to ask him,--
15 because he actually tried as well, I was going to call him
16 and Mr. Bentley possibly to, -- because we had to regroup
17 when this came up, -- we were talking about me calling
18 possibly Mr. Bentley and Mr. Powers to say that they
19 attempted to do this with 180 pounds in there. And were
20 unable to do it.

21 THE COURT: What is it?

22 MR. SHAFFER: Is that going to run afoul of the --

23 THE COURT: Yeah -- yeah, because that's -- that's
24 getting really close to doing an actual demonstration. If
25 you have Mr. Bentley say, "I tried to pick it up and I

1 couldn't do it," that's almost like, you know, having him
2 demonstrate that in court, so...

3 MR. SHAFFER: Okay.

4 THE COURT: Let's stay -- stay clear of that --

5 MR. SHAFFER: Okay.

6 THE COURT: -- if you would, please.

7 MR. SHAFFER: Okay. Thank you, Your Honor.

8 THE COURT: So you got Mr. Powers to say, "Hey, I took
9 some pictures today."

10 MR. SHAFFER: Yeah.

11 THE COURT: Here's what the pictures show. And I gave
12 you an opportunity to do a measurement. I don't know if you
13 did that or not, but...

14 MR. SHAFFER: We'll go ahead and -- yes, sir. We --
15 we'll go ahead and admit these pictures through him and it
16 should be a short witness.

17 THE COURT: Sure.

18 MR. SHAFFER: I can't imagine them crossing much.

19 THE COURT: Right. Okay. All right. Good.

20 All right. Anything else?

21 MR. BROOME: We good --

22 MR. THOMAS: No, nothing -- nothing from State.

23 THE COURT: All right. Okay. All right.

24 And -- and again, Mr. Shaffer, you can rest on the
25 record before the jury, with the understanding that you still

1 have the opportunity to make a proffer.

2 MR. SHAFFER: Thank you, Your Honor.

3 THE COURT: Your resting will not lift that. Okay.

4 All right. Go, let's bring the -- let's go off the record
5 for just a second.

6 (Off the record.)

7 (Jury enters courtroom.)

8 THE BAILIFF: All jury present, Your Honor.

9 THE COURT: All right. Thank you Mr. Bolt.

10 Good afternoon, ladies and gentlemen, I -- I meant to
11 ask you earlier, is candy holding out all right? What I --

12 UNKNOWN MALE: What the Court has purchased?

13 THE COURT: Is it satisfactory to you? Okay. Good.

14 Good. Secondly, just want to make sure that all of my
15 instructions are continuing to be followed. My instruction
16 about no research into this case on the internet, social
17 media, everybody's complying with that? No discussion with
18 other people or among yourselves about this case.

19 Everybody's complying with that? Okay. All right. Thank
20 you very much.

21 All right. Mr. Shaffer, whenever you're ready.

22 MR. SHAFFER: Thank you, Your Honor. Defense will call
23 Jimmy Powers.

24 JIMMY POWERS,

25 having been sworn, testifies as follows:

1 THE CLERK: Thank you. You may have a seat.

2 DIRECT EXAMINATION

3 BY MR. SHAFFER:

4 Q. Mr. Powers you -- you're an investigator for the
5 Public Defender's Office, right?

6 A. Yes.

7 Q. Okay. And you haven't always been an investigator
8 for the Defense act?

9 A. No.

10 Q. Tell me a little bit about your experience.

11 A. Well, as far as law enforcement, I began my career
12 with the Greenwood City Police Department on
13 September the 17th of '88. And I remained a police officer
14 until 2006, June the 16th, 2006. And then, I started doing
15 private investigation work. And I still am a licensed
16 private investigator, but I do mostly work for the
17 Public Defender's Office.

18 Q. Okay. And you have a company that does private
19 investigations?

20 A. Yes. Advanced private investigations.

21 Q. Okay. So as part of this -- well, just to give
22 these people context, how many investigators are currently
23 working with the Public Defender's Office?

24 A. Two.

25 Q. And is that two all in Laurens County?

1 A. We are stationed out of Greenwood, but we work
2 four counties.

3 Q. Okay. So two -- two investigators are divided up
4 over four counties for the Public Defenders', right?

5 A. Correct.

6 Q. You don't have the same investigative power as the
7 State does, right?

8 A. No.

9 Q. Now, today I ask, you go out to the
10 Laurens Sheriff's Office, right?

11 A. Correct.

12 Q. And I ask you to take some pictures, right?

13 A. Yes.

14 Q. I'm going to show you the State Exhibit
15 (inaudible).

16 THE COURT: Should be 33 if you're going to mark this
17 as group.

18 What's the number range, Mr. Shaffer?

19 MR. SHAFFER: 34 through 40, Defense Exhibits 34
20 through 40.

21 THE COURT: (Inaudible) 33?

22 MR. SHAFFER: I'm sorry, 33 through 40. I apologize.

23 THE COURT: Yeah. Got you. Let's see.

24 BY MR. SHAFFER:

25 Q. Showing you Defendant's 33 through 40. Are those

1 pictures you took today?

2 A. Yes.

3 Q. And you were present whenever every single one of
4 those pictures were taken, right?

5 A. Yes.

6 Q. So how far away is that truck stored?

7 A. How far away is?

8 Q. Yeah, where -- where we went to (inaudible).

9 A. Oh, it was at the impound lot, probably three to
10 four miles away.

11 Q. Okay. And -- but it is not -- not on-site, right?

12 A. No.

13 Q. And it's in a secured facility, right?

14 A. Yes.

15 Q. Owned by the sheriff's department?

16 A. Yes.

17 Q. Okay. Now, if you could, how high is the bed of
18 Mr. Spencer's truck?

19 A. Thirty-three inches.

20 Q. Thirty-three inches. And which -- which number is
21 that?

22 MR. THOMAS: Yeah, Judge, no objection to any of those
23 exhibits. I don't know if we put that --

24 THE COURT: Is -- is there a picture of the
25 measurement?

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

2 THE COURT: Okay. One of the 33 through 40 --

3 THE WITNESS: Thirty-five.

4 THE COURT: -- which numbers?

5 THE WITNESS: Thirty-five.

6 THE COURT: Thirty-five. Okay.

7 BY MR. SHAFFER:

8 Q. Defendant's 35 shows the -- the measurement of the
9 (inaudible) or measuring --

10 THE COURT: Got you.

11 BY MR. SHAFFER:

12 Q. -- somewhere between 32 - 33 inches, right?

13 A. Yes.

14 Q. Okay. And that's the -- the height of the bed of
15 the truck off the ground, right?

16 A. Yes.

17 MR. SHAFFER: Okay. Yeah, Your Honor, those are in
18 evidence, right? I would move.

19 THE COURT: Well, I don't know if you officially move,
20 but they are in evidence with no objection from the State.
21 33 through 40 for the Defense.

22 (Defendant's Exhibits 33 through 40 were admitted into
23 evidence.)

24 BY MR. SHAFFER:

25 Q. Okay. And we're just going to flip through each

1 one real quick, just so that the jury can see what I'm -- I'm
2 saying. That's the back of the truck, correct?

3 A. Correct.

4 Q. And that's how the -- the trucks parked currently
5 looks like, right?

6 A. Yes.

7 Q. So when we got out there, that's what it looked
8 like, right?

9 A. Yes.

10 Q. Okay. And that's obviously the measurement of the
11 bed of the truck?

12 A. Yes.

13 Q. And that's the height of the side of the truck,
14 right?

15 A. Yes.

16 Q. Okay. And what's that in there as well?

17 A. Some fishing rods, shoes, some kind of stand, and
18 a toolbox.

19 Q. Okay. All right. That's the back seat of the
20 truck, right?

21 A. Yes.

22 Q. Okay. That's from the passenger side?

23 A. On the front seat, yes.

24 Q. Okay. And that's from the back driver's seat,
25 right?

1 A. Yes.

2 Q. Okay. And that's from the -- the driver's seat,
3 right?

4 A. Yes.

5 MR. SHAFFER: Okay. No further questions.

6 THE COURT: Okay. Solicitor, do you have any
7 cross-examination of Mr. Powers (inaudible)?

8 MR. THOMAS: (Inaudible).

9 CROSS-EXAMINATION

10 BY MR. THOMAS:

11 Q. Mr. Powers, you don't know what was in the bed of
12 that truck on December 9th, 2021, do you?

13 A. No, sir.

14 MR. THOMAS: Nothing further, Your Honor.

15 THE COURT: Thank you. Mr. Powers, you can step down.

16 MR. SHAFFER: Your Honor, based off of previous ruling,
17 the State -- or the Defense rest, Your Honor.

18 THE COURT: Okay. All right. Defense rest.

19 Does the State have any rebuttal case?

20 MR. THOMAS: Beg Court's indulgence, one second.

21 THE COURT: Sure. Yeah.

22 MR. THOMAS: Nothing from -- nothing from the State,
23 Your Honor.

24 THE COURT: Okay. All right. The evidentiary record
25 in this case is now closed.

1 Ladies and gentlemen, what we're going to do, we've got
2 a few legal matters that I need to work with the attorneys,
3 but as far as your work today is -- is finished.

4 So I'm going to cut you loose in just a minute, and
5 we'll start back at 9:30 in the morning. As I told you, what
6 we will do in the morning is the lawyers will make their
7 closing arguments to you, and I will charge you the law that
8 you are to apply to this case, to the facts as you find them
9 to be.

10 We are going to provide you lunch. The clerk will talk
11 to you about that in the morning as far as what -- what your
12 options are. And so have a good afternoon and evening, get
13 some good rest, and we'll see you right early at 9:30 in the
14 morning. Okay?

15 (Jury exits courtroom.)

16 THE COURT: Okay. Are you going to need a couple
17 minutes (inaudible) I -- get things ready for your proffer?

18 MR. SHAFFER: Yes, Your Honor. But I'd like to --
19 because there's -- there's I guess, multiple different
20 proffers. There's -- we're going to need a video to get set
21 up and I don't have a tripod, so I'm not sure. It may be
22 better if we did that tomorrow, but I would like to do the
23 proffer of the testimony that I was going to call from
24 Mr. Bentley. And --

25 THE COURT: Well, I'm not sure if I allowed you to make

1 that proffer as far as testimony from Mr. Bentley or
2 Mr. Powers, did I? Did I allow you to make that proffer? I
3 know you're going to make the proffer of your demonstration.
4 I know that I've already told you to do that. So you're
5 wanting to -- you want him to proffer Mr. Powers,
6 Mr. Bentley, as far as their attempt to pick up the trash can
7 loaded with 180 pounds?

8 MR. SHAFFER: Yes, Your Honor, this is our backup to --
9 to what you -- your -- based off of your ruling that we
10 thought of over lunch, is that we would call Mr. -- Mr.
11 Powers and Mr. Bentley and you try to do this about how hard
12 it is to do it. And that's what I brought up before Mr.
13 Powers testified and said --

14 THE COURT: Okay. I -- I'll -- I'll allow you to do
15 that. I would prefer as far as your proffer demonstration, I
16 know you don't have a tripod, I'd like to get that done this
17 afternoon too.

18 MR. SHAFFER: So how --

19 THE COURT: You need a few minutes to get you a tripod
20 or whatever. I think that's fine. I'd like to have
21 everything done. We need -- still need to just touch very
22 briefly on the charge. And then, so in the morning, 9:30, I
23 want to go straight into closing, so --

24 MR. SHAFFER: Your Honor, we're going to get a tripod
25 for the (inaudible).

1 THE COURT: Sure.

2 MR. SHAFFER: And,-- but we can go ahead and do the
3 testimony.

4 THE COURT: I'm going to -- we'll do the testimony and
5 then maybe, while somebody is going to get that tripod, we
6 just put on the record whatever we need to, concerning charge
7 and then -- then, we can do your demonstration.

8 MR. SHAFFER: Okay.

9 THE COURT: So are we taking a few minutes now? Is
10 that what we're doing?

11 MR. SHAFFER: I'm -- I'm all going ahead and put them
12 up.

13 THE COURT: Okay.

14 MR. SHAFFER: If that's what the State (inaudible).

15 MR. THOMAS: I'm -- yeah, I'm ready, Judge. I'm good.

16 THE COURT: You're flexible?

17 MR. THOMAS: Very much, sir.

18 THE COURT: All right. Mr. Powers, come around to the
19 stand. You're still under oath from your testimony
20 previously. Just give you one minute Mr. Shaffer, before you
21 get started here. Okay. Just for purposes of the record,
22 this is proffer testimony certainly outside the presence of
23 the jury, and Jimmy Powers is the first proffer witness.

24 So Mr. Shaffer, you may proceed.

25 MR. SHAFFER: Thank you.

1 DIRECT EXAMINATION

2 BY MR. SHAFFER:

3 Q. Mr. Powers, did you get -- did you engage in any
4 sort of testing related to this case?

5 A. I did.

6 Q. Explain that to me?

7 A. Well, after we measured the tailgate of the truck,
8 we came back, loaded 180 pounds of water in bottles in the
9 trash can, and we tried to hoist it up on a table that was
10 30-inches tall, which would've been easier than putting it
11 into the back of the truck. And it was pretty tough, and I
12 couldn't do it.

13 Q. Okay.

14 THE COURT: What was your last statement you just said,
15 Mr. Powers? I didn't hear.

16 THE WITNESS: I said I couldn't do it.

17 THE COURT: Okay.

18 BY MR. SHAFFER:

19 Q. Tell us about the -- where the weight was sitting
20 -- well, let me ask you this first. The trash can we used,
21 was it the same trash can that's in the courtroom?

22 A. No, it's not. It's similar.

23 Q. Okay. Was there basically a recycle bin that
24 looked basically the same?

25 A. Yes.

1 Q. Okay. And where was -- how did we put the
2 180 pounds of water in there?

3 A. It was in the bottom of the -- the can.

4 Q. Okay. And was it in water bottles or was it in
5 liquid form?

6 A. It was in water bottles.

7 Q. Okay. And so we put 180 pounds worth of water
8 bottles -- bottle?

9 A. Yes.

10 Q. And we tried to hoist it into a -- a
11 30 inch table, right?

12 A. Yes.

13 Q. How does that table again compare to the height of
14 the truck bed?

15 A. It's three inches lower.

16 Q. Okay. And was it -- well, you said the weight was
17 sitting on the bottom, right?

18 A. Yes.

19 Q. Do you think that made it more difficult to lift
20 it?

21 A. Yes. It would have, because if the weight had
22 been evenly distributed through the can, then when you
23 started lifting, some of the weight would've been over the
24 top of the pivot point.

25 Q. Okay. And the pivot point would've been the edge

1 of the table, right?

2 A. Right.

3 Q. Similar to the pivot point being the edge of the
4 truck bed, right?

5 A. Right.

6 MR. SHAFFER: No further questions.

7 THE COURT: Yeah. Purposes of this proffer, Solicitor,
8 you have any questions?

9 CROSS-EXAMINATION

10 BY MR. THOMAS:

11 Q. Did you have Mr. Spencer try to do it?

12 A. No.

13 MR. THOMAS: Nothing else, Your Honor.

14 THE COURT: All right. Okay.

15 MR. SHAFFER: We would call Mr. Bentley.

16 THE COURT: Yes. We'll need to have you sworn in
17 (inaudible).

18 You can step down, sir.

19 WALTER BENTLEY,

20 having been duly sworn, testifies as follows:

21 THE CLERK: Thank you. You may have a seat.

22 DIRECT EXAMINATION

23 BY MR. SHAFFER:

24 Q. Mr. Bentley, did you engage in any sort of testing
25 related to this case?

1 A. I did.

2 Q. Explain that to me?

3 A. We took a blue Greenwood County recycle bin that
4 is very similar in shape and size to the trash can in
5 question in this case. We put four five-gallon water jugs,
6 which is approximately 173 pounds, I think is what we came up
7 with, and we --

8 THE COURT: Can you speak up a little bit closer?

9 THE WITNESS: I'm sorry, Judge.

10 Which is approximately 173 pounds and we added some
11 one-liter bottles to get it to 180 pounds. At that point in
12 time, I attempted to roll it, which I was successful in being
13 able to pivot it back and roll it on its back wheels.

14 I then attempted to hoist it onto a 30-inch table,
15 which was as close to the 33-inch truck bed as we could find
16 in our office. I was able to get it a few inches off the
17 ground at the pivot -- pivoting it onto the table, but that
18 was as far as I could get it.

19 Q. Okay. And you would agree -- agree that the
20 weight was at the bottom of the trash can, right?

21 A. Yes. All the weight was in the bottom.

22 Q. And that would've affected the way the trash can
23 lifted, right?

24 A. Correct.

25 Q. Do you have anything else to add related to this?

1 A. No.

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

3 THE COURT: Okay. Solicitor, do you have any
4 examination of Mr. Bentley?

5 CROSS-EXAMINATION

6 BY MR. THOMAS:

7 Q. Mr. Bentley, did you all attempt to put a person
8 in a trash can?

9 A. We did not.

10 Q. Did you have Mr. Spencer attempt to lift the trash
11 can?

12 A. We did not.

13 MR. THOMAS: Nothing further, Your Honor.

14 THE COURT: Okay. You can step down, Mr. Bentley.
15 Thank you.

16 MR. SHAFFER: Your Honor, that would conclude the
17 testimonial proffer that I --

18 THE COURT: Okay.

19 MR. SHAFFER: -- that would've put up after your
20 previous ruling earlier this morning.

21 THE COURT: Okay. All right. Give me a second. Okay.
22 We go ahead and just -- whatever we need to put on the record
23 concerning charge. Have you all looked at the -- the charge
24 that we provided to you for lunch?

25 MR. SHAFFER: Yes, Your Honor. I've only had that one

1 addition.

2 THE COURT: And -- and that one addition is just to
3 explain to the jury to make sure that they realize unanimous
4 means all 12 of them.

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

6 THE COURT: Okay. All right. We'll add that in.

7 Does the State have any -- anything on the --
8 concerning the charge?

9 MR. THOMAS: No, nothing from the State, Your Honor.

10 THE COURT: All right. And of course the verdict
11 form's just going to be a one line. We, jury, have to find
12 the Defendant not guilty or guilty, additional line,
13 signature line. So we'll -- we'll do that. All right.
14 Okay. We'll go off the record, and whenever you are ready to
15 do your video proffer, then just let me know.

16 All right. What we're doing now is the Defense is
17 proffering two demonstrations. They're going to videotape
18 it, that video will via court's exhibit. And, Mr. Shaffer,
19 can you just give me a little, small,, short preview of what
20 you intend to -- to show?

21 MR. SHAFFER: Yes, Your Honor. The first one is what
22 we would do if it was -- if we were just doing this through a
23 witness.

24 THE COURT: Okay.

25 MR. SHAFFER: And due the fact that we're -- we're

1 limited on our witness list, we would be going to pursue it
2 with -- I -- I guess Mr. Bentley --

3 THE COURT: Okay.

4 MR. SHAFFER: -- to do it. And then -- then if we went
5 to the actual argument, Mr. Broome was going to try to do it
6 as well.

7 THE COURT: Okay.

8 MR. SHAFFER: And that's essentially what we're doing.

9 THE COURT: Okay.

10 MR. SHAFFER: To show the unlikelihood that it could
11 have happened.

12 THE COURT: Okay. And then, you just going to put that
13 on some sort of flash drive?

14 MR. SHAFFER: That's correct, Your Honor. I'll put
15 this video in a flash drive.

16 MR. THOMAS: For the purposes of the record,
17 Your Honor, if they were to proffer this in front of the
18 jury, I would also have proffered Investigator Knight just
19 lifted that blue trash can, they're going to use, onto the
20 table. So I would've proffered a similar good example.

21 THE COURT: Okay.

22 MR. THOMAS: But --

23 THE COURT: I got you.

24 MR. SHAFFER: And, Your Honor, I -- I also, obviously
25 at that point, we would have -- I -- I will say that -- that

1 we didn't do an -- Investigator Knight doing it because I
2 agree not to film it, but however, I -- I think that if
3 Investigator Knight was good to do it, I would point out huge
4 discrepancies in age and physical fitness between him and
5 Defendant.

6 And, Your Honor, just for the record, this is actually
7 a 29-inch table.

8 THE COURT: Okay.

9 MR. SHAFFER: Not a 32-inch table.

10 THE COURT: Sure. Okay. All right. May -- may
11 proceed, and there -- there's not going to be any discussion.
12 It's just --

13 MR. SHAFFER: No, Your Honor, the only thing I will
14 throw on the record, and I -- I ran the numbers by jury, is
15 that we have right at 180 pounds, slightly below 180 pounds
16 worth of water in there.

17 THE COURT: Okay.

18 MR. SHAFFER: And divided between four large
19 18.9 liter jugs and six small jugs.

20 THE COURT: Okay.

21 MR. SHAFFER: That are one liter each.

22 THE COURT: Okay.

23 MR. THOMAS: One -- one kilogram per liter?

24 MR. SHAFFER: That's correct. One kilogram per liter.

25 THE COURT: All right. Take your seat.

1 MR. SHAFFER: Thank you.

2 THE COURT: Right. Now, Mr. Broome, you got to, -- I
3 guess basically do the same thing.

4 MR. BROOME: I do the same thing.

5 THE COURT: Okay. In video?

6 MR. SHAFFER: Thank you, Your Honor. And pardon, is
7 there the argument related to improbability based off of
8 that?

9 THE COURT: Okay.

10 MR. THOMAS: And I think his argument is still
11 perfectly fine.

12 THE COURT: Right. And I -- and I said, -- and I -- I
13 back in the hallway and put it on the record, certainly both
14 Solicitor Thomas, Mr. Broome, can make whatever arguments
15 they want to make. They just can't reference any sort of
16 demonstration by previously done or not do any
17 demonstrations. But just all argument you could argue the
18 likelihood of Mr. Spencer not, or -- or being able to -- to
19 lift that.

20 MR. SHAFFER: Yes, Your Honor. And our -- our only
21 position, we're limited by what's in evidence obviously, so
22 we're going to try to argue it anyway.

23 THE COURT: Right.

24 MR. SHAFFER: But we're somewhat limited by what's in
25 evidence.

1 THE COURT: But what I prevented -- that Mr. Broome
2 could not actually do a demonstration in front of the jury
3 nor talk about previous attempts at trying to lift that trash
4 can full of -- of water. Okay. All right.

5 MR. SHAFFER: Thank -- thank you.

6 THE COURT: Very good. Just get that on a flash drive
7 whenever you can. Make sure that the court -- court reporter
8 gets it. Okay.

9 MR. THOMAS: What we're doing right now is I -- of some
10 of these DVDs of videos, I -- I don't know that we actually
11 made sure what was in evidence had, -- what was played for
12 the jury. Some of them we skipped around stuff. So what
13 Mr. Simmons and I are doing right now is making sure that
14 what was actually published to the jury -- all actions,
15 everything, or what's on the actual disc. So we'll make sure
16 we go over that with Defense before we go.

17 THE COURT: All right. Because I, -- you know, they
18 have a --

19 MR. THOMAS: Right.

20 THE COURT: -- a computer back there, so...

21 MR. THOMAS: And that was the reason why some of these
22 we wrote, do not send back on because we played them with no
23 off --

24 THE COURT: Sure.

25 MR. THOMAS: -- or something like that. But I think

1 what we're going to do is, we're going to burn a copy on here
2 that has no audio.

3 THE COURT: Okay.

4 MR. THOMAS: Put that disc in the thing so that it
5 can't all go back. So we're not coming back and forth.

6 THE COURT: And just, and I know you will just
7 coordinate with the Defense to make sure they're satisfied
8 with what you've done. And we have a -- a folder and
9 including this notebook that is marked on court's ID.

10 MR. THOMAS: And we did double check everything that is
11 in evidence in the box in the closet right now locked up is
12 what's supposed to be. So everything in that folder should
13 not be.

14 THE COURT: Okay.

15 MR. THOMAS: So none of that should get --

16 THE COURT: Very good.

17 MR. SHAFFER: Your Honor, just so -- just so it's
18 clear because the appellate court can't obviously tell what
19 Mr. Spencer looks like. I mean, at the time of his arrest he
20 was like 5'10, 195, and now he's probably 5'10 what? -- 220.
21 And he's also -- he was 47 years old at the time it's
22 happening. I just wanted to make that clear because clearly
23 the jury can make an approximation of -- of physical fitness
24 level.

25 THE COURT: Sure.

1 MR. SHAFFER: Based off of looking at him, but that
2 appellate court not. (Inaudible)

3 MR. THOMAS: Well, and they can also see him on the
4 video that's in evidence, where he's interviewed in the --

5 THE COURT: Right. Sure.

6 MR. THOMAS: -- in the Anderson County Sheriff's
7 Office.

8 THE COURT: Yeah.

9 MR. THOMAS: He's not shackled or anything there. He's
10 -- his physical appearance is obvious in that video.

11 THE COURT: All right. All right. Very good. Okay.
12 We will be in recess till the morning 9:30 for closing and
13 charge.

14 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
15 3:35 P.M.)

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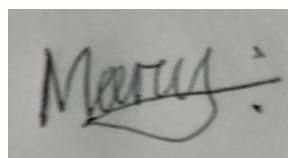
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CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a Court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 8 of Laurens County, South Carolina, on the 23rd Day of April, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 9, 2024

A rectangular box containing a handwritten signature in dark ink. The signature appears to be 'Mary' followed by a stylized flourish and a period.

Mary Ragsdale

Transcriber

1

2 CONTINUATION OF PROCEEDINGS - APRIL 24, 2024

3 THE COURT: Mr. Shaffer, you're standing?

4 MR. SHAFFER: Yes, Your Honor. I have this flash drive
5 from yesterday's proffer.

6 THE COURT: Okay.

7 MR. SHAFFER: I'd like to make a court's exhibit.

8 THE COURT: Court's exhibit. I think it's going to be
9 11?10 MR. SHAFFER: Would you prefer us getting an envelope
11 for it or not?

12 THE COURT: Whatever sheet you want.

13 MR. SHAFFER: The Court, do you need a envelope
14 (inaudible). We'll -- we'll have one in this state. Well,
15 while we're waiting, Your Honor, because of the fact that
16 that Hough case I cited here earlier in the week is, --
17 that's 480 S -- or S.E.2d 77 or 325 S.C. 88. -- Because that
18 case originated as a mistrial objection from an opening
19 statement. I would move to prevent the State from arguing
20 that he is a -- has a gambling problem in general or
21 generally is bad with money pursuant, to that case.22 THE COURT: Well, I -- I think if I remember correctly,
23 I redacted portions of that Greenville interview, which
24 referenced questioning about a gambling problem and some, did
25 I not, Solicitor?

1 MR. THOMAS: I -- I believe so, Your Honor. That's my
2 recollection. Most of the video, all I think most of that
3 was taken out of the video, I mean...

4 THE COURT: I think so.

5 MR. THOMAS: I think all I'm probably talking about is
6 that he went to the casino and took money out while he was
7 there. I don't.--

8 THE COURT: Of course you do. You do have bank --

9 MR. THOMAS: Yes.

10 THE COURT: -- bank account or records that you can
11 argue off of and whatever man, you...

12 MR. THOMAS: (Crosstalk) and his vehicle is there at
13 the casino, and he admits that he's at the casino, and I
14 don't -- hadn't really intended to go too far into anything
15 outside of that.

16 THE COURT: Okay.

17 MR. THOMAS: If for some reason the spirit takes me
18 there and it comes out, I'm sure Mr. Shaffer will catch it
19 and lodge an objection.

20 THE COURT: All right. Very good. All right.
21 Everybody's ready for the closing. Let's bring the jury out,
22 please.

23 THE COURT: Mr. Fox news, whenever the Solicitor starts
24 his closing, then you can do the camera. It's going to have
25 to be careful because I'm -- I'm -- I'm sure both lawyers are

1 going -- maybe a time to get close to the jury box. So you
2 just have to be -- be careful.

3 MR. THOMAS: And -- and I'll probably be going to the
4 board a couple times, so...

5 THE COURT: Yeah.

6 MR. THOMAS: I don't know if that's going to...

7 THE COURT: Yeah, they may be going to the board too,
8 so you're just going to have to be real careful on that.

9 MR. FOX: Yes, sir.

10 THE COURT: Thank you.

11 MR. FOX: Thank you.

12 (Jury enters courtroom.)

13 MR. BOLT: All jurors present, Your Honor.

14 THE COURT: Thank you, Mr. Bolt.

15 Good morning, ladies and gentlemen.

16 THE JURY: Good morning.

17 THE COURT: You're feeling good. And I'm ready to get
18 back to work. As I told you yesterday, what we have left to
19 do is the lawyers will make their closing arguments to you.
20 The State will go first, then the Defense, and then the State
21 has the right, if it so chooses, to come back and make a,
22 what we call, a reply argument as to any matters that are
23 raised by the Defense.

24 After that's done, and I expect the -- the arguments to
25 be rather lengthy. We will probably take a break before I

1 bring you back out to charge you the law of the case. At
2 some point in time, we'll make arrangements for watch get --
3 get their orders, probably do it during that break between
4 the closing and the charge.

5 And this is the last time these good attorneys have to
6 advocate for their respective side. So please give them your
7 undivided attention.

8 Solicitor Thomas, you ready?

9 MR. THOMAS: Yes, sir, Your Honor. And if it may
10 please the Court?

11 Billy Jean Cross lived an amazing life. She spent
12 eight years in service of her country in the U.S. Army. She
13 lived in Canada, she's lived in Minnesota, but the last
14 moments of her life were spent on the floor of her residence
15 in Fountain beaten, bloodied, a scarf wrapped around her
16 neck. The life that she had lived squeezed out of her.

17 The man holding that scarf was Timothy Paul Spencer.
18 Timothy Spencer took BJ's life. He then wrapped her body in
19 her comforter, put it in a trash can, and left her house with
20 her, drove back to Anderson County where he's from.

21 He stopped along the way in Honea Path, not content to
22 just take her life. He also took her money, \$2,500 from her
23 account using his work Housecall Pro app.

24 He then took her body to an abandoned property in
25 Starr. That life that BJ lived, Timothy Spencer chose an

1 abandoned, wooded house as her final resting place.

2 That, ladies and gentlemen of the jury, is murder.

3 Murder, you're going to hear this from Judge Hocker later, is
4 the killing of another person with malice and forethought.

5 I'm going to submit to you, ladies and gentlemen of the jury,
6 you know what murder is, you know from your common sense and
7 from your life experiences, what that means. But under the
8 law, it means that you kill someone with malice. What is
9 malice? Malice is hatred, ill will, hostility towards
10 another person, doing of a wrongful act without just calls or
11 excuse. Total disregard for human life.

12 Wickedness, it's shown a wicked evil, depraved heart,
13 boy of social duty, and daily mental mischief. Squeezing the
14 life out of someone with a scarf, beating them up beforehand,
15 dumping their body in the woods. That's what malice is. We
16 also have the element of it has to be, you have to have a
17 forethought.

18 Now, this isn't what we think of when we normally hear
19 the word premeditation, you talking about premeditated
20 murder, going out with a plan to kill somebody. The law says
21 that malice can be conceived at the very moment the
22 (inaudible) is given.

23 You don't have to do it, you don't have to go there
24 with the intent to do it, but if at the time you're doing it,
25 if during that 90 seconds to a few minutes that you're taking

1 someone's life, if you have malice in your heart, that's
2 murder.

3 Ladies and gentlemen, Judge Hocker is going to explain
4 the law to you later on, when he does his charge to you, and
5 that's what his job is. Everybody in this courtroom has a
6 job, right? Judge Hocker's job is -- he bestowed to give you
7 the law to explain to you what the elements of these charges
8 are, what the law means. He's got to be, you know, call the
9 balls and strikes sort of down the middle, make sure that
10 this trial is fair.

11 The Defense attorneys: the Defense team, they've got a
12 job too, and their job is to represent
13 Mr. Spencer's interest. Mr. Spencer's interest in this case
14 is not for you to understand what really happened to Billy
15 Jean Cross.

16 Mr. Spencer's interest is counter to that, and they have done
17 a very good job of representing him this -- these last couple
18 weeks. If a witness took this stand and they did something
19 wrong or they made a mistake, they heard about it. You heard
20 about it.

21 The Defense's job is to poke holes in the case, to poke
22 holes in the evidence, to try and distract you, to try and
23 get you confused about what really happened. Make no mistake
24 about it. They're trying to muddy the waters, but that's
25 their job, and that's fine.

1 As Mr. Simmons told you before we started my job, our
2 job as the State, our job is to bring you the evidence that
3 you need to reach a verdict in this case. So I'll talk to
4 you a little bit about that.

5 He said that our burden in this case, obviously, is to
6 prove Mr. Spencer's guilt to you beyond a reasonable doubt.
7 That's not beyond every possible doubt. It's not beyond
8 every shadow of doubt. All it means for something to be
9 proved to you beyond reasonable doubt, is that you're firmly
10 convinced that Mr. Spencer killed Billy Jean Cross.

11 It doesn't require you to suspend your reason. It
12 doesn't require you to think about other possibilities that
13 haven't been supported by the evidence. What does the
14 evidence show? And after you look at it, are you firmly
15 convinced that he killed her?

16 Judge Hocker can also talk to you about the types of
17 evidence you can see in the case. We have what we call
18 direct evidence. That's what you can see, what you can hear,
19 what you can observe, what you can witness. That's direct
20 evidence.

21 We also have circumstantial evidence, and there's sort
22 of a misconception. I know you hear sometimes on TV that
23 circumstantial, oh, that's a circumstantial case, so they
24 can't prove it. Well, I'm going to talk a little bit later
25 again, probably about how what your (inaudible) is -- isn't

1 necessarily what's what's real in this courtroom, but the
2 Judge is going to charge you that circumstantial evidence is
3 just as good as direct evidence. All circumstantial evidence
4 is, is it's a chain of facts and circumstances that leads you
5 to a logical conclusion.

6 If you have a bunch of facts and a bunch of
7 circumstances that lead you to a conclusion, and you're
8 firmly convinced of that conclusion that is sufficient for
9 you to find someone guilty beyond reasonable doubt.

10 And the way I kind of explained the difference between
11 circumstantial evidence and direct evidence is this. So I
12 used to live by myself. I had a dog. It was just me and the
13 dog that lived there. And one day, I was getting ready to go
14 to court and it was going to be a busy day. So I grabbed a
15 pack of crackers out of the pantry. I sit them on the
16 counter, I left them there. I forgot I went to work without
17 them. I come home that afternoon, that pack of crackers
18 isn't sitting on the counter anymore in the kitchen, it's on
19 the ground in the living room, it's on the floor right next
20 to the coffee table.

21 And I get in, I walk and I get a look and I say, that's
22 weird. How'd that get there? I didn't see how it got there.
23 Now a possibility is that my dad, who lives a few miles away,
24 went to breakfast with some of his buddies, he's retired,
25 took him breakfast all the time. It's possible that he

1 stopped by on the way back to let the dog out, to play with
2 him, to take him for a walk. And he grabbed that pack of
3 crackers off the counter and he ate it, opened it up, ate
4 them, and just left the wrapper sitting there.

5 And then, you know, I opened the door and the -- the
6 wind blows it off or something. That's how it gets on the
7 floor, but then I walk over to the wrapper, and I see that
8 the wrapper isn't neatly torn in the corner. Like if a
9 person's going to open it up and take some out, it's mangled,
10 it's shredded.

11 Now, I look at it, I say, what is it? It's wet. The
12 wrapper is wet. I say, what? How did this happen? Then I
13 look up and I look over in the hallway and there's Hampton,
14 my 80-pound chocolate lab, and he's looking at me and I look
15 at him, I look down at the crackers, I look back up at him
16 and he's not looking at me anymore. He cuts his tail, and he
17 takes off, and he runs down the hall.

18 Now, is it a possibility that my dad came over and ate
19 those crackers and left a mess? Yes. Is that a real
20 possibility? No.

21 I can look at the condition of the evidence, I can see
22 where it is, how it is, what its condition is, and then I can
23 look at the behavior of my suspect. And I know from the way
24 he ran off, and the way that wrapper was on the floor, I know
25 that Hampton climbed up on the counter, got the crackers,

1 took them to -- took them to the living room and ate.

2 That's the difference between direct and circumstantial
3 evidence. I have no direct evidence that he did that. I
4 didn't see it happen, but I can look at the condition of the
5 evidence, I can look at the behavior, and I know what
6 happened to those crackers. Same thing in this case. You
7 can look at the evidence, and you can know what happened on
8 December 9th, 2021.

9 And before I talk to you about what the evidence
10 actually shows, we need to talk a couple minutes about what
11 the evidence doesn't show.

12 The first thing the evidence doesn't show, and all of
13 this, again, you -- you've sat here for the two weeks.
14 You've heard it from opening statements through the
15 presentation of -- of the Defense's case and everything they
16 asked on cross-examination, they highlighted some things that
17 they think the evidence shows -- that shows Mr. Spencer's not
18 guilty.

19 One of those things is you heard that he was only there
20 for an hour. He's only one man. He couldn't have done this.
21 He couldn't have killed her in an hour. Put that trash can
22 in the back of his truck and driven off with it in an hour.

23 You heard Dr. Shaw's testimony. Billy Jean had a
24 number of facial injuries. She had the scarf wrapped around
25 her neck so tight, he couldn't even get the scissors under it

1 to cut it off. He had to take the scalpel and cut down from
2 the top.

3 Based on how tightly that scarf was around her neck.
4 She would've lost consciousness in a few seconds. She
5 would've been dead 90 seconds to a few minutes later. That's
6 not a whole hour, that's far less than an hour.

7 He's just one man. He couldn't have possibly put a
8 body in that trash can, put the trash can in the back of his
9 truck, and driven the trash can off to wherever it got
10 disposed of at.

11 You saw him when he stood up in openings. You've seen
12 him on those videos from Anderson County. That's not a small
13 man. That's not a frail, weak man. It's a man that works
14 for a living.

15 He stopped you -- and he works as an HVAC man to try
16 and argue that the guy that's used to lifting
17 150 pound-carrier evaporator coils couldn't have picked up a
18 trash can with Billy Jean's body in the back of his trash can
19 and lifted it up, and slid it back there. You know, that's
20 not possible. You know, that's not, you know, that's
21 entirely possible.

22 We know that it happened. Someone put her body in that
23 trash can. Someone took that trash can off. Mr. Spencer was
24 capable of it, and he's the one that did it.

25 The other part of that is it just makes no sense that

1 he would do that, and then drive around with the trash can in
2 the back of the truck, and stop in this busy parking lot in
3 Honea Path. I agree with that wholeheartedly. It makes no
4 sense. It makes no sense to take someone's life either. And
5 honestly, it is a little scary to think that it could happen.

6 All right. My parents are starting to get older. One
7 of them is going to be living on their own soon -- to think
8 that the HVAC man that you trust to come into your house,
9 could be the one that took someone's life.

10 I understand that we don't want to believe that that's
11 what happened, but don't let that fear of that override your
12 common sense and your -- your ability to look at this
13 evidence, all of this evidence, and put it together and
14 figure out that that's exactly what happened here.

15 The second sort of thing that -- that I think has been
16 raised, and that you're going to hear about is going to be
17 that, you know, there's this mystery third person that we
18 don't know, unidentified that could have done it.

19 Some of that comes from -- some of that comes from this
20 information about his Chevy Trailblazer that doesn't run. If
21 there's two things in this courtroom that have been proven
22 beyond a reasonable doubt the last two weeks, Timothy Spencer
23 killed BJ and that that Trailblazer doesn't run. I
24 understand that.

25 The Trailblazer and what Mr. Gosnell testified to

1 seeing a blue an -- an Envoy, some kind of SUV parked next to
2 her house. I'm sure he meant well, I -- I'm not quite sure
3 what he's talking about. All of that has nothing to do with
4 what happened to BJ between the hours of 11:30 and 12:30
5 during that day.

6 The DNA evidence: You've got this fun, little chart
7 that Mr. Shaffer made with our DNA expert. The gist of it is
8 Timothy Spencer's DNA wasn't on anything Billy Jean's DNA
9 wasn't on anything except these.

10 You've also heard testimony that again, it's not like
11 what you see if you watch an episode of CSI, or NCIS, or
12 whatever it is, or "FBI Most Wanted", you know, they've got
13 DNA results from a crime scene within 15 minutes, and it's
14 the person that they suspect it is, and they've got him
15 caught within the hour and it shows that.

16 That's -- you heard from her, and you heard that sort
17 of same testimony from all the other witnesses. The tread
18 wear expert: I've never gotten a tire tread back. The
19 fingerprint person is really hard to get fingerprints.

20 The DNA experts: All kinds of things can affect whether
21 you leave DNA at a scene, and we can talk about holding
22 things up by this, or pulling all ropes and everything, but
23 you remember we've got a scarf that we know was wrapped
24 around her neck. Her DNA is not on parts of it.

25 We have a blanket, a comforter, that we know her body

1 was wrapped in. Her DNA's not on parts of that. You don't
2 leave DNA behind you everywhere you go.

3 The other part of that is sometimes DNA gets on things,
4 and we don't know where it came from. The one example they
5 will show you about DNA is the one sample that was taken from
6 Billy Jean's shirt, and they're going to tell you about how
7 there were two other contributors other than Billy Jean to
8 that DNA profile. One of them is what she calls -- what the
9 DNA expert in this money called (inaudible) source.

10 Somebody that works at (inaudible), somebody that
11 regularly drops evidence off. So people whose DNA is on
12 file, who worked for SLED, who go through all these processes
13 to try and keep it off of it, accidentally got some DNA on
14 there.

15 We've got an unknown profile, we don't know who that
16 is. That just means, maybe that's Mr. Holly who found the
17 body, his uncle, the other Mr. Holly who found the body also.
18 Maybe it's that first deputy that was there. Maybe it's
19 somebody from the (inaudible) office.

20 DNA is incredibly unpredictable, and it's actually an
21 interesting thing that happens in these cases. If we have a
22 suspect's DNA in a scene, then you'll hear about, "Oh, it's
23 junk science, you can't trust it." Or what you would
24 probably hear is, "Well he was the HVAC man, so of course his
25 DNA is going to be there, but if we don't have DNA well then

1 yeah, he's not guilty. Can't prove he's guilty, if you don't
2 have his DNA."

3 You heard the testimony, the DNA is sort of an
4 unpredictable thing, and that is not evidence that overrides
5 all of the other overwhelming evidence of Mr. Spencer's case.

6 Speaking of that overwhelming evidence, the third thing
7 you heard about is how Brett Auckland's determination of
8 where those cell phones were is based on low confidence --
9 low confidence -- low confidence -- low confidence.

10 You've got these T-Mobile records in there, and you're
11 going to be able to look at them. The records he bases it
12 off of do include a column that says "low confidence". That
13 refers to -- he told you it refers to these GPS coordinates.
14 T-Mobile what they do -- he explained this. What T-Mobile
15 tries to do is they try to give you the best guess of where
16 that phone is. They do it so they'll know where their
17 network is strong or weak. They do it so they know how to
18 sabotage space over the airways. They do it because, like,
19 911 requires them to be able to do it.

20 That's their best guess where the phone is. He didn't
21 use that information. He used the tower gap. He looked at
22 what tower did that come off of, what direction was it facing
23 and how long did the signal take to get back to the tower and
24 what's that distance?

25 I don't want to park on him too much, because that is

1 common sense to you. If you know how long, how fast the
2 signal travels, and you know how long it goes -- it takes to
3 go somewhere and get back, that's an easy enough calculation
4 to make.

5 It's kind of like how -- it's basically the inverse of
6 how you go into a baseball game. You see pitchers throwing
7 97, 97, 98. The radar gun measures how far that ball
8 travels, and it knows the distance, and it knows the time it
9 takes, and it can compute how fast the ball is going. It's
10 the opposite that if you know how fast something goes, the
11 signal, then you can tell how far away it is by how long it
12 takes to get there to get back. That's what he did.

13 And honestly, it doesn't take a T-Mobile engineer to
14 tell you that stuff, because at the end of the day, the
15 biggest thing you take from Brett Auckland, if your
16 14-year-old son or your 80-year-old grandmother goes missing,
17 you don't call a T-Mobile engineer to go looking for them.
18 You call Brett Auckland. Brett Auckland goes and finds him.
19 He's the expert on that sort of thing. He's the expert on
20 cell phones.

21 You'll also notice, if you look back at it, Mr.
22 Pittman, Investigator Pittman, was asked a lot of questions
23 about tower dumps and tower scrubs. Why didn't you go get
24 all this data from the tower? Not one of those questions was
25 asked of the guy who's an expert on cell phone towers. Think

1 about that for a second.

2 Every question that Mr. Spencer asks, that his team
3 asks, is designed not to get you to what really happened to
4 Billy Jean Cross. It's designed to get you sidetracked.
5 Keep that in mind as you're reviewing this evidence.

6 Speaking of people trying to get people sidetracked and
7 then I'll move on, Mr. Spencer, you heard early in this case
8 that he lied, he lied about being at the victim's house that
9 day, but why did they tell you he lied?

10 He lied because he was being questioned about she was
11 missing, and he was the last person to see her, and he was
12 being questioned about murder, and so he was nervous and
13 afraid, so he lied.

14 You have the audio from his interaction with them when
15 they first started talking to him at his house that night, at
16 no point do they tell him she's dead.

17 They say, "Do you know Billy Jean Cross?" And he says,
18 "She was one of those "Home Choice" customers." Didn't say
19 she's dead, didn't say she's missing. Just asked if he knew
20 her and then asked? "Well, when's the last time you talked
21 to him?" And he tells him the story that he gives him.

22 So let's talk about that. I'm not going to replay any
23 of that for you. You've got it. You heard it. The audio is
24 a little hard to hear. The video is lengthy, but this is the
25 general summary of what his story to law enforcement is.

1 He knew BJ, she was a warranty customer. He had done
2 work for her in the past. She had a heating issue, so he was
3 doing heating work for her.

4 On Thursday, December 9th, he was at the casino, he had
5 left, he'd been there for only a couple of hours, and then he
6 left. And on the way home, he got a phone call from her.
7 She was asking about when he was going to be able to come get
8 the part to fix her -- to fix her -- her equipment.

9 So he said, "She left a voicemail, he called her back,
10 told her he was going by carrier to look for the part to look
11 into it." I think that changed at some point. He wasn't
12 going by there anymore. He was going to look it up on his
13 phone, but either way he's looking for the information about
14 the part.

15 So then he calls her back, he tells her the price, and
16 then he says, "She says, I'm going to pay you for that over
17 the phone. I'm going to pay you for the part that I owe you.
18 I'm going to pay you for some side work that -- or some back
19 work that you -- I owe you from some other stuff, and I'm
20 going to do it." He says over the phone, I think what he
21 means is over the app. -- Talk about that again in a minute,
22 but then he says initially, "You know, that hasn't processed
23 yet. And then he says, "Well, it's due process."

24 And then he's sort of back and forth on that. But
25 basically, she paid him over the phone and said: "Well when's

1 the last time you went by there a few weeks ago to measure
2 for the parts." Went by a few weeks ago to measure for the
3 parts. Never went over there on the 9th. Didn't go on
4 the 9th. Pretty clear about that.

5 So go through this statement a little bit. What do we
6 know? He did tell them, "I drove that Ram to the casino."
7 He admits that too. Well, we know that to be true. That's a
8 true part of his statement. We know to be true because we
9 have the GPS from his Ram. So the truck that he says he was
10 in, goes -- leaves his house at 7:02, and two hours later --
11 almost two hours later at 8:57 a.m., he gets to the casino.

12 We know he was at the casino because we have his bank
13 statements. We know that he took -- on the 9th, he took a
14 withdrawal from the ATM on Dixon School Road that's at
15 (inaudible) in Kings Mountain -- 245 withdrawal from one
16 account also on night, same ATM, \$365 withdrawal.

17 We know he was at the ATM that day. We know -- look at
18 it. All those fees cleared down to a zero balance in that
19 account, down to a negative 239 balance over here. More on
20 how to get to that negative balance on that one later. So we
21 know he's at the casino.

22 So then he says, "She called me and left a voicemail as
23 I was leaving." We've got the records to show that.
24 Billy Jean's T-Mobile records show her at charger -- charge,
25 1558 so that's going to be our chart 15, -- back 10:58.

1 So just before 11:00, she makes a 47 second phone call
2 with him. His records show that he receives a phone call
3 from her number 1558, 467, and it goes to voicemail. We've
4 got his phone number also showing that incoming call and that
5 voicemail. What was that voicemail?

6 (Audio starts)

7 MS. CROSS: Hey, this is (inaudible) call. Area code
8 (inaudible). I was just wondering if you could give me a
9 possible date of when my (inaudible) because it's really
10 starting to get cold. So if you could give me even the next
11 (inaudible), I really appreciate it. Thanks.

12 (Audio ends.)

13 MR. THOMAS: Really starting to get cold. When are you
14 going to get my heat fixed? Those are not, where is my part?
15 When is my part coming? That is an expectation that it needs
16 to be done soon.

17 So once he said, -- then in his statement, I called her
18 back, and it's important where he says he called her back at
19 So here's his record showing where at 11:09. So a few
20 minutes later he calls her back. Not going to call his
21 number. We've got his phone records off of his phone, phone
22 dump, and then her records where she answers it. Forty-one
23 second phone call conversation she has with him. Forty-one
24 seconds, is that long enough to talk about? What's the part
25 I need? Where's it at? When's it coming in? How much is it

1 going to cost? Or is that, "I'm on the way I'll be there in
2 a little while-call?"

3 It is important where he told you in his statement that
4 he called her back at, because Lake Thicketty, you've heard
5 is, an exit. It's an -- he says it's an exit off the
6 interstate in New Chesnee. You've heard that it's up
7 somewhere near the border with North Carolina. That phone
8 call that he makes at his Verizon records, 11:09 a.m.

9 Where is his cell phone at 11:09 a.m.? His cell phone
10 is bouncing off the tower at the intersection of 38595.
11 That's his work cell phone. We also know that his work
12 truck, that was already told us in his own 385, at 11:09:53.
13 Less than a minute later, that GPS came from this truck is in
14 the same area as that -- that tower's at his phone. He
15 wasn't in North Carolina, he was going to Billy Jean's house.

16 Where is Billy Jean at during this time? We've got her
17 information from her cell phone again, these are just time
18 points, these are data transactions with the tower. You can
19 see she's bouncing off this tower here off 25. She's
20 bouncing off this tower over to the west a little bit.

21 And what did -- what did -- what did Agent Auckland
22 tell you? If I've got a missing person and I've got this
23 data in real time and I see those two arcs crossing, I'm
24 going to go look for them where those arcs cross. Those arcs
25 cross at BJ's house.

1 We know that's their cell phone. This is that person.
2 And this is between the hours of 7:00 and 9:00. 11:28, so
3 what happens right after 11:28, or I guess I'm sorry, 11:16.
4 After BJ talks with Mr. Spencer at 11:09, she calls her
5 mother. That's her mother's phone number. That's her phone
6 call. 272 seconds of conversation,
7 four and a half minutes-ish at 11:16.

8 What did she tell her mother? "The HVAC guy is coming
9 to my house. I'm waiting on the HVAC guy." That's not, I'm
10 waiting on him sometime in a few months. That is, I'm
11 waiting on him now. I'm expecting him to be here. And
12 behold, 11:27, he's coming down Fairview. 11:29 he's two
13 minutes down Fairview. At 11:31 that Dodge Ram arrives at
14 Billy Jean's house.

15 Her house on the corner of Fairview and Turlington
16 Road. Her residence where she lived the last moments of her
17 life. Gets there at 11:31, car pings at 11:32. Pings again
18 at 12:07. 12:31, we've got that -- that last ping there.
19 That's his car at her house between the hours of 11:30 and
20 12:30, roughly.

21 What else do we have from him? We've got two
22 transactions with that same cell phone tower near his house
23 -- near her house. One from his work phone, which is that
24 12:34 call that we're going to talk about in a second.

25 His personal phone, he receives a call at 11:52. His

1 personal phone is in -- in that area. His work phone is in
2 that area, his truck is in that area. He's at
3 Billy Jean's house. In fact, we know at 12:34, he left BJ's
4 house because the GPS shows us that. But also because the
5 neighbor's camera shows us that.

6 Dark-colored pickup truck leaving, turning south onto
7 Fairview. GPS tells us that's what happened. 12:31 leaving
8 the house. 12:33 it's moved south on Fairview.

9 What else left the house that day besides that truck?
10 BJ's comforter left the house that day. Found it later
11 wrapped around her body. How did it leave the house? Drag
12 marks on the floor, wheel marks, consistent with a trash can,
13 being pulled inside, brought in from that Ram outside,
14 brought into the house straight to that area where the blood
15 is. They don't continue past it.

16 Where does Tim -- Mr. Spencer go after that? Yes,
17 12:31 he leaves BJ's house. 2:10 he arrives back at his
18 house on Trump Pointe in Anderson County.

19 Where's Billy Jean's phone? Where -- where's Billy at
20 that time? We know her phone was at her house earlier.
21 Where's her phone now? Between 12:31 and 2:10 her phone
22 starts banging on towers back up towards Fairview, back down
23 towards Princeton, across the Honea Path back up 178 all the
24 way up in Anderson County.

25 We talked a second ago about that 12:34 phone call,

1 that Timothy made to Billy Jean and he told investigators,
2 "Called back to tell her I was going to order the part or I
3 tried to call her back to say her payment process, whatever.
4 I left her a voicemail." These are good. This is his
5 outgoing call. 116 seconds.

6 See from his phone dump that what happened a
7 minute and a half, almost two minutes. You see from her
8 records and what you can see, it's not on this slide, but we
9 talked about it with Investigator Pittman. He said that it
10 went to voicemail, so I left her voicemail. That's not a
11 call, that goes to voicemail. That's a call that's
12 connected. That phone picked up that phone call for two
13 minutes.

14 What's that phone doing for that two-minute period?
15 This is where I'm going to have to come up here to be a
16 little closer.

17 Again, he makes a phone call at 12:34 off this tower.
18 There's his card. 12:33, 12:35, somewhere in this area.
19 There's the phone call even. Her phone call -- her phone
20 received, she didn't receive her phone -- her phone received
21 that. 12:34 off that tower, these are his GPS lights.
22 12:33, 12:35, 12:37, 12:39, 12:41, every two minutes. GPS
23 (inaudible) GPS Company said, "It pings every two minutes
24 once the vehicle's on."

25 What's her phone doing at 12:34:11? At 12:34:12 it's

1 in this area. 12:35, sorry. Okay. At 12:35, it's in this
2 area. This one right here, this arc right here, 12:39:31.
3 Where is his car at 12:35:33? What's right around that arc?
4 Then at 12:36:04, her phone is here.

5 At 12:36:45 it's here. At 12:39:49, it's here.
6 12:39:49, 12:39:53, her phone, while that phone call at 12:34
7 -- it may -- where is it headed?

8 Well, let's talk about first where it stops next.
9 There's an interesting thing that happens on
10 BJ's bank accounts on the 9th. This is how this whole thing
11 started falling apart for Mr. Spencer.

12 At 12/9 -- on 12/9, the date, 12/9, December 9th,
13 \$2,500 withdrawal from her account. What's that for? Debit
14 card expenses, HVAC, Housecall Pro. Here is Timothy
15 Spencer's vendor side of his Housecall Pro. You can see at
16 1:01 p.m., he generates that invoice or creates the job.

17 At 1:01 p.m., he updates the line item: Owe \$4,500, and
18 that's -- the first attempt at getting that money is \$4,500,
19 not 2545. And then at 1:07, the actual payment goes through.
20 And then at 1:31, the line item is updated from 45 to 25 to
21 reflect the fact that the -- to reflect the fact that there's
22 a zero balance of it. And then, you can see right here at
23 1:07, the (inaudible) \$2,500, that's the invoice that he
24 generated.

25 And then his testimony -- his statement was she paid

1 over the phone. BJ Cross, who had only ever written him
2 checks before now for this \$2,500 transaction, is paying it
3 online.

4 Looking at the bottom of this, she's apparently tried
5 to pay \$4,500. According to this, this would be the payment
6 history. This is the -- this is the customer side.
7 According to this, Billy Jean initially at 1:04, tried to pay
8 \$4,500 to Mr. Spencer. It was rejected because the security
9 code was incorrect.

10 So then at 1:06 she tried to pay -- allegedly she tried
11 to pay it again, \$4,500 insufficient funds.

12 Billy Jean Cross -- that checkbook you -- you know,
13 investigator couldn't -- told you at her house. A bunch of
14 stuff written down -- a bunch past. She knew she would've
15 known how much was in her account. She would've known she
16 didn't have 4,500. Okay. We'll let it run for \$2,500.
17 Billy Jean didn't make that payment.

18 You can also look at that signature at the top. You
19 can compare it to some of her other handwriting that you've
20 got. Allegedly got -- that's not BJ's signature. BJ didn't
21 make that transaction. Who made that transaction?

22 Okay. Going back to what you do -- you can look up --
23 interesting -- another interesting thing I say that you've
24 got this in evidence. It -- State's 16 that purport to be a
25 check from BJ, written in November to Spencer's HVAC.

1 I think it's really interesting, this trick -- this
2 check is found in this truck. There's also, conveniently, a
3 mobile deposit for \$400 on the 9th. While he was within that
4 truck, driving back from the casino that it -- that
5 eventually following, going down here. Gets rejected almost
6 as if the check had tried -- the check had been positive
7 before something was wrong with it. I don't know if those
8 are related or not, but that's certainly not nearly as
9 important as that right there.

10 But anyway, look at the times on these: 1:04, 1:04,
11 1:07. Those are the times that allegedly BJ would be trying
12 to -- to pay this amount that she allegedly had been.

13 Where's her phone at while all that's going on? You
14 have her phone banging off the tower. Two towers, really.
15 There's another tower down here hitting off of at 1:03,
16 1:03:33, 1:03:34. Think it's 1:04 also getting off of it.
17 1:08, 1:17, 1:18, this closer tower getting off of it right
18 there.

19 That parking lot in Honea Path. Her phone between the
20 hours of 1:03 and 1:18 p.m., is somewhere downtown
21 Honea Path. Timothy Spencer's truck 1:07 to 1:21 is in that
22 parking lot in Honea Path. The lady that's living is not in
23 that parking lot, making the transaction at that time.

24 Another interesting thing about that slide, and it
25 showed you, is Mr. Spencer said that, "After I ordered the

1 part and she paid over the phone, I -- I tried to call her
2 and answer. So then I sent her a text message saying her
3 payment went through." And those text messages, you --
4 you've got those in evidence. You can look at them.

5 His story that she was paying me for a part and some
6 other work, not supported by these text messages. You can
7 read them. There's a text message from her November 23rd
8 where she says, "They're telling me I'll only owe you 1290,
9 not \$2,500." Nothing else in there. Then he sends her one
10 on 12/7 two days before this that says, "No equipment has
11 come in yet." That implies that the equipment has been
12 ordered. Not that I still need to call carrier and order.
13 That text message is not truthful. That is a cover.

14 Problem with it is, you can see he sends that text
15 message at 2:18:01. 2:18:01, he sends that text message to
16 her phone. Sorry, 13:18, 6:18 UTC converted that is 1:18,
17 1:18:01 close her phone due at 1:18:04. Three seconds after,
18 he presses send, her phone has a data transaction for this
19 tower and money have -- that message didn't go to BJ wherever
20 she was, that message went to BJ's phone in his truck, while
21 her dead body was in the back of it.

22 And then after he's done stealing her money, he drives
23 home, gets home at 2:10. Now, Ms. Atkins yesterday
24 testified, "Well, when I got home, he didn't look like he had
25 any blood on him. He didn't look like anything. He looked
26 like he was normal. He didn't go." Angie didn't get home

1 until 3:00 something, almost 4:00. He wasn't there when she
2 got home. Mr. Spencer didn't get home until after 5:00. He
3 went home at 2:00 and sat there.

4 Again, her phone went to his house as well. And you
5 can see his phone. This is his work phone. His personal
6 phone at 1:59 is using those towers. So he's in the area
7 close to -- to his house at 1:59 using his personal phone.
8 And he's there from say 2:10 to about 2:24.

9 Where's BJ's phone again during that time period? From
10 2:07 to 2:20, her phone is communicating with that tower a
11 few miles away from Mr. Spencer's house. There's no way that
12 tower is working on her phone anywhere else. Her phone
13 between 2:07 to 2:20 is at Timothy Spencer's house, where
14 Mr. Spencer is before he leaves. So he's home for about 20
15 minutes, more than enough time to go change clothes and head
16 out.

17 And then, he proceeds on this circuitous route around
18 Lake Hartwell for a couple of hours. He never could really
19 give a good explanation to law enforcement about what he did
20 between the hours of 12-ish. He said, "He got home around
21 12" when he got home 2:00. He never could really explain
22 where he was, between 12 and, "I rode around, maybe I went to
23 my mom's house in Clemson." Clemson is way up there that --
24 that car never goes near Clemson.

25 He goes once, he's out again, so he can follow along.
26 2:24 he leaves, 2:34 he's down here, coming around the lake,

1 goes into Georgia, into all of this green, I'm pretty sure
2 this green's national forester protective land of some sort.
3 Goes here 2:54, 3:00 is almost 3:05, probably 3:05. 3:08
4 gets off, at 3:29, down here somewhere on the lake. Comes
5 back up 3:39, 3:49, 4:01 starting it south for this past
6 Starr (inaudible).

7 Investigator said there's a couple stops. So most of
8 these GPS points are moving right there. The car is on, it's
9 running. There's a couple times the GPS gets turned off. It
10 gets turned off out of the -- a house that's for sale,
11 somewhere, and it gets turned off at the end of an abandoned
12 boat ramp.

13 Strange places to stop if you're just out for a Sunday
14 drive, but it eventually doesn't stop there. It comes back
15 down to 4:43 to cross the river again, back in Georgia.
16 Kinda circles around and comes back 5:01. He's coming up
17 past at 5:08.

18 And then, 5:14 he gets to start. And then that car
19 stops. The record shows it stops at the intersection of
20 Bill Mue Road. This is actually called Jones Road, I think
21 at this address point you -- that's 300 Jones Road.

22 So the intersection of Cumming Spring Road and
23 Bill Mue Road. It's not a field. This is probably a little
24 bit of a highway that you saw -- pictures. You heard the
25 testimony. This is -- or as busy as day one is this is not
26 busy. That's an abandoned house. It's not an open field.

1 It's an abandoned house that's grown up -- brushed
2 everywhere.

3 You heard Mr. Holly testify they were coming and
4 there's measuring land.(phonetic) They weren't sure what
5 they were going to do with it, but an abandoned house grown
6 up. That's where Timothy Spencer's truck is at 5:14,
7 5:20-ish.

8 What else is there? He starts walking back. You can
9 see this grass looks like it's pushed down again. You can
10 see this pushed down. There's something he dumped in there,
11 scrape marks maybe, where something got dragged over it.
12 Those look fairly fresh, even on the 14th. Probably a couple
13 days, several days old, obviously they're there.

14 And then you go, you're going to the crime scene expert
15 testifies about 65, 68 feet into the woods there. Keep
16 going. He keeps going, he keeps going in shade back there.
17 There's Billy Jean.

18 What Mr. Spencer chose for her final resting place?
19 What's she wrapped in? Her own comforter. Then the truck
20 leaves, turns back home, and leaves. What wasn't at that
21 scene? The trash can. The trash can is missing from her
22 house. Trash can is not there. Where is the trash can?
23 Well, where is -- the truck goes after that?

24 Again, this one's a little more direct route, probably
25 because this is 5:16. You heard it is starting to get dark.
26 Sun just starts going down. Setting 5:20 it's dark by about

1 5:48. So it's starting to get dark. Little more direct
2 route on 5:24, 5:26, 5:28, 5:30, 5:32. And then coming
3 around this road that runs back up this way,
4 Mr. Spencer's house, another road, 34, 36.

5 And then 5:38, that truck is right there at that
6 bridge. North side of that bridge at 5:38. And then at
7 5:40, so two minutes elapsed between this GPS being -- and
8 this GPS and they're not 100 percent accurate, right?
9 There's about 15- to 30-foot inaccuracy on that. But two
10 minutes later, that truck has traveled 150 feet down that
11 road.

12 I think somebody tried to say, "Well, there's no --
13 it's not cut off. There's no stop on those GPS locations."
14 Well, it would make sense if every time you put on brakes and
15 came to a complete stop, the GPS registered to stop. Because
16 it would do it 5,000 times at every stop sign, at every red
17 light, every time you're waiting on somebody to turn left,
18 across a busy road, as long as the car is running, it'll ping
19 every two minutes.

20 What's going on in those two minutes between 5:38 and
21 5:40? That's what's going on. That trash can, this trash
22 can, it's a Defense exhibit, is being dumped right there in
23 the road, in the -- on the side of the road on the bridge.
24 And again, what's inside the trash can? Billy Jean's blood.

25 Someone put Billy Jean in that trash can. Someone took
26 that trash can, dumped her body in Starr, and someone threw

1 that trash can over the bridge, over the bridge a half mile
2 from Mr. Spencer's house. Where his car then goes from where
3 that box -- trash can is found to the gas station, and then
4 home. He gets home a little before 6:00.

5 Someone wrapped Billy Jean's scarf around her neck.
6 Timothy Spencer did it. He wrapped it around her neck so
7 tightly that she would've passed out within a matter of
8 seconds, lose the ability to fight back, and then died a
9 minute and a half, couple minutes later, based on doctor's
10 testimony about how tight that scarf was.

11 The last moments of BJ's life were spent on the floor
12 of that house. Timothy Spencer squeezing the life out of
13 her. I told you earlier, that everyone in this courtroom has
14 a job. Your job now is to go back into that jury room. Take
15 all of this evidence that you've got, go back there, and
16 deliberate, reach a verdict.

17 The only verdict that the evidence in this case cries
18 out for is a verdict guilty. Go back in that jury room. And
19 find Timothy Spencer guilty of murdering Billy Jean Cross.
20 Thank you.

21 THE COURT: All right. Thank you, Solicitor.

22 Defense, ready?

23 MR. BROOME: Judge, we have a matter at (inaudible).

24 THE COURT: Okay. All right. Ladies and gentlemen,
25 before we go into the Defense closing, need you to go back to
26 jury room for a few minutes, get time to take a break, and

1 we'll get you back shortly.

2 (Jury exits courtroom.)

3 THE COURT: Okay. Mr. Broome? Mr. Shaffer?

4 MR. SHAFFER: Your Honor, we're moving for mistrial
5 pursuant to *Fortune v. State*, it's 428 S.C. 545 and his right
6 to present a -- a right to a fair trial. I think the
7 Solicitor's argument related to his job is to present them
8 enough evidence, and then that was improper, but I think,
9 certainly the part about how every question that we were --
10 we asked during this trial was designed and misled the jury.
11 I think that that's -- in the words of *Fortune*, inexcusably
12 -- inexcusable we'd move for mistrial based off of that and
13 obviously his constitutional right and fair trial.

14 THE COURT: Okay. Well, I -- I've reviewed -- you sent
15 the *Fortune v. State* during the -- the closing. And I
16 reviewed that. I think in -- that case is way different
17 insofar as what the prosecution ordered or what the
18 prosecution argued, excuse me, in their closing as far as his
19 job searching for the truth made very disparaging comments
20 against Defense counsel. Here, if I recall correctly, the
21 term was used "muddying the waters," I think maybe is what
22 you used.

23 MR. THOMAS: That's -- that sounds right, Your Honor.
24 Yes, sir.

25 THE COURT: So -- but I -- I think what is crucial here
26 is the fact that the immediate objection was not made of the

1 *U.S. v. DeCarlo*. It indicates that if an immediate objection
2 is made, and then make a curative instruction to the jury to
3 disregard whatever statement that the -- that the prosecution
4 made in closing, and therefore in -- if a reversal would not
5 be needed.

6 The *State v. Hendricks*, State versus, I believe the
7 name was Thompson that I tried in Newbury several years ago.
8 Dale Scott and Mindy Zimmerman were the lawyers in that case.
9 And it was claimed that Solicitor Scott had made an improper
10 statement in closing.

11 The Court said it was improper, but the objection that
12 Defense counsel made, that case was not done until after the
13 closing argument. And they say, even though it was improper,
14 the objection needed to be made right then, so the Court
15 could make a curative instruction.

16 So once again, I don't find what Solicitor Thomas
17 argued to the jury would -- would infect the -- the -- the
18 trial to such an extent that Mr. Spencer could not receive a
19 -- a fair and impartial decision in this case, or that his
20 due process rights were -- were -- were violated.

21 But once again, apart from that, I think the
22 Defense counsel would have to object immediately to give me
23 an opportunity to make a curative instruction.

24 MR. SHAFFER: And -- and, Your Honor, any chance he
25 would be willing to give -- adhere to the instruction at this
26 point that -- that our questions were not designed to confuse

1 the jury or muddying the waters?

2 MR. THOMAS: I would argue that would maybe be a
3 comment on the facts, Judge. I mean, that's certainly,
4 they're free to argue whatever they want to about what I
5 said. I -- I --

6 THE COURT: You all hold that thought. Yes, ma'am.

7 Okay. All right. Do we agree that Solicitor Thomas
8 used the phrase, "Muddying the waters?" Can we agree on
9 that?

10 MR. SHAFFER: Your Honor, I think that he used that
11 phrase at one point, but also used the phrase, "Every
12 question we -- we asked was designed to mislead the jury or
13 confuse the jury." He said one of those two things.

14 MR. THOMAS: I -- I don't take issue with that
15 characterization. I probably -- I think I said, "muddied the
16 waters." I think I said, "Confuse the jury. Mislead the
17 jury." I do agree I said those words, but again, I think
18 that that is fair argument. Again, it wasn't anything
19 terribly derogatory. I prefaced it, "With they've done a
20 very good job this week."

21 MR. SHAFFER: Which is --

22 MR. THOMAS: But their job is just that it's counter
23 to what my job is.

24 MR. SHAFFER: -- which is basically the exact same
25 argument. The second half --

26 THE COURT: Well, you know --

1 MR. SHAFFER: -- (inaudible).

2 THE COURT: Okay. What I'm -- what I'm grappling with
3 here, the -- the phrase "muddying the waters" is improper.
4 "Confuse and mislead" probably would be characterized the
5 same way. My -- what I'm grappling with is -- is it -- it's
6 too late to give a curative instruction or not.

7 MR. SHAFFER: And, Your Honor, can I explain something?
8 Here's the way I look at this -- this particular issue.
9 First of all, he's been talking the -- the entire time we
10 raised it, the first time he essentially stopped talking the
11 -- there is case law, as well as the 11th circuit, that's
12 McLain versus -- *United States v. McLain*, it's 823 F.2d 1457.

13 And essentially they're saying that even a jury
14 instruction isn't really going to -- I mean, even a curative
15 instruction may not cure this kind of prejudice. And may not
16 guarantee the Defendant has the right to fair trial despite
17 that -- that once it happens, the cat's out of the bag.

18 THE COURT: Yeah.

19 MR. SHAFFER: So I -- I made the objection at the
20 break. If I did something incorrect or we did something
21 incorrect by not doing it right then, then I mean -- I'm sure
22 that some court will tell us that if -- if he's convicted.
23 However, I think that probably the best thing to do at this
24 point is go ahead and give a curative instruction that our
25 job's not to do that. And that -- that's not what occurred,
26 essentially.

1 THE COURT: Yeah. I mean, I -- I -- I -- I agree with
2 you to the extent that oftentimes we place maybe too much
3 emphasis on curative instructions. I -- I understand that.
4 Because once that toothpaste comes out of that tube, you
5 can't ever, you know, put it back in. I -- I -- I agree with
6 that.

7 I'm going to give a curative instruction, and here's
8 what I'm going to say. Any -- any mention of "muddying the
9 waters" or "confusing or misleading the jury" is not to be
10 considered by. That's -- that's what I'm --

11 MR. SHAFFER: And, Your Honor, and just so we're clear.
12 And the -- the case law for mistrial, we would've to renew it
13 afterwards. We -- we don't want to send the jury back out if
14 we approach, -- as soon as you're finished giving that, you
15 say that's sufficient to renew the objection on the record?

16 THE COURT: Well, sure. Yeah. You're -- you're
17 protected. I'm going to deny your motion for mistrial, but
18 you -- you -- you're protected on -- on the record concerning
19 that.

20 So I don't think we need to -- so I'm just going to say
21 any mention of "muddying the waters" or "questions designed
22 to confuse or mislead the jury" are not to be considered by
23 them in reaching the verdict in this case.

24 MR. SHAFFER: Thank you, Your Honor. And do you want
25 us to approach or not after?

26 THE COURT: No, I don't think you need to.

1 MR. SHAFFER: Okay. Thank you.

2 MR. THOMAS: One minute break.

3 THE COURT: Sure.

4 MR. BROOME: Before we go.

5 THE COURT: Sure.

6 MR. BROOME: I'll grab (inaudible).

7 THE COURT: Anybody need to take a quick break? Feel
8 free to. Make it clear that what Solicitor Thomas did and
9 what the prosecutor did in *Fortune v. State* rely on by
10 Defense, I mean that -- that's (inaudible).

11 MR. THOMAS: That's what I was about to argue, Your
12 Honor. He -- he infected it, with much more and I -- I
13 opened my -- I premised mine with that they have done a good
14 job. They have done their job and they have done so. I was
15 not personally impugning anybody's integrity. I may have
16 ventured a little further, but --

17 THE COURT: Right. I -- I understand that. But the
18 fact that *U.S. v. DeCarlo* specifically found that "muddying
19 the waters" is improper, that's why even though a late
20 curative instruction -- nonetheless, I am going to give a --
21 a curative instruction on those two.

22 Okay. All right. Let's bring the jury out.

23 MR. BOLT: I'll do that.

24 THE COURT: And, Mr. Broome, you ready to do your
25 closing?

26 MR. BROOME: Yes, sir.

1 THE COURT: Okay.

2 MR. SHAFFER: And, Your Honor, we think the good job,
3 sort of, because he's saying every question, -- if you're
4 saying you're doing a good job by every questioning, --
5 you're asking muddying the waters are confusing. It's --
6 that's our -- our position, Your Honor. And we -- we renew
7 our -- we would be renewing our motion for mistrial, if you
8 wanted us to approach after the cure --

9 THE COURT: You're protected on the record.

10 MR. SHAFFER: Okay. Thank you.

11 (Jury enters courtroom.)

12 THE COURT: All right. Thank you, Mr. Bolt.

13 Ladies and gentlemen, one comment to you, any reference
14 to 'muddying the waters' or questions assigned to mislead the
15 jury, those statements are not to be considered by you in
16 your deliberations. Agree to unanimous verdict in this case.

17 All right. Mr. Broome, you ready for your closing,
18 sir?

19 MR. BROOME: Yes, sir.

20 THE COURT: Okay. You may proceed.

21 MR. BROOME: There once was a Prince who had a famous
22 hunting dog. And it wasn't just any special hunting dog, it
23 was the best hunting dog, was a faithful companion, rarely
24 ever leaving his side.

25 One day, Prince went hunting, leaving his newborn son
26 at home in his cradle to sleep. Halfway through the hunt,

1 Prince noticed that staple dog was missing. Concerned and
2 troubled, Prince canceled the trip, canceled the hunt, and he
3 returned home. As he strode into his bedroom, his eyes were
4 met with (inaudible).

5 The newborn son's cradle was overturned. The sheets
6 were strewn about the room covered with blood. Out of the
7 corner of his eye, he turned and saw movement. It was the
8 staple dog. His coat was covered in blood. His muzzle was
9 covered in blood.

10 The Prince drew the only possible interpretation he
11 could. So he drew out a sword, and he plunged it deep into
12 his staple dog. The dog howled out in pain and it died.
13 Half the dog cried out its last half. That's when the Prince
14 heard -- cried the baby.

15 He rushed over to the crib, he overturned it, and
16 they're was his unharmed -- was his newborn son. And laying
17 next to his newborn son, dead wolf -- the dead wolf that his
18 faithful dog had killed protecting to save his newborn son.

19 The Prince is devastated, overwhelmed with grief. He
20 cradled his special companion, his best friend. He took him
21 down to the river and he gave him a proper hero's funeral.
22 And eventually he built a monument, faithful dog, the dog
23 that he killed based on circumstantial evidence.

24 Ladies and gentlemen, State has built monument for the
25 case built upon circumstantial evidence. And I want to go

1 through the facts, the State's case with you now, and they
2 are big and they are monumental.

3 The first thing we acknowledge: An opening statement.
4 I get this out of the way that Mr. Spencer was at
5 Ms. Cross's house. GPS puts him there. He had a reason to
6 be there. She called him out of the blue, coming back from
7 the casino. That was not a planned trip. But let's look
8 through the main problem that we have with the State's case.

9 DNA report done on victim's left T-shirt, three
10 individuals, one probative. We understand that someone
11 probably left, they have one unidentified person that they
12 have zero explanation for. None.

13 They want you all to ignore it. Like DNA doesn't
14 matter. That absolutely matters in this case. And it
15 matters about the facts of this case, and exactly how
16 Ms. Cross unfortunately died.

17 They want you to ignore the facts that there were an
18 unidentified individual, unidentified unrelated individual,
19 not her family member. And then, Mr. Thomas tried to explain
20 away in his opening, how maybe it was Mr. Holly, he was one
21 of those guys who found the body. I didn't hear Mr. Holly
22 say that they asked him directly. They asked Mr. Holly, "Did
23 you touch the body?" Said, "Oh no, I didn't touch Ms. Cross.
24 Absolutely not."

25 You all saw the body camera from the

1 first responding officer from Anderson County. He took the
2 sheet back up, and he had a glove on his hand to check the
3 pulse because he was trained properly to do that, and
4 confirmed she was dead. And that was it. They had ways that
5 basically objected against Mr. Holly or any of these people
6 that are involved in the work for Anderson. And they chose
7 not to do it.

8 And Mr. Thomas spent a lot of time talking about GPS,
9 showing you dots and maps. None of that stuff explains the
10 unidentified person's DNA on the victim's shirt. He
11 acknowledged it in opening statement, and he's going to try
12 and whisk it away like it's not a big deal. But it's a
13 monumental huge deal. It's the biggest piece of reasonable
14 doubt we have in this case.

15 It doesn't put -- and they can't put Mr. Spencer's DNA
16 anywhere on Ms. Cross's body. They can't put it on a scarf,
17 comforter, or a T-shirt that she was wearing. This is where
18 it came from.

19 They can't put Mr. Spencer on the sentiment killing.
20 Who is this person and why did they try and find him? How
21 did that DNA get there? So let's talk a little bit about
22 what DNA is. The DNA expert told us what it is and how we --
23 we get it. I think a lot of us have common sense about what
24 it is, but to recap, blood, saliva, sweat, tears, any body
25 fluid. Possible that the real killer was cut.

1 The testimony from Dr. Shaw, and we saw pictures of
2 Ms. Cross's hands and the bruising underneath the ring,
3 right? He testified that would something -- that would be
4 something that came from blunt and force impact. And I think
5 the State asked him that happened from a punch. Yeah, that
6 happened from a punch that would make sense. That would be a
7 likely in-person draw.

8 You saw those rings with the metal, the -- the jagged,
9 little edges that she was wearing. One scenario is that
10 she's touching her attacker off, trying to save herself. And
11 that would make sense.

12 And what you'll notice is that what you heard from the
13 investigators in this case who examined Timothy Spencer --
14 interrogated him, they found -- they took pictures of his
15 hands, they had his face. They found no bruises, they just
16 found no scars. There was no blood, there was no cuts, there
17 was no wounds. Not his face, not his hands, not on his arms.
18 That's one possibility that they didn't bother to try and
19 explain.

20 Another possibility would be like Mr. Shaffer brought
21 up. The real killer -- and there's not dispute, we're not
22 disputing that Ms. Cross -- that by strangulation. I heard -
23 -- to stipulate to that if the killer was strangling her, the
24 real killer from behind, Mr. Thomas showed you the clock.
25 Dr. Shaw's testimony was it would take at least three minutes

1 of sustained pressure. Sustained means continuous. There's
2 no breaks, there's no options. Loss of consciousness happens
3 quickly, but it would take at least three-plus minutes for
4 someone to pass away. That is a lot of energy and exertion
5 by someone to do.

6 It's very reasonable to conclude that -- that person
7 will be sweating, that -- that sweat may have dropped on --
8 in Ms. Cross's shirt, but have no explanations for that. If
9 Mr. Spencer strangled her with his hands, how is there DNA
10 not anywhere on her body? That man in that picture is
11 (inaudible).

12 Mr. Thomas talked about some of his experts in the
13 case. I'll point out. None of their experts back up their
14 theory. Dr. Shaw called this an outlier case -- down for
15 that. Ask the question: How likely is this going to be if
16 she passed away that night? Their theory is: You killed her
17 on the 9th, put her in the trash can on the 9th, dropped her
18 off on the 9th.

19 Dr. Shaw, the doctor who does this day in and day out
20 -- and damaged bodies. The way I have her to say it was,
21 it's about as likely as any of us in this courtroom being an
22 Olympic sprinter -- fast runner. It's possible someone in
23 this courtroom can run a 4.3 40. Not my experience though.
24 It doesn't fit the narrative.

25 You all heard me ask a lot of questions when

1 Mr. Shaffer asked all the questions, showed his pictures of
2 the crime scene. Okay. Why is crime scene preservation so
3 important? Why does the sheriff's office have policies, and
4 rules, and regulations on these things? To not destroy
5 evidence. The whole purpose of those things in playing by
6 the book and not keeping family members in the house for
7 hours, having passed -- walk through a crime scene, which is
8 obvious that something bad had happened here.

9 Officer Rivera took the stand and said, "Yeah, I know.
10 I -- I -- in hindsight, it was a crime scene. I should
11 exclude everyone. I didn't." Why is that a problem?
12 Because if you're looking for clues, DNA fingerprint
13 evidence, broken windows, points of entry, where a person may
14 have left their evidence, so we can solve this crime, it's
15 all mixed up now. The whole point of the decision
16 deteriorates -- evidence does not deteriorate, does not
17 devalue and is not destroyed.

18 Barnes County Sheriff's Office did a sloppy job from
19 junk, and they didn't stop being sloppy on this day. The
20 testimony from all the officers from Investigator Hoffia, the
21 trained CSI guy who doesn't know what he's doing, down to
22 Investigator Pittman, all these cops were in the house.
23 There's no crime scene tape up. No one checked windows or
24 fingerprints. Oh, we'll go check some. We found
25 Ms. Cross's body and we left the house unsealed, unpreserved,

1 unprotected for four days.

2 I didn't see anybody -- camera, video -- for any other,
3 officers putting on gloves. How do we actually know that
4 they did the -- I mean, if they can't follow their policies
5 and procedures by the book, how do we know that those
6 officers did anything else by the book?

7 Everything else they do is tainted. How do we know any
8 of those officers that were on the scene put on gloves? I
9 don't trust it. If they can't follow the simplest rule,
10 which is show up, tape off the crime scene, which is obvious
11 to anyone who's not even a police officer and get the person
12 out of the scene, the whole case is sloppy.

13 And not only they allowing the family in, they're
14 allowing them to clean up things. These are brave mistakes
15 to make as a police officer at the scene of a crime, which is
16 obviously something -- some terrible assault has happened.
17 And definitely, now we know a murder happened.

18 They let the family move around, they let the family
19 move things here there, put their fingerprints everywhere.
20 Well, why is that important? Well, they -- the fingerprints
21 placed the day of on the 9th -- of the 10th and we're going
22 to do that.

23 We'll check her trunk for a missing walker. Do we
24 fingerprint the trunk for maybe the prints of the -- the
25 killer to see if, I mean that would be one scenario. The

1 trunk, the walker's in the trunk, it's missing. Let's
2 process the trunk because we know the fingerprints, if you're
3 not wearing gloves, can be left on a trunk and they're hard,
4 they're easy to find. Dust it, put tape down if they're
5 there -- they're not. They didn't bother.

6 They sat there and let the family clean up things, and
7 then they find fingerprints on the 14th. Whoops. We should
8 have probably done this the first go around. Let's send
9 Agent Hoffia back out there or Officer Hoffia back out on the
10 scene to try and, you know, fix this problem -- happen.

11 They find some prints. They said they're not, they ran
12 them through AFIS. I -- I don't know that they actually ran
13 through AFIS, based on Hoffia's sloppy investigation, and we
14 know they didn't try to confirm and rule out people that are
15 known.

16 I cross-examined Investigator Hoffia about, "Hey, you
17 got policies on ruling out. You find this evidence, but it
18 makes sense. It could be Ms. Cross's fingerprints. Yeah, it
19 makes sense. Do we check them against her? No."

20 It could be her mom. Do we compare those prints that
21 we found against her? No. It could be
22 Ms. Warren's fingerprints at the front door. Do we check
23 them against hers? No. We don't have to bother with that.
24 Because we got GPS, we got these marks. We don't need to do
25 any of that stuff. Don't worry about -- don't look at the

1 unidentified DNA on the shirt. Don't worry about that.
2 Don't worry about Dr. Shaw saying this, she didn't die on the
3 9th. Don't worry about that. Don't worry about these
4 unknown fingerprints. That is reasonable doubt those
5 fingerprints. That enough should be enough for you all to
6 hesitate to convict Mr. Spencer on the sloppy contaminated
7 crime scene.

8 Another thing I'll point out about the crime scene,
9 Mr. Thomas talked about the trash can, and he testified
10 something about the measurement of the wheels of the trash
11 can. I didn't hear anyone say anything about the width of
12 those tire -- trash can tires. If you all did, do you all
13 remember it differently? And so be it. I didn't hear one --
14 one of -- one police officer come up here and say, Yeah, we
15 measured the tracks on those trash can tires, and they were
16 30 inches apart, and we compared that to the width of this
17 grass that was broken down and it matched.

18 Also, Mr. Thomas said, what was the drag marks from the
19 trash can? All right. I hear you. Where's the blood on the
20 trash can wheels? If this trash can is getting dragged
21 through blood? And we found the mystery trash can that was
22 missing, and it's got his DNA in there. Why is there not
23 blood on the trash can wheels? Why did they check for that?

24 And the State brought up, I think they highlighted this
25 lab because I think they think this may be what was used to

1 hit Ms. Cross with. And we see it was lit up with luminol,
2 which they suspected is blood. Did they send that to SLED
3 for testing? Could be possible that there's a mixture of
4 unidentified person's DNA in that? Could be. Did they
5 check? No. We have GPS. So what?

6 What about that bloody carpet that sat that we've seen?
7 The testimony was they waited three days to come back and
8 collect that. If they think -- and the theory is that she
9 was beaten, which it makes sense based on the blood. No
10 doubt about that.

11 How do you know it's all hers? Just like the shirt.
12 How do you not know that the killer's blood was not on the
13 shirt? Why not even try? They -- they tested DNA all the
14 way up until last week, two -- two weeks ago.
15 April 10th, 2024 is the last DNA report we got.

16 The investigators in this case have the power. They
17 don't have the -- look, I'll give them this. They don't know
18 when they collect things out of a seat. Again, this is why
19 you collect things and preserve it. They don't know whose
20 DNA and stuff is going to be there at the time. It takes
21 time. They -- it is not a TV show. They can't go, "Oh yeah,
22 this is a match in 10 seconds, let's busy." But you have to
23 be -- put in the effort.

24 You have to do things by the book in the right way and
25 at least try you owe to Ms. Cross and you owe to Mr. Spencer.

1 Mr. Spencer, most importantly because he's the one fighting
2 for his life to confirm what if there was another
3 unidentified individual's DNA from the bloody carpet. We'll
4 never know. We could have waited. We could have had this
5 trial moved out. They could have done it in 2023. They
6 could have done it in 2022. They could have done it any of
7 those times. It shows times.

8 They have ignored critical evidence throughout this
9 case because on December the 16th, and I'll get back to this
10 in a second. They got the GPS stuff, tunnel vision, this
11 horse -- those horse braces. If any of you all see those,
12 they put blinders. If any of you all have horses, they put
13 those blinders on horses so they can't see, extracted by
14 anything else, and run this way and that way. That's what
15 the cops suffer from. Fingerprints they already touched on.

16 Yeah. What We're not going to have, those confirmed
17 against Ms. Cross or Mr. -- Mr. Spencer. He had a right.
18 Mr. Spencer from reports had been over there. We're not
19 going to compare those against anyone, but no.

20 And we do have an international, sorry, a national
21 fingerprint database. It's not local to South Carolina. I
22 had the CSI guy from Anderson up here, you all can remember
23 him. That was the first day. He's the one who took some
24 pictures at the scene. Did the tire cast compression stuff.
25 He's like, yeah, we ran things. Actually I take that back.

1 He did not say that someone else -- but I believe there
2 was testimony that you have national database. Ms. Cross's,
3 they had -- they had that in the fine finding Ms. Cross and
4 her prints were found because she was a veteran. The
5 national database, not the state database.

6 Why not put these fingerprints to the national
7 database? Why are we so 100 percent positive that these
8 fingerprints either came from the family or came from someone
9 within South Carolina? Like people can't get in cars and
10 drive to different states, or come from different states and
11 commit crimes. It's sloppy, it's unexcusable.

12 This man is the most neutral witness in this whole
13 trial. And Mr. Thomas got up here and said, "I don't know
14 what that guy's trying to say." He's the only witness in
15 this trial who's not a police officer, who's not a SLED
16 agent, is the closest we have to him is Dr. Shaw. And the
17 reason Dr. Shaw's not really neutral, even though he is a
18 doctor, is because what does he do for a living? This isn't
19 anything of his own fault. Police sent him bodies to
20 investigate. He works with police on a day-to-day basis.

21 Mr. Gosnell has an -- hasn't gotten anybody. He had
22 known Ms. Cross. He just moved into the area two months ago,
23 and they won't explain this away. I live -- my wife and our
24 kids live in a house similar to Ms. Cross's. And what I mean
25 by that is, that it is at the entry here of our neighborhood.

1 And what I've learned over the years, being someone who lives
2 at the corner of the entrance of the neighborhood, is
3 everyone in the neighborhood knows a trip to all the time
4 because they have to pass by your house twice a day.

5 In this case, this is a one-way street. There's one
6 way in, one way out. So Mr. Gosnell has to pass her house,
7 not once but twice minimum every day to go to work. And
8 that's not including the weekends or any other time -- has to
9 run to the store.

10 Our neighbors, they'll come by and say, "Hey, we had
11 some new neighbors move in two months ago, California. And
12 we're meeting them, we're hanging out, the husband comes
13 over, we're talking, and he starts pointing out these things
14 about in the backyard. You know, you all -- you all people,
15 you all -- you all got that playground set, and there's a
16 little slide thing for your girls." I'm like, yeah -- yeah.

17 And it didn't really dawn on me at first what he's
18 talking about. He's like, "You all got that white truck?"
19 Yeah, yeah. Yeah, we drive by every day we -- yeah -- yeah
20 -- yeah. Because they have kids -- are the same age.

21 People notice not just what our neighbors do, that's
22 what we all do, but corner lots are important. I know that
23 from experience, but I live on a corner lot. People take
24 notice that there's a unique car.

25 Mr. Gosnell's testimony was, "I have never seen a car

1 there period, except for her red car." Now, why did I spend
2 so much time, and why do we spend so much time on it not
3 being Mr. Spencer's blue blazer. Before I get there, if
4 there's so why -- why do they call Mr. Gosnell? Why -- why
5 is the solicitor's office hiding Mr. Gosnell? Why do we have
6 to call him? And he is not important, if so what? We've got
7 GPS, go ahead and call him. Call up here, show them me you
8 all and then try. But no, we don't want you all to hear
9 about Mr. Gosnell now and that's not important.

10 I mean, did you all hear one witness come up here from
11 the solicitor's office and say, "I'm Billy Jones and I'm the
12 friend of Ms. Cross and I dropped a blue SUV, took them hours
13 (inaudible). Did you hear anyone say that their mother drove
14 a blue SUV?" Did you hear anyone say, "Ms. Warren drives a
15 blue SUV?" No. Was there any evidence that they provided to
16 you all that anyone else to triple blue SUV?

17 The police were convinced until they got the GPS
18 evidence. That was Mr. Spencer. They got search warrants,
19 for his -- at his house based upon blue SUV. Part of that
20 was the video that Investigator Knight showed you all, that
21 for the first time in two and a half years. Oh, whoops. You
22 know, I was at the house for three hours looking for
23 headlights, and now we're at trial, and those are house
24 lights.

25 It's the first time I'm going to tell that to anybody,

1 until now I was mistaken. Why is he backing out things?
2 Doesn't the story -- doesn't the narrative -- Mr. Gosnell, is
3 not important? We have GPS.

4 And I think Mr. Thomas has come close as he can to a
5 stipulation. I think he said that, "We have proven beyond a
6 reasonable doubt that that vehicle wasn't working." And we
7 had to do that because they skirted away. These guys hid it.

8 They were convinced that this was Mr. Spencer at
9 Ms. Cross's house at 10:00 at night, this mystery person that
10 is not a car that was running on December the 9th. Does it
11 look like a car that's been running on December the 9th? Is
12 there any evidence that you saw Mr. Spencer drive that truck?
13 You have leaves. You have sticks underneath the ladder here.

14 And I asked him important questions about -- to
15 Investigator Pittman asking about something called
16 SLED Fusion Center. Like when you're a police officer, it
17 makes sense. You've got a mysterious vehicle that's involved
18 in a crime. Who is it? Do you have a license plate? That's
19 the best thing. You have a VIN number. That's the best
20 thing. You don't have those things. There are means that
21 they can do it. They call the phone guy, you all may have
22 missed it. He worked for SLED Fusion Center, it's
23 Homeland Security. They talk to each other. There's a
24 database. It is very easy to call someone and say, "How many
25 blue Envoys, how many blue blazers in this, year, and model