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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Daniel McLeod Coble, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMIRA U. DAVIS,

APPELLANT

APPELLATE CASE NO. 2023-001215

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	Case No.: 2021GS4005862
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Jamira U. Davis,	)	
	)	
Defendant.	)	June 26, 2023
_____	)	

TRANSCRIPT OF TRIAL - DAY 1 OF 5

BEFORE THE HONORABLE DANIEL COBLE
Circuit Court Judge, presiding

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P R O C E E D I N G S

THE COURT: All right. You may be seated.

All right.

Good afternoon almost, ladies and gentlemen.

We got the voir dire. I got my standard voir dire, and I got the 40 or so from the defense. I was reviewing some of it. A lot of it, I don't know if I'm gonna do all of those questions. We'll go through the record on those, but it's a lot.

Were there any -- we have the one question from the solicitor's office, which states: Has any member of the jury or any close family member of any member of the jury have ever been prosecuted by the Fifth Circuit Solicitor's Office? Is there any objection to that question?

MR. L. SHEALEY: I don't think we have objection. Maybe we could ask receptacle. Defended by the public defender's office. But I mean, we don't have a problem with it.

THE COURT: All right.

And the -- the state, you had objections to 30, 33, and 38?

MR. SCOTT: Yes, Your Honor.

THE COURT: All right.

1 I think my standard voir dire will cover much
2 of the defense's. So for the first part, I'm fine
3 with: Have you ever been a victim -- you know,
4 the victim. No. 1, I'm fine with. No. 2, I'm
5 fine with it, and No. 5. I think No. 3, 4, and 6
6 will be covered through my standard voir dire.

7 As to 7 and 8, I think those are just too
8 generalized. I don't think those are necessary.
9 I'm fine with No. 9. No. 10, I don't believe is
10 necessary. Punishment comes from the court
11 strictly speaking.

12 I'm fine with numbers -- No. 12, because that
13 is a charge we'll give. If you want me to do that
14 before she testifies or not, I'm fine with No. 12.

15 **MR. L. SHEALEY:** Yes, sir.

16 **THE COURT:** No. 11, I think that'll be
17 covered in voir dire and through the burden, as
18 well as any charges we give at the end. I'm fine
19 with 16 and 17. Eighteen, I think that's too
20 general and it will be covered, I think by the
21 solicitor's question. No. 19 and -- 19, 20, 21,
22 all of those will be covered. I think in your --
23 22 will be covered in your 24 and my standard voir
24 dire which talks about victims' rights and being
25 supportive of that and law enforcement.

1 For the prior court experience, I think the
2 most relevant is just No. 25. The other ones, I
3 think will be covered in my standard voir dire and
4 have been covered in jury qualifications.

5 The general ones, I agree. I don't -- I
6 don't think No. 30 is relevant. I think it'll be
7 covered under the jury charges and voir dire
8 during instructions, along with 31 and 32, I
9 agree. And 33 and No. 34, we will cover jury
10 instructions about witness credibility. And in my
11 voir dire. Thirty-five is good. Thirty-six is
12 good. Thirty-seven is good. Thirty-eight, I
13 don't --

14 **MR. L. SHEALEY:** I can tell you why that's
15 important to us.

16 **THE COURT:** Yeah, please.

17 **MR. L. SHEALEY:** Your Honor, our client's
18 gay. It comes out repeatedly throughout the
19 investigation and in her statement to police that
20 she details the incident. I think it's perfectly
21 appropriate for us to know whether some juror
22 either can't be fair and impartial to her simply
23 because of her homosexuality.

24 **THE COURT:** So it -- it will come up
25 throughout this trial?

1 **MR. L. SHEALEY:** It will. It's totally
2 integrated throughout this case.

3 **THE COURT:** All right. That's fine. We'll
4 do 38.

5 Thirty-nine, we'll do that, obviously, either
6 through yours or through mine.

7 I'll let you put your objections on the
8 record.

9 **MR. L. SHEALEY:** Thank you, Your Honor. Just
10 as to the -- obviously, we'd like all of them to
11 be asked. But I understand your position. And
12 just simply as to 30 and 33 regarding kind of
13 general self-defense questions, I understand that
14 could be a jury charge. But we -- I find that --
15 a good bit that sometimes jurors come in here with
16 wild misconceptions and misunderstandings about
17 the law. And I just think it'd be helpful for
18 both sides, as we try to select appropriate
19 jurors, to know whether they have those
20 misunderstandings and misconceptions. That's --
21 that's just why we're asking.

22 **THE COURT:** That's noted for the record.
23 Thank you, Mr. Shealey.

24 Just get organized.

25 All right.

1 I got your list of motions. We'll handle
2 that after we do the jury selection. But when it
3 comes to voir dire, I have -- do I have a witness
4 list? I'm sure you -- I've got a defense witness
5 list. Yeah, I could have lost it. I'm sorry if I
6 did.

7 **MR. L. SHEALEY:** There is one additional. I
8 was trying to steal it back from when you and
9 write it. I did let the state know. The defense
10 has one additional witness list and we can
11 handwrite that in there. It'd be Jimmy Dykstra
12 with Richland County Sheriff's Department.

13 **THE COURT:** Dykstra?

14 **MR. L. SHEALEY:** Dykstra, yes, sir.

15 **THE COURT:** All right.

16 What I would typically do it with -- with
17 these, I would call out the names like five at a
18 time, just kind of take a little pause and do
19 another five and see if we get any that way, just
20 cause it's so many.

21 All right.

22 Well, I'll bring the jury out. I'll -- every
23 county is different since I've been around every
24 circuit. Does the state read the indictment? Or
25 do y'all -- for the judge -- judge read the

1 indictment?

2 **MR. SCOTT:** It's typically at the judge's
3 discretion. Over here, I find most of the judges
4 have me read the indictment. But whatever Your
5 Honor's preference is.

6 **THE COURT:** I'll let the state read the
7 indictment. And I'll go through explaining that
8 it's just a piece of paper, the burden and
9 everything after that. Then we'll go into voir
10 dire.

11 Anything before we bring in the jury panel
12 from the -- from the state?

13 **MR. SCOTT:** No, Your Honor.

14 **THE COURT:** Anything from the defense?

15 **MR. L. SHEALEY:** No, sir.

16 **THE COURT:** All right.
17 We can bring in the jury panel.

18 **THE COURTROOM DEPUTY:** All right.

19 **THE COURT:** And Ms. Demer, it's Jamira --
20 Jamira Davis.

21 **MS. DEMER:** Jamira Davis.

22 **THE COURT:** Jamira Davis.

23 **MS. DEMER:** Yes, Your Honor.

24 (Pause in proceeding.)

25 **THE COURT:** Can I see the attorneys?

1 (A sidebar conference is held off the record.)

2 (The jury pool enters the courtroom.)

3 **THE COURT:** We've got a few more jurors
4 coming through here.

5 **THE BAILIFF:** I've got 51. Call the roll.

6 **THE COURTROOM DEPUTY:** Want me to call the
7 roll?

8 **THE COURT:** Do we have all of them? Or are
9 we missing some?

10 **THE COURTROOM DEPUTY:** We've got more than --
11 more than enough. We have an extra person.

12 **THE BAILIFF:** Call the roll?

13 **THE COURT:** No. We don't need to call the
14 roll. I think we've got -- we've got everyone
15 here.

16 **THE COURTROOM DEPUTY:** Okay.

17 **THE COURT:** Yeah.

18 **THE BAILIFF:** And someone else.

19 **THE COURTROOM DEPUTY:** We have someone else
20 who might need to be in another courtroom?

21 **THE COURT:** We've got maybe someone else?
22 Did we count? All right.

23 Let's -- let's call the roll.

24 **THE COURTROOM DEPUTY:** You want me to call
25 it?

Jury Qualification

1 **THE COURT:** If you'll just stand when your
2 name is called, and then sit.

3 (Roll call is sounded.)

4 **THE COURTROOM DEPUTY:** Whose name did I not
5 call? Would you stand up? I did not call your
6 name?

7 Okay. Then you need to go back down the jury
8 assembly. Okay. What is your name?

9 **THE JUROR:** Bernard Williams.

10 **THE COURTROOM DEPUTY:** Bernard Williams?

11 **THE JUROR:** Yes, ma'am.

12 **THE COURTROOM DEPUTY:** Okay. Thank you.

13 **THE COURT:** All right, ladies and gentlemen.
14 Now that you're all accounted for, I'm going to
15 thank you again, as the previous judge did, for
16 your service today and this week. We appreciate
17 you being here.

18 At this point, you're -- now have a specific
19 case that we're here for. You're still under oath
20 as from earlier. And at this point, we're going
21 to do what's called voir dire to determine if you
22 can be a fair and impartial juror in this case.

23 Ladies and gentlemen, the case before you
24 today here is the State versus Jamira Davis.

25 The state can read the indictment.

1 **MR. SCOTT:** Thank you, Your Honor. This is,
2 as you said, the State versus Jamira Davis. This
3 is a true-billed indictment, charged with murder.
4 Indictment Nos. 2021GS4005862. The indictment
5 reads that Jamira U. Davis did in Richland County,
6 on or about January 22, 2021, kill the victim,
7 Brandon Burden with malice aforethought, either
8 expressed or implied, by means of shooting, and
9 the victim did die as a proximate result thereof.
10 All in violation of Section 16-3-10, South
11 Carolina Code of Laws 1976 as amended.

12 Your Honor, this is a case that, again,
13 happened January 22, 2021, in Hopkins.

14 **THE COURT:** All right, thank you.

15 All right, ladies and gentlemen. The
16 indictment charges the defendant with murder. I
17 want to remind you that the fact that the
18 defendant was arrested, charged, and indicted in
19 this case is not evidence in this case and cannot
20 be considered by you as evidence of guilt in this
21 case, nor does it create any presumption of
22 inference -- or inference of guilt.

23 This document is simply the formal written
24 instrument which contains -- contains the charges
25 made against the defendant. It is the formal

Jury Qualification

1 document by which this case is brought to this
2 court.

3 The defendant has pled not guilty to this
4 indictment. And that plea puts the burden on the
5 state to prove the defendant guilty.

6 A person that's charged with committing a
7 criminal offense in South Carolina is never
8 required to prove herself innocent. No matter
9 what the seriousness of the charge may be, the
10 defendant will always be presumed innocent of that
11 crime for which the indictment was issued, unless
12 guilt has been proven by evidence satisfying you
13 of -- beyond a reasonable doubt.

14 Now, ladies and gentlemen, as I stated
15 earlier, you are still under oath. And at this
16 point, we're going to ask several questions to
17 determine a little bit more about you. If you --
18 after I ask the question, if you will stand and
19 then we'll go through individually if it applies
20 to you.

21 All right.

22 So the defendant in this case is Ms. Jamira
23 Davis. Is anyone related by blood or marriage to
24 Ms. Davis?

25 (No audible response.)

1 **THE COURT:** The victim in this case is
2 Brandon Burden. Is anybody related by blood or
3 marriage to him?

4 (No audible response.)

5 **THE COURT:** Has anyone ever had a close
6 personal or social relationship with either
7 Ms. Davis or Mr. Burden?

8 (No audible response.)

9 **THE COURT:** All right, ladies and gentlemen.
10 There are gonna be a number of potential witnesses
11 that might be called. I'm going to go through and
12 read their names out. If you think that you might
13 had a close personal or social relationship with
14 them or related by blood or marriage, after the
15 end, please stand. I'm gonna read about five at a
16 time and give you a chance to stand at that point
17 so that we can keep it organized.

18 All right.

19 Amy Durso; Brian Godfrey; Carmen Tucker;
20 Christopher Watkins; Darrell Sapp; David Anatra;
21 Jy'Asia Scott -- Skye Davis; James Ballentine;
22 Kevin Isenhoward; Lee Connelly; Mary Victoria
23 Bourus, B-o-u-r-u-s; Michael Ward; Robert
24 Benfield; Robert Hook; Stephen Dauway; Stephen
25 Harper; Taima Jordan; Wynetta Thompson; Jimmy

Jury Qualification

1 Dykstra; Taima Jordan; Bryan Godfrey; Daniel
2 Brigman; Amanda Metz; Ricky Johnson; Linda Houck,
3 H-o-u-c-k; Trevor Holt; Courtney Merz; Sean Cason;
4 James Ballentine; Ralph Phillips; Alesha Thomas;
5 Tonja Simons; Darryl Sapp; Elesha James; Kristen
6 Watson; Tiffany Hendricks; Shawnetta Davis; Troy
7 Sumter.

8 Those are the potential witnesses in this
9 case. As I stated earlier, if you are related by
10 blood or marriage, or a very close or social
11 relationship, please stand.

12 (No audible response.)

13 **THE COURT:** And I'm gonna go ahead and let
14 the attorneys in this case stand up, just
15 introduce themselves and their law firm. And then
16 I'll ask you if you're related by blood or
17 marriage, close personal or -- relationship, or
18 ever been represented by these attorneys. So
19 we'll start with Ms. Demer.

20 **MS. DEMER:** Thank you, Your Honor.

21 My name is Hope Demer. I'm an attorney for
22 Richland County Public Defender's Office.

23 **MR. L. SHEALEY:** We're Luke and Brian
24 Shealey. We're with the Shealey Law Firm.

25 **MS. YOUNG:** My name is Laura Young. And I'm

1 with the Richland County Public Defender's Office.

2 **MR. SCOTT:** Dale Scott, First Assistant
3 Solicitor here with the Fifth Circuit Solicitor's
4 Office. Helping me as Jack Jackson. He's an
5 assistant solicitor with our -- Fifth Circuit
6 Solicitor's Office.

7 **THE COURT:** Thank you.

8 Ladies and gentlemen, is anyone, as I've
9 stated earlier, related by blood or marriage,
10 close, social, personal relationship with any of
11 these attorneys? Or have you been represented by
12 any of these attorneys or prosecuted by the Fifth
13 Circuit Solicitor's Office? If so, please stand.

14 (No audible response.)

15 **THE COURT:** Has anyone been represented by
16 the Fifth Circuit Public Defender's Office?

17 (No audible response.)

18 **THE COURT:** Has any member of the jury panel
19 formed or expressed an opinion about any issue or
20 matter involved in this case?

21 (No audible response.)

22 **THE COURT:** Is any member of the jury panel
23 aware of any bias or prejudice toward either the
24 state or the defense in this case?

25 (No audible response.)

Jury Qualification

1 **THE COURT:** Is there any member of the jury
2 panel that was a member of the grand jury which
3 issued the indictment in this case?

4 (No audible response.)

5 **THE COURT:** Is there any member of the jury
6 panel who was a member of or a contributor to any
7 group which has as its primary concern the
8 promotion of law enforcement or victims' rights?

9 Yes, ma'am. Your juror number?

10 **POTENTIAL JUROR:** 147.

11 **THE COURT:** And --

12 **POTENTIAL JUROR:** I work for SLED.

13 **THE COURT:** Work for SLED. And what type of
14 work do you do with SLED?

15 **POTENTIAL JUROR:** I'm a records analyst.

16 **THE COURT:** And would that affect your
17 ability to sit as a fair and impartial juror?

18 **POTENTIAL JUROR:** No.

19 **THE COURT:** All right. Thank you.

20 Have you, a family member, or close friend
21 ever been the victim of a violent crime?

22 (No audible response.)

23 **THE COURT:** Have you, a family member, or a
24 close friend ever been a witness to a violent
25 crime?

1 (No audible response.)

2 **THE COURT:** Would you hesitate to vote "not
3 guilty" simply because a case involves the
4 allegations of murder?

5 (No audible response.)

6 **THE COURT:** Do you believe someone is
7 probably guilty simply because they were arrested
8 by the police?

9 (No audible response.)

10 **THE COURT:** Do you believe that if someone
11 is -- do you believe that someone is probably
12 guilty if that person does not testify?

13 (No audible response.)

14 **THE COURT:** Have you, a family member, or a
15 close friend ever been an employee of a federal,
16 state, county, or municipal law enforcement police
17 Agency?

18 Yes, sir, your juror number?

19 **POTENTIAL JUROR:** 276.

20 **THE COURT:** Go ahead.

21 **POTENTIAL JUROR:** My wife's a law enforcement
22 officer.

23 **THE COURT:** And what department is she with?

24 **POTENTIAL JUROR:** Lexington County, but she
25 used to work for Richland County.

1 **THE COURT:** And can you set that aside and
2 sit as a fair and impartial jury in this case?

3 **POTENTIAL JUROR:** Yes.

4 **THE COURT:** Thank you.
5 Yes, sir. Your juror number.

6 **POTENTIAL JUROR:** 19.

7 **THE COURT:** Yes, sir.

8 **POTENTIAL JUROR:** My wife works for the City
9 of Columbia.

10 **THE COURT:** As a police officer?

11 **POTENTIAL JUROR:** No, not as an officer.

12 **THE COURT:** She just works for the City.

13 **POTENTIAL JUROR:** Yes.

14 **THE COURT:** Okay.
15 Not in the police department, though?

16 **POTENTIAL JUROR:** No.

17 **THE COURT:** Okay.

18 Thank you, sir.

19 Yes, ma'am.

20 **POTENTIAL JUROR:** 127.

21 **THE COURT:** All right.

22 **POTENTIAL JUROR:** My sister is currently
23 employed at the Department of Corrections at
24 Kirkland.

25 **THE COURT:** And knowing that, can you set

1 that aside and sit as a fair and impartial juror
2 in this case?

3 **POTENTIAL JUROR:** Yes, sir.

4 **THE COURT:** All right. Thank you.

5 All right.

6 Have you, a family member, or close friend
7 ever been an employee of a prosecutor's office?

8 Yes, sir. Your juror number?

9 **POTENTIAL JUROR:** 201.

10 **THE COURT:** 201. Yes, sir.

11 **POTENTIAL JUROR:** My brother-in-law is a
12 prosecutor in Albuquerque.

13 **THE COURT:** In where?

14 **POTENTIAL JUROR:** New Mexico, Albuquerque.

15 **THE COURT:** In New Mexico. Is that -- he's
16 in -- state or federal prosecutor?

17 **POTENTIAL JUROR:** He's state.

18 **THE COURT:** And can you set that aside and
19 sit as a fair and impartial juror in this case?

20 **POTENTIAL JUROR:** Yes.

21 **THE COURT:** All right. Thank you, sir.

22 Have you, a family member, or close friend
23 ever served on a jury panel in a criminal case?

24 Yes, ma'am. Juror number?

25 **POTENTIAL JUROR:** 262.

1 **THE COURT:** And yes, ma'am.

2 **POTENTIAL JUROR:** It was October 2019,
3 attempted murder.

4 **THE COURT:** And that was you?

5 **POTENTIAL JUROR:** Correct.

6 **THE COURT:** Okay. All right.
7 And where was that?

8 **POTENTIAL JUROR:** Here?

9 **THE COURT:** In Richland County?

10 **POTENTIAL JUROR:** Correct.

11 **THE COURT:** All right. Thank you, ma'am.
12 Yes, ma'am.

13 **POTENTIAL JUROR:** 235.

14 **THE COURT:** Yes, ma'am.

15 **POTENTIAL JUROR:** Here in Richland County,
16 murder case, and it was me as well. And I think
17 it was in 2013, but I can't remember for sure.

18 **THE COURT:** And knowing that, can you set
19 that aside and sit again as a fair and impartial
20 juror?

21 **POTENTIAL JUROR:** I think so.

22 **THE COURT:** And let me go back to 262.

23 **POTENTIAL JUROR:** Yes. It was actually
24 dismissed.

25 **THE COURT:** All right.

1 For this case, can you sit as a fair and
2 impartial juror?

3 **POTENTIAL JUROR:** Yes, sir.

4 **POTENTIAL JUROR:** 213.

5 **THE COURT:** 213. Yes, ma'am.

6 **POTENTIAL JUROR:** And it was in this court.
7 And it was a rape case. And he was found guilty.

8 **THE COURT:** In 2013?

9 **POTENTIAL JUROR:** I'm not sure. It was under
10 Judge Newman. And it was (inaudible).

11 **THE COURT:** Okay.

12 And knowing that, can you sit again as a fair
13 and impartial juror?

14 **POTENTIAL JUROR:** Yes.

15 **THE COURT:** Thank you.

16 Yes, sir, Mr. Gamecock.

17 **POTENTIAL JUROR:** 132. It was a drunk
18 driving case in West Columbia and I do not
19 remember the year. It was a while ago.

20 **THE COURT:** And can you sit that aside and
21 sit as a fair and impartial juror again in this
22 case?

23 **POTENTIAL JUROR:** Yes, sir.

24 **THE COURT:** All right. Thank you.

25 Does anyone here believe that a person who

Jury Qualification

1 shoots and kills another person and is charged
2 with murder is therefore guilty?

3 (No audible response.)

4 **THE COURT:** Has any member of the jury panel
5 read or heard anything about this case today, or
6 before today, before you came into this room?

7 (No audible response.)

8 **THE COURT:** Has any member of the jury panel
9 discussed this case or heard anyone else discuss
10 this case or a similar case today or prior to
11 today?

12 (No audible response.)

13 **THE COURT:** Is there anything in the nature
14 of the allegations in this case which would cause
15 any member of the jury panel any problem in
16 sitting as an impartial juror and fair juror?

17 (No audible response.)

18 **THE COURT:** All right.

19 That is the list. Any -- any objections from
20 the state?

21 **MR. SCOTT:** No, Your Honor.

22 **THE COURT:** Any further objections from the
23 defense?

24 **MR. L. SHEALEY:** Yes, Your Honor. There was
25 that one particular question I asked you to ask.

1 **THE COURT:** Thank you. Thank you,
2 Mr. Shealey.

3 Does any member of the jury panel believe
4 that homosexuality is morally wrong or believes
5 someone who is homosexual is less credible than
6 someone who is not?

7 Yes, ma'am. Your juror number?

8 **POTENTIAL JUROR:** 263. I'm a Christian. So
9 I believe that sexuality is wrong.

10 **THE COURT:** All right. Thank you, ma'am.
11 Yes, sir.

12 **POTENTIAL JUROR:** Juror 132. Christian.

13 **THE COURT:** Thank you, sir.

14 **POTENTIAL JUROR:** 148. I'm also a Christian.

15 **THE COURT:** All right. Thank you, sir.
16 Yes, sir.

17 **POTENTIAL JUROR:** Juror 238.

18 **THE COURT:** Yes, sir.

19 **POTENTIAL JUROR:** I'm a Christian.

20 **POTENTIAL JUROR:** Would you read that
21 question again, please?

22 **THE COURT:** Yes, I will. Let me read the
23 question one more time.

24 Does any member of the jury panel believe
25 that homosexuality is morally wrong or believes

Jury Qualification

1 someone who is homosexual is less credible than
2 someone who has not?

3 Yes, ma'am. Your juror number.

4 **POTENTIAL JUROR:** I'm 309.

5 **THE COURT:** Yes, ma'am.

6 **POTENTIAL JUROR:** I'm a Christian, but I
7 believe I can look at this case for the merits of
8 it.

9 **THE COURT:** Thank you, ma'am.

10 Yes, sir, green shirt.

11 **POTENTIAL JUROR:** 269.

12 **THE COURT:** Yes, sir.

13 **POTENTIAL JUROR:** I'm a Christian. I believe
14 it's morally wrong (inaudible).

15 **THE COURT:** Thank you, sir.

16 **POTENTIAL JUROR:** 233.

17 **THE COURT:** Yes, ma'am.

18 **POTENTIAL JUROR:** I am a Christian.

19 **THE COURT:** And what was your juror number?

20 **POTENTIAL JUROR:** 233.

21 **THE COURT:** All right. Thank you, ma'am.

22 All right. Thank you, ladies and gentlemen.

23 **MR. L. SHEALEY:** May I -- may we approach for
24 a minute?

25 **THE COURT:** You may.

1 (A sidebar conference is held off the record.)

2 **THE COURT:** All right, ladies and gentlemen.
3 Your name is called, if you will follow the
4 instructions of the clerk.

5 **THE COURTROOM DEPUTY:** As I call the number,
6 I would like for you to gather what belongings you
7 brought with you into the courtroom. And I want
8 you to come and stand right over here in the
9 middle. And I want you to turn and face the
10 attorneys. I want you to say your number and your
11 occupation when you get up here. Okay?

12 Juror No. 127.

13 **POTENTIAL JUROR:** Juror No. 127, Dorothy
14 Hall, nutritionist operator.

15 **THE COURTROOM DEPUTY:** What says the state?

16 **MR. SCOTT:** Please present the juror.

17 **THE COURTROOM DEPUTY:** What says the defense?

18 **MR. L. SHEALEY:** Please seat this juror.

19 **THE COURTROOM DEPUTY:** Seat the juror.

20 Thank you. You can have a seat in the jury
21 box, please.

22 Juror No. 253, 253. That's good right there.

23 **POTENTIAL JUROR:** (Inaudible).

24 **THE COURTROOM DEPUTY:** What says the state?

25 **MR. SCOTT:** Please present the jury.

1 **THE COURTROOM DEPUTY:** Thank you.

2 What says the defense?

3 **MR. L. SHEALEY:** Please excuse this juror.

4 **THE COURTROOM DEPUTY:** Thank you. You can
5 have a seat at the back, please.

6 Juror No. 4.

7 **POTENTIAL JUROR:** (Inaudible).

8 **THE COURTROOM DEPUTY:** What says the state?

9 **MR. SCOTT:** Ask the juror to repeat what she
10 just said.

11 **THE COURTROOM DEPUTY:** Can you repeat what
12 you just said?

13 **POTENTIAL JUROR:** I'm unemployed.

14 **THE COURTROOM DEPUTY:** She's unemployed.

15 **MR. SCOTT:** Please present the juror.

16 **THE COURTROOM DEPUTY:** Thank you.

17 What says the defense?

18 **MR. L. SHEALEY:** Please seat this juror.

19 **THE COURTROOM DEPUTY:** Seat the juror.

20 Thank you. You can have a seat in the jury
21 box, please.

22 Juror No. 309.

23 **POTENTIAL JUROR:** Deborah Tolson. I'm a
24 senior risk consultant with Centene Corporation.

25 **THE COURTROOM DEPUTY:** What says the state?

1 **MR. SCOTT:** Please present the juror.

2 **THE COURTROOM DEPUTY:** Thank you.

3 What says the defense?

4 **MR. L. SHEALEY:** Please excuse this juror.

5 **THE COURTROOM DEPUTY:** Excuse the juror.

6 Thank you. You can have a seat in the back
7 of the courtroom, please.

8 Juror No. 203.

9 **POTENTIAL JUROR:** 203, (inaudible), federal
10 employee.

11 **THE COURTROOM DEPUTY:** What says the state?

12 **MR. SCOTT:** Please present the juror.

13 **THE COURTROOM DEPUTY:** Thank you.

14 What says the defense?

15 **MR. L. SHEALEY:** Please seat this juror.

16 **THE COURTROOM DEPUTY:** Seat the juror.

17 Thank you. You may have a seat in the jury
18 box, please.

19 Juror No. 73.

20 **POTENTIAL JUROR:** (Inaudible), machine
21 operator.

22 **THE COURTROOM DEPUTY:** What says the state?

23 **MR. SCOTT:** Please excuse the juror.

24 **THE COURTROOM DEPUTY:** Excuse the juror.

25 Thank you. You can have a seat in the back

1 of the courtroom, please.

2 Juror No. 340.

3 **POTENTIAL JUROR:** No. 340, Benjamin Willis.

4 I'm a -- sorry -- industrial and commercial
5 plumbing technician.

6 **THE COURTROOM DEPUTY:** What says the state?

7 **MR. SCOTT:** Please present the juror.

8 **THE COURTROOM DEPUTY:** What says the defense?

9 **MR. L. SHEALEY:** Please excuse this juror.

10 **THE COURTROOM DEPUTY:** You may be seated in
11 the back of the courtroom, please.

12 Juror No. 201, 201.

13 **POTENTIAL JUROR:** 201, I'm the director of
14 (inaudible) insurance training.

15 **THE COURTROOM DEPUTY:** What says the state?

16 **MR. SCOTT:** Please present the juror.

17 **THE COURTROOM DEPUTY:** Thank you.

18 What says the defense?

19 **MR. L. SHEALEY:** Please excuse this juror.

20 **THE COURTROOM DEPUTY:** Excuse me?

21 **MR. L. SHEALEY:** Please excuse this juror.

22 **THE COURTROOM DEPUTY:** Thank you.

23 You can have a seat in the back of the
24 courtroom, please.

25 Juror No. 33?

1 **POTENTIAL JUROR:** Juror No. 33.

2 Manufacturing engineer.

3 **THE COURTROOM DEPUTY:** What says the state?

4 **MR. SCOTT:** Please present the juror.

5 **THE COURTROOM DEPUTY:** Thank you.

6 What says the defense?

7 **MR. L. SHEALEY:** Please seat this juror.

8 **THE COURTROOM DEPUTY:** Have a seat in the
9 jury box, please.

10 Juror No. 233. Right here is fine. You're
11 good. Okay. Go ahead.

12 **POTENTIAL JUROR:** Jamie Palmer. I work at
13 the VA hospital as a clerk.

14 **THE COURTROOM DEPUTY:** What says the state?

15 **MR. SCOTT:** Please present the juror.

16 **THE COURTROOM DEPUTY:** Thank you.

17 What says the defense?

18 **MR. L. SHEALEY:** Your Honor, may we approach?

19 **THE COURT:** Is -- for cause?

20 **MR. L. SHEALEY:** I think that was one the
21 Court was gonna do.

22 **THE COURT:** I'll let you make a --

23 **MR. L. SHEALEY:** Okay.

24 I'd move for cause.

25 **THE COURT:** All right.

1 We'll grant that.

2 Thank you, ma'am.

3 Stricken for cause.

4 **THE COURTROOM DEPUTY:** You can take a seat in
5 the back of the courtroom, please.

6 Juror No. 13.

7 **POTENTIAL JUROR:** My name is Joseph
8 Armstrong. I'm a general dentist.

9 **THE COURTROOM DEPUTY:** What says the state?

10 **MR. SCOTT:** Please present the juror.

11 **THE COURTROOM DEPUTY:** Thank you.

12 What says the defense?

13 **MR. L. SHEALEY:** Please excuse this juror.

14 **THE COURTROOM DEPUTY:** Excuse the juror.

15 Thank you. Take a seat in the back of the
16 courtroom.

17 Juror No. 183.

18 **POTENTIAL JUROR:** Juror 183. I'm a mechanic.

19 **THE COURTROOM DEPUTY:** What says the state?

20 **MR. SCOTT:** Please present the juror.

21 **THE COURTROOM DEPUTY:** Thank you.

22 What says the defense?

23 **MR. L. SHEALEY:** Please seat this juror.

24 **THE COURTROOM DEPUTY:** Thank you.

25 Take a seat in the jury box, please.

1 Juror No. 308.

2 **POTENTIAL JUROR:** David Timmerman, disabled,
3 formerly sales and marketing for a liquor store.

4 **THE COURTROOM DEPUTY:** What says the state?

5 **MR. SCOTT:** Please present the juror.

6 **THE COURTROOM DEPUTY:** Thank you.

7 What says the defense?

8 **MR. L. SHEALEY:** Please excuse this juror.

9 **THE COURTROOM DEPUTY:** Thank you.

10 You can have a seat in the back of the
11 courtroom, please.

12 Juror No. 121.

13 **POTENTIAL JUROR:** Juror 121, Joshua Gregg. I
14 teach in the University of South Carolina
15 (inaudible) consultant company. I've also worked
16 in the recovery community to help people with
17 rehabilitation from substance use disorders.

18 **THE COURTROOM DEPUTY:** What says the state?

19 **MR. SCOTT:** Please present the juror.

20 **THE COURTROOM DEPUTY:** Thank you.

21 What says the defense?

22 **MR. L. SHEALEY:** Please seat this juror.

23 **THE COURTROOM DEPUTY:** Excuse me? Seat the
24 juror?

25 **MR. L. SHEALEY:** Seat. Yes, ma'am. I'm

1 sorry.

2 **THE COURTROOM DEPUTY:** If you would have a
3 seat in the jury box, please.

4 Juror No. 2.

5 **POTENTIAL JUROR:** Juror No. 2, Mary Linda
6 Abel. I'm a nurturer of children.

7 **THE COURTROOM DEPUTY:** What says the state?

8 **MR. SCOTT:** Please present the juror.

9 **THE COURTROOM DEPUTY:** Thank you.
10 What says the defense?

11 **MR. L. SHEALEY:** Please seat this juror.

12 **THE COURTROOM DEPUTY:** Seat the juror. You
13 can have a seat in the jury box, please.

14 Juror No. 329.

15 **POTENTIAL JUROR:** Brenda Whitfield, No. 329,
16 retired and disabled.

17 **THE COURTROOM DEPUTY:** What says the state?

18 **MR. SCOTT:** Please present the juror.

19 **THE COURTROOM DEPUTY:** Thank you.
20 What says the defense?

21 **MR. L. SHEALEY:** Please seat this juror.

22 **THE COURTROOM DEPUTY:** Seat the juror. Thank
23 you.

24 You can have a seat in the jury box, please.

25 Juror No. 212.

1 **POTENTIAL JUROR:** Robert McFall, and I'm a
2 full-time student.

3 **THE COURTROOM DEPUTY:** What says the state?

4 **MR. SCOTT:** Please present the juror.

5 **THE COURTROOM DEPUTY:** Thank you.

6 What says the defense?

7 **MR. L. SHEALEY:** Please seat this juror.

8 **THE COURTROOM DEPUTY:** Seat the juror.

9 Thank you.

10 You can have a seat in the jury box, please.

11 Juror No. 238.

12 **POTENTIAL JUROR:** Juror 238, (inaudible),

13 High School JROTC instructor (inaudible).

14 **THE COURTROOM DEPUTY:** What says the state?

15 **MR. SCOTT:** Please present the juror.

16 **THE COURTROOM DEPUTY:** Thank you.

17 What says the defense?

18 **MR. L. SHEALEY:** Your Honor, we'd move to

19 strike for cause.

20 **THE COURT:** Stricken for cause.

21 **THE COURTROOM DEPUTY:** You can have the
22 seat -- seat in the back of the jury [sic] room,
23 please.

24 Juror No. 285.

25 **POTENTIAL JUROR:** Molly Smith. I'm a

1 student.

2 **THE COURTROOM DEPUTY:** What says the state?

3 **MR. SCOTT:** Please present the juror.

4 **THE COURTROOM DEPUTY:** Thank you.

5 What says the defense?

6 **MR. L. SHEALEY:** Please seat this juror.

7 **THE COURTROOM DEPUTY:** Seat the juror.

8 Thank you. You can have a seat in the jury
9 box, please.

10 Juror No. 196.

11 **POTENTIAL JUROR:** Juror 196. I'm (inaudible)
12 for the Department of Corrections.

13 **THE COURTROOM DEPUTY:** What says the state?

14 **MR. SCOTT:** Please present the juror.

15 **THE COURTROOM DEPUTY:** Thank you.

16 What says the defense?

17 **MR. L. SHEALEY:** Please seat the juror.

18 **THE COURTROOM DEPUTY:** Thank you.

19 You can have a seat in the jury box, please.

20 Juror No. 267.

21 **POTENTIAL JUROR:** 267, Jennifer (inaudible).

22 **THE COURTROOM DEPUTY:** What says the state?

23 **MR. SCOTT:** Please present the juror.

24 **THE COURTROOM DEPUTY:** Thank you.

25 What says the defense?

1 **MR. L. SHEALEY:** Please seat this juror.

2 **THE COURTROOM DEPUTY:** Seat the juror. Thank
3 you. You can have a seat in the jury box, please.

4 **THE COURT:** Two alternates.

5 **THE COURTROOM DEPUTY:** Two alternates?

6 **THE COURT:** Two alternates. One, two
7 strikes.

8 **THE COURTROOM DEPUTY:** Yes, sir.

9 **THE COURT:** All right.

10 **THE COURTROOM DEPUTY:** Juror No. 51.

11 **POTENTIAL JUROR:** No. 51, (inaudible). I
12 work in Student Affairs at USC.

13 **THE COURTROOM DEPUTY:** What says the state?

14 **MR. SCOTT:** Please present the alternate.

15 **THE COURTROOM DEPUTY:** Thank you.

16 What says the defense?

17 **MR. L. SHEALEY:** Please seat this juror.

18 **THE COURTROOM DEPUTY:** Seat the juror.

19 Thank you. You can have a seat in jury box,
20 please.

21 Juror No. 188.

22 **POTENTIAL JUROR:** Juror 188, Joe. I teach
23 high school English and coach golf.

24 **THE COURTROOM DEPUTY:** What says the state?

25 **MR. SCOTT:** Please present the alternate.

1 **THE COURTROOM DEPUTY:** Thank you.

2 What says the defense?

3 **MR. L. SHEALEY:** Please seat the juror.

4 **THE COURTROOM DEPUTY:** Seat the juror.

5 You can have a seat in the jury box, please.

6 I think that's it.

7 **THE COURT:** Ladies and gentlemen of the jury
8 panel, I'm going to have you briefly go back to
9 your deliberation room. But do not deliberate.
10 You're going to hear me say this over and over
11 again. Do not begin any deliberations. Do not
12 talk about the case. Do not do any independent
13 research. I'm gonna send you back there for a
14 brief few minutes. Don't get too comfortable.
15 And we'll bring you back out just a few minutes
16 after I speak with the attorneys. So thank you
17 very much. Do not discuss the case.

18 (The jury panel exits the courtroom.)

19 **THE COURT:** Anything from the state?

20 **MR. SCOTT:** No, Your Honor.

21 **THE COURT:** Anything from the defense?

22 **MR. L. SHEALEY:** Just for the record, just
23 respectful objections to voir dire you declined to
24 ask.

25 **THE COURT:** Yes. The objection to voir dire

1 is renewed.

2 Anything before I release this jury panel?

3 **MR. L. SHEALEY:** No, Your Honor.

4 **THE COURT:** All right, ladies and gentlemen.

5 You're released from this jury panel. And thank

6 you again for your service. If you will follow

7 the instructions of the clerk and the bailiffs, I

8 believe they will have you go back down to the

9 jury room. But I don't want to mislead you. So

10 if you'll follow their instructions, I want to

11 thank you again for doing your duty and your

12 service this week for your state and your country.

13 Thank you.

14 **THE COURTROOM DEPUTY:** If you-all could go
15 back downstairs to the jury room where Flo is for
16 further instructions, please.

17 (The jury pool exits the courtroom at 1:02 p.m.)

18 **THE COURT:** All right.

19 For scheduling purposes, it's 1:05. I have
20 the pretrial motions from the defense. Is that --
21 is there anything else besides these that we need
22 to get through pretrial-wise?

23 **MR. SCOTT:** There's a statement by the
24 defendant, Your Honor. And probably just a quick
25 *Denno* hearing to make sure it was freely

1 voluntarily given. I don't have anything other
2 than that.

3 **THE COURT:** All right.

4 So y'all want to take -- take lunch, come
5 back, do that, and then bring the jury back
6 around -- have the jury come back at three
7 o'clock?

8 **MR. L. SHEALEY:** That will work, yeah.

9 **THE COURT:** And then lunch till 2:15? Does
10 that give y'all enough time?

11 **MR. L. SHEALEY:** Yes, sir.

12 **THE COURT:** All right.

13 And then, I know the clerk's got to be here
14 early. So we'll do -- we'll start back at 2:15.
15 We'll tell the jury to be back at 2:45 so that
16 there'll be at three o'clock. Anything else?

17 I'm gonna bring the jury back in and tell
18 them that. Anything else before we bring the jury
19 back from the state?

20 **MR. SCOTT:** Nothing from the state.

21 **THE COURT:** Anything from the defense?

22 **MR. L. SHEALEY:** No, sir.

23 **THE COURT:** All right.

24 Let's bring the jury back in.

25 (The jury enters the courtroom at 1:06 p.m.)

1 **THE COURT:** Looks like all the jurors are
2 accounted for.

3 All right, ladies and gentlemen. Thank you
4 again for your service. We're going to go ahead
5 and take a lunch break. It'll be a little bit
6 longer than what you'll probably see normally this
7 week. But it is right now 1:07. If you will be
8 back in the jury deliberation room at 2:45.

9 I want to remind you again not to discuss the
10 case amongst yourself -- yourselves, your friends,
11 spouses, whomever. Do not discuss the case. Do
12 not do any independent research. Everything about
13 this case will come from this courtroom.

14 And I also want to remind you, too, that at
15 some point, you might see these attorneys out in
16 the lobby, out on the street. They are instructed
17 not to speak to you, not to smile at you, not to
18 do anything. And so it's not them being rude in
19 any way. They would love nothing more, we-all
20 would, to talk. But they're not allowed to. And
21 they follow that oath and that direction very
22 seriously, because they're officers of this court
23 and I'm very appreciative of that. So if you
24 happen to see them and they avoid eye contact,
25 it's because that's what they're instructed to do.

1 So I will see you back here in the
2 deliberation room at 2:45. Do not discuss the
3 case or research it. Thank you-all very much.

4 (The jury exits the courtroom at 1:08 p.m.)

5 **THE COURT:** Anything else from the state?

6 **MR. SCOTT:** No, Your Honor.

7 **THE COURT:** Anything else from the defense?

8 **MR. L. SHEALEY:** No, sir.

9 **THE COURT:** All right. 2:15.

10 (Lunch recess is taken.)

11 **THE COURT:** All right.

12 Thank you. You may be seated.

13 All right.

14 I got the pretrial motions from the defense.
15 And I know for the state, you've got a *Jackson v.*
16 *Denno*; is that correct?

17 **MR. SCOTT:** Yes, Your Honor.

18 **THE COURT:** Are y'all ready to go forward
19 with the *Jackson v. Denno*?

20 **MR. SCOTT:** We are.

21 **THE COURT:** State -- defense ready to go
22 forward?

23 **MR. L. SHEALEY:** Yes, sir.

24 **THE COURT:** All right.

25 Let's go ahead with the *Jackson v. Denno*

1 hearing.

2 **MR. SCOTT:** All right.

3 Your Honor, the state calls Tai Jordan.

4 **THE COURTROOM DEPUTY:** Could you state your
5 full name, please?

6 **THE WITNESS:** Taima Jordan.

7 **THE COURTROOM DEPUTY:** Spell your first name,
8 please.

9 **THE WITNESS:** T-a-i-m-a.

10 **THE COURTROOM DEPUTY:** Do you solemnly swear
11 the testimony you're about to give in this case
12 will be the whole truth, the whole truth, and
13 nothing but the truth so help you God?

14 **THE WITNESS:** I do.

15 **THE COURTROOM DEPUTY:** Thank you. You can
16 have a seat right there.

17 **TAIMA JORDAN**

18 having first been duly sworn, testifies as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. SCOTT:**

21 **Q** January 22, 2021, did you have occasion
22 become involved in the investigation (inaudible) in
23 Hopkins?

24 **A** Yes, I did.

25 **Q** (Inaudible).

1 **A** Actually, the following Monday. I believe
2 this happened on a weekend. So it was that following
3 Monday.

4 **Q** Okay.

5 At some point, did you have an opportunity to
6 interview Jamira Davis?

7 **A** Yes, sir. I did.

8 **Q** Okay.

9 When was that?

10 **A** February 1.

11 **Q** 2021?

12 **A** Yes, sir.

13 **Q** Okay.

14 And where did you have the opportunity to
15 interview her?

16 **A** Richland County Sheriff's Department.

17 **Q** Okay.

18 What was the -- how did she come to be at the
19 sheriff's department speaking with you?

20 **A** Initially, when the incident occurred, and
21 found out what we found out as far as the victim being
22 shot, a search warrant was done on his cell phone for
23 his cell phone records. And we found several phone
24 calls prior to, I guess, the unfortunate incident. We
25 were able to account for all the phone numbers except

1 for one. And that phone number happened to belong to
2 Ms. Davis.

3 Q Okay.

4 As of January [sic] 1, 2021, had you at that
5 point, I guess, narrowed down and pinpointed a suspect
6 out as far as who you were looking for?

7 A Not necessarily. We had persons of interest.
8 And we eliminated those individuals and went back to
9 the phone.

10 Q Okay.

11 So what would Jamira Davis have been
12 considered on February 1?

13 A More so, I guess, we just wanted to know
14 why -- why she had contact with the -- the defendant,
15 although we knew that her and -- her mom and the
16 defendant had a prior relationship?

17 Q Okay.

18 Well, how did she arrive at the sheriff's
19 department on that particular day?

20 A I believe she drove herself there, but I'm
21 mistaken.

22 Q Okay.

23 So she came there freely and voluntarily?

24 A She did.

25 Q And was that a result of a phone call to her

1 or --

2 **A** Yes, it was.

3 **Q** Okay.

4 So you call her up and asked if she would be
5 willing to come to the sheriff's department to speak to
6 you a little bit about --

7 **A** Yes, sir.

8 **Q** -- Mr. Burden, and any -- any knowledge she
9 may have of his death?

10 **A** Yes, sir.

11 **Q** Okay.

12 And was that interview video and audio
13 recorded?

14 **A** Yes, sir. It was.

15 **Q** Okay.

16 About four minutes and 14 seconds into the
17 interview, did you have occasion to Mirandize her?

18 **A** Yes, sir. I did.

19 **MR. SCOTT:** Judge, I've got an advisement of
20 rights. I can make it a Court's exhibit or --

21 **THE COURT:** Court's exhibit.

22 **MR. SCOTT:** This will be Court's Exhibit 1.

23 (Court's Exhibit No. 1 is marked for
24 identification.)

25 **BY MR. SCOTT:**

1 **Q** This is Court's No. 1. And I've got a date
2 of February 1, 2021, and a time of about 2:10 p.m.
3 What is that?

4 **A** Richland County Sheriff's Department
5 Interrogation Advise of Rights.

6 **Q** Okay.

7 And so, again, would you agree with me that
8 was about four minutes and 14 seconds, give or take a
9 second or two, into your interview with her?

10 **A** Yes, sir.

11 **Q** All right.

12 And you said it was at the sheriff's
13 department. Is it just in one of your interview rooms?

14 **A** Yes, sir.

15 **Q** Okay.

16 Was she detained?

17 **A** No, sir. She was not.

18 **Q** Okay.

19 She -- was she in handcuffs or anything like
20 that?

21 **A** No, sir. No, sir.

22 **Q** Well, let me ask you this. If she had sat
23 down and said, you know, "Nevermind, I don't -- I don't
24 want to talk to you anymore," and turned around and
25 left, was there anything you would have been able to do

1 to stop her at that point?

2 **A** No, sir.

3 **Q** Okay.

4 So she voluntarily agreed to speak with you
5 after you went over her Miranda rights. And what are
6 they according to Court's Exhibit No. 1?

7 **A** "Before we ask you any questions, you must
8 understand your rights. You have the right to remain
9 silent. Anything you say can be used against you in
10 court. You have the right to talk to a lawyer for
11 advice before we ask you any questions, and to have a
12 lawyer with you during any questioning.

13 "If you cannot afford a lawyer, one will be
14 appointed before any questioning, if you wish. If you
15 decide to answer questions now without a lawyer
16 present, you still have the right stop answering at any
17 time. You also have the right to stop answering at any
18 time until you talk to a lawyer."

19 And at that part -- at that point, I ask them
20 if they understand them. I ask them to read along with
21 me. I have them initial by each one that they read
22 them, I read them, they understand them, and have them
23 sign. Then we witness.

24 And then, at the bottom it's a waiver of
25 rights. And it states, "I have read this statement of

1 my rights. I understand what my rights are. I am
2 willing to talk and answer questions. I understand and
3 know what I am doing. No promises have been made to
4 me, no pressure or coercion of any kind was used
5 against me."

6 And normally, I would explain what coercion
7 means. I ask them if they understand what coercion
8 means. And at that point, if they do, I get them to
9 initial once again and sign.

10 Q Okay.

11 And she did initial each one of the -- the
12 rights as you read them to her?

13 A Yes, sir.

14 Q Did she appear to be under the influence of
15 anything?

16 A No, sir.

17 Q I think she indicated she graduated from
18 Lower Richland in 2018?

19 A She did.

20 Q So she could read and write?

21 A Yes, sir.

22 Q And did you have any issue communicating back
23 and forth with her?

24 A No, sir.

25 Q Okay. Okay.

1 After reading her her rights, did you engage
2 in an interview with her?

3 **A** I did.

4 **Q** Okay.

5 Approximately three hours and 22 minutes,
6 would you agree that that's about how long that
7 interview lasted?

8 **A** Roughly.

9 **Q** Okay.

10 At any point did she indicate that she wanted
11 to stop the interview?

12 **A** No, sir.

13 **Q** At any point, did she indicate that she
14 needed a lawyer present?

15 **A** No, sir.

16 **Q** Okay.

17 At any point, did -- did you threaten her in
18 any way?

19 **A** I did not.

20 **Q** Okay.

21 Did you deny her any request? Did she have
22 any request for food or water or bathroom breaks that
23 you denied?

24 **A** No, sir.

25 **Q** And so during that three hours and 20 minutes

1 in speaking with her, it was a free and voluntary --
2 free and voluntary question-answer format?

3 **A** It was. Yes, sir.

4 **MR. SCOTT:** Okay. All right.

5 Your Honor, that's all I have for this
6 witness.

7 Please answer any questions --

8 **THE WITNESS:** Yes, sir.

9 **MR. SCOTT:** -- defense attorney has for you.

10 **MR. L. SHEALEY:** May it please the Court?

11 **THE COURT:** Yes, sir.

12 **CROSS-EXAMINATION**

13 **BY MR. L. SHEALEY:**

14 **Q** Hey, Investigator Jordan.

15 **A** How are you doing, sir?

16 **Q** Good.

17 Do you have your report with you?

18 **A** Investigator follow-up?

19 **Q** Yeah.

20 **A** I do.

21 **Q** I want to make sure that I know what I'm
22 looking at. Is that -- do you mind if I look at it
23 real quick?

24 **A** Sure.

25 **Q** Is that the 11-page one?

1 **A** It is.

2 **Q** Okay.

3 That might help me. Okay.

4 I just didn't -- this is seven. But it's --
5 this is the 11-page report here?

6 **A** It is. Right here.

7 **Q** Okay.

8 **A** I'm sorry.

9 **Q** I just didn't see your signature on it or
10 anything. So I was little --

11 **A** That's mine, yes, sir.

12 **Q** Okay.

13 That's the one --

14 **A** Yeah.

15 **Q** That's your official report for this.

16 **A** It is, yes.

17 **Q** Okay.

18 So, you know, Jamira, I think you testified,
19 became a suspect in this case based on phone records?

20 **A** Yes.

21 **Q** Cause y'all had subpoenaed Boleg's records.
22 And it turns out, there was an unknown number y'all
23 were cueing in on that seem to be one of the last
24 numbers to be in contact with him?

25 **A** Correct.

1 **Q** And then once she figured out that that was
2 hers, you obviously wanted to talk to her, right?

3 **A** Yes, sir.

4 **Q** But I think you said you didn't have a
5 warrant for her arrest at that time, right?

6 **A** We did not.

7 **Q** She came on down -- was it -- was it
8 headquarters on Two Notch Road?

9 **A** Yes, sir.

10 **Q** Okay.

11 And so this is -- this is an interview room,
12 right? Standard interview room.

13 **A** Yes, sir.

14 **Q** Okay.

15 It's not like your office or something?

16 **A** No, sir.

17 **Q** It has audio and video recording
18 capabilities?

19 **A** It does.

20 **Q** I got a transcript from that entire over
21 three-hour interview, but I don't think I'll need to
22 use it. But do you recall ever advising her that she
23 was being recorded at all?

24 **A** No, I did not. But it's obvious when you
25 walk into a room that there's big microphones on the

1 side of the wall. And there's a monitor outside. So
2 it's -- people walk by it and know that it's an
3 interview -- excuse me, recorded interview room.

4 Q Okay.

5 So you think it would be obvious to the
6 average person, but you didn't know --

7 A No, I didn't -- no, I did not.

8 Q Okay.

9 And I know you went over the advisement of
10 rights. And you mentioned how you go over it and talk
11 about what "coercion" means typically, right?

12 A Yes, sir.

13 Q Now you recall her telling you that she
14 didn't understand what "coercion" means in this case?

15 A I don't. But I mean, if you said I did, then
16 I would have explained it to her to make --

17 Q Okay.

18 A -- try to get her to understand it.

19 Q You don't disagree with that if I'm telling
20 you it's in this transcript?

21 A Not if it's in this transcript, I can't
22 disagree with it.

23 Q Okay.

24 But you say it's your practice to try to then
25 explain it to them?

1 **A** Correct.

2 **Q** I don't -- I don't read that you asked her
3 about her education levels or whether she could read or
4 anything like that. Is it your standard practice not
5 to do that?

6 **A** Well, once she told me she graduated from
7 high school, I think you have to have -- past certain
8 courses to be able to do that. So that would mean she
9 was able to read and write.

10 **Q** Okay.

11 So you -- you made that assumption?

12 **A** Based on her graduating high school, yes.

13 **Q** Do you remember her talking to you about a
14 job she had lined up out of state kind of doing temp
15 work?

16 **A** Correct. In Iowa.

17 **Q** All right.

18 She -- she said it was Iowa, L-o-w-a.
19 Remember that?

20 **A** I don't. But if -- once again, if it's in
21 the transcript, then I guess --

22 **Q** Okay.

23 **A** -- she would have said it. But okay.

24 **Q** Okay.

25 Now, at first when you're interviewing her,

1 it's you and Investigator Hook sitting there, right?

2 **A** Correct.

3 **Q** And am I right in that he would swap out and
4 Investigator Eisenhower would come in with you?

5 **A** I believe that's -- yes, sir. Yep.

6 **Q** And that would go on for about an hour. And
7 it -- it's at that point when she's -- you're pretty
8 much confronting her with what you believe is evidence
9 of her being at the scene; is that fair?

10 **A** Yes, sir.

11 **Q** Okay.

12 And that goes on for a while. And do you
13 agree then that you leave and Investigator -- or
14 Captain Godfrey and Dauway would come in at that point
15 and swap out?

16 **A** Yes, sir.

17 **Q** And ultimately, it -- I don't know. That's
18 over the two-hour mark. You agree that that's the
19 point where she admits to being there, and per the
20 audio recording and all, being -- being the shooter in
21 the context of this, what she would say is assault on
22 her, right?

23 **A** Yes, sir.

24 **Q** Okay.

25 Now, are you -- now are you watching at that

1 time from a one-way mirror or from your office?

2 **A** No, I think we had only -- we're able to
3 stream it --

4 **Q** Okay.

5 **A** -- through different computers. So probably
6 watching it with somebody else.

7 **Q** Okay.

8 Now, the point that she admits it -- I mean,
9 you -- you agree you'd been kind of confronting her in
10 the early phase of it, seeing her -- you don't think
11 she's being honest with y'all, right?

12 **A** Correct.

13 **Q** Asking her how her mama would feel about it,
14 things like that, right?

15 **A** Correct.

16 **Q** And then once she admits it with Captain
17 Godfrey, and you -- you come back eventually and you're
18 not really confronting her with it anymore, right?

19 **A** She's already said it.

20 **Q** You're kind of getting her to act it out and
21 explain it.

22 **A** Correct. Uh-huh. Yes, sir.

23 **Q** Did you have your department-issued firearm
24 on you throughout this --

25 **A** No, sir.

1 **Q** Okay.

2 Do you know her if Hook or Isenhoward or
3 Godfrey did?

4 **A** Without looking at the video again, I
5 couldn't tell you. But it's policy not to have it on.
6 You used to put it in a locker or leave it in your
7 office.

8 **Q** Okay.

9 And it's -- it's your testimony that even
10 though she's in the interview room, and her -- hers is
11 the last known number, that she would be free to leave
12 if she wanted to?

13 **A** Yes, sir.

14 **Q** At any point?

15 **A** Sure.

16 **Q** Even in towards the end where she admits that
17 she shot him after he attacked her? She's --

18 **A** No, at --

19 **Q** -- free to leave at that point?

20 **A** No. At that point, no, sir.

21 **Q** Okay.

22 So at that point, you view her as someone
23 that you're probably going to charge?

24 **A** Correct.

25 **Q** Okay.

1 But prior to that, during the kind of first
2 part, that's your testimony --

3 **A** Yes.

4 **Q** -- that she's free to leave?

5 **A** Yes, sir.

6 **Q** Okay.

7 You recall her ever asking for water?

8 **A** If she did, I would have given it to her.

9 **Q** Okay.

10 She didn't ask for food or anything like
11 that?

12 **A** If she did, I would have given it to her.

13 **MR. L. SHEALEY:** Beg the Court's indulgence
14 really quick.

15 **THE COURT:** Sure.

16 (Pause in proceeding.)

17 **MR. L. SHEALEY:** Your Honor, I don't think I
18 have any more questions.

19 **THE COURT:** Anything else from the state?

20 **MR. SCOTT:** No, Your Honor.

21 **THE COURT:** Thank you, sir. You may step
22 down.

23 **THE WITNESS:** Thank you.

24 **MR. SCOTT:** As far as the state is concerned,
25 that settles the free and voluntary nature of the

1 statement, Your Honor. I'm happy to provide
2 argument if you need to.

3 **THE COURT:** Anything from the defense before
4 arguments?

5 **MR. L. SHEALEY:** No, Your Honor. I'll just
6 defer to your judgment on that.

7 **THE COURT:** You aren't putting up the
8 defendant or anything to testify, correct?

9 **MR. L. SHEALEY:** Not in this hearing, no,
10 sir.

11 **THE COURT:** All right. All right.

12 Yes, sir. I'm happy to hear arguments.

13 **MR. SCOTT:** Judge, this is an analysis as to
14 whether or not that statement was freely and
15 voluntarily given. The incident was
16 January 22, 2021. This particular interview was
17 February 1, 2021. She was called and asked to
18 come into the sheriff's department. She
19 voluntarily did so. She provided her own
20 transportation and showed up to the sheriff's
21 department.

22 From then, she met with Investigator Jordan
23 in one of their rooms there that -- again, what
24 they had at that point was a phone number that was
25 associated with her, some of the last phone calls

1 or activity on the victim's phone. And so it was
2 a information-gathering type meeting. That was
3 the sole purpose of having her come in there.
4 That's about all they had at that point. They
5 knew she had a relationship with the victim. And
6 they had these phone calls at the time that
7 were -- they wanted to get a little bit more
8 information on.

9 Again, Jordan said if she had come in there
10 and had a change of heart and said "I -- I
11 don't -- I don't want to participate anymore," she
12 could have turned around and walked right back out
13 the door. At no point was she handcuffed.

14 About four minutes into the interview, he
15 advised her of her rights. Just good detective
16 work. I don't think he even needed to do at that
17 point, but he did. She freely and voluntarily
18 signs that waiver and advisement of rights. And
19 thereafter, she speaks freely of Investigator
20 Jordan.

21 You heard the testimony. At that point was
22 she ever denied any request that she made, whether
23 that be for food, water, bathroom breaks, a
24 lawyer, anybody else to sit in on the interview.
25 At no point was she threatened in any way. She --

1 she was able to speak freely. And as Investigator
2 Jordan said, he did not note any impairment on her
3 behalf. And she seemed to understand.

4 All that taken into account, Your Honor, we
5 think that her statement to Investigator Jordan on
6 February 1, 2021, would be admissible as it was
7 freely and voluntarily given.

8 **MR. L. SHEALEY:** Your Honor, I'll defer to
9 your judgment on the matter.

10 **THE COURT:** All right.

11 I'm gonna admit the statement in. Based on
12 the testimony from the investigator, the
13 advisement of rights, his testimony that she
14 didn't appear to be under the influence. It
15 appeared that she was able to read and write based
16 on the assumptions of her high school graduation.
17 There were no communication issues apparently
18 between the investigator and Ms. Davis here, as
19 well as there's no indication that she indicated
20 she wanted to stop for break or for a lawyer or
21 she wanted to stop in general.

22 The investigator said there -- he made no
23 threats. And if she had requested a break, he
24 would have given her. He never denied one. So I
25 find that the statement, it was made freely and

1 voluntarily.

2 Any other motions from the state?

3 **MR. SCOTT:** No, Your Honor.

4 **THE COURT:** And for the pretrial motions, you
5 just want to start -- start No. 1.

6 **MS. DEMER:** That works for me, Your Honor.

7 **THE COURT:** All right.

8 You can go right ahead.

9 **MS. DEMER:** May it please the Court?

10 **THE COURT:** Yes, ma'am.

11 **MS. DEMER:** I would just like to renew my
12 prior motions for discovery under Rule 5 and
13 *Brady*, as well as my motion to compel that I
14 previously filed. There are still a number of
15 items that were ordered to be turned over that I
16 had not received.

17 I know that Mr. Scott has previously stated
18 that there was not a statement from Alesha Thomas
19 that he received. But in Robert Hook's
20 investigative report, it does indicate that she
21 provided a written statement. I'd sort of like an
22 explanation for why that wouldn't have been heard
23 over.

24 We also have not been provided those warrants
25 from 1995. Those are warrants E553480, 485, and

1 490.

2 And we have not received the fire marshals
3 file, which I believe would include reports,
4 notes, photographs, and diagrams. We did subpoena
5 the fire marshal to be here today, although I've
6 not been notified that he's present or that he's
7 brought any of his files with him.

8 I'd also like to confirm that, in the motion
9 to compel, the state was ordered to verify whether
10 any other body-worn camera videos were taken. And
11 so I'd like to confirm whether there have been any
12 other body-worn camera videos found.

13 There's also -- it does appear that Ms. Tonja
14 Simons, Mr. Burden's sister, or half sister,
15 provided a written statement in the scene that's
16 visible on body-worn camera. So I'd like either
17 that statement or an explanation of why it's not
18 been produced.

19 Finally, I'd like any other evidence that the
20 state may have found while preparing for trial 11
21 right.

22 **THE COURT:** All right.

23 Thank you, ma'am.

24 Yes, sir, Mr. Scott or Mr. Jackson.

25 **MR. SCOTT:** They have everything we have. We

1 have been in a number of hearings regarding this.
2 Investigator Jordan's been at those meetings. I
3 have no more body cams than what she currently has
4 in her possession. You're not gonna see any --
5 anything produced at this trial that she doesn't
6 have.

7 I don't have a Tonja Simons's written
8 statement. I don't have an Alesha Thomas written
9 statements. I know what she's talking about.
10 There is a reference to speaking with Ms. Thomas.
11 I don't have any written statement.

12 I mean, let the court reporter bolden that.
13 I'm not withholding any evidence from Ms. Demer,
14 lest she think that that I'm withholding
15 something. That is simply not the case.

16 The files that she wants from approximately
17 the 30 years ago have been archived. And there is
18 a company Your Honor's familiar with, Iron
19 Mountain. Investigator Jordan has contacted them.
20 He -- he had been bringing thousands of documents
21 in boxes from their archives. He has spent hours
22 of his time going through them and has been unable
23 to find these particular warrants.

24 I was a sophomore in high school at that
25 time. Thirty years old. I don't know how in

1 relevant this case, how they are material. But
2 we've done our due diligence to attempt to locate
3 them and have been unsuccessful. So I want the
4 record to be clear on that as well.

5 What else?

6 **THE COURT:** Fire marshal report.

7 **MR. SCOTT:** Fire marshal's report. I was
8 told and -- and attempted to comply with that.
9 There's a James Ballentine. He did indicate that
10 he had spoken with the defense and provided his
11 report to them.

12 We called him last week. And he said,
13 "They've already talked to me. I've given them
14 what I have."

15 The only other report I have -- and I -- I
16 had to learn this. There's a city -- under the
17 fire marshal, the City of Columbia actually --
18 that's what I was curious. Why is the City of
19 Columbia out in Hopkins? But there's -- there is
20 a unit that falls under the umbrella of the fire
21 marshal. They have that. That's a Sean Cason.
22 They have his report.

23 The fire marshal is a James Ballentine. He
24 is a Richland County employee, whereas Cason was a
25 city employee. It took some time to figure out

1 the distinction between the two. But she -- she's
2 got him under subpoena. I've got him under
3 subpoena. He -- he will be here.

4 He is -- again, this -- this case starts as
5 a -- as a fire. So the fire marshal is there.
6 And they're trying to figure out why this house
7 burned down. Initially -- or eventually, they
8 come to the conclusion that a kerosene heater
9 caused the fire. And I -- I don't -- I don't have
10 any evidence that Ms. Davis intentionally set the
11 fire. It looks like it was just the result of a
12 kerosene heater that was left burning too long.

13 So the marshals come. The city fire fighters
14 come. They put out the fire. They take some
15 pictures. That is my understanding of their role.
16 They don't interview Ms. Davis. They don't make
17 any kind of findings that a homicide was involved.
18 Of course later after the autopsy, it's discovered
19 that -- the knife and gunshot wounds. But that
20 would not have been under the purview of the fire
21 department.

22 Again, we've given over Cason's report. We
23 were told last week that Ballentine, he gave us
24 his one-page report. He said he's provided that
25 to them as well. They've been in communication

1 with him. That is the -- the extent of everything
2 I have as far as the fire investigation.

3 **THE COURT:** All right, sir.

4 Yes, ma'am.

5 **MS. DEMER:** Thank you, Your Honor.

6 I request that one-page report because we
7 don't have it. No one on my team that I'm aware
8 of has spoken with Mr. Ballentine.

9 Oh, I apologize. A paralegal did speak with
10 him. He gave us a one-and-a-half page e-mail
11 chain about responding to the fire. But there's
12 nothing about an actual investigation into the
13 fire. We don't have a report from Mr. Ballentine.

14 **THE COURT:** All right.

15 We'll get that turned over.

16 **MS. DEMER:** Thank you, Your Honor.

17 **THE COURT:** As to everything else from
18 Mr. Scott's testimony, they've turned over
19 everything that's in their possession. If it
20 turns out later in the trial that they have
21 something or they try to put something in that
22 hasn't been turned over, we will address that. Or
23 if something comes up where they try to turn it
24 over or not, if it's in their possession, we will
25 address that the appropriate time. And so the

1 state is under a continuing duty to disclose under
2 Rule 5 and Brady.

3 And this is the motion -- this is the case we
4 heard a few weeks ago?

5 **MS. DEMER:** Yes, Your Honor.

6 **THE COURT:** It's all coming back.

7 All right.

8 Was that No. 1 and No. 2?

9 **MS. DEMER:** I still have the *Riddle* motion,
10 Your Honor.

11 **THE COURT:** Okay.

12 You go right ahead.

13 **MS. DEMER:** Of course, it does cover some of
14 the same stuff. But in *Riddle v. Ozmint*, the
15 Court held that the state committed a *Brady*
16 violation in failing to disclose prior statements
17 by a witness along with a pretrial visit to the
18 crime scene by the witness, law enforcement, and
19 the prosecutor. Of course, this solicitor does
20 have a burden to disclose material evidence, which
21 is exculpatory, or incriminating, and evidence
22 that not only existed at the time of the incident,
23 but that has been produced during the
24 investigation and preparation for the trial.

25 So even when a solicitor has an open-file

1 policy, they still have that obligation to
2 affirmatively disclose material that could be
3 exculpatory or have value as impeachment. So I
4 apologize, I would like to read --

5 **THE COURT:** Of course.

6 **MS. DEMER:** -- what that duty is.

7 So in *State v. Gibson*, the Supreme Court said
8 that, "The overriding theme of the *Brady* cases is
9 the emphasis the Supreme Court has placed on the
10 prosecutor's responsibility for fair play. In
11 close cases, 'the prudent prosecutor' will resolve
12 doubtful questions in favor of disclosure. This
13 is as it should be. Such disclosures will serve
14 to justify trust in the prosecutor as the
15 representative...of a sovereignty...whose
16 interested in a criminal prosecution is not that
17 it shall win a case, but that justice shall be
18 done. And it tend preserve the criminal trial as
19 distinct from the prosecutor's private
20 deliberations, as the chosen forum for
21 ascertaining the truth about criminal
22 accusations."

23 So basically, all of the evidence, whether
24 that be written statements or the occurrence of a
25 conversation between the solicitor or an

1 investigator and a witness that is material, that
2 should be disclosed pursuant to *Riddle* and that
3 entire line of cases.

4 Your Honor, when we received the state's
5 witness list this morning, I noticed that there
6 are a number of people on this list for whom we
7 have not received any sort of statement or any
8 indication that the state has -- has spoken with
9 them. So that to me indicates that there has been
10 some conversation. I can't imagine that they
11 would put them on the witness list if they hadn't
12 already ascertained what they had to say. So I
13 would just request that all *Riddle* material be
14 disclosed at this point.

15 **THE COURT:** All right.

16 **MR. SCOTT:** I've been to the scene. I go to
17 the scene of every -- every case I have,
18 Your Honor. I was there as recently as Friday.
19 It is a field with no structure whatsoever.
20 She -- it has been burned completely to the
21 ground. So essentially what I did was stand there
22 and look towards where the camera would be and try
23 to look at the surrounding structures to kind of
24 get a feel for the size, a 680-square-foot
25 cinderblock building.

1 I have spoken with his sister. I've spoken
2 with his half sister. I've spoken with people who
3 knew him. I have nothing impeachable or
4 exculpatory to bring the Court's attention, Your
5 Honor.

6 **MS. DEMER:** Gibson doesn't require that the
7 state make an assessment over what is exculpatory.
8 It does have to be produced. The -- the
9 presumption is in favor of production. So this is
10 the first time that I'm hearing about those
11 conversations. And I believe that the substance
12 of those conversations does need to be disclosed
13 under *Riddle*.

14 **THE COURT:** All right.

15 Well, we'll wait and see when those witnesses
16 are called if they are called. But at this point,
17 it sounds like the state is still in compliance.
18 So -- I mean, I'll emphasize again, the state is
19 on an ongoing duty to comply with Rule 5 and *Brady*
20 throughout this trial.

21 **MS. DEMER:** Thank you, Your Honor.

22 **THE COURT:** All right.

23 **MS. DEMER:** I apologize. The next motion is
24 also one of mine. This is a motion to preclude
25 references to the deceased as "victim."

1 **THE COURT:** Let me ask you this. I've --
2 I've had this before. Is there any case law?
3 Most of the case law is from other jurisdictions.
4 I don't think the South Carolina Supreme Court has
5 ruled on this.

6 **THE COURT:** Okay.

7 I didn't mean to interrupt. I was just -- I
8 just didn't know if there was or not.

9 **MS. DEMER:** I -- in my written motion, I've
10 cited that number of --

11 **THE COURT:** We could create case law, is what
12 you're saying?

13 **MS. DEMER:** Yeah, absolutely.

14 **THE COURT:** All right.

15 Well, I'll let you go right ahead.

16 **MS. DEMER:** Thank you.

17 So what we're asking for is that the Court,
18 the state, and all witnesses be prohibited from
19 referring to Mr. Burden as the victim in this
20 case, that you refer to Mr. Burden, by his legal
21 name, by his nickname "Boleg," or as the deceased.
22 It is requested by the state be ordered to refer
23 to Mr. Burden by those names as well, and that any
24 jury instructions that refer to the deceased as
25 the victim be amended to reflect that he is the

Motion to Preclude

1 deceased.

2 And the reason for this is that the word
3 "victim" is essentially a factual illusion. There
4 are a number of provisions, including the state
5 constitution about who is a victim. And they
6 refer to someone who suffers direct or threatened
7 physical, psychological, or financial harm as a
8 result of the commission or attempted commission
9 of a crime against him. It's also defined in the
10 South Carolina Code under Section 16-3-1110(a), it
11 likewise refers to someone who is -- who suffers
12 harm as the result of a crime against him.

13 Of course, our defense is that Ms. Davis did
14 not commit a crime, that she actually insulted
15 defense, and therefore her behavior was justified.
16 And that would render Mr. -- Mr. Burden not the
17 victim, legally speaking.

18 A number of other courts in other states, I
19 have some citations cases in Delaware, from Utah,
20 we have some Texas cases for this as well. But
21 they've resolved this in cases relating to mostly
22 criminal sexual conduct charges involving either
23 defense of consent or a defense that nothing
24 criminal happened whatsoever. And so to refer to
25 an individual, an alleged victim, in a case as a

1 victim does indicate that the court is agreeing
2 with the conclusion that the defendant has
3 committed a crime. So Your Honor, I believe that
4 it is prejudicial to use the word "victim" in
5 reference to Mr. Burden until there is a verdict
6 in this case.

7 **THE COURT:** Let me ask you this. Doesn't the
8 word "murder" connote legal ends as well in a
9 factual definition?

10 **MS. DEMER:** I believe that the -- the
11 phrasing of -- well, the context in which murder
12 is described, you are not going to tell the jury
13 that she has committed a murder unless there is a
14 conviction.

15 **THE COURT:** I think it's still -- there's a
16 murderer and a victim, not that the defendant did
17 it. I mean, I -- I get your -- I get your point
18 with the victim. But let's hear from the state on
19 this one.

20 **MR. SCOTT:** Judge, the indictment itself that
21 I read to whole panel says that Jamira Davis, in
22 Richland County, killed a victim, Brandon Burden.
23 I tend to speak plainly. This isn't some torture
24 kind of strange to use a prejudicial term. Victim
25 is -- we use in everyday parlance of what we do.

1 I just did a quick search. Webster's finds a
2 person harmed, injured, or killed as a result of a
3 crime, accident, or other event or action is a
4 victim.

5 Now, if she chooses to use some other term,
6 that's fine. I don't know that -- that me saying
7 that -- if I didn't think he was a victim, I
8 wouldn't have brought this to trial today. I
9 certainly -- the state certainly thinks he is a
10 victim until he's proven innocent.

11 You know, Mr. -- or Ms. Davis rather, until
12 she is found to be in self-defense, I'm operating
13 on the theory that he's a victim of homicide. So
14 again, just this is everyday language, "victim."
15 Again, it -- it's in the indicted charge.

16 If -- how about this. If she is determined
17 to be justified, maybe he's a victim of his own
18 actions. But he is a victim no less. He was shot
19 three times. And so that would be my argument,
20 Your Honor.

21 **THE COURT:** All right.

22 **MS. DEMER:** Thank you, Your Honor.

23 I believe the way that you and Mr. Scott just
24 phrased it highlights the problem. He said that
25 he'll continue to use the word "victim" until

1 she's proven innocent. But that completely
2 reverses the burden of proof in this case. He was
3 not a victim until she's proven guilty of murder.
4 The argument here is that she acted justifiably in
5 self-defense.

6 Now, I understand that Webster's may define
7 it another way. There may be other provisions of
8 the law that define it differently. But under the
9 South Carolina Constitution with the Victims'
10 Rights Act, which applies in this courtroom, and
11 the Section 3 -- well, Title 16, Chapter 3, which
12 does encompass criminal charges, that indicates
13 that in the criminal context, a victim is someone
14 who has suffered harm from a crime.

15 So I -- I believe that it is a prejudicial
16 term. It does imply that she has done something
17 she has not been proven to have done. And so at
18 the very least, Your Honor, I would just request
19 that the Court refrain from referring to
20 Mr. Burden as a victim, and that any jury charges
21 be amended to reflect that his status as a victim
22 is not -- is not determined.

23 **THE COURT:** All right.

24 Ms. Demer, you make good points. But what
25 I'm going off as a trial court is precedent. And

1 based on the lack of precedent in our state from
2 our Supreme Court or Court of Appeals, looking at
3 the indictment as it is read, looking at case law.
4 Now, obviously, there's been a conviction by the
5 time it gets to the Supreme Court, but it's still
6 on appeal. They use the term "victim" as well as
7 the Court of Appeals. Obviously, the case is not
8 pending them, but it's still on appeal. So I -- I
9 understand all your points you've made. But as a
10 trial court, I'm going to follow precedent, and
11 I'm going to deny that motion.

12 **MS. DEMER:** Thank you, Your Honor.

13 **THE COURT:** All right.

14 You've got the arson.

15 **MS. YOUNG:** Good afternoon, Your Honor. I
16 do. And I think it's going to be pretty short and
17 simple. Mr. Scott sort of already addressed this,
18 I believe when we were talking about the fire, I
19 mean, part of the reason the report and finding
20 out as much as we could was important to us is
21 because there is zero evidence that Ms. Davis had
22 anything to do with the fire that that resulted in
23 the house burning down. And therefore, we don't
24 believe that any state witness should be able to
25 imply that say, say that, state that. It would be

1 extremely highly prejudicial, because it would
2 leave, I think, you know, a juror to believe that
3 possibility she did to cover up a crime. And so
4 we just want to make sure that that's not an
5 intention, that they have told their witnesses not
6 to imply that or state that because there is zero
7 evidence. In fact, all of the evidence and all
8 the investigators reports and all discovery
9 indicate the exact opposite is that she did not
10 have anything to do with it.

11 **THE COURT:** Okay.

12 **MR. SCOTT:** I've -- I've got -- that's a
13 theory of the state that she -- it looks like just
14 an unintended (inaudible). That there won't be
15 any implication that she set the fire.

16 **THE COURT:** Very well. Muzzle flash.

17 **MR. L. SHEALEY:** Muzzle flash, Your Honor.

18 **THE COURT:** Yes, sir.

19 **MR. L. SHEALEY:** Just to give you a little
20 bit of background. Investigators were able to
21 procure a surveillance video from kind of
22 diagonally across the street on separate roads
23 that, per Google Maps, is about 400 feet away.
24 And it shows a black and white kind of
25 back-porch-angled view generally through some

1 trees and a field of Mr. Burden's house at the
2 time. This was -- you know, obviously when you
3 get a surveillance video, investigators from their
4 reports, spend a lot of time looking at this,
5 trying to see if they can see anybody coming and
6 going. And ultimately, you eventually can see big
7 things like cars coming and going. And it helped
8 track the timeline.

9 But the purpose of this motion is that it's
10 pretty clear throughout Investigator Jordan's
11 report, and also from his preliminary hearing
12 testimony, that he's specifically identifying one
13 particular flash amongst several throughout the
14 surveillance as a muzzle flash. And he uses that
15 to try to confront Ms. Davis and say, "We know you
16 were there."

17 So, Your Honor, my argument in this case is
18 under Rule 702 that I think to determine something
19 as a flash from the muzzle of a gun, you know,
20 as -- as opposed to flash of a light or a flicker
21 of lighter as you're lighting a cigarette,
22 requires expert scientific training of a technical
23 nature to make that distinction, particularly when
24 you're looking through a black-and-white video
25 from over 400 feet away.

1 I've done cases with Investigator Jordan.
2 And I don't believe he has that type of technical
3 training that would allow him to make that
4 assertion. I think who -- people that could do
5 that would be a firearms expert or a crime scene
6 investigation expert that has some heightened
7 training, other than just I shoot guns, and I
8 think. Cause I shoot guns as well. And I think
9 that doesn't really rise to the level of expert
10 testimony. So I think this type of stuff requires
11 expert testimony.

12 Just -- just very limited research in it. I
13 mean, gives you about 10 different variable points
14 that would be needed to determine whether
15 something was a muzzle flash, exhibiting
16 exothermic combustion, you know, firearm barrel
17 length, primer, the grains of the projectile.
18 There's a lot of variables.

19 So they may have someone like that lined up
20 that I'm unaware of. But I think this motion in
21 limine, I would -- I would ask that it not be
22 referenced as a muzzle flash in the opening and by
23 a witness until such time as the Court feels
24 confident that whatever witness that might come
25 and say it is muzzle flash is qualified to

1 actually say that.

2 **THE COURT:** All right. Thank you.

3 **MR. SCOTT:** Again, Your Honor, just the
4 timeline really is kind of -- you know, he's found
5 deceased in the house. One of the first clues is
6 those phone calls we talked about. And then they
7 get the Ring doorbell footage -- the kind of given
8 the car in close proximity to those phone calls.

9 So the car arrives about 2:49 a.m. At 3:53
10 a.m., investigators who watched the video noted
11 that they observe what appears to be muzzle flash.
12 And again, about three minutes later, the car
13 leaves. And, again, he is found at the autopsy to
14 have been shot three times.

15 Any sort of prejudice is diminished, if there
16 ever was any as far as expert testimony, because
17 eventually Ms. Davis says, "I shot the guy. I
18 shot him." And so I -- I don't know that that's
19 expert testimony. Dare I say everybody in this
20 courtroom at some point has observed a gun being
21 fired. I think I could ask Investigator Jordan,
22 Does that appear to be a bottle? You know, does
23 that appear to be a book? Does that appear to be
24 a tree? Does that appear to be a bush? These --
25 these aren't things that require specialized

1 training.

2 I don't know how to ask you for an opinion
3 that that is in fact a muzzle blast. But again,
4 this, what appears to be a flash of light, just
5 rather a millisecond. And I've got it on video
6 for Your Honor. But again, I'm trying to, you
7 know, she -- she admits to firing a gun. So
8 I'm -- I'm kind of -- I'm trying to figure out
9 what the prejudice would be.

10 I'm not asking for any kind of opinion
11 testimony or expert testimony. Just in their
12 investigation, I -- I want to talk steps they took
13 as far as like leading them to speak with
14 Ms. Davis and -- and the timeline. But I don't
15 know any other way to talk about that flash of
16 light. A gun blast, a muzzle blast. You know,
17 this is not something that I think requires any
18 kind of specialized training. And he's not
19 conclusively saying that is a muzzle blast. Of
20 course, she later admits to firing a gun.

21 But in their investigation, that was
22 something that caught their eye, what appears to
23 be a muzzle flash or blast, whatever the
24 terminology would be. So it just is -- it's part
25 of the investigation and part of what they

1 themselves will see in the video, Your Honor.

2 **THE COURT:** All right.

3 **MR. L. SHEALEY:** The rules are here for a
4 reason. That's why we counsel (inaudible). If I
5 can give you a little more feedback or a little
6 clarity. In the preliminary hearing transcript,
7 Investigator Jordan testifies that the muzzle
8 flash is indicative of a shooting that occurred on
9 a porch, and it's just one. So there's three to
10 four shots in this case. So the inference is that
11 she killed him on the porch, and that he fled
12 inside, and she followed him. So it is quite
13 important.

14 That's why it's important that you can't just
15 say something is very scientifically specific
16 without having that training. It's -- anybody
17 might be able to say, "Oh, I think I hear a
18 gunshot." That's akin to saying, "Well, that's a
19 Walther PPK. I can tell because I have that
20 specific training about gunshots and sound." But
21 you can't just say that's a muzzle flash to make
22 an inference that you want without the training.

23 So it's very important -- I understand the
24 state's position. We're not looking for any
25 prejudice at all in this case. We're trying to

1 have an error-free case. If they want to bring
2 someone in that can say that, otherwise, I think
3 they're welcome to say that we saw some lights.
4 Because they do see numerous other lights that
5 they know. Investigator Jordan just simply
6 doesn't have the training. Unless he surprises me
7 and he get up there will be some voir dire and
8 that tells me about some education and some
9 training and it passes muster, it comes in. And
10 you know, I -- I will -- I will stand down if he
11 passes the expert training and says that too. But
12 I don't think he will.

13 **MR. SCOTT:** Mr. Shealey has a good -- that
14 was a good analogy. How often in this court do we
15 hear people say, "I heard what sounded like
16 gunshots," and that -- that requires no expert
17 testimony whatsoever? So that was a good analogy.
18 They will testify that car headlights coming down
19 the road. Now why do we need an expert to testify
20 to a car driving down the road with their
21 headlights on?

22 If that's their concern that we're going to
23 try to say it happened on the porch or something,
24 I assure you we are not going to talk about
25 whether the shooting happened inside, whether it

1 happened outside. We -- we have no evidence of
2 exactly where it occurred.

3 Again, this house was burned straight to the
4 ground. It no longer exists today. So if that is
5 a concern, there won't be any testimony placing a
6 shooter in any specific spot.

7 **MR. L. SHEALEY:** And maybe it won't be a
8 concern. It's just a concern from reading the
9 preliminary hearing transcript where that was
10 testified to under oath. So that's why I bring it
11 up. But I think the state missed my point. We
12 can all identify what a general gunshot might be.
13 But we don't have the training to say it's a
14 Walther PPK. Somebody with that training would
15 then be able to distinguish that versus an AR 15
16 versus a Glock 40. An average person can say it's
17 a gun. But whoever is going to say this is a
18 muzzle flash, if they come in here, would need
19 that training per the rule.

20 **THE COURT:** All right.

21 I think there's two separate issues that have
22 to be addressed: First that you need an expert to
23 do it; and second, even if not, is it prejudicial
24 to say "muzzle flash"? Addressing the first, when
25 it comes to probative value substantially

1 outweighed by the prejudicial, I don't think it is
2 because it's just a descriptive -- descriptive
3 term, which subsequently turns out to be correct
4 when it comes to just prejudicial, not even taken
5 to the expert.

6 As to whether or not he needs to be an
7 expert, I think there's a fine line between lay
8 opinion of an expert testimony. And there was a
9 recent case, which I don't have the name or the
10 citation, by the Court of Appeals where an officer
11 was allowed to testify without being qualified as
12 an expert about to how a revolver worked. Whether
13 I agree or disagree that he was able to get that
14 far, he was allowed to by the Court of Appeals.

15 I think the term "muzzle flash" is -- is a
16 common usage. It's a generic term that and
17 doesn't require the need for an expert. I believe
18 it's within the ability for a jury to understand
19 what that means. When it comes to prejudicial
20 under that analysis, I think it generally is in
21 common usage that -- and if it reflects what it
22 is -- and from my understanding, the testimony
23 will be that it appears to be a muzzle flash, not
24 that it is a muzzle flash.

25 If you're -- the testimony is, it is a muzzle

1 flash, that might need an expert. I guess we'll
2 see what the testimony is or what it will be. But
3 if it appears to be, that's kind of a different
4 story.

5 So I think at this point it -- and I'll need
6 to hear the context. You know, they gotta lay the
7 proper foundation. But I don't think it'll
8 require expert testimony to describe the word
9 "muzzle flash." And I don't think it the
10 prejudicial effect substantially outweighs the
11 probative value.

12 **MR. L. SHEALEY:** Yes, sir.

13 **THE COURT:** And we got -- I'm jumping
14 ahead -- the autopsy photos.

15 **MR. SCOTT:** We're not putting any pictures of
16 Mr. Burden.

17 **THE COURT:** Okay.

18 **MS. DEMER:** Your Honor, one is they're not
19 putting in any photographs of either his -- his
20 body within the house or photos during the
21 autopsy, that I believe that covers it.

22 **THE COURT:** And if for some reason that does
23 come up, then obviously I'll take those in camera
24 and review them like every other autopsy photo.
25 But other than that --

1 **MS. DEMER:** Thank you, Your Honor.

2 **THE COURT:** All right.

3 Sequester.

4 **MR. L. SHEALEY:** Yeah. We would ask for
5 that, Your Honor. Anybody that's not the lead
6 investigator appropriately otherwise here,
7 victim's family.

8 **THE COURT:** Any objection by the state?

9 **MR. SCOTT:** I don't really know of any. Of
10 course, it goes both ways. I got my lead
11 investigator. And then I've got his sister's
12 here. I understand that is next of kin.

13 **THE COURT:** But you --

14 **MR. SCOTT:** They are -- they will be more
15 appropriately probably reply witnesses. I don't
16 think I'm going to call in my case in chief. They
17 would be his only surviving direct relatives.

18 **THE COURT:** So for the state, the lead
19 investigator can stay and then anyone who falls
20 under the Victim Bill of Rights. And then on the
21 defense, it sounds like they're requesting
22 sequestration too.

23 **MR. L. SHEALEY:** I don't have any witnesses
24 in the courtroom.

25 **MS. YOUNG:** We do.

1 **MR. L. SHEALEY:** Oh, we do?

2 **MS. YOUNG:** We have one. Yeah, she's in.

3 **THE COURT:** Is there a relation? Or I don't
4 know. What's the opposite of the Victim Bill of
5 Rights for the defendant? I mean, is it her --

6 **MS. YOUNG:** It's her grandmother. Sorry,
7 Your Honor. It's her grandmother.

8 **THE COURT:** Okay.

9 I don't know if they -- does she have a legal
10 right? I don't think so.

11 **MS. DEMER:** I don't believe so.

12 **THE COURT:** Okay. All right.

13 And just keep -- I don't know who the
14 witnesses are. So y'all -- if there's an issue
15 before a witness testify, if you saw them and you
16 think they might be just -- let each other know
17 and let me know. Because I don't know who is --
18 who's a witness and who is not.

19 All right.

20 Rap sheets?

21 **MS. DEMER:** Yes, Your Honor. We would
22 request just (inaudible) of all the witnesses.

23 **MR. SCOTT:** I've got law enforcement,
24 Your Honor. Just looking through. They're all
25 law enforcement, fire marshals, and fire

1 department workers, pathologists. I have his half
2 sister who had the video surveillance. I consult
3 with her. But before anybody testifies that has a
4 record --

5 **THE COURT:** If that's an issue, just let me
6 know.

7 **MS. DEMER:** Thank you, Your Honor.

8 **THE COURT:** And Ms. Demer, are y'all doing no
9 castle hearing?

10 **MS. DEMER:** That's correct, Your Honor.

11 **THE COURT:** Do we need to put an explanation
12 on the record or is it just a general strategic
13 trial strategy?

14 **MS. DEMER:** I don't believe we need to put an
15 explanation on record.

16 **THE COURT:** Okay.
17 So that is withdrawn then?

18 **MS. DEMER:** Yes, Your Honor. Thank you.

19 **THE COURT:** Any other pretrial motions?

20 **MS. DEMER:** I believe that covers it.

21 **THE COURT:** All right.

22 **MS. DEMER:** Thank you, Judge.

23 **THE COURT:** You'll need -- who's doing
24 opening?

25 **MS. DEMER:** I am.

1 **THE COURT:** All right.

2 And Mr. Scott.

3 What -- the jury is probably sitting back --
4 that's all right.

5 Why don't we take a 14-minute break. It's
6 3:16. 3:30, do opening statements. And then are
7 we're going to have witnesses?

8 **MR. SCOTT:** I'd like to call at least two.

9 **THE COURT:** All right.

10 Let's take a 15-minute break.

11 (A recess is taken.)

12 **THE COURT:** All right.

13 Anything from the state before we bring the
14 jury in?

15 **MR. SCOTT:** No, Your Honor.

16 **THE COURT:** Anything from the defense?

17 **MS. DEMER:** I'd restate my motion to
18 sequester the witness. I believe that there are
19 people -- individuals who entered the courtroom
20 who are on this list.

21 **THE COURT:** All right.

22 Mr. Scott, if you could -- any witnesses who
23 are not family or lead investigator. Just one?

24 **MR. SCOTT:** That's all I see, Your Honor.

25 **THE COURT:** All right.

1 Well, let's bring the jury.

2 (The jury enters the courtroom at 3:39 p.m.)

3 **THE BAILIFF:** The jurors are seated,

4 Your Honor.

5 **THE COURT:** All right.

6 Good afternoon, ladies and gentlemen. Thank
7 you for your patience. I appreciate your patience
8 and your service throughout this week. We're
9 gonna go and get started with this trial. Before
10 we do, I'm going to ask that you all stand so you
11 can be sworn in and take oath one more time. If
12 you will stand and raise your right hand.

13 **THE COURTROOM DEPUTY:** Do you swear or affirm
14 that you shall well and truly try and true
15 deliverance make between the State of South
16 Carolina and the defendant at bar whom you shall
17 have in charge and a true verdict give according
18 to the law and the evidence so help you God?
19 (The jurors respond.)

20 **THE COURTROOM DEPUTY:** Thank you. You may be
21 seated.

22 **THE COURT:** All right.

23 Before I give any further instructions, is
24 Juror 203?

25 All right.

1 You have been selected as the juror
2 foreperson. All right.

3 It gives you no special privileges except
4 you're going to sit this seat right here. Switch
5 with this nice lady, if she lets you.

6 **THE JUROR:** So I don't have to if I don't
7 want to?

8 **THE COURT:** No. You got to.
9 All right.

10 The jury -- jury foreperson, it doesn't give
11 you any more responsibilities or any more job
12 duties or anything like that. You will be the
13 spokesperson for the jury.

14 If there is a question, an issue, something
15 of that nature, you will direct it towards the
16 jury foreperson. He'll direct it to the bailiff.
17 And it'll come to me. So no special privileges.

18 You will sit in that seat.

19 And our two alternates, could you raise your
20 hand?

21 Okay.

22 Perfect. You-all will sit in those two seats
23 for the remainder of that trial. So thank you-all
24 for your service.

25 All right, ladies and gentlemen. Before we

1 get started in this case, I want to give you some
2 preliminary instructions. What I will say now is
3 intended to serve as an introduction to this
4 trial. It will not be a substitute for detailed
5 instructions on the law, which I will give you at
6 the close of the case and before you begin your
7 deliberations.

8 This is a criminal case commenced by the
9 state, which I sometimes -- sometimes refer to as
10 the prosecution, against Ms. Jamira Davis. This
11 case is based on an indictment, which the
12 solicitor has already read or explained to you.
13 You should distinctly understand that the
14 indictment is simply a charge and that it is not
15 in any sense evidence of the allegations it
16 contains.

17 The defendant has pleaded "not guilty" to the
18 indictment. The state, therefore, has the burden
19 of proving each of the essential elements of the
20 indictment beyond a reasonable doubt. The purpose
21 of the trial is to determine whether the state has
22 met this burden.

23 Your purpose as jurors is to find and
24 determine the facts. Under our system of criminal
25 procedure, you are the sole judge of the facts.

Preliminary Jury Instruction

1 If at any time I should make any comment regarding
2 the facts, you are at liberty to disregard it. It
3 is especially important that you perform your duty
4 of determining the facts diligently and
5 conscientiously.

6 On the other hand, and with equal emphasis, I
7 instruct you that the law, as given by the Court,
8 constitutes the only law for your guidance. And
9 it is your duty to accept and follow it. It is
10 your duty to follow the law as I give it to you
11 even though you may -- may disagree with the law.

12 You are to determine the facts from the
13 testimony you hear and the other evidence
14 introduced in court. It is up to you to determine
15 the inferences which you feel may properly be
16 drawn from the evidence. You must not consider
17 anything you may have read, heard about the case
18 outside this courtroom, whether before or during
19 the trial.

20 Until this case is submitted to you, you must
21 not discuss it with anyone, even with your fellow
22 jurors. After it is submitted to you, you must
23 discuss it only in the jury room with your fellow
24 jurors. It is important that you keep an open
25 mind and not decide any issue in the case until

1 the entire case has been submitted to you under
2 the instructions of the Court.

3 It is your added duty, Mr. Foreperson, to
4 preside in the jury room and be the jury's
5 spokesperson from here on out.

6 At this point, we're going to begin this
7 trial.

8 **MR. SCOTT:** May it please the Court?

9 **THE COURT:** Yes, sir.

10 **MR. SCOTT:** What's done in the dark
11 eventually comes to light. January 22, 2021, it
12 was dark out there on America Avenue. We're
13 talking 3:50 in the morning, 3:50 a.m. And that
14 is approximate time of when Brandon Burden,
15 father, brother, son, Brandon Burden breathed his
16 last breath. Shot dead. Killed in his own home
17 on a dark road in Hopkins, South Carolina. Killed
18 by somebody he loved and trusted. Shot dead in
19 his own home.

20 What's done in the dark comes to light
21 eventually. And that's what we're here for this
22 week. This is a search for truth. We're here to
23 find the truth. And you're gonna get a little bit
24 of justice for Mr. Burden who was killed his own
25 home, January 22, 2021.

1 You know, about 6 a.m. that night, that early
2 morning, January 22, American Avenue was abuzz.
3 The house there at [REDACTED] American Avenue, Brandon
4 Burden's home, was fully engulfed in flames at
5 about 6 a.m. Calls were coming in from concerned
6 neighbors. Brandon -- they called him "Boleg."
7 Brandon "Boleg" Burden's house is on fire. And
8 we're worried because we think he's in there.

9 Fire marshals, City of Columbia Fire
10 Department workers show up there in Hopkins. What
11 they find, again, is a fully engulfed home. About
12 680-foot -- square foot home that he lived in by
13 himself fully engulfed in flames. Their efforts
14 to extinguish the fire continued into the early
15 morning hours of January -- January 22. And
16 eventually, they were able to gain entry into the
17 home.

18 Cleared the residence. And Mr. Burden was in
19 there. Of course, he was deceased at the time.
20 So early morning hours of January 22, what law
21 enforcement, fire department, everybody really, is
22 operating under the assumption that kerosene fire
23 had caught the home on fire. And he had died
24 basically trying to escape the flames.

25 It wasn't until later that an autopsy was

1 ordered. And the pathologist who examined
2 Mr. Burden's body discovered that he had been shot
3 three times. So in fact he was already dead by
4 the time the house caught on fire.

5 So this point that law enforcement
6 investigations take a little bit of a different
7 turn. They're no longer looking at an accidental
8 fire -- or accident where he is burned while he's
9 still alive. They're looking at a murder and a
10 subsequent fire after the fact.

11 One of the first things they do is get
12 emergency search warrants for his phone records.
13 And they -- they notice a phone number called --
14 the last activity on his phone dealt with a phone
15 number of [REDACTED]-4886. At 1:40 a.m., his phone
16 and that phone are -- are making contact with one
17 another, two phone calls. At 1:41 a.m., those two
18 phones are communicating with one another.
19 1:57 a.m., those two phone numbers are
20 communicating with one another. 2:14 a.m. and
21 then at 2:16 a.m. Now, remember, he's killed
22 around 3:50 a.m. So naturally, that particular
23 phone number is relevant. They're wanting to know
24 who the owner of that phone number is.

25 Around the same time, they're canvassing the

Opening Statement by Mr. Scott

1 area, trying to see if anybody has any video
2 surveillance cameras on their homes, Ring doorbell
3 footage and whatnot. And as luck would have it,
4 Mr. Burden's half sister, Tanya Simons's who lives
5 very nearby, has some surveillance cameras on her
6 back porch. One on them is kind of hanging
7 towards his house. There's some trees in between
8 that camera and Mr. Burden's house. But she had
9 that -- that video surveillance.

10 So officers review that. And what they see
11 is a vehicle arriving at his home there at [REDACTED]
12 American Avenue at 2:49 a.m. Okay.

13 So there's phone calls with that phone number
14 are immediately preceding this car arriving at his
15 home according to that video surveillance. That
16 particular car there is there for an hour and four
17 minutes. At that point, law enforcement observes
18 on the video -- and you're gonna see this video,
19 by the way, observed that they -- they believe is
20 a muzzle flash from a gun. Just a quick
21 millisecond flash of light. The car is there for
22 another two, three minutes. And then the car
23 leaves going in same direction it came from.

24 Video quality is not of the type where we can
25 determine the make and model and color of the car

1 or anything like that. But establishes this
2 timeline. In conjunction with those phone calls,
3 and then the car being there, and then it leaving.
4 When you watch the video, it's not for another two
5 hours that the house catches on fire. And it
6 appears that Mr. Burden was in the habit of having
7 a kerosene heater warm the home. Of course, this
8 is January. And being unattended, those things
9 are dangerous. It -- it -- it caught on fire
10 because he was passed on at that point. And the
11 home catches on fire, burning up everything.

12 They research that number I was telling you
13 about, ■■■-4886. And they speak with people who
14 know him. They speak with the last people who
15 talk to Mr. Burden. What they determine is that
16 phone number belongs to the defendant, Jamira
17 Davis. And they're able to confirm that through
18 Jamira's mother. And you see, Jamira's mother and
19 our victim had been together, I think maybe since
20 high school. They've been on-again/off-again
21 boyfriend/girlfriend. They never got married.
22 They've been together for years and years and
23 years.

24 And Jamira is not his daughter. But by all
25 accounts, she was like a daughter to him.

Opening Statement by Mr. Scott

1 Somebody she -- he was always in her life from the
2 time when she was little and somebody she herself
3 said that they were very close with one another.

4 They bring her in to speak with her and ask
5 her about her whereabouts that night. She spends
6 about three hours -- no. I'm sorry. The
7 interview is about three hours and 22 minutes.
8 She spends about two hours and 50 minutes of that
9 interview saying she doesn't know nothing about
10 nothing.

11 She begins her story saying, "I -- I hadn't
12 been there in a week to his house." But then,
13 "Oh, okay. Maybe I called him that night." And
14 then, "Well, actually I did go there, but I stayed
15 outside." And then, a little bit further in,
16 "Okay. I did go inside and we were smoking weed."
17 You see, that was kind of their relationship. I
18 say they're kind of like father-daughter, but that
19 was another part of their relationship.

20 Mr. Burden was somebody that a lot of people
21 in Hopkins or at least on American Avenue knew
22 they could get marijuana from. And apparently, it
23 was customary for Jamira to go to his house. And
24 they would sit down and smoke marijuana and, I
25 guess, catch up. But that was a customary thing

1 for her to do, drive from her home on Garner's
2 Ferry out the Hopkins to -- to sit with this --
3 this person who trusted her -- trusted her to come
4 into his home. And eventually, she admits to
5 killing him.

6 All right.

7 That's why we're here. We're here because a
8 man was shot three times in his own home. What
9 happens in dark eventually comes to light. That's
10 what this case is about this week.

11 If defense -- I know they get aggravated with
12 me. Because every jury I'm in front of, I implore
13 the jury: Please use some common sense this week.
14 Please use some reason. Okay? I am not going to
15 ask you at any point to jump to any conclusion.
16 I'm going to ask you to use your everyday combined
17 common sense. That's all this case requires.

18 If somebody is forcing you to believe the
19 unbelievable or contort your reason into some
20 tortured interpretation of events, then you should
21 be wary. What makes sense? What doesn't make
22 sense?

23 When you're asked to sit on the jury, you're
24 not asked to suddenly become some kind of legal
25 scholar. That's not what we want here. We don't

Opening Statement by Mr. Scott

1 want to, you know, somebody who was checked their
2 common sense at the door. That's what I always
3 ask. And I sound like a broken record. Just
4 because you're on a jury doesn't mean you check
5 your reason and common sense at the door. That is
6 your most valuable tool in this process, your most
7 valuable asset in seeking the truth here. Common
8 sense. Remember I said that.

9 Because at the end of this, I gotta prove
10 that she killed Mr. Burden, killed him in his own
11 home, shot dead in his own home, beyond a
12 reasonable doubt. That's how I prove murder in
13 this case, in every case I try in this courtroom,
14 in every case tried from South Carolina to
15 Washington State, is beyond a reasonable doubt.
16 It means you must be firmly convinced in the
17 guilt. Does the evidence show -- what does the
18 evidence show? What did the testimony show? What
19 does it dictate? It's all I'm asking you.

20 At the end of this case -- you're gonna be
21 hearing primarily from law enforcement people.
22 You're gonna be hearing from people who went out
23 there to extinguish a fire. You're gonna be
24 hearing from people who spoke with witnesses, who
25 spoke with Ms. Davis. But very importantly,

1 you're going to hear in her own words what
2 happened. And you're going to hear about -- from
3 medical experts how Mr. Burden met his demise, why
4 he had to breathe his last breath on January 22,
5 2021. That's what we're asking here.

6 At the end of this case, I'm going to ask you
7 to bring to light what happened on that dark, dark
8 road in those early morning hours. I'm going to
9 ask you to find Ms. Davis guilty of the murder of
10 Brandon Burden. Thank you.

11 **MS. DEMER:** Your Honor, may it please the
12 Court?

13 **THE COURT:** Yes, ma'am.

14 **MS. DEMER:** Brandon Burden, more commonly
15 known by his nickname "Boleg," is dead. And the
16 evidence will show that Boleg is dead because of
17 Boleg.

18 Now, murder is the unlawful killing of
19 another with malice aforethought. You'll hear
20 that it's justified to use deadly force against
21 another in self-defense. You won't hear evidence
22 of malice, evidence of forethought, and a
23 justified killing without malice, without
24 forethought, is not murder. Jamira pulled the
25 trigger. But Boleg is dead because of Boleg.

1 Now, the events that occurred in the early
2 morning of January 22, 2021, were set in motion
3 long before that morning. You're going to hear
4 evidence about how Boleg came to be in Jamira's
5 life as the long-term on-again/off-again boyfriend
6 of her mother, Wynette. You'll hear about
7 Jamira's complicated relationship with her mother.
8 You'll hear about my Wynette's relationship with
9 Boleg. You'll hear about the ups, the downs, the
10 rock bottoms.

11 You'll hear that Boleg was a drinker. You'll
12 hear it was a problem. And you'll hear that when
13 he was drinking, he could become violent.
14 Nevertheless, you will hear that Jamira had a bond
15 with him. He was kind to her. He was generous
16 with her. He was like a father to her.

17 Of course, Jamira didn't really ask that many
18 questions about her mom's relationship with Boleg.
19 And it was easier for her to pay no attention at
20 all to what was going on between the two of them
21 once she moved out of the house. So she wasn't
22 aware when her mother reached her last straw when,
23 as the evidence will show, brutalized her for the
24 last time.

25 And when she left, you'll hear about

1 Wynette's desperate attempts to evade him. You'll
2 hear about Boleg's relentless pursuit of her, his
3 attempts to sidestep the boundaries that he was
4 putting up with her. If Wynette was going to
5 leave him, he was going to make her regret it.

6 So in the early morning hours of
7 January 22, 2021, Jamira went over to Boleg's
8 house. She went to get some weed. That was
9 something that was normal for their relationship,
10 as Mr. Scott has already told you. But that
11 night, Boleg had something else in mind. He
12 wanted revenge on her mother. And can you imagine
13 a more grotesque revenge, more barbaric form of
14 punishment on a mother than the rape of her child?

15 Now, of course, Boleg knew that Jamira was
16 gay. He had met her girlfriend many times. It
17 wasn't a surprise to him. So this was never
18 intended to be a seduction; it was always going to
19 be an attack. So in that fleeting moment of life
20 or death, Jamira made the split-second decision to
21 save her life using the only means available to
22 her. Boleg's gun became her lifeline, the only
23 opportunity she had to prevent imminent harm.

24 The law permits people to protect themselves
25 from imminent threat of death or bodily injury

1 using deadly force. And I look forward to the
2 opportunity I'm going to have to prove to you, to
3 show to you that Jamira acted within the bounds of
4 this principle. Our legal system doesn't require
5 people to sit idly by, let themselves become
6 victims, and hope that justice is going to be
7 served somehow eventually. I mean, no one, while
8 they're being attacked, thinks I can't wait for a
9 jury to hear about this. They're going to fix
10 everything.

11 You do have the opportunity here to right a
12 terrible wrong. But Jamira had no reason to think
13 going over to her stepdad's house that night, that
14 she was ever going to have to come face to face
15 with any of you or with me or with the
16 investigators. So when the worst thing happened,
17 when as the evidence will show, Boleg kidnapped
18 her, tried to rape her, when she knew she couldn't
19 fight him off because he was stronger than her,
20 when she was in fear for her life, when she
21 grabbed his gun and pulled the trigger until she
22 knew she could make it out the door safely, you
23 and I are the last things on her mind.

24 Not everyone who lives to tell their story is
25 all that eager to tell their story. And of

1 course, the next morning, when she heard that his
2 house had caught fire, it became even harder for
3 her to own up to what had happened. She didn't
4 know at that point the fire was ruled accidental.
5 She just knew that it did not look like that when
6 she left.

7 So in the aftermath, she made some bad
8 decisions. One of the biggest of those bad
9 decisions was taking the gun from that house and
10 getting rid of it. Another of those bad decisions
11 was lying to the police for almost three hours.
12 And Mr. Scott has told you that you will see that
13 video. And you will hear her tell her story in
14 that video. She does lie to the police for some
15 time. But then she tells him -- tells them that
16 Boleg did in fact attack her that night.

17 She's human. She's young now. And she was
18 even younger then. She was 20 at the time. She
19 was scared. She was in over her head. And so she
20 made some mistakes. But none of the decisions
21 that she made after she pulled the trigger erase
22 the life-or-death stakes that led her to that
23 moment.

24 Now, there are certain elements that have to
25 be met when a defendant asserts that they've acted

1 in self-defense. And the judge is going to
2 instruct you on the law at the end of this case
3 once you've heard all of the evidence. So I'm
4 just going to paraphrase it for you now. As you
5 watch this case, you listen to the witnesses
6 testify, as you look at the evidence, I want you
7 to ask yourselves: Was Jamira at fault in
8 bringing on the difficulty? Did she instigate
9 physical violence that night? Second, was she in
10 imminent danger of death or great bodily injury?
11 Or was she reasonable in believing that she was in
12 such danger? Would a reasonable person in her
13 position have thought that they were in danger of
14 death or serious injury? Would they have also
15 felt justified in using deadly force? And
16 finally, did she have any alternatives to avoid
17 being killed or seriously hurt short of pulling
18 that trigger?

19 Now, Jamira does not have the burden of
20 proving to you that she acted in self-defense.
21 And while I would love to leave you all thoroughly
22 convinced that she did, that she acted in a
23 justified manner that night, it is always the
24 burden of the state to prove to you beyond
25 reasonable doubt that she is guilty and that she

1 did not act in self-defense beyond a reasonable
2 doubt. So if you have any doubts, you have to
3 resolve them in favor of Jamira.

4 Now, Mr. Scott said that we hate it when
5 you -- when he tells y'all to use your common
6 sense. But I second that. I welcome you to use
7 your common sense. Sometimes the simplest answer
8 is the correct answer. And so I want you to ask
9 yourself is the simplest answer that a young woman
10 would snap one night and kill someone who had been
11 kind to her for so long? Or is the most likely
12 answer that Boleg died as he lived, towering over
13 a terrifying woman?

14 Boleg is dead because of Boleg. Jamira Davis
15 is a victim. She lived to tell her story. And
16 once you've heard it, I ask that you return a
17 verdict of "not guilty." Thank you.

18 **THE COURT:** The state may call its first
19 witness.

20 **MR. SCOTT:** Thank you, Your Honor.

21 The state calls Sean Cason.

22 **THE COURT:** Ladies and gentlemen, we're going
23 to adjust the AC a little bit. It's a little warm
24 in here, so we're going to kind of make it cool.

25 **THE COURTROOM DEPUTY:** Do you swear or affirm

1 the testimony that you're about to give in this
2 case to be the truth, the whole truth and nothing
3 but the truth so help you God?

4 **THE WITNESS:** Yes, ma'am.

5 **THE COURTROOM DEPUTY:** Would you please state
6 your full name, spelling your first name?

7 **THE WITNESS:** Sean Carlton, S-e-a-n.

8 **THE COURTROOM DEPUTY:** Thank you. You may be
9 seated.

10 **SEAN CARLTON CASON**

11 having first been duly sworn, testifies as follows:

12 **DIRECT EXAMINATION**

13 **BY MR. SCOTT:**

14 **Q** Okay.

15 Mr. Cason, where are you employed?

16 **A** City of Columbia Fire Department.

17 **Q** Okay.

18 Is that where you were employed

19 January 22, 2021?

20 **A** Yes, sir.

21 **Q** All right.

22 Help me with this: Why is the City of
23 Columbia out in Hopkins investigating a fire?

24 **A** So City of Columbia and Richland County are a
25 codependent fire department. So City of Columbia is --

1 while we call ourselves the Columbia Fire Department,
2 Richland County is just a part of us. So we have
3 units, I believe 32 different stations all across the
4 City of Columbia and Richland County. So it could be
5 all the way out in Blythewood or all the way down into
6 lower Richland.

7 Q Okay.

8 A And that's where I happen to be stationed.

9 Q And at particular station, where was your
10 station in January 22, 2021? Is it in Hopkins
11 somewhere?

12 A Yeah. The Lower Richland Fire Station, which
13 is right across the street from Lower Richland High
14 School football field on Lower Richland Boulevard.

15 Q Okay.

16 And did you have an occasion to respond
17 that -- I guess the early morning, January 22, to
18 [REDACTED] American Avenue?

19 A Yes, sir. I did.

20 Q Did your report indicate what time you got
21 there?

22 A Yes, sir. Engine 22 would have arrived on
23 scene at 0616 hours.

24 Q So about 6:16 a.m.?

25 A Yes, sir.

1 **Q** And what do you deserve when you first get
2 there?

3 **A** My observations were, first off, going
4 towards the scene, we had a volunteer firefighter
5 already show up and say he saw fire. And then, we had
6 a battalion chief show up before us that said he saw
7 100 percent involvement. Battalion Chief at that point
8 is going to sit in the car and wait on the first due
9 unit because there's obviously no hose or anything to
10 fight the fire with.

11 When we arrived as Engine 22, I being the
12 captain and my firefighter, we get out. My engineer
13 goes and starts doing the pump work. I'm looking and
14 I'm seeing 100 percent involvement from the alpha side,
15 which we see.

16 So before we ever go into a fire, we're gonna
17 do a, what we call a 360, meaning go around the whole
18 entire house, looking for any type of hazards, seeing
19 if there's any type of other ways of entry, see if
20 there's a room maybe that's not on fire that we can go
21 through to, you know, either save somebody or get to
22 the fire point. Upon doing my 360, it was 100 percent
23 involved, going out all windows and through the roof.

24 **Q** Okay.

25 And I guess you make efforts to extinguish

1 the fire?

2 **A** Absolutely. Once we do the 360, I call that
3 out. We do what we call a defensive operation at
4 first, meaning we're gonna do all firefighting from the
5 exterior. Because we -- we don't see any chance of
6 survivability because the fire is through the roof,
7 smoke is back down to the ground, and all rooms are on
8 fire. So what we do is, Engine 22 pulled a line to the
9 front area, to the alpha side of the building,
10 meaning --

11 **Q** What's that? What's the alpha side?

12 **A** Okay.

13 So the alpha side is, for us if we pull up on
14 a -- an address, as this one was American Avenue,
15 whichever side is facing the street, usually the front
16 door, is going to be the alpha side. And then we'll go
17 bravo, charlie being the rear, and delta, if it's a
18 four-sided building.

19 So 22 pulls an inch of three-quarter hose
20 line. And we start firefighting from the alpha side,
21 moving around to the bravo side.

22 Rescue 5 pulls a line off our truck as well.
23 That's a whole different unit. They get there. They
24 pull line off our truck. And they start firefighting
25 from the charlie side. So we're hitting it from both

1 sides trying to what we call darken it down, meaning
2 get the flames out so we can go interior.

3 Q Okay.

4 I'll show you some pictures.

5 Let me show you -- this State's 21, 22, 23,
6 24, and 25.

7 A Okay.

8 Yes, sir.

9 Q What is that? That's 21.

10 A Okay.

11 That would have been the alpha side of the
12 house that we're speaking of.

13 Q 22.

14 A Uh-huh.

15 Q This is 23?

16 A Yes, sir.

17 Q 24. 25. Is that what you observed
18 January 22, 2021 when you went out to [REDACTED] American
19 Avenue?

20 A Yes, sir. Afterwards. I mean, it was quite
21 a bit darker when we arrived. And obviously fire, so
22 we didn't see that coloring. But yeah, when the sun
23 came up fire was out. That's what we observed.

24 Q Okay.

25 Those depict the exterior of [REDACTED] American

1 Avenue?

2 **A** Yes, sir. They do.

3 **Q** What does that start with, 21?

4 **A** 21. Yes, sir. 21 through 25.

5 **MR. SCOTT:** Your Honor, the State offers 21
6 through 25 for admission into evidence.

7 **THE COURT:** Anything from the defense?

8 **MR. L. SHEALEY:** No objection.

9 **THE COURT:** All right. So entered.

10 (State Exhibit Nos. 21 through 25 are admitted
11 into the record.)

12 **BY MR. SCOTT:**

13 **Q** This is -- they're looking at 21 --

14 **A** Yes, sir.

15 **Q** -- right now.

16 **A** Okay.

17 **Q** And that -- that would be what you're
18 describing as the alpha side? That would be facing the
19 road right there?

20 **A** Yes, sir.

21 **Q** Okay.

22 And what do we have? We've got the little
23 front porch there?

24 **A** Yes, sir.

25 **Q** And then a door in the center, which would

1 have been the front door of [REDACTED] American Avenue?

2 A Yes, sir.

3 Q And the way you were describing, that's
4 counterclockwise on the right of this picture. That
5 would have been the bravo side. The back would have
6 been charlie --

7 A No, sir. Alpha. Bravo to left.

8 Q Oh.

9 A Charlie to the back. Delta.

10 Q Okay.

11 A So we go around the building clockwise.

12 Q All right. Okay.

13 A Yes, sir.

14 Q I got it backwards. All right.

15 So alpha, bravo, charlie in the rear, and
16 then Delta --

17 A Yes, sir.

18 Q -- on the right of this picture?

19 Okay.

20 Twenty-two, I guess that would be delta?

21 A Yes, sir. That's delta.

22 Q Let me show them pictures while I wait for
23 that to wake up. Twenty-two here would be the -- I
24 guess as you're facing it, the right side of the house.
25 Twenty-three, again, is that --

1 **A** Yeah, that's -- we'd call that the
2 delta-charlie corner.

3 **Q** Twenty-four?

4 **A** Yes, sir. That would be the charlie.

5 **Q** Okay.

6 Twenty-five?

7 **A** Yes, sir. That would be the bravo.

8 **Q** Okay.

9 Now, we go back and we're looking at the
10 front of the house. Do -- do you recall when you --
11 you walked through the door, do you remember what you
12 would have observed? And I don't know if it's in your
13 report or not.

14 **A** Okay.

15 So, first thing, after we darkened it down,
16 got the fire out enough to transition to what we call
17 an offensive attack, meaning we're gonna go interior.
18 As we're walking up the steps, there was a kerosene can
19 on the -- or was labeled a kerosene can on the porch.
20 With that, I went ahead, I grabbed it and I tossed that
21 in the front yard due to it being a safety hazard us
22 going interior.

23 Once we went interior, smoke was still banked
24 down pretty low. There was still little orange glow
25 inside. And that's where we started firefighting. Off

1 to the right would have been a -- I can't tell you what
2 type of room. I'm guessing a bedroom. But it would
3 have been a room. We could not go into that room
4 because the floor was missing. Because the fire was
5 also in the crawlspace, which we had put out before we
6 went in. But it had caused a hole to go into the
7 floor.

8 So as we're moving through the house, we're
9 having to do what we call sounding the floor, meaning
10 using our tools and beating on the floor a little bit
11 to ensure that we're not going to fall through. Once
12 we get the fire out in the main living space right
13 through the front door, we move to the charlie side of
14 the interior building, meaning to the -- towards the
15 back door. And that would be the kitchen.

16 And as the smoke started rising from putting
17 the fire out, that's where we saw a victim on the
18 floor. He had -- he had been deceased. At that point,
19 we didn't know anything past that. We just had a
20 deceased victim. But we called that out to the
21 battalion chief on the scene. And he reported that up.
22 And they -- my understanding is they called the coroner
23 after that.

24 Q Okay.

25 I got some pictures I want to show you. But

1 when you first go in, you say what -- what is that
2 initial room in there? Was it --

3 **A** I would guess a living room. Or -- yeah.
4 And then, if I'm looking after I go in and off to the
5 right through a doorway or what used to be a doorway,
6 I'm guessing that was probably a bedroom. I can't tell
7 you for sure. Because like I said, everything was
8 burned out at that point. And we could not enter that
9 room at that point because it was -- there was a big
10 hole in the floor.

11 **Q** Okay.

12 Did you -- while you were there, did y'all
13 identify a kerosene heater?

14 **A** No, sir. I did not identify a kerosene
15 heater.

16 **Q** Okay. All right.

17 I'm going to show you -- show you State's 1
18 through 8.

19 **A** Uh-huh.

20 **Q** All right.

21 Starting with 1, is that just kind of
22 generally the view from when you're looking in through
23 that front door?

24 **A** Yes, sir. I would say again that when we
25 went through that front door first, understand the

1 smoke was down to the floor still from the fire. Once
2 we cleared everything up and got the fires out and the
3 smoke went through the roof, yes, that -- that's what I
4 would have seen.

5 **MR. SCOTT:** Your Honor, the state offers
6 State's 1 for admission into evidence.

7 **MR. L. SHEALEY:** Without objection.

8 **THE COURT:** So entered.

9 (State Exhibit No. 1 is admitted into the record.)

10 **BY MR. SCOTT:**

11 **Q** So this is looking in through the front door.
12 You testified that this area that as you walk in is --
13 is sort of a living room. And you ascertained to the
14 right was a bedroom?

15 **A** That's what I'm guessing, yes, sir. Because
16 it was very small home. But yes, sir.

17 **Q** And this archway here, if we go through that
18 door in Space No. 1, what -- what is that room?

19 **A** I believe that was where we were heading into
20 the kitchen.

21 **Q** That would be a kitchen?

22 **A** Yes, sir. Kitchen, dining room, probably all
23 of it all together.

24 **Q** What is State's No. 2? Is that just another
25 kind of picture looking in from the front?

1 **A** That is. That's more getting inside the
2 front door, getting inside the frame. So you can see
3 to the right is where a -- a doorway would have been to
4 that bedroom.

5 **MR. SCOTT:** All right.

6 State's No. 2, we're offering for admission
7 into evidence, Your Honor.

8 **MR. L. SHEALEY:** No objection.

9 **THE COURT:** So entered.

10 (State Exhibit No. 2 is admitted into the record.)

11 **BY MR. SCOTT:**

12 **Q** Okay.

13 So yeah, again, we kind of see that archway.
14 You said that goes into the kitchen. Just to the right
15 of State's No. 2, if you're looking at it, is that the
16 doorway to what you're calling the bedroom?

17 **A** Yes, sir. That would have been a doorway.

18 **Q** What's No. 3 that you got there?

19 **A** No. 3 is -- that should be the bedroom.

20 **Q** Okay.

21 Look at 4, 5, and 6. Is that the same?

22 **A** Yes, sir. It seems to be.

23 **Q** Now, that would be -- if we're looking at
24 State's No. 2, we take a right into that door, that
25 would be what we're calling the bedroom?

1 **A** Yes, sir, if we took that right right there.
2 Yeah.

3 **MR. SCOTT:** Your Honor, the state offers 3,
4 4, 5 and 6 for admission into evidence.

5 **MR. L. SHEALEY:** No objection.

6 **THE COURT:** What number was that?

7 **MR. SCOTT:** 3, 4, 5, and 6.

8 **THE COURT:** All right.

9 So entered.

10 (State Exhibit Nos. 3 through 6 are admitted into
11 the record.)

12 **BY MR. SCOTT:**

13 **Q** All right.

14 So go to that bedroom. That -- that's what
15 you observed as far as State's No. 3? Four is
16 likewise, that bedroom just to the right?

17 **A** Yes, sir.

18 **Q** And 5, looks like -- are those bed springs
19 that we're -- we're looking at?

20 **A** Yeah. I think that's an alternate angle, but
21 yes, sir.

22 **Q** I don't know. Did you ever get to see -- I'm
23 taking it that's the kerosene heater that's sort of
24 right by the bedsprings in State's No. 5?

25 **A** I can't remember that, but yeah.

1 **Q** Six, another just picture from the inside of
2 the bedroom as you enter the home to the right?

3 **A** Yes, sir.

4 **Q** All right.

5 Seven and eight, what -- what are those
6 pictures of?

7 **A** Seven and eight are both of the kitchen.

8 **Q** Okay.

9 That would have been the kitchen?

10 **A** Yes, sir.

11 **MR. SCOTT:** Okay.

12 Your Honor, just briefly may we approach?

13 (A sidebar conference is held off the record.)

14 **THE COURT:** All right.

15 Ladies and gentlemen, we're gonna take -- I'm
16 going to let you take a short break while we
17 discuss a matter of law. Do not discuss the case
18 while you're back there. You can stretch your
19 legs. Don't talk about the case. And we'll have
20 you back here shortly. Okay?

21 (The jury exits the courtroom at 4:23 p.m.)

22 **THE COURT:** All right.

23 We have the state move -- try to move in
24 seven and eight, two photographs. There's an
25 objection from Mr. Shealey.

1 **MR. L. SHEALEY:** Yes, sir, Your Honor. May
2 it please the Court. This kind of dovetails into
3 one of our pretrial motions. I mean, the state
4 concedes that arson -- it's not an arson case,
5 that the burning of the house happened several
6 hours later, as kerosene heaters can sometimes do.
7 The state has also conceded due to the -- I
8 assume, the agreement and how graphic and gruesome
9 a burnt body is that they weren't going to admit
10 in those photos at autopsy. But they're seeking
11 to admit, you know, photos in the kitchen of where
12 his laid. It's quite graphic. It's quite
13 gruesome. I understand the desire by the state to
14 kind of lay the scene. But we run afoul of 403
15 here. Why is that relevant?

16 Well, the scene is relevant. That can be
17 done -- there are some photos of the kitchen that
18 do not have the -- of course, Mr. Burden in it. I
19 submit there are. Those can be introduced without
20 objection. But even if it's relevant, just lay
21 the scene, 403, it's so overwhelmingly prejudicial
22 that it runs the risk of unduly prejudice in this
23 case, particularly as the fire had nothing to do
24 with the actual killing.

25 So I know it's just two photos. And maybe

1 the argument would be made that you don't
2 necessarily know what you're looking at. But I
3 assume those photos (inaudible) cameras
4 graphically what they're looking at. So we would
5 object to it. We would -- there are other photos
6 that don't have the same issue in that house.
7 There are certain diagrams and things of that
8 nature that could be produced and probably will be
9 produced that don't have that problem as well. So
10 we object to the 401, 403, and our pretrial
11 motion.

12 **THE COURT:** All right.

13 **MR. SCOTT:** And again, Your Honor, I'll show
14 them to you again. There's absolutely -- they are
15 inconspicuous. To the naked eye, you would never
16 know that there's a person, a deceased person in
17 this picture. That's why we know nothing happened
18 in the bedroom. Nothing really happened in the
19 living room. But I went through great efforts to
20 get those in to orient the jury with the layout.
21 The house is no longer there. I don't have the
22 benefit of asking Your Honor to take them to the
23 scene so that we can look at the -- the layout of
24 the home. So what I'm left with are pictures.

25 I have pulled a great many pictures that I

1 would concede would probably toe the line as far
2 being gruesome. Your Honor, I would challenge you
3 again to look at this and see if you find anything
4 gruesome whatsoever, or if you can even find what
5 looks like human remains. You're gonna see a lot
6 of debris. But what is noteworthy in this case is
7 this oven and then there's a refrigerator here and
8 the replacement of his body in the home.

9 And defense is self-defense and she's made
10 some statements, there's inconsistencies with
11 those statements, and the evidence shows
12 otherwise, then I should be permitted to show
13 that. And I don't see how anybody could ever make
14 an argument either one of these pictures are
15 gruesome one iota.

16 **THE COURT:** All right.

17 Any response? Brief.

18 **MR. L. SHEALEY:** Maybe we've been doing this
19 too long to say that -- that it's not gruesome.
20 But it's not a -- it's not an autopsy photo,
21 Your Honor, but certainly a burnt corpse on the
22 ground is gruesome. Because it's not an arson and
23 because there's other pictures of the house to lay
24 out the scene and certainly testimony from live
25 witnesses that describe the location of the body,

1 it's just to me -- to me, it toes that line of
2 going one step too far and running afoul of the
3 rules.

4 **THE COURT:** All right.

5 I think I'm gonna let them in. I don't think
6 it violates 403. I think the probative value is
7 that it -- what Mr. Scott talked about when it
8 comes to self-defense. The position of the body
9 can be important as well as -- I mean, frankly,
10 you can get in autopsy photos that are much more
11 gruesome. So there is prejudicial effect.

12 However, after reviewing the photos, I do not
13 believe they are overly -- they will inflame the
14 passions of the jury in any way. Because it's --
15 it's hard to tell. I understand it is
16 prejudicial. But as with all evidence, I'm going
17 to deny the objection and allow in 7 and 8.

18 **MR. L. SHEALEY:** Yes, sir.

19 **THE COURT:** All right.

20 Thank you.

21 Bring the jury back in.

22 (The jury enters the courtroom at 4:28 p.m.)

23 **THE BAILIFF:** All jurors are seated,

24 Your Honor.

25 **BY MR. SCOTT:**

1 **Q** Okay.

2 Captain, we're trying to get a -- an idea of
3 the layout of this home. And we moved from the front
4 door, from the front porch, talked about the living
5 room kind of being one of the first rooms you
6 encounter. There was a bedroom to the right. So we're
7 moving towards the back of the home at this point,
8 right?

9 **A** Yes, sir.

10 **Q** And we -- we talked about one of the
11 picture -- I think State's No. 1. We saw that
12 noteworthy arch. And then you describe going through
13 that arch, and that would be the kitchen?

14 **A** Yes, sir.

15 **Q** And then your prior testimony was coming
16 across the deceased --

17 **A** Yes, sir.

18 **Q** -- Mr. Burden in that kitchen?

19 This is our -- State's No. 7, what is that,
20 and State's No. 8.

21 **A** Yeah, 7 and 8.

22 **Q** Those would both, I think you testified, be
23 the kitchen?

24 **A** Yes, sir.

25 **Q** Then we see a stove there?

1 **A** Yep.

2 **Q** This is State's No. 7. Okay.

3 And then when you look at 7 --

4 **MR. SCOTT:** Your Honor -- I'm sorry -- we
5 offer State's No. 7 for admission into evidence.

6 **MR. L. SHEALEY:** Subject to prior objection.

7 **THE COURT:** All right.

8 Objection is noted for the record.

9 Overruled. So entered.

10 (State Exhibit No. 7 is admitted into the record.)

11 **BY MR. SCOTT:**

12 **Q** Okay.

13 State's No. 7, to the right as we look at the
14 picture, that would be an oven stove, right?

15 **A** Absolutely, yes.

16 **Q** Okay.

17 And as we look -- now we're looking from the
18 kitchen towards the front door in State's No. 7; is
19 that -- is that right?

20 **MR. L. SHEALEY:** Your Honor, I would object
21 to leading at this point.

22 **THE COURT:** All right.

23 Sustained.

24 **BY MR. SCOTT:**

25 **Q** What are we looking at in this picture,

1 please.

2 **A** We're looking at the oven on the right, what
3 used to be a fridge there. That's really burn out to
4 the right of that opening at the top.

5 **Q** Uh-huh.

6 **A** Looking back into what I would consider the
7 living room, back towards the front door.

8 **Q** Okay.

9 So your testimony is this is us looking from
10 the kitchen towards the front door?

11 **A** Yeah. I'd say from the charlie side up
12 towards the alpha. On the back to the front.

13 **Q** And I think you testified that that was the
14 remains of where the refrigerator was?

15 **A** Yes, sir.

16 **Q** Okay.

17 And victim is in this kitchen when you find
18 him?

19 **A** Yes, sir.

20 **Q** Okay.

21 Where is he in the kitchen?

22 **A** The victim was facing -- on the -- on the
23 floor facing the oven. Basically where that oven door
24 is the victim was the way this picture is right back
25 there facing the oven.

1 **Q** Okay.

2 So --

3 **A** And sort of --

4 **Q** Under the debris that we see here?

5 **A** Yeah. Under the debris. And that door,
6 the -- the oven door that's down, the way they took
7 that picture, it's sort of covering part of him as
8 well.

9 **Q** Okay.

10 Do you mind step -- and with the Court's
11 permission, do you mind stepping down?

12 **A** No, I don't mind.

13 **THE COURT:** You may.

14 **BY MR. SCOTT:**

15 **Q** At this point, is it safe to say part of the
16 roof has gone down. And there's other debris that's
17 lying on top of --

18 **A** Yes, sir.

19 **Q** Show me -- or show the jury rather where the
20 victim was located?

21 **A** The victim's located right here. And so
22 where this door is is more body. But this is where the
23 victim is. And everything you see would have been
24 insulation and everything else from the ceiling.

25 **Q** So his head is --

1 **A** His --

2 **THE COURT REPORTER:** Could we just face me,
3 please?

4 **THE COURT:** The witness --

5 **THE WITNESS:** Oh, I'm sorry.

6 **THE COURT:** And it happens naturally. But
7 just when you're speaking, just so she can hear
8 you.

9 **THE WITNESS:** Absolutely.

10 **THE COURT:** Wherever you need to angle
11 yourself so you're not in front of the jury and
12 they can hear you and Mr. Shealey can see. I know
13 it's a lot.

14 **THE WITNESS:** This okay?

15 **THE COURT:** Just make sure --

16 **THE WITNESS:** All right.

17 **THE COURT:** Thank you.

18 **THE WITNESS:** So I had the victim here. Part
19 of it facing the oven. The head would have been
20 this way.

21 **BY MR. SCOTT:**

22 **Q** Okay.

23 So refrigerator, oven, his head between the
24 two, his feet are about this way?

25 **A** Yes, sir.

1 **Q** Was he faced up or faced down?

2 **A** I'd say faced down. But again, I can't be
3 100 percent on that.

4 **Q** Okay.

5 And then, State's 8 was just another angle of
6 the kitchen?

7 **A** Yes, sir.

8 **MR. SCOTT:** Your Honor, the state offers 8
9 for admission into evidence.

10 **MR. L. SHEALEY:** Subject to prior objection.

11 **THE COURT:** Noted for the record. Entered in
12 over the objection.

13 (State Exhibit No. 8 is admitted into the record.)

14 **BY MR. SCOTT:**

15 **Q** And then, we can kind of see the refrigerator
16 a little bit better in this picture?

17 **A** Yes, sir.

18 **Q** Okay.

19 Again, where -- where is the front door?

20 **A** Front door.

21 **Q** Okay.

22 One of the jurors is having some difficulty
23 seeing it.

24 Can everybody see this?

25 All right.

1 So we're -- again, we're in the kitchen.
2 Point to the front door for them.

3 **A** (Indicating.)

4 **Q** And I think your testimony, again, was that
5 under this debris, Mr. Burden is laying between the
6 oven and the refrigerator with his feet out and his
7 head --

8 **A** Yes, sir. Towards the -- towards here.
9 (Indicating.)

10 **Q** I think that's all. Again, in this
11 particular picture, it's the reverse of what we were
12 looking at in the other picture?

13 **A** Yes, sir.

14 **Q** So if go through here to the right would be
15 the living room; is that correct?

16 **A** That's correct.

17 **Q** To the left would be the bedroom?

18 **A** Yes, sir.

19 **Q** All right.

20 That, Captain, would be pretty much the gist
21 of your involvement? You're there really put out a
22 fire.

23 **A** Yes, sir. I'm no investigator. So yeah, at
24 the time, I was a captain; I'm now a chief. But the --
25 yeah. When we got in, we put the fire out. I will say

1 once you see something like that as -- meaning a
2 deceased body, you sort of -- we take the firefight in
3 a different way then. Because we're trying to, at that
4 point, preserve evidence.

5 So where we might have what we call a full
6 bell, meaning fully open 200 gallons of water hitting
7 the fire, we see that, we're going to drop it down and
8 try to lightly hit everything around that area without
9 disturbing the evidence chain that's -- that's in the
10 room at that point.

11 Once the fire is out, though, we back out.
12 It's -- it's obviously being taped up and all. Fire
13 investigators are coming in on the scene. And at that
14 point, we're just trying to keep anybody away and
15 preserve the evidence as best we can. If -- if little
16 what we call hotspots, something pops back off a little
17 bit, then we'll go in and get it out. But again,
18 trying to stay out of that area anymore. That way, the
19 evidence is preserved as well as we can -- we can let
20 it be.

21 **Q** Okay.

22 And I apologize. I've been referring to you
23 as captain.

24 **A** It's all right.

25 **Q** And then, you -- you would have left the

1 scene. And law enforcement and others would come in to
2 conduct evidence collection and investigation and
3 whatnot?

4 **A** Yes, sir. And this one's a little different,
5 just because, if you remember, I said we got on scene
6 early that morning, six -- I said 6:16 a.m. And the
7 Columbia Fire Department's what we call a shift change,
8 meaning we work 24-hour shifts. So we get off at
9 7:45 a.m. So in the middle of this fire, it's already
10 out. Everything's done. The next shift that's coming
11 into work, because it was at a shift change period, is
12 going to replace us.

13 So again, my involvement was fire's out,
14 scene's taped up, and investigators are just getting
15 there as my shift -- my crew, we're gonna pack up and
16 we're gonna go. And then the next arriving shift is --
17 their crew is gonna be there for everything you were
18 talking about, investigators, police involvement, all
19 that stuff.

20 **Q** Okay.

21 That -- this incident location, [REDACTED] American
22 Avenue, is that Richland County?

23 **A** Yes, sir. It is.

24 **Q** Okay. All right.

25 Answer any questions the defense attorney has

1 for you.

2 **A** Yes, sir.

3 **MR. L. SHEALEY:** May it please the Court?

4 **THE COURT:** Yes, sir.

5 **MR. L. SHEALEY:** Do you mind pre-marking
6 these?

7 **THE COURT REPORTER:** Sure. How many?

8 **MR. L. SHEALEY:** Just those two.

9 (Defense Exhibit Nos. 1 and 2 are marked for
10 identification.)

11 **CROSS-EXAMINATION**

12 **BY MR. L. SHEALEY:**

13 **Q** I'm sorry. You say "captain"?

14 **A** It's chief now.

15 **Q** Chief now. Captain back then.

16 So back then, you were basically in charge of
17 a fire truck?

18 **A** Yes, sir.

19 **Q** And got a call, obviously, as you probably
20 happen to do on many occasions to respond to fire?

21 **A** Yes, sir.

22 **Q** How many -- how many guys got on fire truck?

23 **A** Normally, we have four including myself.

24 **Q** Okay.

25 So you are in charge?

1 **A** I am -- yes, sir. The captain's in charge
2 the other three, which I had engineer, a senior
3 firefighter, and a firefighter.

4 **Q** Okay.

5 So you respond. And kind of it's your
6 judgment call about what's the best way to put out a
7 fire; is that fair?

8 **A** Absolutely. Yes, sir.

9 **Q** Based on your training and experience?

10 **A** Yes, sir.

11 **Q** And then after the fact, perhaps record or
12 for other proceedings, you write up a report?

13 **A** Yes, sir.

14 **Q** Do you have your report with you today?

15 **A** Yes, I do.

16 **Q** Okay.

17 And it sounds like there were multiple fire
18 trucks involved on this one.

19 **A** Yeah, in that area, especially, because it's
20 on the far end of the county, all -- all trucks aren't
21 built equal, meaning my truck may have four people.
22 But other trucks coming in may only have two or one.
23 And so you're gonna get a lot more involvement than you
24 would say if there was a fire in -- here in the middle
25 of the city.

1 **Q** Okay. That makes sense.

2 And I think you said it was fully involved.

3 And so I -- of course, I go to Firehouse Subs. And I
4 see that phrase. That's where it comes from. Explain
5 what that means.

6 **A** Okay. Fully involved.

7 If we call that -- and first off, let me do
8 say, there was a battalion chief on scene who arrived
9 first and saw it.

10 **Q** Uh-huh.

11 **A** And he called it fully involved. And once
12 there's a battalion chief on scene, he makes the call
13 as far as if we're doing defensive, meaning firefight
14 from the outside, or offensive. That's not something
15 we can just overrule because.

16 But what fully involved means is no
17 survivability per what we see. Fire coming out of
18 every window, fire coming out of the roof. Smoke,
19 obviously. But it's more or less fire in every room.
20 Fully involved. The whole entire house is involved in
21 the fire.

22 **Q** And so you're -- at that point, you're in a
23 defensive capacity; right?

24 **A** Yes, sir. Once I do my 360, I am.

25 **Q** And I guess part of that is to make sure that

1 that fire doesn't spread to the next house; is that
2 fair?

3 **A** That's fair. It's -- that's fair if there's
4 an exposure. We say an exposure, meaning it can be a
5 vehicle. It can be a house. It can be a shed. It can
6 be trees, whatever. But defensive in this, because
7 first and foremost, we have to protect ourselves. And
8 so to keep us alive, we go defensive. Because there's,
9 again, no survivability rate to run inside a fully
10 burning house, and put our lives at risk for that.

11 **Q** Right. And so only after, I guess, it's down
12 enough, dampened enough, then you can go offensive and
13 go in and look for evidence or anything of relevance;
14 right?

15 **A** Absolutely -- well, again, we're not
16 investigators. And we're not police. So we don't look
17 for evidence that at all. Our job is to put the fire
18 out. So once it is safe enough, it's still not what
19 you'd call for a civilian, safe. But once it's safe
20 enough, we get inside the house to see if there's a
21 possibility of saving anything in there. Property --
22 you know, our first -- our first thing is save lives.
23 Our second thing is property conservation, and so yeah.

24 **Q** So when it's fully involved, and you're
25 hitting it with your hoses, I assume, in defensive

1 capacity, how much -- describe to this jury how much
2 water, I guess it's coming out of these hoses and how
3 fast?

4 **A** It depends on the pump discharge pressure.
5 So it is a calculation. But let's say an inch and
6 three quarter line, which is what we would have pulled
7 that day, and we had two of them, one to the alpha side
8 and one to the charlie side, front and rear, maximum
9 would be 400 gallons per minute. I would tell you 300
10 to 400 gallons per minute at that time.

11 **Q** Okay.

12 And that's a pretty strong blast, I would
13 say; is that fair?

14 **A** Sure.

15 **Q** A weak blast wouldn't help you very much,
16 would it?

17 **A** No, sir.

18 **Q** Okay.

19 And when you're training those hoses, I
20 guess, at the house, are you -- if you see fire coming
21 out of an open door, is that where you hit it? Or you
22 have a certain way to hit it.

23 **A** Yeah, that -- we have certain ways. It's not
24 just because we see fire coming out of a room that we
25 hit it. Because you're hitting -- let's say you'd be

1 hitting nothing. You have to find what we call the
2 seat of the fire, meaning where the fire actually is
3 and what we can find. So on a defensive operation,
4 though, at first, and some of the pictures you showed,
5 you can see the roof was totally missing it seemed like
6 on the right side of the house. Once we get on that
7 other side, though, what we'll do is we'll bank the
8 water off the ceiling to come down, which is going to
9 cause a steam conversion, which is going to dampen it
10 all down a lot quicker than just spraying it through
11 into nothingness. Yeah. There's methods for what we
12 do.

13 Q Understand.

14 I guess when you -- when you're hitting a
15 structure or house, putting out a fire, and it's
16 300-400 gallons per minute, that has capacity to
17 dislodge things in the house sometimes, knock over
18 chairs, tables, whatever? You've experienced that?

19 A Absolutely.

20 Q Okay.

21 That's just from the force of it, right?

22 A From the force of the water.

23 Q And this house, you were there. It's -- it's
24 not very big, correct?

25 A Negative. No, sir. No, sir.

1 **Q** Under 500 square feet.

2 **A** I don't know if I'd go under 500 square feet.
3 It was small, though. I'd say under 1000.

4 **Q** Okay.

5 You didn't measure it?

6 **A** No. I did not measure the house.

7 **Q** Once you enter, you're in the living room,
8 right?

9 **A** That's right.

10 **Q** Bedroom there?

11 **A** Living room, bedroom, kitchen --

12 **Q** Kitchen.

13 **A** -- dining room area, yeah.

14 **Q** And then once you can leave the living room,
15 you're in the kitchen, right?

16 **A** Yes, sir.

17 **Q** It's not a vast house of hallways --

18 **A** No, sir.

19 **Q** -- and foyers and things of that nature,
20 correct?

21 **A** No, sir.

22 **Q** You saw kerosene can on the front that -- I
23 think you said you just moved for safety, right?

24 **A** Yes. Got it and threw it into the front
25 yard.

1 **Q** No evidence that that was involved in this.
2 And that's really -- that's not your determination at
3 the time. That's for the fire marshal.

4 **A** Oh, absolutely. Yeah. That's just a safety
5 thing. Don't want the can catch on fire and blow up on
6 you so.

7 **Q** Right.

8 I want to show you a couple of photos. They
9 were kind of right along these line of photos that you
10 were looking at.

11 **A** Okay.

12 **Q** If I could show you and see if you recognize
13 Defendant's 1. Do you recognize that?

14 **A** Off the top of my head, I mean, no. I don't
15 recognize this from that day. But I'm sure that's the
16 house.

17 **Q** So you've taken us through the front door.
18 Does that appear to be the back door and the front side
19 of the kitchen?

20 **A** It -- it could be very well, yes, sir.
21 Because that does look like a porch back there, so yes.

22 **Q** And let me help you with this side. Do you
23 recognize this as the charlie --

24 **A** Charlie side.

25 **Q** -- side of the house?

1 **A** I do recognize that, yes.

2 **Q** Okay.

3 And you can see that -- that board on the
4 back. Do you recognize that?

5 **A** Yes, sir.

6 **Q** Does that kind of match up with right there?

7 **A** I would say it does.

8 **Q** Okay. So do those pictures fairly and
9 accurately represent the house from the backside that
10 you encountered on that day in a different angle of the
11 kitchen?

12 **A** Sure. Yes, sir.

13 **MR. L. SHEALEY:** Okay.

14 Your Honor, at this time, I would seek to
15 admit Defense 1 and 2 into evidence.

16 **MR. SCOTT:** Without objection, Your Honor.

17 **THE COURT:** So entered.

18 (Defense Exhibit Nos. 1 and 2 are admitted into
19 the record.)

20 **BY MR. L. SHEALEY:**

21 **Q** And like you said, you're no investigator.
22 So you don't have any role in determining cause of
23 death or where something violent may have taken place
24 in that house, correct?

25 **A** That's correct. I'm not involved in that.

1 **Q** Okay.

2 But once you did discover it, it's your job
3 to report it to the authorities, whether it's the fire
4 marshal as an investigator?

5 **A** Well, as the captain, everything I do goes
6 through the incident commander, which is the battalion
7 chief. So I radioed to him, hey, this is what we have.
8 Once we've got the fire darkened down, that's when I --
9 or almost extinguished, I can go out and do a, what we
10 call a face-to-face, meaning me and him talking to each
11 other. And I tell him what I found, what we're doing
12 at that point. And he'll do all the radio
13 communication to say, "Hey, we need the coroner. We
14 need the fire investigators. We need."

15 And most of that gets started right off the
16 rip. When we see a fire, we call what we call a
17 working fire dispatch. And that starts all those extra
18 things coming towards the scene.

19 **MR. L. SHEALEY:** Beg the Court's indulgence.

20 (Pause.)

21 **BY MR. L. SHEALEY:**

22 **Q** Just real quick, just looking at the page 1
23 of your report -- of your report with me, you've got a
24 lot of little data boxes here for -- for you to enter
25 information. But you would agree that for cause of

1 ignition, it says unintentional?

2 **A** That's -- again, I'm not the investigator.
3 So what I say is, yes, we put the fire out. The fire
4 investigator decides if it's intentional, if it's arson
5 or not. We don't. We just say, hey, we found this.
6 And once there's a deceased body, that changes
7 everything. So the fire investigator does the full
8 workup. We don't decide if it's intentional or not.

9 **Q** I'm not talking about the cause of the
10 gentleman death.

11 **A** No, no. I understand. Yeah. The fire
12 investigator decides that. The fire marshals.

13 **Q** It says unintentional?

14 **A** That would have been -- that should have been
15 by me then, yes, sir.

16 **Q** Okay. Thank you.

17 **THE COURT:** Any redirect?

18 **MR. SCOTT:** No, Your Honor.

19 **THE COURT:** All right.

20 Thank you. You may step down.

21 If you'll approach.

22 (A sidebar conference is held off the record.)

23 **THE COURT:** All right, ladies and gentlemen.
24 We're going to go ahead and call it a little early
25 today. Typically, we try to get till five o'clock

1 with breaks in between. So thank you for your
2 patience so far, and your service. We're gonna
3 let you leave for the day. Tomorrow -- you'll
4 follow the instructions of the bailiffs and the
5 clerks when you leave here. We're gonna start
6 back tomorrow at 9 a.m. So 9 a.m., right back
7 here in your deliberation room. And we'll get you
8 shortly after that.

9 Again, do not discuss the case amongst
10 yourselves. Do not discuss it with your family
11 when you get home and they ask you about it. Tell
12 them per the judge's order, you cannot discuss it,
13 whether it's your siblings, your friends, your
14 spouse, whomever it may be, your parents. You
15 can't discuss it.

16 Do not do any independent research. Not that
17 you would. But the -- with the internet out
18 there, you can't do it. Everything you'll hear
19 about this case will come from this witness stand.
20 So do not discuss the case. Do not do any
21 independent research. We will see you back here
22 at 9 a.m. Thank you.

23 (The jury exits the courtroom at 4:51 p.m.)

24 **THE COURT:** You have all the photos?
25 Make sure we have all the photos.

1 Anything from the state?

2 **MR. SCOTT:** No, Your Honor.

3 **THE COURT:** Anything from the defense?

4 **MS. DEMER:** No, sir.

5 **THE COURT:** All right.

6 We'll start back at 9 a.m. tomorrow.

7 (The Court recesses for the day.)

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CERTIFICATE

1
2 I, the undersigned, Teresa B. Johnson, Official
3 Court Reporter, do hereby certify that I transcribed
4 the electronic recording of the remote hearing in this
5 matter; and that the foregoing is a true transcript of
6 said electronic recording.

7 I do further certify that I am not a relative,
8 employee, attorney, or counsel of any of the parties
9 connected with the action, nor am I financially
10 interested in the action.

11
12 Dated: January 28, 2024

13
14 /s/Teresa B. Johnson

15 Teresa B. Johnson

16 Official Court Reporter
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22
23
24
25

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	Case No.: 2021GS4005862
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Jamira U. Davis,	)	
	)	
Defendant.	)	June 27, 2023
	)	

TRANSCRIPT OF TRIAL - DAY 2 OF 5

BEFORE THE HONORABLE DANIEL COBLE
Circuit Court Judge, presiding

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P R O C E E D I N G S

THE COURT: All right.

Thank you. You may be seated.

THE BAILIFF: Please make sure all your cell phones are turned completely off. Thank you.

THE COURT: Anything from the state before we bring the jury out?

MR. SCOTT: No, Your Honor.

THE COURT: Anything from the defendants?

MS. YOUNG: Yes, Your Honor.

THE COURT: Yes, ma'am.

MS. YOUNG: Your Honor, we received a report this morning at 7:42. I have a copy of it. I'd like to and it up to the Court if that's okay. It's a 14-page expert report from a cellphone extraction done of our client's phone. That was the first time it was provided to us is this morning at 7:42 a.m. And we're moving to suppress that for violation of Rule 5 as Mr. Scott assured us yesterday everything had been turned over.

As you're aware, there was a motion to compel heard before Judge Griffin on -- somewhere around May 18. I think it was May 16. And then an order from that day signed on May 18.

A rule to show cause was held in front of

1 Your Honor. On June 8, you signed an order. Both
2 of those orders indicated the ongoing duty to
3 disclose all evidence in this case.

4 It looks like it was generated on May 19 and
5 forwarded to Mr. Scott on May 21 by the expert,
6 who he then forwarded it to his paralegal with no
7 instructions. No body is in the copy I have of
8 the email also on May 22. So they had in their
9 possession for over a month. And they disclosed
10 it to us on the second day of trial at 7:42.

11 Mr. Scott actually reached out to me at 7:30
12 this morning via text to acquire as to whether we
13 had it or not. Which to me indicates he had a
14 reason to believe we didn't, unlike what he
15 assured the Court yesterday, which was that we had
16 everything he had, and that he wouldn't be
17 producing anything this trial that had not been
18 turned over to us.

19 It's a clear violation. It was a
20 misstatement to the Court. And we would move to
21 suppress it at this time.

22 **THE COURT:** All right.

23 Yes, sir, Mr. Scott.

24 **MR. SCOTT:** Now, typically, these reports are
25 accompanied with the extraction. I turned over

Motion to Suppress

1 the extraction some time ago. I got that
2 report -- it's a 14-page report -- May 21. I did
3 forward it to my paralegal. I did fail to follow
4 up with her whether it had been forwarded or not.
5 So I'll take that.

6 Now, the -- the thrust of that report, what
7 it talks about is deleted text messages, deleted
8 phone calls during a window of time where the
9 incident occurs. They had spoken at length about
10 the transcript of the interview. During the
11 interview, Ms. Jamira Davis is confronted about
12 those deleted texts and deleted phone calls. So
13 the argument would be that report has new
14 information that hasn't already been presented
15 through other evidence. She herself had twice,
16 during the interviews, is confronted about
17 deleting texts and deleting phone calls. Her
18 explanation was that her iPhone automatically
19 deletes those phone calls and texts.

20 The report that was handed over today
21 basically summarizes the extraction and
22 (inaudible) that have been given to them. And
23 then Ricky Johnson at the Sheriff's Department
24 perform the Cellebrite extraction explains that he
25 did also locate those deleted text and phone

1 calls.

2 This is not anything -- this is not new
3 information for the defense. Again, it is spoken
4 at length during the interview regarding why she
5 did it. She's confronted about it. And she gives
6 an explanation. And, again, the phone extraction
7 itself with all that material in it was turned
8 over -- I'm sure they have the exact date -- but
9 some time ago. This would be a summary of the
10 findings of that Cellebrite report. And the
11 findings themselves has been turned over.

12 **MS. YOUNG:** If I may briefly respond, Your
13 Honor.

14 **THE COURT:** Yes, ma'am.

15 **MS. YOUNG:** I haven't had a chance to look at
16 it in great detail. But Mr. Scott is correct that
17 about two of 14 pages cover deleted things out of
18 her phone, which she was asked about in her
19 interview.

20 I haven't had a chance to look at the report.
21 Yes, I believe it probably is a summary of the
22 extraction. I haven't had a chance to investigate
23 it. I haven't had a chance to talk to an expert.
24 I haven't had a chance to check its validity.

25 A cellphone extraction is thousands and

Motion to Suppress

1 thousands of pages long. I can't prepare for a
2 witness this -- when I'm given a report at 7:42
3 the second day in the trial. We can't talk to our
4 client about it. We can't consult other people.

5 It should be suppressed. This is a clear
6 violation.

7 **THE COURT:** I will suppress -- this report
8 will be suppressed. If it wasn't turned over, it
9 will be suppressed.

10 **MR. SCOTT:** All right.

11 And just -- Your Honor, I have -- I have -- I
12 have no intention of introducing any report. Of
13 course, the analyst who dump the cell phone can
14 talk about the extraction of the cell phone.

15 **THE COURT:** This is the issue -- I know -- I
16 know what you're going to say. This the issue.
17 This report, which I think we agree on, will not
18 come in. Now information coming from this report
19 will not come in. If there's a secondary evidence
20 that overlaps with this that comes from evidence
21 that was turned over -- that was turned over, that
22 that will likely come in under Brady assuming
23 everything else is fine. But this report will not
24 come in.

25 So you're gonna have to keep me updated that

1 sometimes is about to come in. If you say it
2 comes from this report that's suppressed or if it
3 comes from another piece of evidence that was
4 turned over, another report that was turned
5 over --

6 **MR. SCOTT:** Just to be clear, Your Honor, the
7 entire phone dump encompassing everything in that
8 report, everything from her cell phone was turned
9 over months ago. So if there was ever any need
10 for an expert to analyze it, that would have been
11 readily apparent. I've turned over I don't how
12 many gigs of cell phone information to them.

13 So the extraction itself from the phone dump
14 was turned over I don't know when, but certainly
15 some time ago.

16 **THE COURT:** All right.

17 **MS. YOUNG:** Your Honor, I do know the date.
18 It was May -- it was after their meeting on
19 May 18. It was about five days later. So about a
20 month ago.

21 And again, it's thousands and thousands and
22 thousands of pages long. And now, they've
23 narrowed it down to what they find relevant or
24 what an expert is going to testify about. And the
25 testimony that comes from this should also be

1 suppressed at the very least. The -- the -- the
2 opinion testimony that is based on this report
3 should be suppressed because it was turned over.

4 **THE COURT:** I agree. If anything is based on
5 this report, and if it's based on this report, it
6 will be suppressed.

7 **MR. SCOTT:** Okay.

8 Well, just to be clear, I myself have
9 analyzed that extraction. I have a lot more that
10 I want to introduce that's not in that --

11 **THE COURT:** That's -- that's why we're going
12 to have to take this when it comes up with
13 witness. Because if the witness gets up there and
14 say, "I found text message X, Y, and Z." And you
15 say it came from something that the extraction
16 that was turned over and you say it came from this
17 report that was suppressed, if I find that it came
18 from the suppressed report, and it doesn't have --
19 it never came from that -- what was turned over,
20 then he can't testify to that.

21 But on the flip side of it, if you show that
22 it came from what was turned over properly, and it
23 might also be in this somewhere but it came from
24 something turned over properly, then it can come
25 in. I can't foresee what's going to happen at

1 this point.

2 **MR. SCOTT:** Just to be clear. And I have
3 looked through that extraction. I hope they have
4 too. There were certain things I found in there
5 that I intend to introduce from the extraction
6 that might not be in that report. Is that -- is
7 that --

8 **THE COURT:** Was the extraction turned over?

9 **MR. SCOTT:** Yeah. That's what I'm saying.
10 Everything in that -- this -- those deleted texts,
11 she is asked about them during her interview. She
12 acknowledges them. She acknowledges deleting
13 phone calls. That report basically is he's
14 confirming yeah, I see where these deleted texts
15 were and these deleted phone calls were. Now, she
16 has already admitted to it during her interview.

17 **THE COURT:** All right.

18 **MR. SCOTT:** And again, I have other messages
19 that I found on that extraction. I don't know --
20 I don't know that it's my duty to walk them
21 through a phone extraction in other words.

22 **THE COURT:** No.

23 **MS. YOUNG:** Your Honor, to be very clear,
24 there's a very big difference between asking a lay
25 witness or some other witness who looked at the

Motion to Suppress

1 phone and said, Did you see this in the phone,
2 then there is putting an expert on the phone -- on
3 the stand to testify about scientific sort of, you
4 know, data. This is like metadata. I have a
5 right to have an expert look at this and tell me
6 whether it's accurate or not. I can't look at it
7 and tell that it's accurate.

8 And if he's going to testify to the contents
9 which are based on the extraction, I will give you
10 that allegedly. I don't know, 'cause I haven't
11 had a chance to look at it. But there's
12 information in here that is opinion. Its
13 analysis. And it was turned over. We didn't even
14 know this expert existed until yesterday when we
15 saw on the witness list.

16 I can't be prepared for an expert witness
17 that get disclosed to me the day of trial and then
18 an expert the next day -- I mean, an opinion
19 report the next day. I -- at the very least, I
20 think that we should not have any phone testimony
21 from Ricky Johnson until I've had a chance to
22 provide this my expert, go over it with him,
23 consult with him, and find out if there's any
24 errors in here.

25 **THE COURT:** Well, is your motion to suppress

1 or are you taking it further than that?

2 **MS. YOUNG:** I am taking it -- well, Your
3 Honor seems inclined to allow him to put him on
4 the stand to testify about what's in here if it's
5 in the extraction. And I would -- all of --
6 allegedly all of what's in here is in the
7 extraction.

8 So if you're inclined to just say you're not
9 going to let this piece of paper in, but he could
10 still testify about everything that's in here,
11 then at that --

12 **THE COURT:** If it was found in a piece of
13 evidence that was properly turned over. Sure.
14 But this -- this is also an analysis of --
15 analysis of that data. It's not just on June 21
16 so it's a -- I mean, the idea that you can testify
17 that things were deleted or not deleted, that's
18 all based on the data that's in a phone. It's not
19 like it just pops up and says deleted. So it's
20 the analysis of the information that I'm more
21 worried about than him just saying, you know, this
22 text message appears on this phone record, but not
23 on this.

24 There's -- there's also geolocation in here
25 that's new. There's -- I won't say new. It's

Motion to Suppress

1 probably in the extraction. Maybe but I don't
2 know. And I have a right to have an -- my expert
3 look at this and tell me if he made any mistakes
4 or if this analysis is wrong. So if you're
5 inclined to let the witness testify about his
6 findings and his expert opinion, then I think I
7 have a right to consult with my expert before he
8 testifies.

9 He just disclosed this expert yesterday. He
10 doesn't appear in the discovery anywhere. He is
11 the person who uploaded the extraction to
12 Evidence.com. That's the only place that his name
13 appears anywhere in discovery.

14 I am not prepared to cross-examine an expert
15 that gets disclosed to me the morning of trial and
16 the report the very next day when we're in the
17 middle of trial. So if you're inclined to let him
18 testify about his findings and his analysis, and
19 give an expert opinion, I would ask for time to be
20 able to consult with my witness, which I think I
21 could do.

22 I was hopeful I'd be able to do it today.
23 He's in Beaufort testifying at a different trial.
24 So I'd ask could we put this on hold until
25 tomorrow morning when I am able to consult with

1 him tonight.

2 **THE COURT:** All right.

3 As to your motion to suppress the report,
4 that is granted. As to the motion to continue or
5 delay, that is denied at this point. We will
6 address it when the -- whoever the expert is. If
7 he can pass Rule 702 and everything else and
8 everything that he testifies to has been turned
9 over and complies with Brady, we will cross that
10 road when we get to it.

11 **MS. YOUNG:** Okay, Your Honor. And just to --

12 **THE COURT:** We're going to make this a
13 Court's exhibit at some point.

14 **MS. YOUNG:** I think it may be No. 2.

15 **THE COURT:** All right.

16 **MS. YOUNG:** And, Your Honor, just to put this
17 out there now, I believe out of an abundance of
18 caution, we might proffer Ricky Johnson's
19 testimony so that we can't -- we don't get into a
20 situation where we can't unring the bell.

21 **THE COURT:** He's not the first up witness, is
22 he?

23 **MR. SCOTT:** No, sir.

24 **THE COURT:** All right.

25 We'll cross that bridge when we get to it.

1 **MS. YOUNG:** Thank you.

2 **THE COURT:** And we'll make Court's Exhibit 3
3 a jury note. Nothing too interesting. "Can we
4 get notepads to take notes in the courtroom?"

5 I always get this note every time. And for
6 some reason, I've decided no. Maybe it's because
7 the judge that I sat with, they didn't do it.
8 All -- you know, it can be distracting. They can
9 take notes. The notes could be wrong. And
10 they're writing. They should be listening. And
11 there's other good reasons to do it. So I always
12 say no.

13 But that's the note from the jury. We'll
14 make this Court's Exhibit -- the next one.

15 Anything else from the state?

16 **MR. SCOTT:** No, Your Honor.

17 **THE COURT:** Anything else, Ms. Demer?

18 **MS. DEMER:** Your Honor, I would just renew my
19 motion to sequester any witnesses who might be in
20 the courtroom.

21 **THE COURT:** All right.

22 We'll confirm any witnesses for the state,
23 you are not allowed to be present, and any
24 witnesses for the defendants.

25 **MR. SCOTT:** I've got my next testifying

1 witness here and then no other -- no other
2 witnesses subject to sequestration.

3 **THE COURT:** Just keep me posted since I don't
4 know who the witnesses are.

5 **MS. DEMER:** Thank you, Your Honor.

6 **THE COURT:** All right.

7 Let's bring the jury.

8 And we're short on the clerk staff.

9 (The jury enters the courtroom at 9:25 a.m.)

10 **THE BAILIFF:** The jury is seated, Your Honor.

11 **THE COURT:** All right.

12 Good morning, ladies and gentlemen. Thank
13 you for being here on time. I appreciate your
14 patience as we go through some legal issues. I
15 hope you had a wonderful night, and you did not
16 discuss the case with anybody who might have
17 inquired. But I -- so I appreciate you following
18 my instructions.

19 I did receive your juror note. And it's --
20 it's funny. It's a note I get every single trial
21 about using notepads. So it's -- there's two
22 schools of thought. Some judges say you can; some
23 say you can't. And there's good reasons for both.

24 I do not let juries use notepads, because
25 they can become distracted while you're writing

1 and trying to listen at the same time. And what
2 can also happen is that you might write something
3 down that might not be correct. And if it's
4 relied on later in the jury deliberation room over
5 some of what they remembered, it could create
6 issues.

7 There's just certain pros and cons with it.
8 And I think the cons kind of outweigh it. So no
9 notepads. So you don't have to worry about
10 getting any carpal tunnel or anything like that.
11 So no notepads. But I appreciate you asking
12 and -- and bringing that to my attention. We're
13 gonna go ahead and get started with this. And
14 thank you again.

15 All right.

16 The state may call its next witness.

17 **MR. SCOTT:** The state calls Trevor Holt.

18 **THE COURT:** Do you swear or affirm to tell
19 the truth, the whole truth, and nothing but the
20 truth so help you God?

21 **THE WITNESS:** I affirm.

22 **THE COURT:** All right.

23 If you will grab a seat and state your name
24 for the record.

25 **THE WITNESS:** Trevor Holt.

TREVOR HOLT

having first been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q Investigator Holt, where are you employed?

A Richland County Sheriff's Department.

Q Okay.

And were you employed there January 22, 2021?

A I was.

Q Did you have an opportunity to respond to

████ American Avenue in Hopkins?

A I did.

Q Okay.

Do you remember about what time you responded at that scene?

A I'd have to refer to my notes. (Reviewing.)

It looks like my approximate arrival time was about 09:20 a.m.

Q Okay.

What was the scene like when you arrived?

A It was a fire scene of a residential home.

Q Okay.

What -- did I ask you this? What do you do for the Richland County Sheriff's Department? You're a crime scene investigator?

1 **A** I am now assigned to the technical services
2 unit as a digital forensics investigator. Previously
3 to February 2022, I was a crime scene investigator for
4 14-ish years.

5 **Q** Okay.

6 So this time, you were a crime scene
7 investigator?

8 **A** Correct.

9 **Q** What does a crime scene investigator do when
10 the scene is on fire?

11 **A** When it's on fire, nothing. After the fire
12 has been extinguished, we document the scene via
13 photography.

14 **Q** Okay.

15 And did you do that?

16 **A** Yes, sir.

17 **Q** And what were your general observations when
18 you walked through the [REDACTED] American Avenue?

19 **A** There was a lot of structural damage. The
20 majority of the roof was gone, a large section of floor
21 was missing.

22 **Q** Were you able to determine, I guess, the
23 general layout of the home?

24 **A** It was a small house. It appeared to be
25 maybe a single bedroom, single bathroom, a small den

1 area and a small kitchen area.

2 Q Okay.

3 And where would the living room had been when
4 you go through the front door?

5 A Directly inside the front door.

6 Q Okay.

7 Where would the kitchen have been?

8 A Directly behind that.

9 Q Okay.

10 This has already been admitted as State's
11 No. 1. Do you recognize that?

12 A I do. This is a photograph appearing through
13 the front door.

14 Q Okay.

15 And what -- what else do you observe in that
16 picture?

17 A It looks like it's going towards the kitchen
18 area of the home.

19 Q Okay.

20 You see that, I guess, arched doorway?

21 A Yes.

22 Q And where would that lead into if you were
23 walking from the living room through that door?

24 A I believe that's a kitchen area.

25 Q Okay.

1 And this State's No. 10. Do you recognize
2 this?

3 **A** This appears to be that same doorway --

4 **Q** Okay.

5 **A** -- leading into the kitchen area.

6 **Q** Okay.

7 Well, here's a good picture that's already in
8 evidence. This is State's No. 2.

9 **A** It's the same arched doorway, appearing --
10 leading to the kitchen area.

11 **Q** Okay.

12 There was some testimony about this
13 yesterday. This would be your testimony if you're
14 looking through the front door. We're basically in the
15 living room. And through that arch door would be going
16 into the kitchen?

17 **A** Yes, sir. I believe so.

18 **Q** Are you able to collect any evidence at the
19 scene?

20 **A** No, sir.

21 **Q** You're primarily -- your primary involvement
22 was just photographing the scene?

23 **A** Correct.

24 **Q** At some point -- well, let me ask. What did
25 you do after documenting the scene?

1 **A** After documenting the scene, I responded to
2 Prisma Health Richland for autopsy.

3 **Q** Okay.

4 Did you attend the autopsy?

5 **A** I did.

6 **Q** All right.

7 Mr. Burden. Brandon Burden?

8 **A** I did.

9 **Q** Okay.

10 And who performed the autopsy?

11 **A** Dr. Durso.

12 **Q** Okay.

13 Did -- did you collect anything while at the
14 scene?

15 **A** While at autopsy?

16 **Q** Yeah.

17 **A** I received a shirt fragment and two
18 projectiles from the coroner's office.

19 **Q** State's No. 34, do you recognize those?

20 **A** Yes.

21 **Q** What are those?

22 **A** These are the two projectiles received from
23 the coroner's office.

24 **Q** Okay.

25 So you testified that pathologist was Amy

1 Durso, Dr. Amy Durso?

2 **A** Correct.

3 **Q** And did you observe her collect those
4 projectiles?

5 **A** I did.

6 **Q** Okay.

7 And Ralph Wilson with the coroner's office,
8 was he there?

9 **A** Ralph Phillips.

10 **Q** I'm sorry.

11 Ralph Phillips, was he there?

12 **A** He was.

13 **Q** And what was his involvement as far as those
14 projectiles?

15 **A** So the coroner's office always assist the
16 pathologist. When the pathologist methodologist
17 collects evidence, they turn it over to the coroner's
18 office. The coroner's office packages it. And then
19 chains it over to the sheriff's department for
20 transport.

21 **Q** All right.

22 So Durso collected projectiles, gave them to
23 Ralph Phillips. He packaged them, and then gave them
24 to you?

25 **A** Correct.

1 **Q** And then where did you take those?

2 **A** I take those to the Richland County Sheriff's
3 Department forensic laboratory where they're packaged
4 and submitted into evidence and property.

5 **Q** Okay.

6 Anything else that you were recall as far as
7 your involvement with this particular case?

8 **A** No, sir.

9 **Q** Typically, the bulk of your -- your
10 involvement would be the collection of evidence. Is
11 that safe to say in other crime scenes?

12 **A** Correct.

13 **Q** But your testimony is just wasn't really the
14 evidence to collect at this particular scene?

15 **A** Correct.

16 **Q** You primarily -- your primary involvement is
17 to document the photographs and you attended the
18 autopsy?

19 **A** Correct.

20 **Q** All right.

21 Thank you answer any questions the defense
22 attorney has for you.

23 **MR. L. SHEALEY:** May it please the Court?

24 **THE COURT:** Yes, sir.

25 **CROSS-EXAMINATION**

1 **BY MR. SCOTT:**

2 **Q** Good morning.

3 **A** Good morning, sir.

4 **Q** And this was an extremely hot house fire that
5 you entered in after it was put out, right?

6 **A** Correct.

7 **Q** And pretty much the interior was completely
8 burnt and scorched, right?

9 **A** Yes.

10 **Q** Did you observe that kind of kerosene heater
11 in the bedroom to the right?

12 **A** I don't recall. I remember the kerosene
13 heater. I don't remember if it was in the yard when I
14 observed it, if it already been removed by the fire
15 department, or if it was in the bedroom. I don't
16 recall.

17 **Q** Do you recall that bedroom basically having
18 no floor?

19 **A** Correct. Yes.

20 **Q** And when you got there, the fire department
21 had lost washed this place out water to obviously make
22 it safe so folks like you can enter, right?

23 **A** Correct.

24 **Q** Sometimes as a crime scene investigator or
25 analyst, you have the ability to collect shell casings,

1 right?

2 **A** Correct.

3 **Q** Look for blood and DNA, things of that
4 nature, correct?

5 **A** Correct.

6 **Q** But in this case, it was just literally, no
7 pun intended, a wash, right?

8 **A** Correct.

9 **Q** But -- but you did the best you could and
10 took the photos, right?

11 **A** Correct.

12 **Q** And then you went to the autopsy and took
13 some photos, right?

14 **A** Yes.

15 **Q** Collected those two projectiles, correct?

16 **A** Yes.

17 **Q** And then it'll be your job to make sure
18 there's chain of custody and they go to the proper
19 places to be tested, if that's what's going to
20 happen --

21 **A** Yes.

22 **Q** -- right?

23 **MR. L. SHEALEY:** All right.

24 Beg the Court's indulgence. (Pause.)

25 Nothing further. Thank you.

1 **MR. SCOTT:** Nothing from the state,
2 Your Honor.

3 **THE COURT:** All right.

4 Thank you. You may step down.

5 **MR. SCOTT:** The state calls Robert Hook.

6 **THE COURT:** You swear or affirm to tell the
7 truth, the whole truth and nothing but the truth
8 so help you God?

9 **THE WITNESS:** I do.

10 **THE COURT:** All right.

11 Grab a seat. State your name for the record.

12 **THE WITNESS:** Robert Hook.

13 **ROBERT HOOK**

14 having first been duly sworn, testifies as follows:

15 **DIRECT EXAMINATION**

16 **BY MR. SCOTT:**

17 **Q** Mr. Hook, where are you employed now?

18 **A** I am currently retired, as well as I work
19 from home as an insurance adjuster.

20 **Q** Okay.

21 And January 22, 2021, where have you been
22 working?

23 **A** I would have been working for the Richland
24 County Sheriff's Department.

25 **Q** In what capacity?

1 **A** As an investigator in their Criminal
2 Investigation Division.

3 **Q** How long were you a crime scene investigator
4 at that time?

5 **A** Well, not a crime scene investigator, but
6 just a criminal investigator. I went to Criminal
7 Investigations in roughly March 2017. That's when
8 my -- I left the road as a uniform road unit.

9 **Q** So about four years at that time?

10 **A** Yes, sir.

11 **Q** And did you have an occasion to go out to
12 [REDACTED] American Avenue?

13 **A** Yes, sir. I did.

14 **Q** January 22?

15 **A** Yes, sir.

16 **Q** What was going on when you arrived?

17 **A** When I arrived there, it was still early in
18 the morning and fire suppression and cleanup efforts
19 were still taking place, as the fire department had
20 responded earlier in the morning to a reported house
21 fire at that location.

22 **Q** Okay.

23 Is it safe to say at that time there was --
24 y'all wouldn't have any evidence of any foul play, I
25 guess, at that point; is that correct?

1 **A** Foul play? No, sir.

2 **Q** You just -- at the point -- at that point in
3 time, there was a house that had been burned to the
4 ground. And were you there when Mr. Burden was
5 located?

6 **A** I was.

7 **Q** Okay.

8 And at some point, did the investigation take
9 a slightly different turn as far as how y'all were
10 gonna look at it?

11 **A** It did.

12 **Q** And when was that?

13 **A** Approximately three, four hours later, during
14 the incipient phase of the autopsy. I was notified by
15 Captain Godfrey, I believe it was, that the
16 pathologist, or the coroner's office, had reached out
17 to him to indicate that the victim in this case was
18 X-rayed prior to autopsy. And they found some -- what
19 they believed at that time to be gunshots or bullets
20 inside the victim's body.

21 **Q** And is it safe to say the sheriff's
22 department's involvement kind of took a little bit of a
23 different nature that point?

24 **A** Yes, sir.

25 **Q** Okay.

1 So far y'all have been, I guess, looking into
2 the fire. And now you're looking into a possible
3 homicide;

4 **A** Correct.

5 **Q** Okay.

6 What was some of the -- what was some of the
7 initial things that were done as far as investigating
8 how Mr. Burden came to be shot?

9 **A** Well, everything starts with the autopsy.
10 From the forensic standpoint, while the autopsy is
11 being conducted, the -- myself, Sergeant -- I believe
12 it was Sergeant Jordan at the time, Lieutenant
13 Eisenhower, and several others, we would go out
14 canvass scenes, interview witnesses, talk to neighbors,
15 look for any other evidence that could be germane to
16 the case. And then once the autopsy results were --
17 were done and submitted back to us, that would give us
18 a little bit better cause and possibly a manner of
19 death.

20 We would then take that information with
21 whatever information we had drawn upon from talking to
22 possible witnesses within the community and the
23 investigation would be steered at that point, based on
24 the evidence.

25 **Q** At some point, did you ever recover

1 Mr. Burden's cell phone?

2 **A** Mr. Burden's cell phone.

3 **Q** The victim's cell phone.

4 **A** The victim. I don't recall if we recovered
5 his phone or not. Let's see. I did. Yes, we did.

6 **Q** The victim's cell phone. The guy that was --

7 **A** Burnt.

8 **Q** Yeah?

9 **A** No, I think what we did was we ultimately
10 ended up getting his cell phone records. I don't think
11 we ever actually got his physical phone.

12 **Q** Okay.

13 And tell me about the number you talked about
14 trying to identify. Why was that relevant to you
15 during the initial phase of the investigation?

16 **A** The -- I'm sorry. Can you ask that again
17 now?

18 **Q** Okay.

19 You talked about getting a search warrant for
20 his phone. And -- and there was a -- I'm looking at
21 really page four of seven of the report at the top of
22 it. There's a phone number that catches your
23 attention.

24 **A** I got you. So yeah. This was -- looking at
25 the victim's phone records, this was -- we're trying to

1 determine who the owner of that -- this particular
2 phone number was, as well as their whereabouts, during
3 the fire and what now we knew was a homicide, as that
4 was the last phone number that the -- Mr. Burden, the
5 victim, had contacted before his death. And he
6 contacted it several times. So that was why we were
7 extremely interested in that particular phone number at
8 the time.

9 **Q** Okay.

10 At some point, did you sit in on an interview
11 with Jamira Davis?

12 **A** Yes, sir. I did. When she came to the
13 Richland County Sheriff's Department headquarters on
14 Two Notch Road for an interview. And myself and again,
15 I think he was Sergeant Jordan at the time, conducted a
16 video and audio recorded interview with Ms. Davis. And
17 I sat in during the beginning of that interview.

18 **Q** Okay.

19 And who -- who sat in with you?

20 **A** To start with, it was myself and Sergeant
21 Jordan. I think I -- I got up and exited the room at
22 one point. And Lieutenant Eisenhower came in. And
23 then, I think, Lieutenant Eisenhower and Sergeant
24 Jordan exited the room. And lastly, it was Sergeant
25 Dauway and Captain Godfrey.

1 **Q** At some point, you asked her for her phone.
2 You remember that?

3 **A** Not specifically. But it's not uncommon for
4 me to ask anybody that I'm interviewing for their
5 phone.

6 **Q** Okay.
7 I'm going to show you State's No. 35. Do you
8 recognize that?

9 **A** Yes, sir. This is a cell phone that was --
10 indicates on here it was collected by me belonging to
11 Ms. Davis.

12 **Q** And when does it indicate you collected it
13 from her?

14 **A** February 1, 2021, at 3 p.m. and which roughly
15 coincides or almost exactly coincides with the
16 interview. Because she came to headquarters at two
17 o'clock for the interview on that day.

18 **MR. SCOTT:** Your Honor, the state offers
19 State's 35 for admission into evidence.

20 **MR. L. SHEALEY:** No objection.

21 **THE COURT:** So entered.

22 (State Exhibit No. 35 is admitted into the
23 record.)

24 **BY MR. SCOTT:**

25 **Q** All right.

1 And is that pretty much your involvement in
2 the case? You went to the scene. You viewed the
3 scene. You didn't collect any evidence at the scene,
4 did you?

5 **A** No, sir.

6 Q You got information from the pathologist as
7 far as some new findings during the autopsy?

8	A	Correct.

9 Q You asked for the phone records for the
10 victim. And you identified that particular number that
11 was of interest to you?

12	A Correct.

13	Q	You sat in on an interview with Jamira Davis?

14	A Correct.

15 Q And you collected her phone?

16	A Correct.

17 Q Is that pretty much the extent of your
18 involvement?

19 **A** Yes, sir.

20 Q Did you go -- I'm looking at page 5 of 7 of
21 your report. Did you go ultimately to Ms. Davis's
22 residence to conduct a search?

23 **A** I did. Yes, sir.

24	Q	Okay.

25 And did you speak with an Alesha Thomas?

1 **A** I did.

2 **Q** Okay. Thank you.

3 Nothing further of this witness.

4 Answer any questions the defense has for you.

5 **A** Yes, sir.

6 **MR. L. SHEALEY:** May it please the Court?

7 **THE COURT:** Yes, sir.

8 **CROSS-EXAMINATION**

9 **BY MR. L. SHEALEY:**

10 **Q** All right.

11 So you no longer work for Richland County
12 Sheriff's Department, right?

13 **A** Correct.

14 **Q** You retired?

15 **A** Yes, sir. I retired from the sheriff's
16 department. And I would have stayed if the state's
17 retirement plan would have allowed me to do so. But
18 yes, sir.

19 **Q** So you're getting a retirement check, and
20 then also working a different job?

21 **A** Yes, sir.

22 **Q** Okay. Good for you.

23 But back at that time in 2021, (inaudible)
24 rotation of investigators working cases?

25 **A** Yes, sir.

1 **Q** Help me. I think you'll agree that you
2 worked this case with Sergeant Jordan, right?

3 **A** Yes, sir.

4 **Q** You got signed in before Sergeant Jordan,
5 right?

6 **A** So I got a phone call. I was part of the
7 arson or it's not arson, but suspicious fire unit,
8 myself and Sergeant Oxendine. So I got -- I was on
9 call for that unit and got a call from the fire
10 marshal's office actually, at 7:10 in the morning on
11 the morning of the 22nd. And that's what began the
12 investigation. When I went out there, observed what we
13 had, observed what was going on. And then once it was
14 determined the -- or once the autopsy had been
15 conducted, it was determined that the -- the Major
16 Crimes Unit would then step in and begin working the
17 case.

18 **Q** Okay.

19 So initial involvement was part of the arson
20 potential aspect, the fire aspect?

21 **A** Yes, sir.

22 **Q** And then you kind of followed up, also got
23 the help of Sergeant Jordan and others?

24 **A** Correct.

25 **Q** Dauway?

1 **A** Yes, sir.

2 **Q** Captain Godfrey?

3 **A** Yes, sir.

4 **Q** Eisenhower?

5 **A** Yes, sir.

6 **Q** I'm gonna show you some photos that are taken
7 from body cams. Do you recognize those as being from
8 the scene off American Avenue on that day?

9 **A** Yes, sir.

10 **Q** And do you see fire trucks --

11 **A** Yes, sir.

12 **Q** -- circling Mr. Boleg's house?

13 **A** Yes, sir.

14 **Q** And that date, is that January 22, 2021?

15 **A** Yes, sir.

16 **Q** And that's Defendant's 4. I'm gonna show you
17 Defendant's 3, another angle. Is that -- is that a
18 similar angle just showing more of the other side of
19 the street?

20 **A** Yes, sir.

21 **Q** And do these fairly and accurately depict
22 your recollection of the scene kind of when you got
23 there that day?

24 **A** Yes, sir.

25 **Q** Okay.

1 Kind of chaotic. Fire trucks are doing their
2 job?

3 **A** Yes, sir. But like I said, that's nothing
4 that I'm not used to. I did that for 15 years before I
5 was a sheriff's deputy, so --

6 **Q** Right. Okay.

7 **MR. L. SHEALEY:** At this time, I'm seeking to
8 admit Defendant's 3 and 4.

9 **MR. SCOTT:** No objection, Your Honor.

10 **THE COURT:** So entered.

11 (Defendant's Exhibit Nos. 3 and 4 are admitted
12 into the record.)

13 **BY MR. L. SHEALEY:**

14 **Q** Mr. Hook, so we have, at the early of this
15 case, I know the solicitor asked you some questions.
16 But y'all were tracking down leads, right?

17 **A** Yes, sir.

18 **Q** And a lot of times, what you hear in the
19 community can be of aid, right?

20 **A** Yes, sir.

21 **Q** And then you can start receiving things like
22 cell phone records, and that can help you narrow down
23 potential suspects, correct?

24 **A** Yes, sir.

25 **Q** And one of the leads you had was someone

1 about -- by the name of Mr. Darryl Maurice Sapp. Does
2 that sound familiar?

3 **A** Yes, sir.

4 **Q** You see that on page 3 of your report, kind
5 of in the middle of January 27?

6 **A** Yes, sir.

7 **Q** And you agree that he was an acquaintance of
8 Mr. Boleg's?

9 **A** I don't recall that. But that -- I don't
10 recall him being an acquaintance, a friend, a family
11 member. I'm not exactly sure what his relationship is.

12 **Q** Okay.

13 So you documented him as, you know, a video
14 showing him nearby. But you don't recall anything else
15 about Mr. Sapp as far as this investigation?

16 **A** So as I indicated in my report here that we
17 were able to identify from a nearby residence that a
18 video showed Mr. Sapp in the vicinity of the victim's
19 residence shortly before the homicide, which coincided
20 with the victim's cell phone records. Yes, sir.

21 **Q** Okay.

22 But -- I know this has been a while ago and
23 you're not working for the county anymore. But you
24 don't have any other personal recollection of anything
25 else with Mr. Sapp, in this case?

1 **A** No, sir. I'm afraid not.

2 **Q** That's okay. That's fair.

3 But these reports are helpful. Because when
4 you're testifying two years later, three years later,
5 right?

6 **A** Right.

7 **Q** So like the solicitor asked you, you -- you
8 obtained Mr. Burden's phone, as they call him Boleg,
9 right?

10 **A** Yes, sir.

11 **Q** You got the cellphone records, correct?

12 **A** Yes, sir.

13 **Q** It's going to let you know who he's in
14 contact with around the time of his death, correct?

15 **A** Yes -- yes, sir.

16 **Q** And like you told the solicitor, you then
17 narrowed what you would ultimately determine would be
18 my client's cell phone as one that was in
19 communication, right?

20 **A** Yes, sir.

21 **Q** And if you'll turn to page for with me right
22 in the middle of the page, that reflects how you and
23 Taima Jordan started to bring her in and question her
24 about this case, correct?

25 **A** That's probably fair to say. I'm not -- I

1 just remember, again, vaguely with personal
2 recollection. But what this was saying here is that
3 between the phone records showing Ms. Davis's calls to
4 the victim or his calls to her, whatever they may have
5 been, along with Lieutenant Eisenhower and Sergeant
6 Jordan going to interview Ms. Thomas, those two things
7 combined, I believe were what precipitated Ms. Davis
8 coming in for an interview.

9 Q Okay. Right.

10 And if you'll turn with me on page 4 of your
11 report, you can have that handy just -- just in case
12 your memory isn't a hundred percent, only if you need
13 it. But you agree that 1400, Ms. Davis survived and
14 you and Sergeant Jordan began interviewing her?

15 A Yes, sir.

16 Q Okay.

17 A Yes, sir.

18 Q And this is the Richland County Sheriff's
19 Department interview room?

20 A Yes, sir.

21 Q Fairly small room, right?

22 A Yes, sir.

23 Q It's video recorded, audio recorded.

24 A Yes, sir.

25 Q And obviously, y'all wanted to question her.

1 Because at this point, her phone is -- is pretty recent
2 with some communications with Boleg, right?

3 **A** Yes, sir.

4 **Q** And I think also you had had her records,
5 which showed her her phone in that area as well, right?

6 **A** Yes, sir.

7 **Q** Okay.

8 So obviously, naturally, this is of interest
9 to law enforcement?

10 **A** Yes, sir.

11 **Q** And just so the jury understands, I mean, do
12 you recall this interview, interrogation, whatever you
13 want to call it, lasting about three hours?

14 **A** Yes, sir. That's fair.

15 **Q** Okay.

16 **A** That's fair.

17 **Q** And just for chronology, you agree that you
18 and Investigator Jordan start first, correct?

19 **A** Yes, sir.

20 **Q** Y'all are questioning her for a period of
21 time, right?

22 **A** Yes, sir.

23 **Q** And you leave the room. And I think your
24 report says you're monitoring what's going on from
25 Captain Godfrey's computer?

1 **A** Yes, sir. When I -- when I left the
2 interview room, I observed Captain Godfrey in his
3 office, watching the interview. So I stayed in his
4 office with him to continue watching the interview.

5 **Q** And -- and Sergeant -- is it Sergeant
6 Eisenhower?

7 **A** Lieutenant Eisenhower at that time.

8 **Q** Lieutenant?

9 **A** Yes, sir.

10 **Q** He then swapped out. And he and -- and
11 Sergeant Jordan are continuing their interview of her,
12 right?

13 **A** Yes, sir.

14 **Q** And it's fair to say that at first she pretty
15 much don't want to admit being there, you know, things
16 of that nature, right?

17 **A** I'd have to go back read it. But from what I
18 recall, she pretty much admitted being there. But her
19 admission to being there was limited to, as I indicated
20 in my report, for a very short time. She just smoked
21 weed and left.

22 **Q** Right?

23 **A** That's what she kept saying and kept saying
24 and kept saying.

25 **Q** Right.

1 And then, you know -- and obviously, denials
2 from suspects, folks who are being questioned about a
3 crime like a killing, it's not uncommon to receive a
4 denial, correct?

5 **A** Well, that's true. Yes, sir.

6 **Q** And it's up to y'all to figure out and keep
7 probing, sometimes confronting her with information,
8 right?

9 **A** Yes, sir.

10 **Q** Sometimes suggesting, you know, here's what
11 could have happened. See if -- if you're getting
12 warmer, right?

13 **A** Yes, sir.

14 **Q** And in this case, as you're watching with
15 Captain Godfrey, there were questions about, Well, did
16 Boleg did something with you? Did he try something
17 with you, right?

18 **A** Yes.

19 **Q** And you note, in your report, that -- at the
20 top of page five, that basically as those questions are
21 being asked her, that she's kind of nodding her head,
22 right? Sorry. Bottom of page 4. That Jamira would
23 continuously nod her head?

24 **A** Yes, sir.

25 **Q** That's something of an acknowledgement,

1 right?

2 **A** Yes, sir.

3 **Q** And these are regarding the questions, Did he
4 do something to you?

5 **A** Yes, sir.

6 **Q** And then, at some point, Captain Godfrey,
7 then, comes in and take over the investigation, right?

8 **A** To -- the interview.

9 **Q** The interview?

10 **A** Yes, sir.

11 **Q** And Godfrey, Godfrey been doing this a long
12 time?

13 **A** Oh, yes.

14 **Q** Correct?

15 **A** Yes, sir.

16 **Q** And he's a ranking investigator at that
17 point?

18 **A** Yes, sir.

19 **Q** And you're still watching from his -- his
20 office per your report, right?

21 **A** Yes, sir.

22 **Q** And at this point, he's saying, I know he did
23 something to you, right?

24 **A** Yes, sir.

25 **Q** And that's when she comes clean and says,

1 Yes, he did --

2 **A** Yes, sir.

3 **Q** -- right?

4 And she details how he made a sexual advance
5 on her, correct?

6 **A** I don't know about details. I don't recall
7 that part. I know she indicated that that was the
8 case. And then shortly thereafter that statement, I
9 believe it was Captain Godfrey who said, Show me how he
10 attacked you or show me how he grabbed you. And that's
11 when she stood up in the interview room and began to
12 demonstrate how she was grabbed. And I think at that
13 point -- at that point, I concluded watching the
14 interview.

15 **Q** Okay.

16 Turn back to the bottom of page 4 with me.

17 **A** Okay.

18 **Q** Looking at the last four lines. You note
19 that Jamira was questioned about the possibility of a
20 shooting resulting from attempted sexual assault on her
21 by the victim, right?

22 **A** Yes, sir.

23 **Q** Okay.

24 And that's when she's nodding --

25 **A** Yes, sir.

1 **Q** -- right?

2 **A** Yes, sir.

3 **Q** And if you'll turn with me on page 5 at the
4 top is really where Captain Godfrey says, "I'm watching
5 your body language."

6 **MR. SCOTT:** Judge, unless there's an
7 exception, this is all hearsay. He's asking
8 Godfrey who has not been heard from yet. He has
9 elicited a number of statements from the
10 defendant, which is there's no hearsay exception
11 for him. So the objection will be to the ongoing
12 hearsay.

13 **MR. L. SHEALEY:** Your Honor, I'm allowed to
14 present a complete and full defense. He's
15 testifying about his observations of
16 interrogation, the subject of which has already
17 been deemed admissible by -- admissible by Your
18 Honor. And I'm detailing what she said.

19 **MR. SCOTT:** Unless there's a hearsay
20 exception, Your Honor, the objection will be
21 hearsay. And I'm not trying to prevent him from
22 presenting any kind of case. But it's got to be
23 within the rules of law. Unless he has an
24 exception of hearsay, that --

25 **MR. L. SHEALEY:** It would be a statement

1 against interest, her describing a killing event.

2 **MR. SCOTT:** That would be his part. He's not
3 a party opponent. Godfrey is not any witness.
4 That's not a hearsay exception.

5 **THE COURT:** Godfrey's statement, I don't
6 think it's hearsay. It's not how she reacted.
7 It's not for the truth of the matter asserted.
8 For her, it's a statement against interest. And
9 I'm assuming the video will be seen at some point
10 as well. Objection is noted for the record and
11 overruled.

12 **BY MR. L. SHEALEY:**

13 **Q** Okay.

14 So when Godfrey has her and gets her to admit
15 to it, she -- based on him -- his observations, she
16 describes, again, what's listed in your report as an
17 attempted sexual assault, correct?

18 **A** Yes, sir.

19 **Q** And it's this point that she's thanked for
20 being -- coming clean, right?

21 **A** Yes, sir.

22 **Q** That Godfrey and, then later, Sergeant Jordan
23 and Sergeant Dauway began to say, "Okay. Well, tell us
24 how this occurred," right?

25 **A** Yes, sir.

1 **Q** And all this time, you're watching still the
2 whole thing? That's in your report, right?

3 **A** Yes, sir.

4 **Q** And she described Boleg, and this is someone
5 who she described as a father figure, correct?

6 **A** Yes, sir.

7 **Q** That it would be very routine for her to go
8 and smoke some marijuana with him, right?

9 **A** Yes, sir.

10 **Q** She wouldn't even have to buy it. He would
11 just give it to her, right?

12 **A** I don't know about that.

13 **Q** Okay.

14 And that during the course of hanging out
15 over that hour, right, that he put his hands in his
16 pants?

17 **A** I don't recall that.

18 **Q** You don't recall that?

19 **A** Did I indicate that in my report somewhere?
20 I don't recall if I did or not. I think the only thing
21 she made mention of that I recall was that he attempted
22 to sexually assault her.

23 **Q** Okay.

24 **A** And that she went for the -- again, based off
25 what's written in this report, she went for the door.

1 He grabbed her. That's when we asked her to
2 demonstrate how she was -- he was -- he grabbed her.
3 And then after that is when she just took off behind
4 him, shooting him.

5 Q And then on page 5 of your report, you note
6 the inappropriate manner that he grabbed her. And she
7 acted that out for Sergeant Jordan?

8 A Yes, sir.

9 Q And that would be putting his hand right
10 in -- on her crotch?

11 A If that's what she acted out. Like I said, I
12 don't recall that.

13 Q Okay.

14 A But I mean, it would most certainly be on the
15 video.

16 Q And she describes trying to go for the door,
17 correct.

18 A According -- yes, sir. According to what's
19 in my report, yes, sir.

20 Q To leave the residence to get away from that
21 sexual assault?

22 A Presumably, yes, sir.

23 Q That she describes how Boleg wouldn't let her
24 and grabbed her?

25 A (No audible response.)

1 **Q** Page 5 in the middle.

2 **A** She was -- from what I have in my report, she
3 got up from the couch to leave. Mr. Burden grabbed
4 her. She, again, demonstrated on the video how he
5 grabbed her while in the living room. And then she
6 stated the gun -- the gun was just right there. So I
7 took it and started shooting him.

8 **Q** So the grabbing was to prevent her from
9 leaving, correct?

10 **A** I can't say that.

11 **Q** You don't know?

12 **A** I -- I mean, I don't know what his intentions
13 were when he grabbed her. If it was to prevent her
14 from leaving and what it was for.

15 **Q** You were watching the video?

16 **A** Up to roughly about that point. And then, I
17 didn't pay -- I didn't watch it any longer. I went on
18 about doing other things with the case.

19 **Q** And -- but you do know in the report that in
20 that struggle, she grabs his gun, and describes how she
21 shoots him with it?

22 **A** Yes, sir.

23 **Q** Okay.

24 She doesn't know how many times she shot?

25 **A** I believe that's accurate. Yes, sir.

1 **Q** And then she leaves the house?

2 **A** Yes, sir.

3 **Q** You recall observing her cry throughout this
4 interview, as she talks about the sexual assault?

5 **A** To be fair to the -- I do not know.

6 **Q** You don't recall?

7 **A** If she did, it'd be on the video. I just
8 don't recall.

9 **MR. L. SHEALEY:** Beg the Court's indulgence.

10 (Pause.)

11 Nothing further.

12 **REDIRECT EXAMINATION**

13 **BY MR. SCOTT:**

14 **Q** All right.

15 So do you know how long that -- if I told you
16 the interview was about three and a half hours, does
17 that sound right to you?

18 **A** That does. Like I said, I -- I know she
19 arrived at two o'clock. And the interview would have
20 started shortly thereafter. And then it -- she was
21 taken into custody. And then, I thought I might have
22 put a time on there. But the -- but that's about
23 right. Three-and-a-half -- three, three-and-a-half
24 hours. Like I said, in the video would definitely
25 indicate how long it was.

1 **Q** Do you remember how long it took for her to
2 eventually talk about the sexual assault version of the
3 story?

4 **A** Quite a while. Perhaps --

5 **Q** Would it surprise --

6 **MR. L. SHEALEY:** Your Honor, I'd object at
7 this point. I don't mind this video coming into
8 evidence. But hasn't been entered yet. So we're
9 publishing it. I just think that's improper.

10 **THE COURT:** (Inaudible).

11 **MR. SCOTT:** Just ID. I want him to -- I've
12 got disk.

13 **THE COURT:** Can we just turn that so they
14 can't see --

15 **MR. SCOTT:** Sure.

16 **THE COURT:** -- until it's properly
17 identified.

18 **BY MR. SCOTT:**

19 **Q** About two hours and 52 minutes, then, before
20 she came up with the sexual assault --

21 **MR. L. SHEALEY:** Objection to leading.

22 **THE COURT:** I didn't hear the question.

23 **BY MR. SCOTT:**

24 **Q** How long into the interview was it before she
25 starts talking about sexual assault?

1 **A** It was quite a while. Like I said, almost to
2 the end of the interview. Because once -- like I said,
3 once she confessed, which was -- the interview was over
4 not very long after that.

5 **Q** Okay.

6 Do you -- this is labeled State's 31. It's a
7 disk. Does this look familiar to you?

8 **A** Yes, sir.

9 **Q** Okay.

10 Would that be the interview that Mr. Shealey
11 was asking you a lot about?

12 **A** Yes, sir.

13 **Q** That you attended?

14 **A** Yes, sir.

15 **Q** If I told you that video was on State's
16 No. 31, you would recognize that?

17 **A** Yes, sir.

18 **Q** And these interview rooms are equipped with
19 two separate cameras?

20 **A** Correct.

21 **Q** Did y'all record her from two separate
22 angles?

23 **A** We did.

24 **Q** All right.

25 Let me show you State's No. 32.

1 Do you see that?

2 **A** I do. Yes, sir.

3 **Q** All right.

4 State's No. 32. You would agree that that's
5 the interview you sat in on?

6 **A** Yes, sir.

7 **MR. SCOTT:** Your Honor, the state offers
8 State's 31 and 32 for admission into evidence.

9 **MR. L. SHEALEY:** That's the entirety of it?

10 **MR. SCOTT:** Entire.

11 **MR. L. SHEALEY:** Okay. No objection.

12 **MR. SCOTT:** As the pre-trial --

13 **MR. L. SHEALEY:** Correct. Subject to my
14 pre-trial motion -- or their pre-trial motion.

15 **THE COURT:** The pre-trial objection for the
16 record, overruled. And 31 and 32 are admitted?
17 (State Exhibit Nos. 31 and 32 are admitted into
18 the record.)

19 **BY MR. SCOTT:**

20 **Q** Okay.

21 Did she describe in the video her
22 relationship with the deceased Mr. Brandon Burden? Do
23 you remember?

24 **A** I remember her saying she was very close to
25 him. That -- like I said, I believe the quote was

1 father figure.

2 Q Okay.

3 A But they were not blood related. I believe
4 she was the daughter of his longtime girlfriend.

5 Q I'm going to play a portion for you. Oh,
6 daughter of his longtime girlfriend. Okay.

7 And you remember how she described the
8 relationship she had with Mr. Burden?

9 A Not specifically. If it's in my report here.

10 Q We'll play a portion of State's 32.

11 (State Exhibit No. 32 is played.)

12 **BY MR. SCOTT:**

13 Q Okay.

14 That was the relationship that Mr. Burden had
15 with her mother, and she said it was good?

16 A With her mother? As far as -- as far as I
17 know.

18 Q I'll play it again.

19 (State Exhibit No. 32 is played.)

20 **BY MR. SCOTT:**

21 Q Okay.

22 So she described Mr. Burden and her mother
23 having a longtime relationship and they had a good
24 relationship, she said?

25 A Yes, sir.

1 **Q** Initially, when you first started talking
2 with her, what did she say about Hartsville? Do you
3 remember that?

4 **A** She -- she and her friend went to Hartsville
5 off to a funeral. I believe her friend's grandfather
6 had passed.

7 **Q** Okay.

8 **A** So that's why they were in Hartsville.

9 **Q** So that's initially what she tells you when
10 you asked about her whereabouts in the night of
11 January 21 leading into January 22?

12 **A** Correct.

13 **Q** So after Hartsville, do you remember where
14 she said she went?

15 **A** She said she went home with her -- her friend
16 and was there the rest of the night.

17 **Q** Okay.

18 On the night of the incident. And you
19 remember when she says the last time she had been over
20 at Brandon Burden's house?

21 **A** Not specifically. Again, I'd have to refer
22 to my report.

23 **Q** Okay.

24 But she said on that particular night, she
25 went to Hartsville and then went straight home. Is

1 that what you remember?

2 **A** Correct. She said she went to Hartsville and
3 then went home. Yes, sir.

4 **Q** Okay.

5 Did she stick with that story the whole time?

6 **A** No. Ultimately, she did not.

7 **Q** Do you recall, I know we asked you about it
8 earlier, asking her for her phone number or phone --
9 cell phone?

10 **A** I don't recall specifically asking her for
11 her phone. But I -- obviously, I knew I took
12 possession of it, because I entered it into evidence.

13 **Q** Do you remember actually sitting in there
14 with her and going through the phone with her and
15 asking her some things about it?

16 **A** I do not.

17 **Q** Okay.

18 **A** But again if it's on the video --

19 **Q** All right.

20 Going to go to about...

21 (State Exhibit 32 is played.)

22 **BY MR. SCOTT:**

23 **Q** Do you remember asking her about some deleted
24 phone calls or text messages?

25 **A** Yeah. After seeing that I can remember

1 asking her that. Yes, sir.

2 Q And so you're looking through her phone. And
3 you're noticing that she's been deleting cell phone
4 calls and text messages?

5 A Yes, sir.

6 Q Okay.

7 And what is -- what's her explanation? I
8 just heard it. But what do you recall?

9 A That they just delete.

10 Q Have you ever heard of something like that?

11 A No, sir.

12 Q Okay.

13 But that was her explanation when you took
14 her phone and started looking through it?

15 A Yes, sir.

16 Q And saying, "Hey. What are these deleted
17 calls and texts?"

18 And she says, "Oh, they just automatically
19 delete."

20 A Right. Which at the time made absolutely no
21 sense. But I let it go just for the time being.

22 Q And then you ultimately took the phone and
23 provided it to other forensic services with the
24 sheriff's department?

25 A Correct. And search warrants. And we

1 examined the phone and everything.

2 Q But while you were in there with her, did she
3 ever -- how many times do you recall asking her what
4 happened that night?

5 A Between Sergeant Jordan and myself, I -- it
6 was at least a dozen. And she kept saying the same
7 thing over and over and over again. And like he and I
8 would continue to reiterate, you know, we know more
9 than that just happened. We know more than that just
10 happened.

11 Q And trying to give her a way out?

12 A A way out.

13 Q I think even at one point, one of us, or one
14 of the four or five of us who were interviewing her
15 said, "Look. Did -- did he do something to you? Did
16 something happen? What?"

17 "You know, no, we just smoked weed and left.
18 We just smoked weed and left."

19 And despite the evidence we had that was
20 contradictory to that statement, you know, we really
21 did not want to press her. We gave her every
22 opportunity for her to tell us her version of events.

23 Q Okay.

24 So first it's, "I was in Hartsville. I went
25 straight home and never went there?"

1 **A** Correct.

2 **Q** And then, do you remember what the next story
3 was?

4 **A** No, sir. Not off top my head.

5 **Q** But we got a video. So we can all -- we can
6 all see how it evolved?

7 **A** Yes, sir.

8 **Q** We have three hours and 22 to watch.

9 Let me asked you, do you recall about 22
10 minutes in, who was the first to suggest maybe Brandon
11 Burden tried to assault you? Was it her? Or was it
12 one of you guys?

13 **A** I don't recall. I really don't. I -- that
14 sounds like something that one of us would offer up as
15 a way out, so to speak, or a way to get them to talk.
16 But I can't tell you for certain who offered that.

17 **Q** Can you explain that technique as far as, you
18 know, giving them different scenarios of maybe it
19 happened this way or maybe it happened that way. Is
20 that something you do when you interview somebody?

21 **A** It is not uncommon at all. Like I said,
22 because you -- when you can't get somebody to speak to
23 you, and me personally, if you can't get somebody to
24 speak with you, you can put something out there and
25 look at their reaction and see what happens. And a lot

1 of times, their body language will answer the question
2 for you so you know you're on the right track.

3 Q Because earlier on, y'all even asked if she
4 remembers Brandon Burden being violent in the past or
5 anything?

6 A Now that, I remember Sergeant Jordan asking
7 her specifically.

8 Q Okay.

9 (State Exhibit 32 is played.)

10 **BY MR. SCOTT:**

11 Q So at this portion, she's saying the last
12 time she was over there was a week prior to the
13 incident?

14 A Yes, sir.

15 (State Exhibit 32 is played.)

16 **BY MR. SCOTT:**

17 Q So she's saying the last time she'd been over
18 there was like January 13 through the 15th?

19 A Yes, sir.

20 Q Okay. (Inaudible). She changed it every
21 time?

22 A Correct.

23 (State Exhibit 32 is played.)

24 **THE COURT:** Can we pause that for a second?

25 **THE BAILIFF:** She's got -- she wants

1 something moved so she can see.

2 **THE COURT:** The jury is having trouble
3 seeing.

4 **THE BAILIFF:** Yes. Move -- move the string
5 around there.

6 **THE COURT:** Everyone's view okay?
7 You good?

8 **THE BAILIFF:** Can you see that? Okay.

9 **THE COURT:** If there is an issue like that,
10 again, I appreciate y'all bringing that attention.
11 The bailiff just -- you can do that again or raise
12 your hand just to flag me down. It's tough for
13 the witness to see and everybody on the jury to
14 see. So y'all just let me know.

15 And if we need to put a chair for
16 Mr. Shealey -- if you need a chair, just let us
17 know.

18 All right.

19 We're good to go.

20 **BY MR. SCOTT:**

21 **Q** Okay.

22 I'm getting to the point -- my last question
23 was, Do you remember asking her if Mr. Burden was
24 violent, you know, if he drank or anything.

25 (State Exhibit 32 is played.)

1 **BY MR. SCOTT:**

2 **Q** So you're trying to get some explanation.
3 Y'all asked her does he get violent or agitated, and
4 she says no?

5 **A** That's correct.

6 **Q** All right.

7 Did she ever show any emotion while you were
8 in an interview?

9 **A** No, sir.

10 **Q** She never confessed while you were in the
11 interview; is that --

12 **A** Correct.

13 **Q** -- correct?

14 **A** Correct.

15 **Q** And that -- that's Investigator Jordan who's
16 sitting at the table right now who's in there with you?

17 **A** Correct.

18 **Q** So I think Mr. Shealey asked. You left. And
19 I believe Investigator Eisenhower came in to sit with
20 Investigator Jordan?

21 **A** Correct.

22 **Q** And Eisenhower left at some point.
23 Investigator Godfrey came in?

24 **A** When Lieutenant Eisenhower left, I believe
25 he and Sergeant Jordan left at the same time. And

1 that's when it was Captain Godfrey and Sergeant Dauway,
2 now Lieutenant Dauway, who came in.

3 **Q** Okay.

4 But you -- your -- your involvement was the
5 early part?

6 **A** Correct.

7 **Q** Your involvement was taking her phone?

8 **A** Correct.

9 **Q** And your involvement was confronting her
10 about those deleted texts and cell phone calls?

11 **A** Correct.

12 **Q** And again, her explanation was that they just
13 delete automatically?

14 **A** Correct.

15 **Q** The deleted phone calls and texts would have
16 been during the incident date and time?

17 **A** I don't recall what the dates and times of
18 the deleted calls and text messages was. I would have
19 to refer to the -- to the phone data records from the
20 search warrant.

21 **Q** All right.

22 Those two discs we just introduced, we'll get
23 to watch the rest of them and talk to some of the other
24 investigators who sat in on an interview. And that
25 would have encapsulated her entire interview with you

1 guys?

2 **A** Correct.

3 **Q** Okay.

4 But you weren't in there when she ultimately
5 confessed?

6 **A** Was not physically in there. But I was --
7 like I said, I was watching it from Captain Godfrey's
8 office.

9 **Q** Were in now when she demonstrated the -- how
10 he was --

11 **A** No, sir.

12 **Q** Okay.

13 So you don't remember what she said Brandon
14 was saying to her?

15 **A** No, sir.

16 **MR. SCOTT:** Thank you. Answer any questions
17 in follow-up.

18 **RECROSS-EXAMINATION**

19 **BY MR. L. SHEALEY:**

20 **Q** I want to queue in on a couple of things the
21 solicitor asked you to here just now. He asked you
22 about some investigative techniques that are pretty
23 common, right?

24 **A** Yes, sir.

25 **Q** And you and I talked about essentially, it's

1 pretty common for someone who's being asked questions
2 like about something like a killing, to want to
3 generally deny things at first, right?

4 **A** Correct.

5 **Q** And then one technique is to continue to kind
6 of confront them with information to see if that opens
7 them up, right?

8 **A** Right.

9 **Q** Folks don't want to admit to killing anybody,
10 right?

11 **A** Most times, no, sir.

12 **Q** Whether they were defending themselves
13 against a raid or someone's breaking down their front
14 door, they don't want to -- most folks, that's not
15 their initial gut reaction, right?

16 **A** As first statement.

17 **Q** Okay.

18 And something you told Mr. Scott was that
19 when you encounter those situations, sometimes you'll
20 float scenarios, right? In this case, you said and
21 sometimes their body language will let you know when
22 you're getting warm or not, right?

23 **A** Yes, sir.

24 **Q** And we testified when I first -- you
25 testified when I first talked to you that in this case,

1 she began physically giving you body language of
2 nodding in agreement that you and Captain Godfrey saw
3 regarding that "he tried something with you," right?

4 **A** Correct.

5 **Q** Okay.

6 You're not sitting here as a law enforcement
7 investigator trying to produce a false or incorrect
8 confession, are you?

9 **A** No, sir.

10 **Q** Okay.

11 You're trying to do that?

12 **A** No, sir.

13 **Q** That's not the purpose of your training, is
14 it?

15 **A** No, sir.

16 **Q** But when you float a scenario that might be
17 plausible, and you see indications that you're getting
18 warm, you kind of go there with her, right?

19 **A** Correct.

20 **Q** And that's what happened here?

21 **A** Correct.

22 **Q** The solicitor asked you another question
23 about what Jamira said about Boleg's relationship with
24 her mother. You remember that?

25 **A** Yes, sir.

1 **Q** He played you some video. I don't have my
2 video ready -- queued up. But I do have a transcript
3 of that entire interview, if I could pass this to?

4 **A** Yes, sir.

5 **MR. SCOTT:** I think -- Your Honor, I think
6 can ask him if he remembers it.

7 **MR. L. SHEALEY:** I will, if he doesn't.

8 **MR. SCOTT:** And refresh his memory.

9 **MR. L. SHEALEY:** I will.

10 **THE COURT:** Hold on a minute.

11 **MR. SCOTT:** If it's in evidence, I think he
12 can refresh it with evidence. I don't know how
13 having him read a transcript. But I certainly
14 asked him a number of times if he remembered
15 something, and if he didn't, refresh it.

16 **THE COURT:** Why don't you ask a question.
17 And if he need to refer to that, then we'll
18 address that at the appropriate time. But at this
19 point, we just have to see what the question is.

20 **MR. SCOTT:** Right. I need to ask him a
21 question. Thank you, Judge.

22 **BY MR. L. SHEALEY:**

23 **Q** Mr. Hook, do you remember when you were there
24 early on and you're just talking with Jamira with
25 Sergeant Jordan and there's question asked about the

1 relationship between Boleg and Jamira's mom. Do you
2 remember that?

3 **A** Specifically, no. I don't. Like I said, I
4 would have to refer to the video.

5 **Q** Okay.

6 Would it refresh your recollection if you
7 could read that transcript, certified transcript?

8 **A** Perhaps.

9 **Q** Okay.

10 Turn your attention please to Page 16 of that
11 transcript.

12 **A** All right.

13 **Q** Let me know when you're with me, please?

14 **A** Yes, sir.

15 **Q** All right.

16 If I can refer your attention, there was a
17 question on -- do you see the question by Sergeant
18 Jordan regarding -- in the middle line 17, quote, Okay,
19 how's their relationship? You see that?

20 **A** Yes, sir.

21 **Q** And then on line 20, you follow me, quote,
22 she responds, It was good. But you know, it had its,
23 you know. You see that?

24 **A** Yes, sir.

25 **Q** And then on line 24, do you see her

1 responding, quote, You know, like just domestic
2 violence. Correct?

3 **A** Yes, sir.

4 **Q** So that would indicate that their
5 relationship was not good from Jamira's perspective
6 regarding Boleg and her mom, right?

7 **A** Yes, sir.

8 **Q** Cause she -- she's observing domestic
9 violence?

10 **A** According to what she says -- stated in her
11 statement, yes, sir.

12 **Q** If you'll -- do you recall Investigator
13 Eisenhoward, as you're watching from Captain Godfrey's
14 monitor, questioning or telling her that, We know he
15 was bad to your mama. We've been talking to your mom a
16 lot. Do you call that?

17 **A** No, sir.

18 **Q** Turn to Page 105 of the transcript?

19 **A** All right.

20 **Q** Are you there?

21 **A** Yes, sir.

22 **Q** Look at lines 6 through 7. Do you recognize
23 that question from an Investigator Godfrey? Quote, we
24 know he was bad to your mama. I've been talking to
25 your mom a lot.

1 **A** Like I said, I don't specifically recognize
2 him asking that question. Like I said, that was a
3 while ago. But if it's in this transcript, he must --
4 and it's on the video, then I can't dispute that. He
5 must have asked it.

6 **Q** Okay.

7 Again, on the context of whether he was good
8 or bad to mama based on the redirect, you recall Jamira
9 specifically referencing at time that Boleg pulled a
10 gun on his -- on her mom?

11 **A** No, sir.

12 **Q** Will you please turn to Page 128 with me?
13 Let me know when you're there, please.

14 **A** Got it.

15 **Q** I direct your attention the right around
16 line 18?

17 **A** Okay.

18 **Q** Do you see the question regarding
19 Investigator Eisenhower, quote, asking about him and
20 your mom getting into it. You ever see him hit her?

21 **A** Yes, sir.

22 **Q** And if I can direct your attention to
23 line 21, do you recall the answer by Ms. Davis being
24 that, "No. Only thing I seen was him like pull -- put
25 a gun up to her. But that's about it." Right?

1 **A** Yes, sir.

2 **Q** You don't disagree with that?

3 **A** I don't disagree with it. No, sir.

4 **MR. L. SHEALEY:** Beg the Court's indulgence.

5 (Pause.)

6 Nothing further.

7 **THE COURT:** All right.

8 Thank you, Mr. Hook. You may step down.

9 All right.

10 Ladies and gentleman, we're going to take a
11 midmorning break. If you will stretch your legs.
12 You can use the restroom.

13 I'm going to tell you again as I always will,
14 do not discuss the case amongst yourselves or
15 anyone. Do not do any independent research. Do
16 not discuss the case. I'm going to grab you
17 shortly. Thank you.

18 (The jury exits the courtroom at 10:29 a.m.)

19 **THE COURT:** All right. 10:45.

20 (A recess is taken.)

21 **THE COURT:** All right.

22 Thank you. You may be seated. All right.

23 Anything from the state before we bring the
24 jury back?

25 **MR. SCOTT:** No, Your Honor.

1 **THE COURT:** Anything from the defense?

2 **MS. DEMER:** No, Your Honor.

3 **THE COURT:** All right.

4 Bring the jury.

5 (The jury enters the courtroom at 10:52 a.m.)

6 **THE BAILIFF:** The jury is seated, Your Honor.

7 **THE COURT:** All right.

8 Thank you, sir.

9 All right.

10 The state may call its next witness.

11 **MR. SCOTT:** The state calls Tonja Simons.

12 **THE COURT:** You swear to tell the truth, the
13 whole truth nothing but the truth so help you God?

14 **THE WITNESS:** I do.

15 **THE COURT:** All right.

16 If you'll grab a seat. State your name for
17 the record.

18 **THE WITNESS:** My name is Tonja Simons.

19 **THE COURT:** Could you spell that, please?

20 **THE WITNESS:** Tonja is T-o-n-j-a. Last name
21 Simons, S-i-m-o-n-s.

22 **TONJA SIMONS**

23 having first been duly sworn, testifies as follows:

24 **DIRECT EXAMINATION**

25 **BY MR. JACKSON:**

1 **Q** Good morning, Ms. Simons. How are you?

2 **A** Good morning. How you doing?

3 **Q** Doing well. Doing well. Thank you.

4 Ms. Simons, where do you currently live?

5 **A** ██████ Crosshill Road, Hopkins, South Carolina
6 29061.

7 **Q** Is that where you lived on January 22, 2021?

8 **A** Yes, sir.

9 **Q** Okay.

10 Did you know Brandon Burden?

11 **A** Yes, I do.

12 **Q** How did you know him?

13 **A** He's my brother.

14 **Q** He's your brother?

15 **A** Uh-huh.

16 **Q** Okay.

17 Do you know where Brandon lived on
18 January 22, 2021?

19 **A** Yes. Right across the road from where I live
20 at. I can go out my back door and go straight to my
21 brother's house.

22 **Q** Okay.

23 So he was pretty close to you, then.

24 **A** Yes.

25 **Q** Okay.

1 Ms. Simons, do you have any cameras on your
2 home?

3 **A** I do. I have four cameras on each side.

4 **Q** Okay.

5 On your side of your home?

6 **A** Yeah, each side of the corner.

7 **Q** Okay.

8 Were any of those facing Mr. Burden's home?

9 **A** Yes, the ones -- the one out the back door, I
10 think to your left.

11 **Q** Okay.

12 So they would have been able to pick up on
13 any footage of Brandon's home?

14 **A** Yes.

15 **MR. JACKSON:** Okay.

16 Your Honor, may I approach?

17 **THE COURT:** You may.

18 **BY MR. JACKSON:**

19 **Q** Ms. Simons, this has been marked as State's
20 Exhibit 36.

21 **A** Uh-huh.

22 **Q** Do you recognize that?

23 **A** Yes, I do.

24 **Q** What is that?

25 **A** It's where we live at.

1 **Q** Okay.

2 An aerial picture of where you live?

3 **A** Yes, sir.

4 **MR. JACKSON:** Your Honor, may I publish to
5 the jury -- move to publish? Oh, sorry. May I
6 move to admit State's 36 into evidence?

7 **MR. B. SHEALEY:** Without objection.

8 **THE COURT:** All right.

9 So admitted.

10 (State Exhibit No. 36 is admitted into the
11 record.)

12 **MR. JACKSON:** And, Your Honor, may I move to
13 publish?

14 **THE COURT:** You may publish.

15 **MR. JACKSON:** Thank you.

16 Your Honor, may I have the witness step down?

17 **THE COURT:** You may.

18 **MR. JACKSON:** Ms. Simons, if you'll come down
19 here.

20 **THE COURT:** Ms. Simons, if you will, just
21 make sure while you're standing there that you're
22 speaking so that the court reporter can hear you,
23 okay?

24 **THE WITNESS:** Okay.

25 **THE COURT:** Have her face the court reporter,

1 please.

2 **MR. JACKSON:** Yes.

3 **THE COURT:** And have her arranged so everyone
4 can see as best we can.

5 **MR. JACKSON:** Okay.

6 **BY MR. JACKSON:**

7 **Q** Ms. Simons, looking at this picture, which
8 house is yours?

9 **A** This one.

10 **Q** Okay.

11 And can you identify Brandon's house?

12 **A** If I'm coming out my back door, it's
13 (inaudible).

14 **Q** Okay.

15 I got you.

16 **A** Uh-huh.

17 **Q** Would it be this house here?

18 **A** Yes.

19 **Q** Okay.

20 And so the camera that faces this house,
21 where would that have been located?

22 **A** On my back. Right here.

23 **Q** Okay.

24 Facing that way?

25 **A** That way.

1 **Q** Okay. Okay.

2 Thank you. You can take a seat. Thank you.

3 **A** Uh-huh. Thank you.

4 **Q** All right.

5 Ms. Simons, those cameras, were they
6 constantly recording?

7 **A** Yes, sir.

8 **Q** Okay.

9 So they would have been recording on
10 January 22, 2021?

11 **A** Yes, sir.

12 **Q** So the camera that faces Brandon's house
13 would have been recording on January 22, 2021?

14 **A** Yes, sir.

15 **Q** On that date, were you contacted by law
16 enforcement about the surveillance footage from your
17 home?

18 **A** I don't recall that day. Maybe the next day.

19 **Q** Okay.

20 But you were contacted?

21 **A** Yes, I was.

22 **Q** Okay.

23 And did you turn that footage over to law
24 enforcement?

25 **A** I sure did.

1 **MR. JACKSON:** Your Honor, may I approach?

2 **THE COURT:** You may.

3 **BY MR. JACKSON:**

4 **Q** Ms. Simons, do you recognize that?

5 **A** Yes.

6 **Q** Are those your initials?

7 **A** Yes, sir.

8 **Q** What is that?

9 **A** The video from my recording. The video that
10 recorded.

11 **Q** And you handed that video over to law
12 enforcement?

13 **A** Yes, sir.

14 **MR. JACKSON:** Your Honor, I would move
15 State's Exhibit 30 into evidence.

16 **MR. B. SHEALEY:** Without objection.

17 **THE COURT:** All right.

18 So admitted.

19 (State Exhibit No. 30 is admitted into the
20 record.)

21 **BY MR. JACKSON:**

22 **Q** Ms. Simons, do you recall who you gave that
23 video to?

24 **A** I don't.

25 **Q** Okay. That's okay.

1 **A** All I know, it was the police officer.

2 **Q** Okay. Thank you.

3 **MR. JACKSON:** Beg the Court's indulgence.

4 Nothing further. Ms. Simons, if you'll
5 answer any questions the defense has.

6 **THE WITNESS:** Okay.

7 (Defense Exhibit No. 5 is marked for
8 identification.)

9 **CROSS-EXAMINATION**

10 **BY MR. B. SHEALEY:**

11 **Q** Ms. Simons?

12 **A** Yes, sir.

13 **Q** I think you can probably point this out. But
14 you can't see closer. But this would -- this would
15 have been your house --

16 **A** Yes, sir.

17 **Q** -- that I'm pointing to closer right here.
18 And then right here is Mr. Burden's house,
19 correct? Kind of this way, this direction.

20 **A** It's going towards -- yes, sir.

21 **Q** You recognize this house right here? Kind of
22 across the street from Mr. Burden's house?

23 **A** I don't.

24 **Q** Okay.

25 I'm going to show you a picture if I may real

1 quick.

2 **A** Okay.

3 **Q** Because I know it was a long time ago. But
4 the day that you were talking to law enforcement, I'm
5 gonna show you this picture that's marked as
6 Defendant's 5. Do you recognize that house as
7 relatively being across the street from your brother's
8 house and you were talking to law enforcement, maybe on
9 this little porch here?

10 **A** Yes, sir. I do.

11 **Q** Okay.

12 Do you know that -- that neighbor's house?
13 Do you know who that is?

14 **A** I don't know who that is. But I do know that
15 house.

16 **Q** You do remember them talking on the porch?

17 **A** Yes, I do remember that.

18 **Q** Okay.

19 **A** Yes, sir.

20 **Q** Okay.

21 **MR. B. SHEALEY:** Your Honor, at this time, I
22 seek to admit Defense 5.

23 **MR. SCOTT:** Without objection.

24 **THE COURT:** So admitted.

25 (Defense Exhibit No. 5 is admitted into the

1 record.)

2 **BY MR. B. SHEALEY:**

3 **Q** And just to orient the jury, so again, your
4 house would be in this direction, right?

5 **A** That's it. Yes. Back that way. Yeah.

6 **Q** Okay.

7 You mind holding it up and showing the jury
8 exactly?

9 **A** Back here.

10 **Q** Okay.

11 Back in this direction right here?

12 **A** Yes, sir.

13 **Q** Okay.

14 Thank you, ma'am. I have no further
15 questions.

16 **MR. SCOTT:** Nothing further from the state.

17 **THE COURT:** All right.

18 Thank you, ma'am. You may step down.

19 **MR. SCOTT:** The state calls Taima Jordan.

20 **THE COURT:** You swear or affirm to tell the
21 truth, the whole truth and nothing but the truth
22 so help you God?

23 **THE WITNESS:** I do.

24 **THE COURT:** Grab a seat. State your name for
25 the record.

1 **THE WITNESS:** Taima Jordan.

2 **TAIMA JORDAN**

3 having first been duly sworn, testifies as follows:

4 **DIRECT EXAMINATION**

5 **BY MR. SCOTT:**

6 **Q** Investigator Jordan, you were working with
7 the sheriff's department January 22, 2021?

8 **A** Yes, sir. I was.

9 **Q** In what capacity?

10 **A** I was a supervisor in the Major Crimes Unit.

11 **Q** Okay.

12 And you eventually had the opportunity to
13 become involved in this particular investigation at

14 ████ American Avenue?

15 **A** Yes, sir. I was.

16 **Q** Okay.

17 Do you remember the date that you got
18 involved with this case?

19 **A** January 25, 2021.

20 **Q** Okay.

21 So -- this happened on a Friday. Would that
22 have been the next Monday?

23 **A** Yes, sir. It would have been.

24 **Q** Okay.

25 And what is your involvement from the

1 beginning?

2 **A** Um --

3 **Q** That -- well, let me ask you this. At that
4 point, had it already -- had the autopsy already been
5 completed?

6 **A** Yes, sir.

7 **Q** And pick up from there.

8 **A** I was informed that a house fire occurred.
9 Autopsy was done. Found that the victim had been shop,
10 that it was now a homicide investigation, that I would
11 be working the case with another investigator. And
12 they would do certain things until I came in on that
13 Monday.

14 **Q** Okay.

15 Part of the early investigation, I think, was
16 to canvass kind of the area surrounding the home at
17 [REDACTED] American Avenue?

18 **A** Yes, sir. It was.

19 **Q** And speak with people who may have seen
20 something or may have heard something?

21 **A** Yes, sir.

22 **Q** At some point, Ms. Davis's name obviously
23 came up. Is that safe to say?

24 **A** Yes, sir.

25 **Q** And do you remember there was some testimony

1 earlier I think from Investigator Hook that there was a
2 phone search warrant or emergency search warrant for
3 Brandon Burden, the victim's, cell phone records. And
4 there was that one phone number that was the last
5 activity on his phone. That phone number was calling
6 him --

7 **MR. L. SHEALEY:** I'm going to object to
8 leading at this point, Your Honor.

9 **THE COURT:** Rephrase.

10 **BY MR. SCOTT:**

11 **Q** Do you remember hearing that testimony
12 earlier?

13 **A** Yes, sir.

14 **Q** Could you repeat kind of what I was trying to
15 just ask you about?

16 **A** Yes, sir. So initially, Investigator Hook
17 asked to obtain a search warrant for the victim's phone
18 number to receive call -- call log. We were able to
19 determine or analyze those phone records and account
20 for every number except for one, which ended up being
21 Ms. Davis's number.

22 **Q** And do you remember the times that those
23 phone calls were seen on Mr. Burden's phone?

24 **A** It was an early morning. The exact time.

25 **Q** It looks like about the last page in your

1 report if that could refresh your memory.

2 **A** The last page?

3 **Q** Yeah.

4 **A** Between 1:00 and -- I'm sorry -- 1:41 a.m.

5 **Q** Okay.

6 That was one of the calls. And then what was
7 the next one?

8 **A** Excuse me. 1:40. And then 1:41, 1:57, 2:14,
9 and 2:16.

10 **Q** Okay.

11 And that was the last activity that you saw
12 on Mr. Burden's phone?

13 **A** Correct.

14 **Q** Okay.

15 And so is it -- did that phone number
16 suddenly become relevant to you?

17 **A** Yes, sir.

18 **Q** Okay.

19 Were you able to eventually speak with the
20 person that phone number is associated with?

21 **A** Yes, sir. We did.

22 **Q** And who was that?

23 **A** Ms. Jamira Davis.

24 **Q** And prior to speaking with her, and maybe
25 around the same time you got those records, were you

1 able to view that video surveillance that came from
2 Ms. Simons's house?

3 **A** Yes, sir. I did.

4 **Q** Okay.

5 And what did it depict? Did it give you
6 further clarification of the timeline you were looking
7 for?

8 **A** Yes, sir. It did.

9 **Q** Okay.

10 What did that video depict?

11 **A** At around 2 a.m., you see a car pull up to
12 the victim's house. About 2:01, a person appears to be
13 walking up to the victim's house. About 2:02, another
14 person appears to walk up to the victim's house. About
15 2:07, you can see maybe some kind of light, maybe small
16 flashlight in the victim's yard. Same at 2:24 and
17 2:36.

18 At 2:49, a car pulls up to the victim's home
19 from the Horrell Hill side. Then at 3:53, appears to
20 be a muzzle flash. Then at 3:55, the car leaves, going
21 back out towards Horrell Hill.

22 **Q** Okay.

23 So now, did that time period between 2:49 and
24 3:55 become important to you?

25 **A** Yes, sir.

1 **Q** Okay.

2 Explain to the jury why.

3 **A** Well, at that point, we knew that that was
4 the last person that was possibly with the victim
5 Mr. Burden.

6 **Q** Okay.

7 So just from your timeline, you say a car
8 pulls up at 2:49. And then, about an hour and four
9 minutes later, you see what appears to be a muzzle
10 flash?

11 **A** Yes, sir.

12 **Q** Okay.

13 And then two minutes later or so, that same
14 car leaves and goes back in the same direction it came
15 from?

16 **A** Yes, sir.

17 **Q** Okay.

18 And at that point, like you testified, you
19 already got an autopsy. So at this point, your
20 investigation is that car pulling up, the muzzle flash,
21 and the car leaving. Could you --

22 **MR. L. SHEALEY:** Objection to leading.

23 **THE COURT:** Overruled. Just laying the
24 foundation.

25 **BY MR. SCOTT:**

1 **Q** You have the car pulling up at 2:49. That
2 car is there for an hour and four minutes before you
3 see that muzzle flash, what appears to be a muzzle
4 flash. Two minutes later, that car leaves and goes
5 back the same way it came from?

6 **A** Yes, sir.

7 **Q** Now is the video of a quality where you can
8 identify the make and model of the car?

9 **A** No, sir.

10 **Q** Okay.

11 So at that point, is it safe to say the
12 person in that car was somebody you were interested in
13 speaking with?

14 **A** Yes, sir.

15 **Q** And the person who that phone number belonged
16 to that was found on Mr. Burden's phone was somebody
17 you were interested in speaking with?

18 **A** Yes, sir.

19 **Q** While we're talking about it, I'll go ahead
20 and let's just show the jury. State's 30. That was
21 the video that Ms. Simons identified?

22 **A** Yes, sir.

23 **Q** All right.

24 I showed you -- so we talk about the car, and
25 hour and four minutes of just kind of looking at the

1 house with no activity. I showed you a video where we
2 kind of had that same scene but it fast forwards
3 through the middle part and then slows down again.

4 **A** Yes, sir.

5 **Q** Do you see that?

6 Does this -- does it still accurately predict
7 the scene but just kind of fast forward through the --

8 **A** Yes, sir.

9 **Q** -- time when no activity is happening?

10 But otherwise, it accurately reflects the
11 scene that's encapsulated in the full video?

12 **A** Yes, sir.

13 **MR. SCOTT:** All right.

14 Your Honor, the state offers 33 and just
15 permission to publish.

16 **MR. L. SHEALEY:** No objection.

17 **THE COURT:** All right.

18 So admitted.

19 (State Exhibit No. 33 is admitted into the
20 record.)

21 (State Exhibit No. 33 is played.)

22 **BY MR. SCOTT:**

23 **Q** Pause it real quick.

24 So can you see from there, Jordan?

25 **A** Can I step down?

1 **Q** Yeah. With the Court's permission, you can.

2 **THE COURT:** Investigator, if you'll just make
3 sure you're facing the court reporter and speak
4 up.

5 **THE WITNESS:** Yes, sir.

6 **THE COURT:** And all the jurors, can everyone
7 see okay?

8 All right.

9 **BY MR. SCOTT:**

10 **Q** Okay.

11 So -- Ms. Simons -- Ms. Simons testified this
12 would have been her back porch. And generally
13 speaking, where would Mr. Burden's home had been?

14 **A** (Inaudible).

15 **Q** Okay.

16 And what time of night is this according to
17 this video camera?

18 **A** 2:49.

19 **Q** 2:49.

20 **THE JUROR:** Excuse me. I can't hear them.

21 **THE WITNESS:** 2:49.

22 **BY MR. SCOTT:**

23 **Q** I'm going to press "Play." Tell me whenever
24 you see something that -- that you need to direct the
25 jury's attention to.

1 (State Exhibit No. 33 is played.)

2 **BY MR. SCOTT:**

3 **Q** Okay.

4 So at 2:49 and give or take 25 seconds, you
5 see the headlights of a vehicle. What, if anything, do
6 you notice that the vehicle does as it approaches the
7 house?

8 **A** Slows down and -- and turns into a yard.

9 **Q** Back it up again. So show the jury where
10 they need to be looking as far as car?

11 **A** Right up in here.

12 **Q** And where does it approach from?

13 **A** Coming from this side.

14 **Q** All right.

15 Is that what we're seeing here?

16 **A** Yes, sir.

17 **Q** All right.

18 So watch the counter here. It's 2:49 and 43
19 seconds. It's just about fast forward through the next
20 hour and four minutes. Is that what you observed?

21 **A** Yes, sir.

22 **Q** Okay.

23 Stop back on regular speed. 3:53:46. What
24 is the next thing that you remember happening at 3:53?
25 What was the next thing that you're going to direct the

1 jury's attention to?

2 **A** What appears to be a muzzle flash.

3 **Q** Tell us whenever you note that as far as what
4 your observations were.

5 **A** Right here.

6 **Q** Okay.

7 Let me back up one time. It happens rather
8 quickly, does it not?

9 **A** Yes, sir.

10 **Q** And here's where we're looking?

11 **A** Yes, sir.

12 **Q** All right.

13 3:53 and 51 seconds, is about what time you
14 remember?

15 **A** Yes, sir.

16 **Q** Okay.

17 Does anybody need me to play that again?
18 Okay.

19 So the next thing you observed that was
20 relevant to you was what?

21 **A** The car leaving.

22 **Q** Okay.

23 And again, the counter is at regular speed
24 now. 3:53, 3:54 at this point. Tell us when you
25 observe the vehicle.

1 **A** See the vehicle lights.

2 **Q** Okay.

3 3:55 and 40 seconds, give or take?

4 **A** Yes, sir. The car is backing up. Going back
5 out the same way it came in.

6 **Q** Okay.

7 You can take your seat.

8 And what was the date that you ended up
9 having the opportunity to speak with Ms. Jamira Davis?

10 **A** February 1, 2021.

11 **Q** Okay.

12 How -- how was this meeting arranged?

13 **A** We spoke with her mother. Told us that we
14 were able to -- could we -- we could speak with her.
15 Excuse me. We ended up calling her and asked her to
16 come to a headquarters, which she agreed to do so.

17 **Q** Okay.

18 And was she under arrest at this time?

19 **A** No, she was not.

20 **Q** Okay.

21 So she came in voluntarily?

22 **A** Yes, sir.

23 **Q** And when she gets there, where's the
24 interview conducted?

25 **A** Interview room we have upstairs in the

1 Investigations Division.

2 **Q** Okay.

3 And did you put her in handcuffs or anything
4 like that?

5 **A** No, sir. I did not.

6 **Q** Did you read her Miranda rights?

7 **A** I did.

8 **Q** I think about four minutes into the
9 interview, you went ahead and just Mirandized her?

10 **A** Yes, sir. I did.

11 **Q** And did she agree to speak with you?

12 **A** Yes, sir. She did.

13 **Q** And from there, who -- who was in the room
14 with you initially?

15 **A** Investigator Hook.

16 **Q** You and Investigator Hook?

17 **A** Yes, sir.

18 **Q** And do you remember about what time of day it
19 was whenever this interview began?

20 **A** Around two o'clock.

21 **Q** Okay.

22 Off the -- I guess initially, you kind of get
23 some background information on her and whatnot. Is
24 that safe to say?

25 **A** Yes, sir.

1 **Q** And did you establish what her relationship
2 was with Mr. Burden, how they were kind of connected, I
3 guess.

4 **A** Yes, sir. I did.

5 **Q** And what was the relationship?

6 **A** Stated he was like a father figure. He dated
7 her mom at some point.

8 **Q** Okay.

9 And was it -- was that kind of
10 on-again/off-again relationship?

11 **A** Yes, sir. It was.

12 **Q** But to your understanding, did -- did he live
13 with Jamira Davis's mother at this point?

14 **A** At this point, no.

15 **Q** Okay.

16 Your understanding, did he live with anybody
17 at [REDACTED] American Avenue?

18 **A** No, sir. I believe -- believe he lived
19 alone.

20 **Q** He lived alone? Okay.

21 **A** Lived alone, yes.

22 **Q** And did you establish where Ms. Jamira Davis
23 was living at the time?

24 **A** Yes, sir. We did.

25 **Q** Where was that?

1 **A** I think it was [REDACTED] Garners Ferry Road --

2 **Q** Okay.

3 **A** -- Apartments.

4 **Q** And did she indicate who she lived with at
5 the time?

6 **A** Alesha.

7 **Q** Alesha Thomas?

8 **A** Yes.

9 **Q** Okay.

10 Did Ms. Jamira Davis have a car? Did she
11 indicate whether or not she had a car?

12 **A** She did not.

13 **Q** Did you attempt to establish a timeline with
14 Ms. Jamira Davis from the onset?

15 **A** Yes, sir. We did.

16 **Q** And did you ask her her whereabouts in the
17 early morning hours of January 22, 2021?

18 **A** Yes, sir. I did.

19 **Q** Would you explain what her answer was as to
20 where she had been that day and where she was that
21 particular time of night and into the early morning?

22 **A** Initially, she said that she and Alesha went
23 to Hartsville to a funeral. I believe it was Alesha's
24 grandfather passed away. Once they returned, she went
25 straight home.

1 **Q** Okay.

2 Did you ask her when the last time she had
3 been to Brandon Burden's house was?

4 **A** Yes, sir.

5 **Q** And what did she say?

6 **A** About a week prior or so.

7 **Q** Okay.

8 Now, did you take these answers at face
9 value? Or did you follow up with her as far as asking
10 more questions?

11 **A** Asked more questions.

12 **Q** Okay.

13 Did -- did you feel like she was holding back
14 at that time?

15 **A** Yes, sir. Somewhat.

16 **Q** Okay.

17 Did you -- did she eventually change her
18 story that she hadn't been there in over a week?

19 **A** Yes.

20 **Q** Okay.

21 So story one is, "I hadn't been there in a
22 week, and I was at Hartsville that day, and I went
23 straight home"?

24 **A** Yes, sir.

25 **Q** Okay.

1 What's story two?

2 **A** Story two was that she and Alesha went.

3 **Q** Let me ask you this. Did she at some point
4 offer that she maybe had called him that night?

5 **A** She did.

6 **Q** Okay.

7 But at that point, was she indicating that
8 she had gone over there or was she just saying they
9 called one another?

10 **A** Just called one another.

11 **Q** Okay.

12 And then, did she change the story from
13 there?

14 **A** Yes, sir.

15 **Q** Okay.

16 What is the next story?

17 **A** I believe it was that she and Ishmael had
18 gone over there.

19 **Q** Okay.

20 So she did eventually say she went to the
21 house?

22 **A** Yes.

23 **Q** Okay.

24 Was there any caveat? Or did she -- what was
25 the -- what was the story on that version? Did she go

1 inside during that version?

2 **A** No, sir. Stayed outside.

3 **Q** Okay.

4 So story three is, She did go over there with
5 Ishmael, but she stayed outside?

6 **A** Correct.

7 **Q** Okay.

8 Did she change -- I mean, are you challenging
9 her? Are you saying come on -- how are you -- how are
10 you getting more information from her? Because she
11 keeps changing her story. What is the catalyst for her
12 changing her story?

13 **A** I'm confronting her with information that we
14 possibly had or didn't have to generate more
15 information from her. And she would give a little bit
16 more each time we confronted her.

17 **Q** Did you observe any wounds that she may have
18 had or any kind of markings on her body?

19 **A** No, sir. I did not.

20 **Q** Did she say that she had any injury or any
21 kind of defensive wounds or anything like that?

22 **A** No, sir. She did not.

23 **Q** How did she present herself as far as
24 demeanor? What was her -- was she crying? Was she --
25 what did you observe?

1 **A** She wasn't crying. Casual, cool, calm,
2 collective, wasn't agitated, never got aggressive,
3 never raised her voice.

4 **Q** Any emotion at all?

5 **A** No, sir.

6 **Q** She appeared frightened when you spoke with
7 her?

8 **A** Initially, no. No.

9 **Q** Okay.

10 So story three is, "I did go there initially
11 but I stayed outside." Did she say why she went there
12 with Ishmael?

13 **A** To get some weed, marijuana.

14 **Q** Okay.

15 And did she indicate whether that was a
16 common practice for her to go there to get weed?

17 **A** It was a common practice.

18 **Q** Okay.

19 And did she indicate that Brandon Burden was
20 somebody who would sell marijuana and had marijuana?

21 **A** Yes, she did.

22 **Q** All right.

23 Is -- what was the next version of her story?

24 **A** I believe she said she went back, but went
25 back by herself.

1 **Q** Okay.

2 Because eventually did you -- did you tell
3 her you knew she was there?

4 **A** Yes, sir.

5 **Q** Okay.

6 At that point. Did you really know she was
7 there?

8 **A** No, sir.

9 **Q** Okay.

10 When you confronted her with that, did she
11 admit to being there?

12 **A** She did.

13 **Q** Okay.

14 And eventually did she admit to going into
15 the house?

16 **A** She did.

17 **Q** Okay.

18 Do you know about how long into the interview
19 it was before you could get her to admit to finally
20 being there?

21 **A** Well over an hour.

22 **Q** Well, about 33 minutes, does that sound about
23 right?

24 **A** Those are just my notes. If you have
25 something different, let me know.

1 **Q** Correct. Yeah. About 30, 35 minutes. Yes,
2 sir.

3 **Q** Okay.

4 So about 35 minutes after multiple versions,
5 she finally says, "Okay, I did go there"?

6 **A** Correct.

7 **Q** And you said the purpose was to get weed or
8 smoke weed?

9 **A** Both.

10 **Q** Did she indicate whether or not it was
11 customary for her to smoke marijuana with Brandon
12 Burden?

13 **A** It was.

14 **Q** Okay.

15 And you already testified she said that they
16 were -- they were close or she said that they were --
17 they were close. And they were like father and
18 daughter or something like that?

19 **A** Yes, sir.

20 **Q** Okay.

21 What -- what did she say happened in the
22 house at this point?

23 **A** Once in the house, they smoked, talked,
24 pretty much it.

25 **Q** Okay.

1 Did she -- at that point, did she say she saw
2 him with a gun that night?

3 **A** She did not. Said she did not.

4 **Q** Did she say at that point the last time she
5 had seen him with a gun, about 42 minutes in?

6 **A** A couple months ago.

7 **Q** Okay.

8 That was the last time at this point that she
9 had ever seen him with a gun?

10 **A** Yes, sir.

11 **Q** Again, are you threatening her at any point
12 during this interview?

13 **A** No, sir. I'm not.

14 **Q** Are you -- are you preventing her from
15 explaining her version of the story in any way?

16 **A** No, sir. I'm not.

17 **Q** Are you begging her to give you information
18 at this point?

19 **A** We confronted her with information that we
20 have in regard to her story. But we're not threatening
21 her or making her do anything she didn't want to do.

22 **Q** Do you know about how many times you've asked
23 her to give you the full truth?

24 **A** Numerous times. Maybe 15 or so.

25 **Q** Okay.

1 **A** Numerous times.

2 **Q** Asking her to give you the full story. Okay.

3 After -- after -- did she say about how long
4 she was there smoking weed?

5 **A** A little over an hour.

6 **Q** Did she indicate how she was smoking the
7 weed?

8 **A** By blunts.

9 **Q** Okay.

10 Did she indicate about how many blunts she
11 smoked with him?

12 **A** Three to five maybe.

13 **Q** And then at some point, Detective Eisenhower
14 entered. Do you remember that?

15 **A** Yes, sir.

16 **Q** I note she was about an hour and 20 minutes
17 into the video. Does that sound about right?

18 **A** Yes, sir.

19 **Q** And do you remember the nature of the
20 questioning when Eisenhower entered?

21 **A** Asked did the victim threaten her in any kind
22 of manner?

23 **Q** Okay.

24 Had she -- before he introduced that theory,
25 had she indicated anything about Brandon Burden

1 threatening her or being violent towards her on that
2 particular night, anything like that?

3 **A** No, sir. No, sir. She did not.

4 **Q** So it was Detective Eisenhower who first
5 introduced the idea that maybe Brandon Burden
6 threatened her in some way?

7 **A** Yes, sir.

8 **Q** Okay.

9 And did she ever admit to shooting Brandon
10 Burden while Detective Eisenhower was in there?

11 **A** No, sir.

12 **Q** As early as about an hour and 51 minutes in
13 it, do you remember Eisenhower telling her, you know,
14 maybe you were defending yourself or maybe he was
15 sexually inappropriate towards you. Do you remember
16 that?

17 **A** Yes, sir.

18 **Q** And did she ever say yeah, that's true, at
19 that point, while Eisenhower was in there?

20 **A** No, sir.

21 **Q** Okay.

22 And again, we got the videos here. But I'm
23 just asking you your recollections of the video. Did
24 you remember him saying, you know, drunk guys sometimes
25 try things with women?

1 **A** Yes, sir.

2 **Q** And did she bite on that?

3 **A** No, sir. She did not.

4 **Q** What is -- I've watched a lot of
5 interrogation videos. What is that particular tactic
6 that -- that investigators were used? I mean, is there
7 a name for it when you float out different theories to
8 them?

9 **A** We call it "themes." It's a way to kind of
10 get them to tell their story. We throw out different
11 scenarios, such as maybe robbery, theft, some kind of
12 assault, something threatening to get them to tell us
13 what happened?

14 **Q** Because was there any evidence whatsoever at
15 that particular time that Mr. Brandon Burden had done
16 anything to Jamira Davis?

17 **A** No, sir.

18 **Q** So Detective Eisenhower, the first person
19 who introduces this theory?

20 **A** Yes, sir.

21 **Q** And do you remember how many times he asked
22 her about potential sexual assaults or anything like
23 that? Was it multiple times?

24 **A** Multiple times. Yes, sir.

25 **Q** Did she ever bite and say, okay, with him,

1 that's what happened?

2 **A** No, sir.

3 **Q** And do you remember when Brian Godfrey comes
4 in? He was -- he was your supervisor at the time?

5 **A** He was. He and Eisenhower.

6 **Q** And do you remember him kind of -- he took a
7 slightly different approach as well?

8 **A** Yes, sir.

9 **Q** Okay.

10 At any point up to then, had she showed any
11 emotion whatsoever as far as crying or -- or becoming
12 emotional?

13 **A** No, sir.

14 **Q** Okay.

15 So I've got at about two hours and 52 minutes
16 in, give or take, that's when she finally accepts
17 Godfrey's interpretation --

18 **MR. L. SHEALEY:** Objection to leading.

19 **MR. SCOTT:** What was Godfrey --

20 I'm sorry. Your Honor, for ruling.

21 **THE COURT:** Rephrase.

22 **BY MR. SCOTT:**

23 **Q** Godfrey's approach was what? Because he kind
24 of -- he comes in and then what does he kind of say off
25 the bat?

1 **A** That something happened, and asked did he
2 touch her or try to make some kind of advance on her.

3 **Q** Let me ask you this. What is the strategy as
4 far as -- okay.

5 So you've got you and Robert Hook first.
6 Then you have you and Eisenhower. And then you have
7 Brian Godfrey and Stephen Dauway?

8 **A** Yes, sir.

9 **Q** What is the idea of rotating interviewers in
10 and out? Is there a method to that madness?

11 **A** Yes, sir. So all our interviews are audio
12 and video recorded. So by two interviewers in the
13 room, one person is asking questions while the other
14 person is taking notes, and watching for body language.
15 The other investigators are watching on a computer
16 monitor. They're also watching for things that the
17 people in the room may -- may miss.

18 And so then, they will ask one of us to step
19 out and tell us what they see or say, "Okay. Let me go
20 in. I think I can maybe get more out of them." So
21 then we'll switch out.

22 **Q** I guess that's my question. Is there some
23 strategy by shuffling new interviewers in and out?

24 **A** Yes, sir.

25 **Q** Do you find that maybe some interviewers have

1 a different rapport or is there some kind of -- what's
2 the --

3 **A** A rapport. Fresh -- a fresh look. Just may
4 be more comfortable with that person that comes into
5 the room the next time.

6 **Q** Okay.

7 And Godfrey comes in. Again, I say about
8 two -- about two hours and 52 minutes in. He was in
9 there about six minutes. And then she finally
10 kind of gives you a new version

11 **A** Yes, sir.

12 **Q** Is that safe to say?

13 **A** Yes, sir.

14 **Q** And what is that particular version?

15 **A** That he put his hand between her legs. And
16 as she tried to leave, he grabbed her from the back.

17 **Q** Okay.

18 What did she say he was saying when she --
19 when he grabbed her from behind?

20 **A** Come on. Let me talk to you. Don't leave.

21 **Q** Let me talk to you?

22 **A** Yeah.

23 **Q** Did she say he ever threatened her?

24 **A** No.

25 **Q** Okay.

1 She said he touched her between the legs?

2 **A** Correct.

3 **Q** Okay.

4 And she said she tried to leave. And he
5 grabbed her from behind and said let me talk to you,
6 let me talk to you?

7 **A** Yes.

8 **Q** And then what is her version of what happened
9 next?

10 **A** She tries to leave. They fall on the
11 Ottoman. And she picks up a gun.

12 **Q** Okay.

13 She said with the right or left hand?

14 **A** Right hand.

15 **Q** Did she say what room they were sitting in
16 when this happened?

17 **A** In the living room.

18 **Q** You heard other testimony that you go through
19 that front door and it's the living room right there.

20 **A** Yes, sir. It is.

21 **Q** Okay.

22 Did she say where they were sitting in the
23 living room?

24 **A** They were both on separate couches at first.
25 And then he, at some point, moved over close to her, at

1 which time, he put his hand between her legs.

2 Q What, if anything, was between those couches?

3 A I think it was the ottoman?

4 Q Okay.

5 What, if anything, did she indicate was on
6 the ottoman?

7 A Marijuana and a gun.

8 Q Okay.

9 And -- but her testimony is out of the blue,
10 he moves over and puts his hand between her legs?

11 A Yes, sir.

12 Q Okay.

13 And it's been established she -- she's a
14 lesbian, is that what your understanding is?

15 A Yes, sir.

16 Q And did she indicate that Brandon Burden knew
17 she was a lesbian? We're going to talk about Alesha
18 Thomas and that being her girlfriend.

19 A Yes, sir. I believe -- I believe so.

20 Q Okay.

21 So did he -- did she indicate he had ever
22 done anything to her before?

23 A She did not.

24 Q So her story at this point, two hours, almost
25 three hours in was that they're there. And he gets up,

1 moves closer to her, and puts her -- his hand between
2 her legs. She gets up to leave. He tells her, "Hold
3 on. Let me talk to you. Let me talk to you." And she
4 turns around and shoots and kills him?

5 **A** Yes, sir.

6 **Q** Did you ask her to demonstrate how this
7 occurred?

8 **A** I did.

9 **Q** Okay.

10 Is that on the video?

11 **A** It is. And what was your record -- can you,
12 with the Court's permission, can you step down and
13 demonstrate how she indicated this happened?

14 With me. Okay. I'm Alesha -- I'm sorry --
15 rather, I'm Jamira, defendant. And I'm leaving to get
16 out of the front door from the couch. Okay? I've just
17 been touched inappropriately. And I'm leaving. And so
18 what does she demonstrate? He kind of holds her like
19 this?

20 **A** Yes, sir.

21 **Q** Okay.

22 He's saying what?

23 **A** "Please don't go. Hold on. Stop."
24 Something along those lines.

25 **Q** Let me talk to you. Let me talk to you?

1 **A** Yes, sir.

2 **Q** And did she say what hand she reached for the
3 gun?

4 **A** She said they fell on the ottoman. And with
5 her right, she picked up the gun.

6 **Q** Okay.

7 So she says she reaches down. And did she
8 indicate how many times she shot him?

9 **A** I don't think she did.

10 **Q** Okay.

11 But her testimony is she's being held from
12 behind?

13 **A** Yes, sir.

14 **Q** He's saying let me talk to you. Let me talk
15 to you. She reaches with her right hand, turns and
16 starts shooting?

17 **A** Yes.

18 **Q** And then she -- she leaves at that point?

19 **A** Shortly thereafter.

20 **Q** Okay.

21 What, if anything, does she say she was doing
22 at his house before she left?

23 **A** She didn't say.

24 **Q** Who did she indicate she -- where did she end
25 up going after she left the house? Did she say that?

1 **A** Back to her -- her home.

2 **Q** Okay.

3 And who would have been there?

4 **A** Alesha, her girlfriend?

5 **Q** Did she indicate that she told Alesha what
6 had happened, you know that -- what had just occurred?

7 **A** She did not.

8 **Q** What about her mother? Did she -- did she
9 say she talked to her mother about and told her what
10 just happened?

11 **A** She did not.

12 **Q** Who, if anyone, did she say she had told what
13 happened?

14 **A** No one.

15 **Q** Okay.

16 Did she say she had gone after that to
17 Ishmael's house, Ishmael Scott?

18 **A** Yes, sir.

19 **Q** Okay.

20 And did she later tell you that was a lie?

21 **A** Yes, sir.

22 **Q** And did -- so she didn't complain of any
23 wounds or anything like that?

24 **A** No, sir. She did not.

25 **Q** And you remember seeing any emotion from her

1 even, at this point?

2 **A** After she said she shot him, referring to
3 that.

4 **Q** Do you recall any -- any -- do you remember
5 seeing anything like up to that point as far as any
6 emotion?

7 **A** No.

8 **Q** Okay.

9 And did she indicate that she was scared for
10 her life or anything like that?

11 **A** She did not.

12 **Q** And of course, this is -- did she indicate
13 like how often she went to this man's house at 2:49 in
14 the morning?

15 **A** She said often she would.

16 **Q** Okay.

17 So she didn't indicate anything about being
18 scared to go to his home or anything like that?

19 **A** She did not.

20 **Q** She never said she was afraid of the man?

21 **A** She did not.

22 **Q** So did she say he took her clothes or
23 anything?

24 **A** She did not.

25 **Q** Okay.

1 Did she give you really very much detail as
2 far as how he touched her?

3 **A** No, sir.

4 **Q** Okay.

5 You gave her every opportunity to explain
6 herself. And what she ended up telling us was that he
7 touched her on the outside of her clothes or the inside
8 of her clothes?

9 **A** Outside.

10 **Q** Outside of her clothes. She gets up to
11 leave. He said let me talk to you. And then she turns
12 around and shoots him?

13 **A** Yes, sir.

14 **Q** And then she leaves and goes home and never
15 tells anybody?

16 **A** Yes, sir.

17 **Q** And it's not until almost three hours in your
18 interview that she tells you this version of the story?

19 **A** Correct.

20 **Q** And you told us it was Detective Eisenhower
21 who first floated the idea of a possible assault?

22 **A** Yes, sir.

23 **Q** And so was there any other evidence that he
24 sexually assaulted her that night other than her
25 telling you that two hours and 52 minutes into the

1 interview?

2 **A** No, sir. I did not.

3 **Q** Do you -- did you note anything else about
4 her body language as far as when she was giving this
5 description of events?

6 **A** It was casual. I mean, it wasn't aggressive.
7 That's about it. I mean, (inaudible).

8 **Q** Did you go and talk to Alesha Thomas?

9 **A** We spoke with her at a job. We did.

10 **Q** Did y'all go to -- did y'all speak with her
11 at the house then? Were you there for the search
12 warrant?

13 **A** The consent to search, yes.

14 **Q** Do you remember her indicating if Jamira was
15 acting off that night when she got home?

16 **MR. L. SHEALEY:** Objection. Calls for
17 hearsay.

18 **BY MR. SCOTT:**

19 **Q** Been a lot of hearsay. You remember Alesha
20 Thomas speaking with her and anything she said about
21 Jamira Davis's behavior when she got home?

22 **A** No, sir.

23 **Q** Did you speak with anybody who said Jamira
24 Davis was really upset and something -- she appeared
25 like something bad had happened to her?

1 **A** No, sir.

2 **Q** Okay.

3 But according to Ms. Davis, this was like
4 she's being restrained. And she has to kill the guy.
5 Did she say she had no means of getting out of the
6 house other than shooting the guy? Did she say
7 anything about that?

8 **A** She did not.

9 **Q** Again, she's there voluntarily in this man's
10 house?

11 **A** Yes, sir.

12 **Q** Correct?

13 **A** Yes, sir.

14 **Q** And did she -- did she say she thought she
15 might die or anything like that?

16 **A** She did not.

17 **Q** It was just that this guy was like a father
18 to her, kind of held her from behind and said, "Let me
19 talk to you. Let me talk to you." And then she shot
20 and killed him?

21 **A** Yes, sir.

22 **MR. SCOTT:** Court's indulgence.

23 **BY MR. SCOTT:**

24 **Q** Can you think about anything else you
25 remember as far as that interview or shortly

1 thereafter? Was she charged with this murder?

2 **A** Yes, sir. She was.

3 **Q** Do you know where the body was found,
4 Mr. Burden's body was found?

5 **A** I was not.

6 **Q** And you didn't go to the scene? That's
7 right. You didn't show up until Monday?

8 **A** Yes, sir.

9 **Q** Okay.

10 Thank you, Investigator Jordan. Answer any
11 questions the defense has for you.

12 **A** Yes, sir.

13 **THE COURT:** Before we get to that,
14 Mr. Shealey.

15 (A sidebar conference is held off the record.)

16 **THE COURT:** All right.

17 All right, ladies and gentlemen. It is
18 11:45 a.m. We're gonna take an early lunch.
19 While you are at your lunch break, do not discuss
20 the case amongst yourselves, amongst anyone. Do
21 not do any independent research. Do not discuss
22 the case. If you will be back in the jury room at
23 one o'clock. One o'clock.

24 All right.

25 Thank you, ladies and gentlemen.

1 Remain seated while the jury leaves.

2 (The jury exits the courtroom at 11:45 a.m.)

3 **THE COURT:** All right.

4 One o'clock.

5 **MR. L. SHEALEY:** And, Your Honor, I'm sure
6 the witness knows. But --

7 **THE COURT:** Oh, yeah.

8 Investigator Jordan, you are still on the
9 stand under oath. Do not discuss your case with
10 anyone -- any of your testimony with anyone.
11 Okay?

12 **THE WITNESS:** Yes, sir.

13 (A recess is taken.)

14 **THE COURT:** All right.

15 Anything from the state before we bring the
16 jury?

17 **MR. SCOTT:** No, Your Honor.

18 **THE COURT:** Anything from the defense?

19 **MR. L. SHEALEY:** No, sir.

20 **THE COURT:** All right.

21 Let's bring the jury.

22 **THE BAILIFF:** The jury is seated, Your Honor.

23 **THE COURT:** All right.

24 Thank you, sir.

25 All right.

1 Ladies and gentlemen, I hope you had a great
2 lunch. Thank you for being back on time. We can
3 go ahead and get started with cross-examination.

4 **MR. L. SHEALEY:** Judge, may it please the
5 Court.

6 **THE COURT:** Yes, sir.

7 **CROSS-EXAMINATION**

8 **BY MR. L. SHEALEY:**

9 **Q** Investigator Jordan, you've got your report
10 in front of you?

11 **A** I do.

12 **Q** All right.

13 Just generally, you make it a practice to
14 write a report after you get involved in a case such as
15 this, right?

16 **A** Yes, sir.

17 **Q** Your report is approximately 11 pages long;
18 is that correct?

19 **A** Yes, sir.

20 **Q** Hopefully not 11 pages long, right?

21 **A** Yes, sir.

22 **Q** And that's because there's a lot of a -- you
23 did a lot of stuff in this case, right?

24 **A** Yes, sir.

25 **Q** And that report is helpful so you can

1 document what's occurring so that you know maybe a
2 couple of years later what you did, right?

3 **A** Yes, sir.

4 **Q** And it looks like you give a date and time of
5 your action, correct?

6 **A** I did.

7 **Q** And the first entry, I'm seeing that you
8 logged in on page 1 is January 25, for example, right?

9 **A** Yes, sir.

10 **Q** And you had a number of people in this case
11 that were initially persons of interest that you would
12 later rule out, right?

13 **A** Yes, sir.

14 **Q** For example, page 1, entry 1, person of
15 interest is Stanley Bell, right?

16 **A** Yes, sir.

17 **Q** Y'all -- y'all investigated him and ruled him
18 out, right?

19 **A** Yes, sir.

20 **Q** Although he was somebody that did know Boleg?

21 **A** Correct.

22 **Q** He would buy crack from Boleg, right?

23 **A** He did.

24 **Q** But you ruled him out. And he had a pretty
25 good alibi, right?

1 **A** Yes, sir.

2 **Q** He was asleep in the truck around the time of
3 the incident?

4 **A** Yes, sir.

5 **Q** Okay.

6 And you began to continue to investigate.
7 And one of the things that you like to do is, you know,
8 cell phones can be pretty helpful, right?

9 **A** Yes, sir.

10 **Q** And although you didn't recover physically
11 Boleg's cell phone, y'all requested his records, right?

12 **A** Yes, sir.

13 **Q** And so what records will do is give a nice
14 timeline of who's -- who's in contact with him or who
15 was he in contact with around the time of the event,
16 correct?

17 **A** Yes, sir.

18 **Q** And, obviously, in this world that we live
19 in, any kind of surveillance video, Ring doorbell, or
20 things of that nature are also of investigative value
21 to you?

22 **A** It is.

23 **Q** And you on direct, they play a surveillance
24 video that you are able to get from a relative of
25 Boleg, right?

1 **A** Yes, sir.

2 **Q** And we -- we got to watch a map kind of
3 generally about where she lives around the corner on
4 Crosshill, right?

5 **A** Yes, sir.

6 **Q** And that's where y'all collected it?

7 **A** Yes, sir.

8 **Q** Now you agree that that video is not perfect,
9 is it?

10 **A** It's not.

11 **Q** Well, it would have been perfect to get a
12 video from the house right across the street from him,
13 right? Maybe.

14 **A** Yes, sir. If they had a camera there.

15 **Q** But at a distance of that video that you did
16 have through the trees, you can see things like car
17 lights, correct?

18 **A** Yes, sir.

19 **Q** But you can't say, "Oh, that's a Kia," right?

20 **A** Oh, no, sir. No, sir.

21 **Q** So it's not as helpful as that?

22 **A** Correct.

23 **Q** You can see things like lights flashing and
24 figures moving, correct?

25 **A** Yes, sir.

1 **Q** And it has a time stamp that you believe is
2 accurate?

3 **A** Yes, sir.

4 **Q** And you went through some of those times with
5 the solicitor and noticed some -- based on review of
6 the video, you and your team, and that would be
7 Investigator Eisenhower, right?

8 **A** Yes, sir.

9 **Q** Investigator Dauway, correct?

10 **A** Yes, sir.

11 **Q** Investigator Hook who we heard from earlier?

12 **A** Yes, sir.

13 **Q** And even Captain Godfrey who is a supervisor
14 of all y'all, right?

15 **A** Yes, sir.

16 **Q** Y'all are able to identify some points of
17 interest in that timeframe, correct?

18 **A** Yes, sir.

19 **Q** So you testified, turn your attention to page
20 3 of your report, you note some things like two
21 o'clock, a car pulls up to the house, correct?

22 **A** When's that?

23 **Q** Two o'clock. Page 3 of your report.

24 **A** Yes, sir.

25 **Q** And a person at 2:01 appears to walk up to

1 the house, right?

2 **A** Yes, sir.

3 **Q** And another person at 2:02 appears to walk up
4 to the house, right?

5 **A** Yes, sir.

6 **Q** And based on the person walking, that created
7 a person of interest for you in the name of guy named
8 Mr. Sapp, right?

9 **A** Yes.

10 **Q** Part of your investigative efforts in this
11 case, Darryl Sapp was stopped?

12 **A** Yes.

13 **Q** Because again, that's close enough in time to
14 the event that you could either rule him in or rule him
15 out, right?

16 **A** Correct.

17 **Q** And y'all learned that Mr. Sapp actually did
18 have some communications with Boleg that night,
19 correct?

20 **A** He did.

21 **Q** That he actually hung out with Boleg that
22 evening?

23 **A** He did.

24 **Q** That he had got some -- some liquor from down
25 the street and brought it over and they drank, right?

1 **A** He did.

2 **Q** And that he buys crack from Boleg, right?

3 **A** He did.

4 **Q** So that -- that helps also describe to you a
5 little about the condition of Boleg that night, right?

6 **A** Yes, sir.

7 **Q** You would expect based on that account to
8 know that he might be drinking alcohol, right?

9 **A** Yes, sir.

10 **Q** And he might have drugs in his system, right?

11 **A** Just because he sells doesn't mean he
12 actually used.

13 **Q** Okay.

14 So that's something that maybe is a question?

15 **A** Yes.

16 **Q** But you being the lead investigator in this
17 case, you're familiar with the toxicology results in
18 this case?

19 **A** Yes.

20 **Q** And so you do know that he does have alcohol
21 in his systems?

22 **A** Right.

23 **Q** (Inaudible)?

24 **A** Yes, sir.

25 **Q** And he has cocaine in his system?

1 **A** I think so.

2 **Q** And marijuana?

3 **A** Yes, sir.

4 **Q** So that aspect of what Mr. Sapp told you, I
5 guess, was corroborated?

6 **A** It was, yes.

7 **Q** And part of your job, you don't -- you don't
8 have to take what people say at face value, right? You
9 want to try see if there's something that independently
10 can also support somebody says, right?

11 **A** Yes.

12 **Q** Okay.

13 I want to talk about some of those lashes. I
14 want to show you a -- photos, some of the photos of the
15 house just for example.

16 Okay.

17 I'm going to show you again what you already
18 looked at, which is this map, this Google -- it looks
19 like a Google Map, right --

20 **A** Yes, sir.

21 **Q** -- of the location. And I think you've
22 already identified that here is [REDACTED] American; is that
23 right?

24 **A** Yes, sir.

25 **Q** And then where y'all got the surveillance

1 video of the back porch of over here [REDACTED] Crosshill?

2 **A** Yes, it is.

3 **Q** And so we've already talked about the vantage
4 point of that video that you played would be like this.

5 **A** Yes, sir.

6 **Q** Okay.

7 I want to show you what's marked as State's
8 21, which is a photo of the front of the house. Can
9 you see that?

10 **A** I can. Yes, sir.

11 **Q** And that's the condition as it was basically
12 found the next day, right?

13 **A** Well, I saw it on Monday.

14 **Q** Okay. Right. Right.

15 So this looks like firemen, right?

16 **A** Yes.

17 **Q** Some fire personnel?

18 **A** Yes.

19 **Q** And you agree that this house has a storm
20 door on the front, correct?

21 **A** It does.

22 **Q** And that's a glass storm door, correct?

23 **A** I would assume that is in there.

24 **Q** Okay.

25 So we know that glass allows things to be

1 seen inside. And you can see out, correct?

2 **A** Yes, sir.

3 **Q** You could see lights inside and lights out --

4 **A** Right.

5 **Q** -- right? It has that capability.

6 Now, as part of your work, you talk about you
7 got phone records. And once you got them in from
8 Mr. Boleg, you determined that there were several calls
9 around the time of up to this death that you couldn't
10 identify directly, right?

11 **A** Yes, sir.

12 **Q** So you would spend some time trying to figure
13 out whose phone number this is. And you've talked
14 about the time that they started on January 22 being at
15 1:40. You have that referenced in your report?

16 **A** Yes, sir.

17 **Q** And they go into about 2:16, correct?

18 **A** Yes, sir.

19 **Q** Now you -- you agree that it looks like
20 texts, and then we've got calls, right, voice calls?

21 **A** Yes, sir.

22 **Q** And based on the records that I've received,
23 you tell me if you agree, but it looks like all of the
24 calls are and texts are outgoing towards that unknown
25 number with one call coming in towards Boleg, right?

1 **A** (Inaudible).

2 **Q** Okay.

3 I'll just pass you up something that might
4 help you.

5 **A** All right.

6 **Q** This is just a report that I received from
7 Investigator Hook?

8 **A** Okay. Yes, sir.

9 **Q** Do you agree with that and Boleg is doing --
10 out of the one, two, three, four, five, six, seven
11 contacts there, Boleg is doing six of them, right --

12 **A** Correct. Yes, sir.

13 **Q** -- towards that number that we ultimately
14 learned to be Jamira, right?

15 **A** Yes, sir.

16 **Q** And she is calling him once, and that would
17 be at 1:57, correct?

18 **A** Her calling would be --

19 **Q** Sorry.

20 **A** -- 1:41.

21 **Q** Yeah. 1:41, correct?

22 **A** Yes, sir.

23 **Q** That morning.

24 So you focused on that number. And through
25 your investigative sources, you decided to talk to

1 Jamira's mother, correct?

2 **A** I'm sorry? Repeat that.

3 **Q** You decided that you needed to talk to
4 Jamira's mother, correct?

5 **A** Well, so she had reached out to Eisenhower
6 and she needed to speak with him. So we didn't know
7 what that was about. So we went to go speak to her.
8 And she told us some other information. And while
9 talking to her, we asked about Jamira --

10 **Q** Right.

11 **A** -- and what her phone number is and she gave
12 it to us.

13 **Q** She was able to confirm that for you?

14 **A** Right. She told us that she had a phone and
15 what the phone number was.

16 **Q** Right. And that's page 8 of your report?

17 **A** Yes, sir.

18 **Q** And she also explained to you that Jamira was
19 one of her -- one of three daughters, correct?

20 **A** She did.

21 **Q** And that she had two other daughters that
22 were special needs, right, an older and a younger
23 one --

24 **A** Yes, sir.

25 **Q** -- where were autistic?

1 **A** Correct.

2 **Q** And that Boleg -- she and Boleg had been
3 dating for years essentially, right?

4 **A** Yes, sir.

5 **Q** That they had lived -- lived together in the
6 same house or trailer, right?

7 **A** Yes, sir.

8 **Q** And that essentially, he had been like a
9 father figure to Jamira?

10 **A** Yes.

11 **Q** But you also began to learn that she had
12 recently broken up with him and was trying to avoid
13 him, correct?

14 **A** Yes.

15 **Q** That she was living in hotels. And even in
16 your report, she took the phone away from her younger
17 child to make sure that Boleg wouldn't learn things
18 about her life?

19 **A** That is correct.

20 **Q** So, of course, confirming that these last
21 numbers to communicate with her were what her own mom
22 said was Jamira, you needed to talk to Jamira?

23 **A** Yes, we did.

24 **Q** Okay.

25 And so you -- I think you said on February 1,

1 you got her to come down freely and voluntarily and be
2 interviewed, right?

3 **A** We did.

4 **Q** You didn't have to put her in handcuffs or
5 anything like that, right?

6 **A** We did not.

7 **Q** But the interview is in Richland County
8 Sheriff's Department Headquarters?

9 **A** Yes, it was.

10 **Q** And you had her in an interview room or
11 interrogation room, whatever you prefer, right?

12 **A** Yes, sir.

13 **Q** That's the room where you're trying to get
14 the information from folks?

15 **A** Yes, sir.

16 **Q** And it is audio and video recorded. And we
17 have played some of that today, right?

18 **A** It is.

19 **Q** And that video is in evidence. And so the
20 jury will have the opportunity to play all three plus
21 hours if they want, correct?

22 **A** Yes, sir.

23 **Q** So you agree that you start talking to her a
24 little bit about her relationship with Boleg and
25 whether -- had she witnessed any violence between Boleg

1 and her mom, correct?

2 **A** Yes.

3 **Q** And she does detail she did witness violence
4 between Boleg and her mom, correct?

5 **A** Yes, she did.

6 **Q** And she described the trailer they lived in
7 and it had kind of two sides so she could hear it
8 through the vents, right?

9 **A** Correct.

10 **Q** But she also said that other than that, he
11 never put hands on me previously, right?

12 **A** Correct.

13 **Q** And then she did basically appreciate him as
14 a father figure, correct?

15 **A** She did.

16 **Q** Even then, she detailed vividly how he pulled
17 a gun on her mom at one point, right?

18 **A** She did.

19 **Q** And she described that gun as being a
20 revolver?

21 **A** She did.

22 **Q** But she was older. And the time you're
23 talking to her, she's 20 years old, right?

24 **A** I believe so. Yes, sir.

25 **Q** Live-in -- live-in with her girlfriend in an

1 apartment elsewhere, right?

2 **A** Yes, sir.

3 **Q** And so it's during this time that you start
4 to confront her with evidence that you believe puts her
5 on the scene, right?

6 **A** We do.

7 **Q** That would be her cell phone records,
8 correct?

9 **A** Correct.

10 **Q** And that would be that surveillance video and
11 things consistent with her cell phone records, right?

12 **A** Correct.

13 **Q** And she didn't want to admit to that at
14 first, right?

15 **A** She did not.

16 **Q** How long have you been an investigator?

17 **A** Seventeen years.

18 **Q** Okay.

19 And that assumes Jamira Davis is not the
20 first person who did not want to admit to something at
21 first, correct?

22 **A** No, sir.

23 **Q** I mean, especially about a killing of
24 someone, correct?

25 **A** Correct.

1 **Q** I would venture to guess that more folks than
2 not probably don't admit to killing somebody when you
3 first ask them that question, right?

4 **A** Okay.

5 I -- I agree with that.

6 **Q** You don't disagree with it?

7 **A** (Inaudible). You've got some people who come
8 in and say it.

9 **Q** Right.

10 And you actually -- you understand that.
11 And, ultimately, she would detail what she described as
12 a attempted sexual assault, right?

13 **A** Yes, she did.

14 **Q** And, you know, from your period in law
15 enforcement that folks that have experienced sexual
16 assault also don't always want to cough up that detail,
17 correct?

18 **A** That is true.

19 **Q** You've worked those cases, right?

20 **A** I have.

21 **Q** Sometimes you might have a victim of sexual
22 assault who doesn't disclose that information for
23 years, right?

24 **A** That's true.

25 **Q** And when she -- he or she comes forward,

1 doesn't make any -- any less true when they finally do,
2 right?

3 **A** It does not.

4 **Q** Now, I don't know that I'll need it. But you
5 know, as you sit here, I've got a transcript of that
6 entire meeting. But if you need it, let me know. But
7 you agree that you told her that maybe you want to
8 forget what happened and that you could understand
9 that, right?

10 **A** If it's in the transcript, then I said it.

11 **Q** You want me to show it to you?

12 **A** Sure.

13 **Q** First, do you disagree? You agree that you
14 said it or you disagree?

15 **A** Can I see it?

16 **Q** Sure.

17 Yes. Just turn to 139, please.

18 **A** 139?

19 **Q** Yes, sir.

20 Let me know when you're there.

21 **A** I'm there.

22 **Q** Let me direct your attention to lines 18
23 through 20.

24 **A** Yes, sir. I see that.

25 **Q** Okay.

1 So you agree you told her that?

2 **A** I do.

3 **Q** Maybe she wants to forget what happened. And
4 you can understand that, right?

5 **A** I can. But she also said it was not like
6 that.

7 **Q** Well, that's when she still wasn't coming
8 clean with you yet.

9 **A** Correct.

10 **Q** Now, your investigation of this case, Jamira
11 and Boleg, you, at this point, haven't found any reason
12 of past animosity between Boleg and Jamira, right?

13 **A** No.

14 **Q** You haven't found any text messages of a
15 threatening nature between Jamira and Boleg, right?

16 **A** I did not.

17 **Q** You didn't find her diary where she talks
18 about (inaudible)?

19 **A** We did not.

20 **Q** As far as you know, she's someone who
21 graduated high school and is working, right?

22 **A** Yes.

23 **Q** So your job is to try to figure out why did
24 this happen, right?

25 **A** Yes.

1 **Q** And you're telling her that, correct?

2 **A** Correct.

3 **Q** And so, you know, the solicitor asked you a
4 series of questions about some of your interrogation
5 techniques, right?

6 **A** (No audible response.)

7 **Q** You agree with that?

8 **A** Yes, sir.

9 **Q** And I wrote this down. And I basically --
10 you called it presenting themes, right?

11 **A** Correct.

12 **Q** Because she's not telling you anything. You
13 don't know why this occurred. So you're presenting
14 things that may or may not be likely, right?

15 **A** Correct.

16 **Q** I mean, Eisenhower is sitting right next to
17 you saying, "We know that drunk guys sometimes do bad
18 things with women," right?

19 **A** Yes, sir.

20 **Q** Isn't that right? It's just (inaudible).

21 **A** Correct.

22 **Q** But you know, and we've talked about it. But
23 her body language is changing over time as you guys
24 repeatedly reference, Did he do something? Correct?

25 **A** Yes, sir.

1 **Q** Okay.

2 And -- and you asked for that specifically.
3 You agree, telling her, I don't think you're a bad
4 person at all, but I think something happened. Do you
5 remember that?

6 **A** I do.

7 **Q** You recall Eisenhower saying, "Did he touch
8 you inappropriately? That would be a good reason to
9 try to defend yourself," right?

10 **A** He did.

11 **Q** Now, you, as an officer of the law, you are
12 not in the business of trying to produce a false
13 statement from anybody, right?

14 **A** By no means.

15 **Q** That would be against public policy, correct?

16 **A** Yes.

17 **Q** But you learned certain interview techniques
18 to try to get people to open up, right?

19 **A** Yes.

20 **Q** Okay.

21 And until she started telling about the
22 sexual assault attempt, she had not been opening up,
23 right?

24 **A** Yes.

25 **Q** And Captain Godfrey, who is your supervisor,

1 he's watching all of this from his office on the
2 television or a monitor of some sort, right?

3 **A** He is.

4 **Q** And you and Eisenhower, you had been going
5 at it with Jamira for a long time. And then he --
6 he -- you talked about this on direct. You'll rotate
7 out, right?

8 **A** Yes, sir.

9 **Q** So he knows exactly what's been said and
10 what's going on, right?

11 **A** Yes, sir.

12 **Q** And he gets a different approach?

13 **A** He does.

14 **Q** Okay.

15 And that's normal. Maybe y'all have been
16 giving her a little hard time and he's not going to do
17 that, correct?

18 **A** Giving her a hard time?

19 **Q** Not hard time. But you're confronting her.
20 we'll use that word, right?

21 **A** Correct.

22 **Q** And he comes in with a slightly different
23 approach. You've reviewed the video, right?

24 **A** I did.

25 **Q** And when he comes in, he -- opens her up

1 quite quickly, correct?

2 **A** He does.

3 **Q** And he's been doing this a long time, right?

4 **A** Yes, he has.

5 **Q** He also performs polygraph testing?

6 **A** He does.

7 **Q** Okay.

8 Very experienced investigator. And he says,
9 "I can tell by your body language that this is what's
10 going on," right?

11 **A** He does.

12 **Q** And he tells her that?

13 **A** Yes.

14 **Q** And she says -- he said, "Did he touch you,"
15 right?

16 And she says, "Yes," finally --

17 **A** Yes.

18 **Q** -- correct?

19 After two plus hours, finally, she says yes.
20 Okay?

21 **A** Correct.

22 **Q** But then it's time you need to know why it
23 happened, correct?

24 **A** Yes, sir.

25 **Q** And tell -- and tell us how it happened,

1 right?

2 **A** Yes, sir.

3 **Q** Now, she did have a good idea of why it
4 occurred, right?

5 **A** Correct.

6 **Q** Again, y'all had not been told any motive for
7 Boleg to have real problem with her at that point or
8 for her to have any problem with Boleg, right?

9 **A** We did not.

10 **Q** You had determined that there were real
11 problems between Boleg and Jamira's mom, right?

12 **A** We learned that, yes.

13 **Q** (Inaudible).

14 **A** Yes.

15 **Q** Physical abuse, right?

16 **A** Yes, sir.

17 **Q** She had broken it off?

18 **A** She had.

19 **Q** So you -- you know there's an issue there.
20 Okay.

21 So at that point, you start to -- to get her
22 to demonstrate. And she basically said it was like
23 normal, right?

24 **A** Yes, sir.

25 **Q** She would routinely go there and smoke weed?

1 **A** She did.

2 **Q** And (inaudible) amongst other things?

3 **A** Yes, sir.

4 **Q** And he did not make her buy it. This is
5 basically his step-daughter.

6 **A** Correct.

7 **Q** Okay.

8 And she described that day about being at her
9 girlfriend's granddad's funeral, right?

10 **A** Yes, sir.

11 **Q** That was a tough day. And she and her Alesha
12 needed some marijuana, right?

13 **A** Yes, sir.

14 **Q** And so Boleg would be a guy to give her that,
15 right?

16 **A** Yes, sir.

17 **Q** And that they're inside and they're smoking
18 and everything was normal until he, at some point, puts
19 his hands into his pants, right?

20 **A** Correct.

21 **Q** And she describes for you how they're on a,
22 like a sectional-type couch, in two different places,
23 right?

24 **A** She does.

25 **Q** And there's an ottoman in the middle of the

1 floor. And you know -- you know what an ottoman is,
2 right?

3 **A** I do.

4 **Q** So it's like a piece of furniture for your
5 feet. Sometimes they're big and you put stuff on it.
6 She said that's where he had his weed, right?

7 **A** She did.

8 **Q** Smoking a blunt right there?

9 **A** Yes, sir.

10 **Q** And then she saw a gun right there as well,
11 right?

12 **A** Eventually.

13 **Q** Yeah. Eventually. His gun, not her gun,
14 right?

15 **A** Correct.

16 **Q** And that everything appeared kind of normal
17 until he put his hands down his pants. But she kind of
18 ignored that at first, because she's sometimes around
19 guys that are crude like that, right?

20 **A** Yes, sir.

21 **Q** She did not say when he put his hands down my
22 pants, I reached for the gun and had to defend myself.
23 Did not say that, right?

24 **A** She didn't say he put his hands down her
25 pants.

1 **Q** Not her pants.

2 **A** I'm sorry.

3 **Q** His pants.

4 **A** Okay.

5 **Q** Right. At that point, she did not indicate
6 that she felt the need to jump up and defend herself?

7 **A** No.

8 **Q** And so then, she described how he moves
9 closer from his side of the sectional to where she had
10 been sitting by the door, right?

11 **A** She does.

12 **Q** And she's acting this all out for you.
13 You're asking her to, right?

14 **A** Correct.

15 **Q** And he sits next to her. She doesn't tell
16 you that she jumps up like a cat and goes for the gun
17 at that point, does she?

18 **A** She does not.

19 **Q** But it's at that point that he puts his hands
20 in between her legs, right?

21 **A** Yes.

22 **Q** And words matter. And that's in the
23 transcript. And I'll be happy to show it to you. You
24 don't disagree that she says in between her legs?

25 **A** She did.

1 **Q** Okay.

2 She's talking directly on her private area,
3 correct?

4 **A** Yes.

5 **Q** Now, she didn't say he got his hands under
6 her clothing or garments, right?

7 **A** She did not.

8 **Q** She didn't say that his penis was out or
9 anything like that, right?

10 **A** Did not.

11 **Q** But him putting his hands on her private area
12 caused a reaction from her, right?

13 **A** She did. Yes.

14 **Q** She describes how she jumped up and said,
15 "I'm leaving," right?

16 **A** She did.

17 **Q** And she's sitting next to the door, right?

18 **A** Yes.

19 **Q** Okay.

20 So she's going for that door. Even when he
21 has his hands by her account on her genitals, she
22 doesn't go for any gun at that point, right?

23 **A** She does not.

24 **Q** Her action was to get away from him?

25 **A** It is.

1 **Q** And you know from being a law enforcement
2 officer for a long time that an unwanted touching of a
3 woman's privates is against the law, right?

4 **A** It is?

5 **Q** It is a crime, correct?

6 **A** It is.

7 **Q** It is a crime that you have prosecuted
8 before, I'm sure. Helped prosecute?

9 **A** Yes, sir.

10 **Q** Criminal sexual conduct, for example?

11 **A** Yes, sir.

12 **Q** Lewd act, right?

13 **A** Yes, sir.

14 **Q** Battery, right?

15 **A** Correct.

16 **Q** So if Jamira is being truthful here, she has
17 had a battery committed against her, right?

18 **A** Correct.

19 **Q** And at this point when she tells you that,
20 you don't -- the phase of confronting her and telling
21 her that you don't think she being entirely truthful is
22 over. Never once she tells it do you say, "I don't
23 believe you," right?

24 **A** No, we don't -- no, I don't.

25 **Q** You just want to know how it's unfolding at

1 that point?

2 **A** Yes, sir.

3 **Q** Okay.

4 Because that makes sense, doesn't it?

5 **A** Something happened. Whether or not that's
6 actually what happened, we don't know. Because Boleg
7 is not here to tell his side of the story. But based
8 on what she said, we have to go with that.

9 **A** That's true.

10 **Q** Now after this crime has been committed
11 against her per her, when she tries to leave, she says
12 specifically that he would not let her, right?

13 **A** Correct.

14 **Q** And you get up with her -- I can play it on
15 the video. I don't think I really need to -- where you
16 demonstrate. Basically she grabs you at your request,
17 right?

18 **A** Correct.

19 **Q** And you say, "Show me what he did"?

20 **A** Correct.

21 **Q** And she went like this. And you're a police
22 officer in an interrogation room. She didn't body slam
23 you. But she pulled you back relatively forcefully,
24 right?

25 **A** Yeah. For the most part.

1	Q	Okay.

2 | She wasn't pulling you on the ground?

3	A	Right.	Right.

4 Q But she is describing to you physically how
5 he prevented her from leaving, right?

6	A Correct.

7 Q While saying, (inaudible), right?

8 **A** Yes, sir.

9 Q Now, that -- that -- he's not saying, "I'm
10 going to kill you," right?

11	A Right.

12 Q He want -- doesn't want her to leave,
13 correct?

14	A	Correct.

15 Q He's physically restrained her from leaving?

16	A Correct?

17 Q And in the transcript of that interview, she
18 says that he -- "I couldn't make it outside the door."
19 You agree with that?

20 **A** Yes, sir. It's in there.

21 **Q** Quote, He pushed me away from the door,
22 right?

23	A What page is that on?

24 **Q** Page 121, lines 1 through 3.

25 Actually, hold on. That may not be it.

1 Actually, it's page 214. Right at the time. Are you
2 with me?

3 **A** One second.

4 All right.

5 214. Okay.

6 **Q** You agree, she says, "But I'm saying it was
7 like a whole bunch of back and forth. I'm like no. He
8 pushed me away from the door." You agree she said
9 that?

10 **A** Yes.

11 **Q** Okay.

12 Now as a longtime police officer, you have
13 investigated kidnapping charges before, right?

14 **A** Yes, sir.

15 **Q** And you understand that that doesn't really
16 mean somebody kidnapped a child, right?

17 **A** Correct.

18 **Q** It's basically preventing them from leaving,
19 right?

20 **A** Yes.

21 **Q** Doesn't require physical force, does it?

22 **A** Does not.

23 **Q** But here, we got, based on what you're
24 hearing from her, physical force preventing her from
25 leaving, correct --

1 **A** Yes.

2 **Q** -- as she's trying to flee out of the door?

3 That would be another crime she's telling you
4 has been committed against her?

5 **A** Yes.

6 **Q** Okay.

7 And she describes this struggle from that
8 point. And she describes that room as being dark?

9 **A** Correct.

10 **Q** Okay.

11 And that there's this back-and-forth where
12 they fall. But she falls in the direction of the
13 ottoman that's in the middle --

14 **A** Correct.

15 **Q** Okay.

16 -- and is there and while down, she picks up
17 Boleg's gun and starts shooting, right?

18 **A** Yes.

19 **Q** Okay.

20 Now, you didn't -- you didn't get -- you
21 didn't clear all tables in the interrogation room and
22 say, "All right. All right. Let's get down here."

23 You don't go that far. But she talks about
24 falling in to get the gun, right?

25 **A** Yes, sir.

1 **Q** She doesn't know how many times she shot?

2 **A** Correct.

3 **Q** And y'all very specifically ask her that he's
4 holding her and then she shoots, right, per her
5 account?

6 **A** Yes.

7 **Q** And then, at some point, he lets go?

8 **A** Correct.

9 **Q** Now, on February 1, she did not present to
10 you with a broken nose, right?

11 **A** She did not.

12 **Q** She did not present you with a black eye,
13 right?

14 **A** She did not.

15 **Q** She did not present to you with a vaginal
16 tear, did she?

17 **A** That I'm aware of, no.

18 **Q** But you know that we don't have to wait to
19 let somebody literally pinch at you before we can
20 resist against that. You know that?

21 **A** Correct.

22 **Q** Okay.

23 Now I was listening to your answers to
24 questions for the solicitor about not seeing emotion
25 from Ms. Davis throughout this interview and no crying.

1 That's still your testimony?

2 **A** Not with me, she didn't cry. She cried with
3 Lieutenant Godfrey.

4 **Q** And she was still crying when you were in
5 there with Dauway afterwards, right?

6 **A** I believe she was, yes. She was clearing up,
7 but she still was sobbing.

8 **Q** The jury will have that. You don't -- you
9 don't need me to show it to you to admit that she was
10 sobbing after or --

11 **A** Yes, sir.

12 **Q** Okay.

13 Now, Investigator Jordan, we got your 11-page
14 report. Well, let me ask you this, You were asked
15 questions about whether she had told anybody after the
16 fact as far as you could tell, right?

17 **A** Yes, sir.

18 **Q** And you learned that she had not, as far as
19 you could tell, told her girlfriend at the time, right?

20 **A** Correct.

21 **Q** And this is the girlfriend whose granddad
22 just passed away.

23 **A** Correct.

24 **Q** She said that she couldn't handle -- she
25 didn't want to put that on him essentially, right?

1 **A** Yes, sir.

2 **Q** Then you learned from talking her mom,
3 Wynette, that she hadn't told her mom about what
4 happened either, right?

5 **A** She did not.

6 **Q** And again, although your investigation shows
7 that her mom had suffered abuse at the hands of Boleg,
8 also her mom was with Boleg for a very long time,
9 right?

10 **A** She was.

11 **Q** And that makes sense that she wouldn't
12 necessarily confess that she killed her mom's
13 ex-boyfriend, right?

14 **A** (No audible response.)

15 **Q** That doesn't surprise you, maybe?

16 **A** It wouldn't surprise me.

17 **Q** Now, Jamira, during that interview, said that
18 she left Boleg's gun there, right?

19 **A** She did.

20 **Q** Y'all never found a gun?

21 **A** We did not.

22 **Q** Did not find any shell casings, right?

23 **A** We did not.

24 **Q** Didn't find any blood?

25 **A** Did not.

1 **Q** The house was a wreck, right?

2 **A** It was.

3 **Q** Burnt in a wild fashion. And then hosed down
4 significantly with multiple fire hoses, right?

5 **A** It was.

6 **Q** But you recall Ms. Hope Demer from last week
7 making a phone call to you about a piece of evidence
8 that we thought was relevant to this case, right?

9 **A** She did.

10 **Q** And she said that we had a gun in our
11 possession. Do you recall that?

12 **A** Yes, sir.

13 **Q** That we felt was part of this case and
14 relevant to this case?

15 **A** Yes, sir.

16 **Q** And you sent over Officer (inaudible) to
17 retrieve that gun?

18 **A** Correct.

19 **Q** Okay.

20 It would be -- well, let's just say that's
21 good police work, right? Someone says they have a gun
22 relevant to your case. You're going to go try to get
23 it?

24 **A** Yes, sir.

25 **Q** Okay.

1 Your investigation really never stops. Is
2 that fair to say?

3 **A** Fair.

4 **Q** I'm going to show you -- did you actually
5 look at the weapon we provided?

6 **A** I did not.

7 **Q** You never opened it?

8 **A** No, sir. It was in evidence. I went to go
9 get it on Monday. Firearms had it. So I could not
10 look at it.

11 **Q** Who told you not to look at it?

12 **A** Firearms had it. So I could not --

13 **Q** Oh. They had it. Okay.

14 So they're going to test it?

15 **A** Yes.

16 **Q** So you haven't looked at it. You can't -- I
17 can't show you photos of what's in there. And you
18 can't even acknowledge what it was. But you took that
19 gun and you are sending it to Firearms to test it,
20 right?

21 **A** They were testing, yes.

22 **Q** Because we know -- you know that there's two
23 projectiles recovered from Mr. Boleg in this case,
24 right?

25 **A** Correct.

1 **Q** For the jury, projectile is basically the
2 bullet that comes out minus the jacket and the shell
3 casing?

4 **A** Correct.

5 **Q** And when you have that evidence, if you have
6 a weapon to compare to it, those -- those can be
7 test-fired and you can compare the projectiles, right?

8 **A** Right.

9 **Q** You're not a gun expert, but you know you can
10 send it to them and they can tell you whether it was
11 fired from that gun in question?

12 **A** Yes, sir.

13 **Q** Okay.

14 So you're waiting on those results right now?

15 **A** Yes, sir.

16 **Q** Did you put a rush order? Or you were just
17 like, "Test it and let me know whenever you get it"?

18 **A** No, sir. The order was put in on Monday.
19 And the time when they give it back to us is give it
20 back to us.

21 **Q** I understand. And that gun has a serial
22 number, right?

23 **A** It does.

24 **Q** And so there's some testing you can do based
25 on that or tracing, correct?

1 **A** Yes.

2 **Q** Maybe perhaps where it's been purchased, who
3 might have bought it, whether it was stolen?

4 **A** Correct.

5 **Q** Have you done any of that in this case?

6 **A** That has been requested as well.

7 **Q** So you don't have any results of that?

8 **A** I do not.

9 **Q** Okay.

10 You intend to pursue that, right?

11 **A** (Inaudible).

12 **MR. L. SHEALEY:** Okay.

13 Beg the Court's indulgence.

14 **BY MR. L. SHEALEY:**

15 **Q** One more quick thing, investigator. Turning
16 your attention again to Darryl Sapp. That's the
17 gentleman that y'all discovered on video that arrived
18 there earlier.

19 **A** That's on my report or the transcript?

20 **Q** Well, both. That's in your report too. I
21 think that's in your report, on May 7, generally. But
22 you know what I'm talking about, right?

23 **A** I'm sorry?

24 **Q** You know what I'm talking about?

25 **A** I didn't hear your question, first of all.

1 **Q** You know who I'm talking about? Darryl Sapp?

2 **A** Yes.

3 **Q** Okay.

4 He's the guy that walked over there. You
5 already told me. Drank some and smoked some crack?

6 **A** Yes, sir.

7 **Q** Buys crack from Boleg, right?

8 **A** Correct.

9 **Q** But he was walking over there close enough in
10 time that y'all had to kind of rule him out as a
11 suspect?

12 **A** We did.

13 **Q** I forgot to ask you some -- some critical
14 information about him. But what he revealed to
15 investigators also was that Boleg essentially kicked
16 him out. After being there a little while, he said,
17 "You got to go," right?

18 **A** He did.

19 **Q** "I got somebody coming over"?

20 **A** That's right.

21 **Q** And the indication was that it was a lady?

22 **A** Correct.

23 **Q** So y'all's understand is that Boleg didn't
24 allow too many folks over there, but he did allow
25 women, right?

1 **A** Correct.

2 **Q** Okay.

3 Thank you. I don't have anything further
4 right now.

5 **REDIRECT EXAMINATION**

6 **BY MR. SCOTT:**

7 **Q** I want to talk to you -- (inaudible). Who is
8 Hope Demer?

9 **A** Defense attorney for this side. Ms. Davis.

10 **Q** Ms. Davis is?

11 **A** (Inaudible).

12 **Q** Okay.

13 She works for the public defender's office?

14 **A** Correct.

15 **Q** And then he has also hired the Shealey Law
16 Firm for private attorneys. Is that your
17 understanding?

18 **A** Yes, sir.

19 **Q** Okay.

20 On Friday, Ms. Demer contacted you via text
21 message; is that correct?

22 **A** Correct.

23 **Q** And she indicated she had a gun?

24 **A** She did.

25 **Q** And was the question asked to her: Where'd

1 the gun come from?

2 **A** Correct.

3 **Q** And did she give an answer?

4 **MR. L. SHEALEY:** Objection, Your Honor. May
5 we approach?

6 **THE COURT:** You may.

7 (A sidebar conference is held off the record.)

8 **BY MR. SCOTT:**

9 **Q** All right.

10 About 4:55 p.m., Friday afternoon, so three
11 days ago --

12 **A** Yes, sir.

13 **Q** -- Ms. Demer indicated she had a gun?

14 **A** She did.

15 **Q** We asked where'd the gun come from?

16 **A** We did.

17 **Q** And what was her explanation?

18 **A** It's privileged information.

19 **Q** And we asked her why she had reason to
20 believe it was connected to any crime whatsoever. And
21 what was her answer?

22 **A** I don't think she responded to that.

23 **Q** It was privileged information?

24 **A** Yeah.

25 **Q** She would not give us --

1 **A** The source. Right.

2 **Q** Well, did she provide any chain of custody
3 for this gun?

4 **A** (Inaudible).

5 **Q** All right.

6 We've gone through some of that in this case.
7 You understand chain of custody. When you test
8 something --

9 **A** Yes, sir.

10 **Q** -- you have to establish where the gun came
11 from, whose hands it went through before it got tested?

12 **A** Correct.

13 **Q** You understand that?

14 **A** Yes, sir.

15 **Q** Have we any way of knowing where this gun --
16 where they got the gun, whose had it since then, if
17 it's involved in -- in any way with this case, or if
18 it's Ms. Demer's granddad's pistol? We don't know, do
19 we?

20 **A** We do not.

21 **Q** She provided it to you on -- or she gave you
22 information about it 4:55 p.m. this past Friday?

23 **A** Yes, she did.

24 **Q** Did she say how long she had had possession
25 of the gun?

1 **A** She did not.

2 **Q** Did she explain why she waited until the
3 Friday before trial to give you this mysterious gun?

4 **A** She did not.

5 **Q** Okay.

6 Have you taken custody of the gun at this
7 point?

8 **A** Yes. (Inaudible) has the gun.

9 **Q** Have you any way of knowing where that gun
10 came from or where it's been?

11 **A** I do not.

12 **Q** So Jamira Davis -- well, let me ask you this,
13 Did they make arrangements for you to pick it up?

14 **A** Yes.

15 **Q** Was it 1507 Richland Street, Columbia?

16 **A** I think it's 1501 maybe. 1501, 1507.

17 **Q** Would it surprise you if Shealey Law Firm is
18 1507 Richland Street?

19 **A** Yes, sir.

20 **Q** Okay.

21 Did you speak with any -- did you speak with
22 anybody there that could provide us information on that
23 gun?

24 **A** Not that I'm aware of. I talked to
25 (inaudible).

1 **Q** Okay.

2 But Ms. Jamira Davis when she came clean in
3 that whole situation, you asked her what did you do
4 with the gun. Okay.

5 What did she tell you?

6 **A** She left it in the house.

7 **Q** Left it in the house.

8 So what have we -- is she being truthful
9 throughout this whole interrogation with you?

10 **A** No, sir.

11 **Q** Interview? Even up to the point where she's
12 now saying "he touched me inappropriately," she's still
13 saying, "I left the gun at the scene"?

14 **A** Correct.

15 **Q** But now her lawyers are saying, "We have the
16 gun?"

17 **A** Correct.

18 **Q** How do we reconcile those two things?
19 Somebody's not being truthful.

20 **A** Correct.

21 **Q** Because you went back to the scene and looked
22 for the gun, did you not?

23 **A** We did.

24 **Q** And were you able to recover it?

25 **A** We were not.

1 **Q** I don't have a picture of the gun. Did he
2 just show it to you?

3 **A** He did not.

4 **Q** All right.

5 Is it safe to say -- how many versions of the
6 story did Ms. Davis tell you that day? Did you count
7 or can you give me an estimate?

8 **A** Between five or 10 maybe.

9 **Q** Okay.

10 A lot of different versions.

11 Mr. Shealey asked you do people typically
12 want to come to you and say, "I killed somebody"? Do
13 people typically want to tell you right off the bat?
14 He asked you that, remember?

15 **A** He did.

16 **Q** What about like in self-defense cases? Do
17 you have people who come to you and say, "I killed a
18 guy. I was scared for my life. The guy started it"?

19 **A** Yes.

20 **Q** Did Ms. Davis do anything like that?

21 **A** She did not.

22 **Q** Did she ever say she was in fear for her
23 life?

24 **A** She did not.

25 **Q** Two hours and 50 minutes, finally, admits

1 shooting the guy, right?

2 **A** Yes, sir.

3 **Q** And Mr. Shealey did a demonstration of kind
4 of a bear hug when he was describing how Mr. Burden was
5 grabbing --

6 **A** Yes, sir.

7 **Q** -- Jamira?

8 **A** Yes, sir.

9 **Q** And he had you answer the question that
10 Jamira was sitting right there at the front door --

11 **A** Correct.

12 **Q** -- when this all happened? And demonstrated
13 in the vehicle of how she's trying to leave. He said,
14 "Let me talk to you. Let me talk to you." And she
15 grabbed the gun. She was even specifying her right
16 hand, remember that?

17 **A** Yes, sir.

18 **Q** So she reaches down and turns around?

19 **A** Yes, sir.

20 **Q** And you gave her -- two times, I think you
21 had her demonstrate it?

22 **A** Yes, sir.

23 **Q** If I can -- let me see. Trying to find it
24 real quick.

25 Two hours and 59 minutes, you asked, How --

1 how is he pulling you?

2 (Exhibit is played.)

3 **BY MR. SCOTT:**

4 **Q** You asked her to demonstrate again. Do you
5 remember the next time you asked her to demonstrate
6 again?

7 **A** Yes, sir.

8 **Q** You tried to give her an opportunity to
9 describe like how him holding her and saying, "Let me
10 talk to you. Let me talk to you," lead to her shooting
11 him, correct? I guess what you trying to --

12 **A** Yes.

13 (Exhibit is played.)

14 **BY MR. SCOTT:**

15 **Q** She says the shooting happens inside?

16 **A** Yes.

17 **Q** I think she's pretty clear on that, right?

18 **A** Correct.

19 **Q** She says it's right by the front door?

20 **A** Yes.

21 **Q** Mr. Shealey talked about how the door had a
22 glass panel?

23 **A** Yes, sir.

24 **Q** But she's demonstrating -- I think she did it
25 a couple of different ways. But that last one, she's

1 kind of grabbing the sides of your shirt, saying, "Let
2 me talk to you. Let me talk to you"?

3 **A** Yes, sir.

4 **Q** And she talks about the ottoman being just to
5 her left?

6 **A** Yes, sir.

7 **Q** She reaches down and turns around and --

8 **A** Yes, sir.

9 **Q** You gave her a couple of times to describe
10 that. She said she left the gun at the scene, went
11 back home to her partner --

12 **A** Yes, sir.

13 **Q** -- didn't tell anybody?

14 **A** Correct.

15 **Q** And she -- she described -- he had a -- he
16 had a kerosene heater in his bedroom?

17 **A** He did.

18 **Q** That was -- that's just how he heated his
19 house --

20 **A** Yes, sir.

21 **Q** -- from your understanding?

22 Okay.

23 Investigator Jordan, I think those are all
24 the questions I have for you.

25 Do you recall -- and I could play it. Do you

1 remember her saying she used her right hand and turned
2 around and shot him?

3 **A** Yes, sir.

4 **Q** Okay.

5 Thank you, Investigator Jordan.

6 **A** Yes, sir.

7 **RECROSS-EXAMINATION**

8 **BY MR. L. SHEALEY:**

9 **Q** Briefly. Regarding the gun Ms. Demer called
10 you, you asked -- were answering some questions by the
11 solicitor about whether anybody told you where the gun
12 came from, things of that nature, right?

13 **A** Yes, sir.

14 **Q** And I think you testified that the answer was
15 that it was confidential, right?

16 **A** Yes, sir.

17 **Q** You are not a lawyer, right?

18 **A** No, sir.

19 **Q** You -- tell me if I'm wrong, but I assume you
20 understand that lawyers do have ethical duties of
21 confidentiality regarding some information?

22 **A** Yes, sir.

23 **Q** Okay.

24 I'm not going to ask you any chapter or verse
25 questions about it. But you understand that as a -- as

1 a concept, right?

2 **A** I do.

3 **Q** Sometimes there's certain things under ethics
4 rules that we just can't say at a certain time, right?

5 **A** I do.

6 **Q** And you picked -- you sent Officer Dexter to
7 pick this gun up from my law firm, right?

8 **A** Actually, Sergeant Oxendine did. But
9 (inaudible).

10 **Q** You were on the original call?

11 **A** Correct.

12 **Q** You were, Godfrey, (inaudible), right?

13 **A** That's right.

14 **Q** And something about retaining -- the question
15 about retaining the Shealey Law Firm, you don't know
16 whether I've been paid money or whether I had the
17 pleasure of doing this case for free, do you?

18 **A** Do I know?

19 **Q** You have no personal knowledge. But you know
20 the gun was picked up from my law firm?

21 **A** Correct.

22 **Q** Again, the solicitor just had you demonstrate
23 how Boleg prevented Jamira from exiting his house that
24 night, right?

25 **A** He did.

1 **Q** Hands around and pulled backwards, correct?

2 **A** Yes.

3 **Q** After a touch in between the legs of this
4 young woman, right?

5 **A** Yes. According to her, yes.

6 **Q** According to her.

7 You told me if that has occurred, that's a
8 crime, right?

9 **A** It is.

10 **Q** And you told me that if pulls her back and
11 prevents her from leaving according to her, that's
12 kidnapping, correct?

13 **A** Correct.

14 **Q** Also a crime?

15 **A** It is.

16 **Q** Right? And then you've already told me that
17 somebody doesn't have to have someone's hands around
18 their neck or be raped before they can resist
19 (inaudible), right?

20 **A** Correct.

21 **Q** Mr. Scott asked you, "Did she ever say that
22 she was scared?" Do you remember that question?

23 **A** I do.

24 **Q** And you said, I don't know, right?

25 **A** Yes, sir.

1 **Q** Now, when he puts his hands between her legs,
2 won't let her leave, and then they fall down, it's
3 understood that she's scared, right?

4 **A** She's got to answer that question. I can't
5 answer that question for her.

6 **Q** That's a non -- that's a non-scary event to
7 you?

8 **MR. SCOTT:** That's not -- that's
9 opinion-type --

10 **THE COURT:** Sustained.

11 **BY MR. L. SHEALEY:**

12 **Q** You never asked her whether she was scared,
13 did you?

14 **A** I don't recall asking her that, no. She was
15 there to visit him. She was comfortable around him,
16 despite what was going on with her mom. So she felt
17 that she wasn't fearful, what I was told.

18 **Q** Prior to him putting his hands between her
19 legs?

20 **A** Correct.

21 **Q** Everything was normal until that, right?

22 **A** Correct.

23 **Q** Everything was normal until he wouldn't let
24 her leave, right?

25 **A** Correct.

1 **Q** Everything was normal until they fell on the
2 ground, right?

3 **A** According to her.

4 **Q** And did you do any other investigative work
5 to corroborate her attempted rape -- rape accusation?

6 **A** We did. We downloaded her cell phone.

7 **Q** Did you talk to her mama about whether she
8 ever been raped?

9 **MR. SCOTT:** That's objection too. That's
10 hearsay as well.

11 **MR. L. SHEALEY:** I'm asking what he did as an
12 investigated task. He can say no. I'm not asking
13 for what she said.

14 **THE COURT:** The answer calls for hearsay in
15 its answer. So it's sustained.

16 **BY MR. L. SHEALEY:**

17 **Q** Did you ever investigate anybody or anything
18 in Boleg's past to corroborate whether he had sexually
19 assaulted anybody before?

20 **A** I personally, no.

21 **Q** You agree when you get information, you've
22 already told me, you want to corroborate that to decide
23 whether it's true or not?

24 **A** We do.

25 **Q** That's good investigative police work, right?

1 **A** It is.

2 **MR. L. SHEALEY:** Nothing further.

3 **THE COURT:** All right.

4 Thank you. You may step down.

5 **THE COURTROOM DEPUTY:** Could you state your
6 full name please.

7 **THE WITNESS:** Brian Godfrey.

8 **THE COURTROOM DEPUTY:** Spell your first name,
9 please.

10 **THE WITNESS:** B-r-i-a-n.

11 **THE COURTROOM DEPUTY:** You solemnly swear the
12 testimony you're about to give in this case be the
13 truth, the whole truth and nothing but the truth
14 so help you God?

15 **THE WITNESS:** Yes, ma'am.

16 **THE COURTROOM DEPUTY:** Thank you. Have a
17 seat right there.

18 **BRIAN GODFREY**

19 having first been duly sworn, testifies as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. SCOTT:**

22 **Q** Mr. Godfrey, where are you employed?

23 **A** Richland County Sheriff's Department.

24 **Q** And what is your title?

25 **A** Lieutenant Colonel.

1 **Q** Lieutenant Colonel?

2 **A** For two more days.

3 **Q** You're retiring?

4 **A** Yes, sir.

5 **Q** Congratulations.

6 Was that your rank, January 27, 2021?

7 **A** I believe I was a captain.

8 **Q** Okay.

9 You were sort of a supervisor in regards to
10 this particular case?

11 **A** I was.

12 **Q** And so you were kind of -- we've gone through
13 this a number of ways. But it started with a house
14 fire. You find Mr. Burden inside. Looks like a
15 kerosene heater caused the fire. It's not until an
16 autopsy is performed that the investigation takes a
17 slightly different turn or a rather dramatic different
18 turn. And that after the autopsy, it becomes a
19 homicide type investigation; is that correct?

20 **A** That's correct.

21 **Q** And you oversaw investigation; is that a
22 fact?

23 **A** Yes, I did.

24 **Q** And you talked about some phone numbers, or
25 phone calls rather between a number that ultimately

1 ends up being Ms. Davis and the victim, Brandon Burden,
2 during a relevant time on January 22, rather early
3 morning on January 22?

4 **A** That's correct.

5 **Q** And then, we talked about and we played a
6 minute ago, the surveillance video from Brandon
7 Burden's half-sister, Tonja Simons, that kind of showed
8 a car. And that kind of helped us to with that
9 timeframe of when we were looking at as far as when
10 Mr. Burden was killed.

11 And I assume -- were you privy to all that on
12 January [sic] 1, 2021, when we sat down with Jamira
13 Davis to interview her?

14 **A** That's correct. I had been updated
15 throughout. I participated in a great deal of things.
16 But yes, sir. I was updated on the case at that point.

17 **Q** Okay.

18 And it's a rather long interview. Do you
19 agree it's three hours and 20 minutes or something like
20 that?

21 **A** Or longer.

22 **Q** Relatively speaking?

23 **A** Yes, sir.

24 **Q** And what was it that made that interview so
25 lengthy?

1 **A** I mean, there's different parts of the
2 interview. So you initially sit in and you have to get
3 biographical information. So it's not all
4 interrogating process. There's the fact that a lot of
5 times in cases people will move themselves from not
6 being there to -- and change the story. So we to get
7 parts of the story. So the interview can continue to
8 go on and on.

9 **Q** Did you find that to be the experience in
10 this particular interview?

11 **A** Yes, sir.

12 **Q** Was it -- would you describe it as an
13 evolving type story that would go in one direction and
14 retract and then go back another and then -- there was
15 multiple versions according to Ms. Davis as far as what
16 happened that night. Would you agree?

17 **A** I agree.

18 **Q** And what was it that, you know -- let me ask
19 you there. I guess the easiest thing in the world was
20 that she sat down there and said, "I wasn't there. I
21 went to Hartsville. And then I went home."

22 Y'all could have said okay, checked that box,
23 and sent her own home. Is that how you guys operate
24 whenever you're interviewing a suspect?

25 **A** No. I knew that wasn't true.

1 **Q** It didn't ring true, did it?

2 **A** No, sir.

3 **Q** So she was lying?

4 **A** Absolutely.

5 **Q** I guess there's other words to use, but
6 that's a lie?

7 **A** Absolutely.

8 **Q** And then, I guess it evolved from there to,
9 "I may have called him that night. Okay. But I didn't
10 go there." That, too, was a lie?

11 **A** Yes, sir.

12 **Q** Okay.

13 At some point, did she say something about,
14 "Okay. I did, but I was with my partner Alesha Thomas"?

15 **A** That's correct. I believe she said she ended
16 up -- even though she go there, she only stayed a few
17 minutes. And she showed up with her girlfriend at that
18 time.

19 **Q** Alesha Thomas?

20 **A** Alesha.

21 **Q** And that was a lie?

22 **A** That was a lie.

23 **Q** Okay.

24 At some point, do you remember her saying I
25 went there, got weed and then went to my friend

1 Ishmael's house?

2 **A** Correct.

3 **Q** That was a lie?

4 **A** Yes, sir.

5 **Q** Then she said, "Okay. I went there just to
6 smoke marijuana with Brandon Burden. And I may have
7 smoked five -- as many as five blunts. But then I
8 left. And nothing happened while I was in there"?

9 **A** I think there was a version of her never
10 leaving her car.

11 **Q** Okay.

12 **A** Never went in the house.

13 **Q** Okay.

14 I missed that one. So the other -- there was
15 another version she went there alone but she stayed
16 outside in her car?

17 **A** Correct.

18 **Q** Never went in the house?

19 **A** That's my understanding.

20 **Q** That was a lie?

21 **A** That was a lie.

22 **Q** Okay.

23 Ultimately, she puts herself in the home,
24 right?

25 **A** She does. I have to go back and see which

1 version that was. But she does ultimately put herself
2 in the house.

3 Q This is after several other lies though?

4 A Correct.

5 Q And what is it about that y'all keep chipping
6 away instead of saying, "Okay. We're going to take you
7 at your word. I guess you kind of stayed outside that
8 time"? Did it -- was it ringing true?

9 A In my experience, the truth doesn't change.
10 When you have a person come in -- I've had plenty of
11 people come in and tell me one version that makes
12 sense. And it stops. And you try to go corroborate
13 whatever it is that they're telling us because what
14 they say makes sense.

15 Q And it matches the evidence and they don't
16 waiver, is what you're describing?

17 A Correct. The truth doesn't ever change.

18 Q Okay.

19 But her -- her version -- I don't know.
20 We're up to five or six lies at this point.

21 A Correct.

22 Q And then, at some point, she says, "Okay. I
23 did go in there. I smoked five blunts with Brandon
24 Burden. And then I left. And he was right as rain when
25 I left. He was fine"?

1 **A** Correct.

2 **Q** And that was a lie?

3 **A** That's correct.

4 **Q** Okay.

5 And how long did she hang on to that
6 particular lie as far as "I went in there. And when I
7 left, he was fine."

8 **A** I think I went in the room at about two hours
9 and 46 minutes into the interview, if I'm correct. And
10 that was her story up until that point.

11 **Q** Two hours and how long?

12 **A** I think it was 46 minutes. I can tell you
13 exactly. I went into the room at two hours and 46
14 minutes in. And she changed the first time at two
15 hours and 52 minutes in.

16 **Q** Okay.

17 Ultimately, she said she was the victim of a
18 sexual assault ultimately?

19 **A** That was the -- my understanding of the vinal
20 version.

21 **Q** Okay.

22 Do you recall who was the first person that
23 introduced the -- guys or the version of potential
24 sexual assault?

25 **A** I believe it was Lieutenant Eisenhower.

1 There were various versions of "Were you -- did anyone
2 try to hurt you? Did anybody" -- there were several
3 different things that were given as an option. I think
4 it was Lieutenant Eisenhower at some point during the
5 interview, at one hour and 47, that he -- he was the
6 one that offered the fact that there was a possibility
7 that it was some type of sexual assault or something.
8 But that occurred.

9 **Q** Now, did y'all have any evidence whatsoever
10 of sexual assault?

11 **A** No, sir.

12 **Q** Did you have any evidence whatsoever
13 of Ms. Davis --

14 **MR. B. SHEALEY:** Objection to leading. He
15 can ask a different way that's not suggesting the
16 answer.

17 **MR. SCOTT:** Did you have any evidence of --

18 **THE COURT:** I didn't hear the question.

19 **MR. SCOTT:** Did you have any -- any evidence
20 from Ms. Davis that she was the victim of any
21 assault before Eisenhower brought that up?

22 **THE COURT:** All right.

23 I find that overruled. I think that's broad
24 enough to ask for an open-ended answer.

25 **THE WITNESS:** No.

1 **BY MR. SCOTT:**

2 **Q** Okay.

3 So -- and -- and again, you said you asked
4 her multiple times, Did something happen to you? Do
5 you know about how many times she was asked that in
6 those two hours and 40 minutes?

7 **A** There were a bunch. I didn't count them all
8 but there were a bunch of variations of something
9 clearly happened.

10 **Q** And any time y'all would posit those
11 questions to her, her resounding answer was?

12 **A** No.

13 **Q** No. Okay.

14 Now, I don't think any of these members of
15 the jury, I don't think, are law enforcement. We can
16 try to describe why would an interrogator like
17 Eisenhower, or you, bring up, "Hey. We think maybe
18 that you were the victim of a sexual assault"? Cause
19 you had no evidence of it. So y'all just brought that
20 up. What is that -- what (inaudible)? Is that a common
21 practice for you guys? And is there a name for it?

22 **A** Generally, you would go into the interview.
23 And you would get their version one time. (Inaudible).
24 And then while you're doing the version of events -- I
25 can only tell you how I do it, you're going through

1 your version -- of getting their version of events
2 uninterrupted. You may do some follow-up questions to
3 try to figure what is the -- their version of the
4 stories. And then based off that -- and there are
5 other things that I may use. And what I'm thinking the
6 entire time -- so like in a case like this where in my
7 opinion there's obvious evidence that she was present
8 during the incident. So I'm thinking rationalize,
9 minimize.

10 Rationalize what she did. Whether it's
11 rational (inaudible), it just has to be rational to the
12 person. I try to give some kind of minimization as to
13 the significance of the crime. Or I project on
14 something else. project it on alcohol use, drug use,
15 the victim, something else.

16 At this point, my thought process when I went
17 into the room -- I can't speak for anybody else's
18 thought process. My thought process was she had
19 already changed her story so many times to the point
20 that the only thing she hadn't said was that she shot
21 him. And my goal to going in the room was to get her
22 to say that she shot him. Because she already denied
23 all these other reasons why things didn't happen. She
24 said no, no, no, multiple things. She had said nothing
25 but great things about the victim during the course of

1 it. Someone who always checked on her and gave her
2 money. Never, ever attempted to do anything to her
3 ever. And she resided with him for a period of time.

4 And so at this point, my goal when I went to
5 the room was to get her to say she shot him. That was
6 my sole purpose. And so I felt like while watching the
7 portion of the interview that she would be willing to
8 accept that portion if I -- if I gave it to her. And
9 so that's why I used that.

10 Q So you agree with me that law enforcement had
11 introduced sexual assault into the equation?

12 A Absolutely.

13 Q That was never brought up by anyone else?

14 A That's correct.

15 Q And y'all never had any evidence whatsoever
16 that a sexual assault occurred?

17 A We did not.

18 Q But once y'all provided that to her,
19 eventually she did, and said, "Okay. Yeah, yeah.
20 Sexual assault did occur"?

21 MR. B. SHEALEY: Objection. I don't think
22 that's a question.

23 BY MR. SCOTT:

24 Q Is that how it happened?

25 MR. B. SHEALEY: Objection. He's asked the

1 question to the witness.

2 **THE COURT:** You asked, Is that how it
3 happened? Leading. Rephrase or move on.

4 **BY MR. SCOTT:**

5 **Q** Okay.

6 Did she eventually kind of bite and accept
7 y'all's theory?

8 **A** She did eventually acknowledge that the
9 incident occurred as a result of that she says that the
10 victim made a sexual advance on her.

11 **Q** Describe when she finally did endorse this
12 version, was it a very free flowing kind of
13 explanation? Or was it sort of a stop and think about
14 it and then give you bits and pieces? How would you
15 describe how she eventually came forward with it?

16 **A** So I -- I -- initially, it was just a
17 (inaudible) that she confirmed. (Inaudible). I took
18 the nod as that she did. And then she did give a brief
19 synopsis. I've left at that point. I was in the room
20 about 11 minutes. Truthfully, I had to pick up my
21 children. I had go get my kids. They were getting
22 released. And so I left it for the other investigators
23 to go back and get her final version of events.

24 **Q** Okay.

25 And then I asked another investigator. Is

1 there some method to the madness? Or is there some
2 strategy as far as bringing in fresh bodies as far as
3 like interviews? Because we talked about Hook-Jordan.
4 And then we have Eisenhower-Jordan. And then we
5 had -- I think you were in there with Dauway. So y'all
6 took -- it's almost like subbing in. Is there a
7 strategy? Or is that just how it works?

8 **A** The only reason I was in the room was I felt
9 like I could move her. I felt like I could get her to
10 acknowledge. Truthfully, I was (inaudible). I felt
11 like I had watched enough. I felt comfortable enough
12 that I thought she would -- sometimes it's just -- and
13 we deal with this as people. We feel more comfortable
14 talking to certain people. And so if you put the right
15 person in the room to try to get them to try to get
16 them to talk and give a version of evidence. Sometimes
17 they just hear things better from certain people.

18 **Q** Do they eventually get worn down? Is that
19 something that happens?

20 **A** That's a possibility. I think people to talk
21 to people. And (inaudible) and they feel some kind of
22 way about it.

23 **Q** Okay.

24 And that -- that was -- did she do any of
25 that -- demonstrate how it happened while you were in

1 there?

2 **A** She did not. No. I left for an hour. Then I
3 believe Lieutenant Jordan and Lieutenant Dauway got her
4 final version.

5 **Q** Okay.

6 I think that's all the questions I have for
7 you. Thank you, Officer -- Captain -- what are you
8 now? What's your title?

9 **A** Lieutenant Colonel.

10 **Q** Lieutenant Colonel. Soon to retire.
11 Lieutenant Colonel Brian Godfrey. Thank you.

12 **THE COURT:** All right.

13 Ladies and gentlemen, before we start
14 cross-examination, we're gonna take a 10-minute
15 little stretch break. So if you'll go back to
16 your chambers. You can either use the restroom or
17 stretch. Do not discuss the case at all. We'll
18 be back in about 10 minutes. Thank you.

19 (The jury exits the courtroom at 2:20 p.m.)

20 **THE COURT:** All right.

21 Lieutenant Colonel Godfrey, we're going to
22 take a 10-minute break. You're free to step down.
23 But do not discuss your testimony with anybody
24 during the break. All right. 2:30.

25 (A recess is taken.)

1 **THE COURT:** All right.

2 Anything from the state before we bring the
3 jury back out?

4 **MR. SCOTT:** No, Your Honor.

5 **THE COURT:** Anything from the defense?

6 **MS. DEMER:** No, sir.

7 **THE COURT:** All right.

8 Let's bring the jury.

9 (The jury enters the courtroom.)

10 **THE BAILIFF:** The jurors are present,
11 Your Honor.

12 **THE COURT:** All right.

13 Thank you, sir.

14 Mr. Shealey?

15 **MR. B. SHEALEY:** May it please the Court?

16 **THE COURT:** Yes, sir.

17 **CROSS-EXAMINATION**

18 **BY MR. B. SHEALEY:**

19 **Q** Lieutenant Colonel Godfrey, right?

20 **A** Yes, sir.

21 **Q** So pretty -- pretty high ranking. How long
22 have been with Richland County?

23 **A** Twenty-five years.

24 **Q** Twenty-five years. And if I understand, next
25 week is your last week?

1 **A** This week. Thursday is my last day.

2 **Q** In a couple days?

3 **A** Yes, sir.

4 **Q** And then you'll be a private citizen?

5 **A** Yes, sir.

6 **Q** And I can hire you if I need your services.

7 **A** (Inaudible).

8 **Q** Okay. Okay.

9 But you're not -- you're not looking for
10 work, right?

11 **A** No, sir.

12 **Q** Got bills to pay (inaudible). You're still
13 gonna be employed in some manner that's gonna -- you
14 can use your skill sets, right?

15 **A** I'm going to coach soccer.

16 **Q** Now, you said your goal was to get Jamira to
17 say she shot. Now, you always want to get to the truth
18 as an investigator for the Richland County Sheriff's
19 Department, right?

20 **A** Yes.

21 **Q** And your case file never just is closed to
22 the truth, correct?

23 **A** Case file is never closed to the truth. The
24 ultimate aim is always to get (inaudible).

25 **Q** Correct. So if information comes to light,

1 you're going to have to report, even if you've already
2 secured an arrest warrant. You're still looking for
3 information, correct?

4 **A** We always accept information.

5 **Q** And you agree it would be against public
6 policy to try to elicit a false confession, that's not
7 your fault, right?

8 **A** Say that again.

9 **Q** You agree with me that it would be against
10 public policy for you to try to elicit a false
11 confession, right?

12 **A** I don't quite understand your question, but I
13 would say that in a number of times in the interview,
14 people -- people give their version of events, that
15 their final version a lot of times is not true. I take
16 whatever version I get or how many versions I get. And
17 then ultimately, they (inaudible). But I have to take
18 whatever final version they give.

19 **Q** Sure. This is pretty simple. You were not
20 trying to get a false confession from Jamira Davis that
21 day, were you?

22 **A** No. I knew she shot him.

23 **Q** And cause that would be problematic if you
24 were trying to get a false confession. You agree
25 right?

1 **A** (No audible response.)

2 **Q** Would that be problematic for you if you were
3 trying to get a false confession?

4 **A** I'll be truthful with you. I don't know that
5 I ever thought she was going to tell the complete
6 truth, if that's what you're asking.

7 **Q** I'm asking you, You weren't trying to get a
8 false confession from Jamira Davis, were you?

9 **A** I would love for Jamira Davis to give us the
10 truth.

11 **Q** And your boss, the sheriff, wouldn't want you
12 getting false confessions from anybody in a case, would
13 he?

14 **A** I don't think anybody wants a false
15 confession, as in the wrong person. Trying answer your
16 question in the way you're asking me.

17 **Q** Does your boss want you getting false
18 confessions from people? That's the question.

19 **A** No. But I think you're -- a false
20 confession, I don't think -- I think a lot of people
21 confess and do still not tell the truth. Although
22 they're confessing to the event that occurred, they're
23 not being truthful about how it actually went down, if
24 that makes sense. A lot of times -- I say this, a lot
25 of times, you're not going to get the complete truth

1 about what occurs because people give reasons that
2 benefit them as to why they say it occurred -- things
3 occur.

4 So he's asking me about false confessions.
5 Would I ever want someone to just come into a room and
6 say to me, "I shot a person," and they didn't shoot a
7 person? Absolutely not. One hundred percent not.

8 Do I want a person who I know shot somebody
9 to come in and say they shot somebody and give me some
10 self-serving reason as to why they did it? I'll take
11 that, because ultimately, I'm going to weigh it against
12 everything else. I'm gonna take whatever versions they
13 give me.

14 **Q** Investigator Godfrey, would -- and you agree
15 that it would be good to elicit a false confession
16 because that could be potentially confusing to a jury?

17 **A** I give the jurors more benefit of the doubt
18 than you give you them. I think people hear people --

19 **MR. B. SHEALEY:** Objection. Objection.

20 **THE COURT:** He's answering your question.

21 **MR. B. SHEALEY:** He's asserting that I don't
22 give a jury a benefit of the doubt. I would ask
23 that that be stricken from the record.

24 **THE COURT:** What was -- what was your initial
25 question?

1 **MR. B. SHEALEY:** I asked him, It would be --
2 if he would agree with me that it would be
3 confusing if he was getting a false confession for
4 a jury. And he said I think he -- I give jurors
5 more benefit of the doubt than he does. That
6 would be improper, Your Honor. He's tackling
7 counsel.

8 **THE COURT:** Rephrase your answer.

9 **THE WITNESS:** Ask your question again.

10 **BY MR. B. SHEALEY:**

11 **Q** You're saying -- you don't want to confuse a
12 jury by eliciting a false confession?

13 **A** I know that jurors, just like me, deal with
14 people every day. We hear what people say and we judge
15 it based off what we hear and how we see them. I give
16 the jury whatever it is, the version is that they give
17 me, on recording. And I know you're a person just like
18 me. You have contact with people just like I do. We
19 know things and feel things as we interact with people.
20 And so I give the jury whatever version is. She has
21 the opportunity to respond. So I don't think of it the
22 way that you think of it. I feel pretty comfortable
23 (inaudible) if that's what you're asking me.

24 **Q** I'm asking you you're not trying to produce a
25 false confession.

1 **A** I'm not. I don't know that we have the same
2 definition of "false confessions."

3 **Q** I'm gonna leave your transcript here.
4 Because unlike some people in the courtroom like our
5 lead investigator who's had the opportunity to kind of
6 see everything coming, you are just getting here today,
7 right? You haven't been in the courtroom?

8 **A** I have not.

9 **Q** Okay.

10 So you were doing the interrogation Ms. Davis
11 from your office initially, right?

12 **A** Some of it. I didn't watch the entire
13 portion. I don't even know if I was in my office. I
14 might have been in someone else's office.

15 **Q** But you -- you agree that you were --
16 (inaudible)?

17 **A** (Inaudible).

18 **Q** And so unlike Investigator Jordan, I mean,
19 you're doing something in this case. You're high
20 ranking. You're not a lieutenant colonel getting ready
21 to retire, right? You're assisting as you can, based
22 on your experience, right?

23 **A** Correct.

24 **Q** You didn't write like an investigative report
25 or anything like that in this case, did you?

1 **A** Yes.

2 **MR. B. SHEALEY:** Beg the Court's indulgence.

3 (Pause in proceeding.)

4 **BY MR. B. SHEALEY:**

5 **Q** Do you have a copy of that report with you?

6 **A** Yes, sir.

7 (Pause in proceeding.)

8 **MR. B. SHEALEY:** Your Honor, we have a matter
9 of law.

10 **THE COURT:** All right.

11 Ladies and gentlemen, we're going to let you
12 go back to the jury deliberation room. Do not
13 deliberate. Do not discuss the case. Just a
14 legal issue. And we'll be -- get you back out
15 here shortly. Thank you. Do not discuss the
16 case.

17 (The jury exits the courtroom at 2:49 p.m.)

18 **THE COURT:** All right.

19 The jury is out of the room.

20 **MR. B. SHEALEY:** Your Honor, I just want to
21 put on the record that I've never been turned over
22 an investigative summary from Brian Godfrey. I
23 would like to have a moment to review this before
24 I continue to cross-examine him. I'd like for the
25 court to take a look at this. What we don't

1 have --

2 **THE COURT:** Well, let -- confirm with
3 Mr. Scott whether it's been turned over or not.

4 **MR. B. SHEALEY:** We don't have it. So I
5 assume that means he didn't turn it over.
6 (Pause in proceeding.)

7 **MR. B. SHEALEY:** We're, at a minimum, going
8 to need a moment to review it before I continue
9 the examination, Judge. It's just more of the
10 same discovery problems.

11 **THE COURT:** All right.

12 We'll give you that. Let's just hear from
13 the state.

14 (Pause in proceeding.)

15 **THE COURT:** Mr. Scott, did you have a chance
16 to see what this is?

17 **MR. SCOTT:** I -- I -- I think so. The
18 Godfrey report is -- we're checking in our Spartan
19 system. I've got one that I got from Godfrey last
20 week that had a summation of him watching. I
21 showed him my notes that I took as part of the
22 video to kind of help point him to portions of the
23 video. I didn't have a transcript. He did his
24 own review of the video that he marked as what he
25 viewed in the video.

1 Prior to that is sort of a, I guess an
2 introduction of the case. I saw a lot of verbiage
3 in that that looked like from another report. I
4 was thinking that was something we already had.
5 We're double-checking. My understanding was this
6 wasn't something he just generated and gave us for
7 the first time last week. This would have been
8 something I think we had. I'm double-checking in
9 our Sparta system to make sure.

10 **THE COURT:** All right.

11 We'll take a 15- to 20-minute break and let
12 Mr. Shealey review that. And then we'll get back
13 at it.

14 Mr. Godfrey is still under oath. Do not
15 discuss your case.

16 (A recess is taken.)

17 **THE COURT:** All right.

18 Defense had a chance to review the document?

19 **MR. B. SHEALEY:** I did, Your Honor.

20 I've got some things to put on the record.

21 **THE COURT:** All right.

22 Let's go right ahead. Yes, sir.

23 **MR. B. SHEALEY:** So Your Honor, this is --
24 you know, this witness is on the stand. This is
25 the highest ranking officer in this case. And

Motion for Mistrial

1 we've -- the defense has been aware that he had
2 some involvement, especially with the
3 interrogation of Ms. Davis.

4 You know, we've had two or three different
5 separate motions to compel discovery before
6 various judges, including Your Honor. We've had a
7 renewed motion to compel this week, renewal our
8 *Riddle* motions, and it's always been basically,
9 you know, the same thing: You got what you got.

10 We've had information from today from what we
11 consider experts that were disclosed this morning
12 in terms of their reports. And now here we are
13 with a seven-report that takes Lieutenant Colonel
14 Godfrey from near-assisting-senior-law-enforcement
15 officer on this case helping out the team to a guy
16 that's doing a whole bunch of work in this case.

17 They're -- in this seven pages that has never
18 been turned over, there are a number of witnesses
19 that were with Boleg prior to the day of the
20 incident. You know, we've been sitting here,
21 racking our brain about there's no motive in this
22 case. Let's go off Boleg. What was he doing that
23 day? There were a lot of witnesses that
24 Lieutenant Colonel Godfrey interviewed that shed a
25 lot of light on Boleg that day, that had

1 previously never been disclosed with all these
2 chances in the world that they have.

3 And so what we don't have -- and you know,
4 you know us. You know the lawyers involved here.
5 We've got investigators that investigate this.
6 We're not not covering our bases. We're not not
7 hiring experts when you have several extractions.
8 We investigate witnesses.

9 And so we're looking at two -- at least a
10 minimum of two witnesses that are detailing what
11 Boleg -- what he was doing that day, his demeanor,
12 what kind of alcohol he's consuming, what kind
13 of -- he's losing money at cards, what set him
14 off.

15 And so here we go, in the middle of a
16 cross-examination, and we're learning about this
17 summary. And it's unacceptable. It's
18 unacceptable in this courtroom. And all we hear
19 is that I'm doing my best. It's not good enough
20 when there's a murder case looking at 30 to life
21 on the line.

22 We need the opportunity to interview the
23 witnesses, independently of what's going on from
24 law enforcement. We're just learning about some
25 of these witnesses. It's unacceptable and

Motion for Mistrial

1 requires a mistrial. The defense moves for a
2 mistrial.

3 **THE COURT:** All right.

4 Thank you, Mr. Shealey.

5 Yes, sir, Mr. Scott.

6 **MR. SCOTT:** Your Honor, we -- we've had -- we
7 have had multiple discussions about discovery in
8 this case. In fact, members of the public
9 defender and I went to the sheriff's department
10 and met with Godfrey. We met with Jordan. We
11 audited the entire file.

12 Again, this is one I inherited from a
13 predecessor. As you notice, that was
14 January 22, 2021. The report I see takes us up to
15 February 1, which is the interview of the
16 defendant. And then it picks up with his review
17 of what we all watched in the video and timelines
18 and whatnot.

19 Frankly, I didn't notice anything new in
20 this. My interpretation or my understanding was
21 this whole so new information in this was his
22 review of the video. Of course, they have the
23 transcript. I reviewed it myself. I don't see
24 anything in here that looks exculpatory. It is a
25 review of this. All I can do is just go to their

1 office, review their records, ask them if I have
2 given it or not. And that's what I've done time
3 and time again.

4 Here's the report. It appears to be
5 dovetailing Dauway's report. It appears to
6 dovetail Jordan's report. I don't know how they
7 store they're reports. And when I get them, I
8 turn them over if there's anything new that I find
9 in them.

10 I don't see anything in my opinion that
11 warrants a mistrial. It is what it is. She said
12 she killed him in self-defense. This particular
13 report does talk about him, the Darryl Sapp, whom
14 we've heard about before. It's come out that the
15 victim sold crack. He drank. We've got a
16 toxicology that we've already gotten into. We got
17 into that he had cocaine in his system. We had
18 alcohol and marijuana in his system. I think we
19 understand that he was drinking and using illicit
20 substances over that day. It appears to me that
21 where the rubber meets the road is is she telling
22 the truth about the self-defense or was she acting
23 in reckless disregard for the life of another
24 human being.

25 I'm just reviewing this now. I really

1 haven't paid any attention to the beginning part.
2 My understanding was the last part, as far as the
3 synopsis of the video, was the any -- was the only
4 addition to this. I don't know, Your Honor. I
5 don't think it warrants a mistrial. I don't see
6 anything exculpatory in here. It seems to be a
7 synopsis of his involvement in the case which
8 really culminates in the interview. Of course, we
9 have that. We have three and a half -- three
10 hours and 20 minutes of interview. That's really
11 my only explanation.

12 I don't think it -- I don't think there's
13 anything new, material rather, that rise to the
14 level of mistrial. If we need to the break the
15 day for them to review it in more detail. I mean,
16 again, it's a synopsis of pretty much everything
17 you heard testified to in the last couple of days
18 I don't see any material new information in my
19 review of it.

20 **MR. B. SHEALEY:** Judge, briefly in response.
21 They're saying she's a liar. Everyone wants to
22 know, Why would she lie? The question is, What's
23 going on with Boleg? So we've got two witnesses
24 here never before disclosed because the highest
25 ranking investigating officer -- I mean, we still

1 don't his report. Whether he didn't turn it over
2 to them, whether they didn't turn it over to us.
3 Under the case law, Mr. Scott, his office, has a
4 duty to get this stuff for us. It's not for him
5 to -- it's not for his (inaudible) about whether
6 it -- it needs to be turned over.

7 When you were a prosecutor, you would have
8 turned over the lead investigative report. His
9 boss, Dan Goldberg, teaches a seminar on this
10 subject about finding information to determine a
11 defense. There's two witnesses here that talk
12 about basically being with Boleg early in the day,
13 that we need to investigate why he was drinking,
14 losing money, using drugs.

15 It's important to the defense, maybe not to
16 Mr. Scott. But it's important to us. And it's
17 inexcusable, this kind of stuff that mistrials are
18 granted for. And it should be every day, we need
19 to investigate these witnesses. It's not our
20 fault. It's no one's fault. I don't know whose
21 it is. It's not our fault. And our client
22 deserves better and this court deserves better.

23 And I would like to make this a court exhibit
24 for the record. But we are demanding a mistrial
25 so we could do our due diligence investigate these

1 witnesses that need to be spoken to.

2 **THE COURT:** All right.

3 Why don't you go ahead and hand up a copy?
4 Let me look it over and see if this rises to
5 manifest necessity, if rises to a high level of
6 mistrial. I don't know if it does. But I mean, I
7 got to take everything into consideration.

8 **MR. L. SHEALEY:** There's a couple of new
9 names on there that we've never seen in terms of
10 witnesses that were with Boleg the day of.

11 **THE COURT:** All right.

12 Let's take a short recess. I'll review this
13 and make my decision then.

14 All right.

15 Short recess.

16 (A recess is taken.)

17 **MR. B. SHEALEY:** Your Honor, can I add one
18 thing to the record that needs to be articulated?

19 **THE COURT:** Of course. And y'all made this
20 Court's exhibit. Do you have one that's not
21 highlighted or something?

22 **MR. B. SHEALEY:** I highlighted that. That's
23 the only copy I have.

24 **THE COURT:** That's fine. We'll make the
25 highlighted one Court's exhibit.

1 **MR. B. SHEALEY:** I'll need to get another
2 copy, but yes, that's fine.

3 Just for the -- on the break, Ms. Demer just
4 let me know that one of these would be witnesses,
5 Antonio Richardson, she has a client named Antonio
6 Richardson. So it could be her client. She can't
7 verify right now. But she definitely represents a
8 client. So one these people that we potentially
9 need to investigate maybe her client. And then
10 there could be a conflict of the public defender's
11 office. So that -- I just want to put that on the
12 record as well.

13 **THE COURT:** All right.

14 What we're gonna do is I'm going to -- we're
15 going to take a break till Thursday at 9 a.m.
16 That's gonna give a chance for the solicitor's
17 office as well as the defense to track down these
18 witnesses, to track down Mr. Richardson, before I
19 make a decision on a mistrial. And we'll see
20 where we go with this new information.

21 So what we're gonna do is bring the jury
22 back, tell them we're taking a full day tomorrow
23 for legal issues. And then we'll bring them back
24 9 a.m. on Thursday. We'll renew your motion for
25 mistrial. And I'll make my decision at that point

1 after we determine who these witnesses are, the
2 new information, their significance, and potential
3 conflicts of that nature. And then we'll go from
4 there.

5 **MR. B. SHEALEY:** Can I ask the Court --

6 **THE COURT:** Of course.

7 **MR. B. SHEALEY:** -- one thing before the jury
8 gets back in here? We haven't really heard about
9 when this witness provided to the solicitor's
10 office this report, if he did or not. Can the
11 Court examine this witness? So that -- I think
12 that would be helpful on this particular matter
13 of -- matter of disclosures. I mean, I would like
14 to know?

15 **THE COURT:** Well, before we get to that.
16 Anything else on the initial issue? Anything else
17 from the state?

18 **MR. SCOTT:** No, Your Honor.

19 **THE COURT:** All right.

20 And the state will need to track down this
21 information as well.

22 Mr. Godfrey, do you know when this report was
23 turned over?

24 **THE WITNESS:** (Inaudible).

25 **THE COURT:** You got to speak into that

1 microphone.

2 **THE WITNESS:** I'm assuming that it was turned
3 over (inaudible). I know for sure I resubmitted
4 it again (inaudible) last week.

5 **THE COURT:** All right.

6 **THE WITNESS:** I don't know exactly what day.
7 (inaudible). I help them find investigative
8 follow-up. So I didn't know they were missing my
9 investigative follow-up. But I know I updated
10 last week. But I sent it to the prosecutor the
11 additions to my follow-up.

12 **THE COURT:** Very well.

13 **MR. SCOTT:** Just to be clear: The only
14 addition, was this the review of the video?

15 **THE WITNESS:** Correct. The only thing that I
16 added was the review of the video.

17 **THE COURT:** And what we will confirm -- on
18 the state side, confirm with Lieutenant Colonel
19 Godfrey that if there's anything else that needs
20 to be turned over that might be out there as well.

21 Anything else before we bring the jury back
22 in from the state?

23 **MR. SCOTT:** No, Your Honor.

24 **THE COURT:** Anything from the defense?

25 **MR. B. SHEALEY:** I don't believe anything

1 further, Judge.

2 (Court's Exhibit No. 4 is marked for
3 identification.)

4 **THE COURT:** Court's 4.

5 And Mr. Shealey.

6 All right.

7 Let's bring the jury back.

8 (The jury enters the courtroom at 3:51 p.m.)

9 **THE COURT:** All right.

10 Ladies and gentlemen, I want to thank you
11 again for your patience. We've had some legal
12 issues come up that we've had to discuss between
13 the attorneys and the Court. So we are going to
14 break for the day and we have to take a break for
15 tomorrow because we have a legal issue that's
16 going to take the entirety of the day. So your
17 next time to come back will be Thursday at 9 a.m.

18 So during that time, again, do not discuss
19 the case with anyone, amongst yourselves. No
20 independent research. Do not discuss the case.
21 We will take a break for tomorrow. And we will
22 see you back here in the jury deliberation room at
23 9 a.m. Thank you again for your patience and your
24 service this week.

25 (The jury exits the courtroom at 3:51 p.m.)

1 **THE COURT:** Anything else from the state?

2 **MR. SCOTT:** No. Just to be clear: I think
3 Antonio Richardson is the only one we need to find
4 hasn't been mentioned. In another report, I see
5 Darryl Sapp. He's been mentioned. David Woodard
6 is mentioned Dauway's report. I'm just looking.
7 That's the only one that I'm unfamiliar with,
8 Antonio Richardson.

9 And if the defense sees any other's they'd be
10 interested in tracking down. That's the only one
11 I don't see in Dauway's report. Everybody else is
12 mentioned in his report and Investigator Jordan's.
13 It looks like this Antonio Richardson might be the
14 sole one that I have to track down.

15 **THE COURT:** All right.

16 Very well.

17 Anything else from the defense?

18 **MR. B. SHEALEY:** Yeah. I mean, that's not
19 entirely accurate. It's not accurate at all.
20 Dauway's report does reference David Woodard but
21 in a totally different context that what this
22 report, describing his interactions with Boleg
23 that day.

24 So he's -- I mean, trying to retrieve video
25 footage from him to -- in Dauway's report to then

Motion for Mistrial

1 gambling and crack information coming from this
2 witness that then leads them to Antonio
3 Richardson.

4 So clearly, we've got to interview both of
5 these folks. So again, the defense doesn't
6 necessarily care about the state's opinion on
7 these witnesses. They haven't been disclosed. We
8 just need to -- you've already ruled. We need to
9 interview these folks. We'd also ask that this
10 witness not speak to anyone about his testimony
11 while we're on break.

12 **THE COURT:** All right.

13 Anything else from the defense?

14 **MR. B. SHEALEY:** No, sir.

15 **THE COURT:** All right.

16 We'll resume at 9 a.m.

17 Lieutenant Colonel Godfrey, you're still
18 under oath. And please do not discuss your
19 testimony.

20 All right.

21 9 a.m. Thursday.

22 (The Court recesses for the day.)
23
24
25

1
2 I, the undersigned, Teresa B. Johnson, Official Court
3 Reporter, do hereby certify that I transcribed the
4 electronic recording of the remote hearing in this
5 matter; and that the foregoing is a true transcript of
6 said electronic recording.

7 I do further certify that I am not a relative,
8 employee, attorney, or counsel of any of the parties
9 connected with the action, nor am I financially
10 interested in the action.

11
12 Dated: January 28, 2024

13
14 /s/Teresa B. Johnson

15 Teresa B. Johnson

16 Official Court Reporter
17
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25

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	Case No.: 2021GS4005862
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Jamira U. Davis,	)	
	)	
Defendant.	)	June 29, 2023
_____	)	

TRANSCRIPT OF TRIAL - DAY 3 OF 5

BEFORE THE HONORABLE DANIEL COBLE
Circuit Court Judge, presiding

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P R O C E E D I N G S

THE COURT: All right, and good morning. We last ended this with the motion for mistrial. So any update from the defense? Renew your motion or?

MS. DEMER: Certainly, Your Honor. We do renew our motion for mistrial at this time based on the discovery, the Rule 5 violation of the disclosure of Investigator Godfrey's report, as well as Ricky Johnson's existence and the existence of his report and testing.

We were able to contact some of the witnesses yesterday. I think the report listed maybe two or three, that while, I think Mr. Scott pointed out, not new, they had the reference in the report of like we went to his house and tried to get video surveillance, which obviously is very different than the substance that was contained in Godfrey's report. Because (inaudible) Godfrey's report.

But anyway, we did make contact with some of them. That led to other people. We were not able to -- I think there were probably six or seven total that we would've liked to talk to. And I think we talked to three of them. And, you know, I think the state was trying to be helpful by

1 contacting those witnesses ahead of time to let
2 them know we could be reaching out. But of
3 course, as Your Honor knows, that drastically
4 changed the ability to get information from people
5 when we are forced to a shortened timeline of
6 basically eight hours, and you have police
7 officers contacting these folks saying lawyers are
8 reaching out to you. That's a very different
9 investigative posture than it would have been had
10 that stuff been disclosed to us when it was
11 created two years ago and we've been able to do
12 our investigation on our own time in a very
13 purposeful, strategic manner.

14 **THE COURT:** Thank you, Ms. Demer.

15 All right.

16 I've had a chance to review the document that
17 was turned over and everything in conjunction with
18 this trial that I've heard today, I believe a day
19 and a half has reduced the amount of prejudice,
20 did not rise to the level of a mistrial. So I'm
21 gonna deny the motion at this point. I don't
22 believe it is -- is necessary. So I'm gonna deny
23 your motion. I will allow you, as I'm sure you
24 will -- you can renew that motion at the end of
25 the state's case and the end of your case for my

1 consideration. But at this point, I deny the
2 motion for a mistrial.

3 **MS. DEMER:** Thank you, Your Honor.

4 **THE COURT:** All right.

5 You're welcome.

6 Anything from the state before we bring the
7 jury out?

8 **MR. SCOTT:** No, Your Honor.

9 **THE COURT:** And in terms of timeframe, do you
10 have an idea of, since we're at Thursday now, any
11 timeframe of how much?

12 **MR. SCOTT:** I'm planning on having -- I'm
13 having them right now to come on. You know, I had
14 them hold off until we had a decision -- three
15 more witnesses that I'll -- I'll get them knocked
16 out today.

17 Pathologist is -- one caveat. She says this
18 morning, she's real jammed up. So she had asked
19 to be able to testify after lunch. But after
20 Godfrey, I've got two that are prepared to go.
21 And then maybe an early lunch if we're bumping up
22 against that time.

23 **THE COURT:** Yes. And as -- if you were to
24 put up a case, do you have an idea of the
25 timeframe? I mean, if not, you don't. But

1 Ms. Demer or Ms. Young?

2 **MS. DEMER:** Yeah, I think if we put up a
3 case, we're probably looking at half -- half a day
4 maybe.

5 And Your Honor, I was gonna ask that you
6 maybe inquire of Mr. Scott as to when Ricky
7 Johnson is testifying. I would like to have my
8 own forensic cell phone expert here during his
9 testimony. And so I need to give him a heads-up
10 about when to arrive at the courthouse.

11 But yeah, I think -- I think -- in my
12 looking, I'm seeing no disagreement from my
13 cocounsel as far as half-day estimate.

14 **MR. B. SHEALEY:** I mean --

15 **THE COURT:** And I'm not -- the only reason
16 I'm asking is we've got -- we've got today; we got
17 tomorrow. It's a weird week next week. And so
18 I'm gonna have to figure out are we going to come
19 back on Saturday and finish this up? Maybe we'll
20 just do that. Maybe we'll come back Monday.
21 Maybe we'll just go straight to Wednesday. Most
22 likely, just -- I don't know Saturday. Well --
23 but I'm just trying to get an idea. We'll figure
24 it out as we go along. Okay?

25 **MS. DEMER:** Okay.

1 Thank you, Your Honor.

2 **THE COURT:** But I am curious, Mr. Johnson, if
3 he testifies, I mean, you have two witnesses this
4 morning. You plan to call him this morning.

5 **MR. SCOTT:** I had intended on calling him
6 last. But since Dr. Durso can't go after lunch,
7 I'm gonna call him probably after Godfrey.
8 Probably have the firearms person. And again,
9 she's a little bit out of order. So if I get a
10 little bit of leeway there. 'Cause Durso would
11 start the chain on her as far as testing
12 projectiles. Have her testify. And then have
13 Ricky Johnson. Lunch break. And then Durso, that
14 will be -- that will be our case for --

15 **THE COURT:** All right.

16 Thank you.

17 **MR. SCOTT:** -- for -- for our case.

18 **THE COURT:** All right.

19 There you go, Ms. Young.

20 All right.

21 Anything from Ms. Demer before we bring the
22 jury back out?

23 **MS. DEMER:** No, Your Honor.

24 **THE COURT:** Let's bring the jury.

25 Still under oath.

1 **THE WITNESS:** Yes, sir.

2 (The jury enters the courtroom at 9:17 a.m.)

3 **THE BAILIFF:** Jury is seated, Your Honor.

4 **THE COURT:** Thank you, sir. All right.

5 Good morning, ladies and gentlemen. We're
6 going to go ahead and get started this morning
7 with the cross-examination of Mr. Godfrey.

8 Yes, sir, Mr. Shealey.

9 **MR. B. SHEALEY:** Thank you, Your Honor. May
10 it please the Court?

11 **THE COURT:** Yes, sir.

12 **BRIAN GODFREY**

13 having previously been sworn, testifies as follows:

14 **CROSS-EXAMINATION**

15 **BY MR. B. SHEALEY:**

16 **Q** Godfrey, so you've got your report in front
17 of you, right?

18 **A** Yes, sir.

19 **Q** Okay.

20 So I've got your report now too. So I'm
21 gonna ask a couple of questions about that. Because
22 it's important after, you know, any kind of homicide
23 investigation for you can try to figure out what's
24 happening as quickly as possible. And that often means
25 canvassing the area, correct?

1 **A** Yes, sir.

2 **Q** Getting cell phone records, right?

3 **A** Yes, sir.

4 **Q** Okay.

5 You're try to just get as much information
6 about any suspects that you could develop, right?

7 **A** Yes, sir.

8 **Q** And also, you know, Mr. Boleg, in this case,
9 like, what was going on with him that day, right?
10 Where -- who was he talking to to get information,
11 right?

12 **A** Yes, sir.

13 **Q** Okay.

14 And so you did that, right? And you were the
15 ranking investigator on this case that was assigned,
16 helping them on this team of investigators, right?

17 **A** I was the highest ranking person. That case
18 was assigned to Lieutenant Jordan. But I was the
19 highest ranking person probably that participated on
20 this investigation.

21 **Q** Sure. So you use your experience to help
22 develop leads, etc, right?

23 **A** Yes, sir.

24 **Q** Okay.

25 And so using your experience in developing

1 leads, you talked to a number of people that actually
2 were with Boleg earlier in that day, right?

3 **A** Yes, sir.

4 **Q** You talked to David Woodard, right?

5 **A** Yes, sir.

6 **Q** Okay.

7 And so he let you know that Boleg had been
8 with some people playing cards, right?

9 **A** That's correct.

10 **Q** Okay.

11 And so he also give you a little more
12 information about Boleg, that he, you know, sold crack,
13 right?

14 **A** Make sure he's the one that told me that.

15 **Q** It's the middle of your first -- first page,
16 middle paragraph?

17 **A** That's correct. He did say that.

18 **Q** I think he's given you information that he
19 was at a card game on Alt Road with a -- a lead that
20 you developed, Mr. Antonio Richardson, right?

21 **A** That is correct.

22 **Q** And he's also -- and that witness has let you
23 know that Boleg, you know, was there playing cards into
24 the evening prior to going back to his house, right, in
25 the early morning hours?

1 **A** Yes, sir.

2 **Q** Okay.

3 And so you learned some information here from
4 other witnesses as well. But you know, Boleg was
5 playing in a card game and lost his money, right?

6 **A** Yes, sir.

7 **Q** Okay.

8 And then he -- he left and returned with some
9 more money, right, to continue playing cards?

10 **A** I believe you're correct. Let me just refer
11 to that portion.

12 **Q** Very, very bottom paragraph of your first
13 page. Guy named Carlos dropped him off. And he had
14 some more -- 120 bucks more?

15 **A** That's correct. Says he dropped him back off
16 with another \$120.

17 **Q** Right. And then he continued to play cards,
18 lost all that money, and then was asking to borrow 50
19 more dollars. And then, Mr. Richardson wasn't gonna
20 let him do that, right?

21 **A** That's correct.

22 **Q** Okay.

23 And so then he left the card game in the
24 early morning hours. And that's your information that
25 he then was working on getting home, right? Got a

1 ride?

2 **A** Yes, sir.

3 **Q** There's information that you have from
4 Maurice Darryl Sapp and some others that he went and
5 got some liquor from the bootlegger up the street,
6 right?

7 **A** Yes, sir.

8 **Q** Okay.

9 And then you -- you also have information
10 that Mr. Sapp was with Boleg at his house. And then at
11 some point -- you know, I think Mr. Sapp brought him
12 that liquor, correct?

13 **A** Let me see. I know he obtained the liquor.
14 I'm making sure Mr. Sapp is the one that gave it to
15 him. (Reviews documents.)

16 I'm trying to find that portion of it.

17 **Q** That's okay. It may not be in your report.

18 **A** Okay.

19 **Q** But --

20 **A** I know that it was --

21 **Q** Sure.

22 **A** It was an understanding that he did come into
23 contact with some liquor.

24 **Q** Right.

25 And then he was also drinking beers at the --

1 at the card game too, correct? Three beers per
2 Mr. Richardson?

3 **A** Yes, sir.

4 **Q** Okay.

5 And then -- but you also know as, you know, a
6 ranking investigator on this situation was that at some
7 point, he does tell Mr. Sapp time to go home. Right?

8 **A** That was my understanding. Yes, sir.

9 **Q** I've got some business to take care of,
10 right?

11 **A** Yes, sir.

12 **Q** Okay.

13 **A** That's my understanding.

14 **Q** So -- and then your investigation leads you
15 to that video, that we played a little bit of some
16 lights going up to Boleg's house, right?

17 **A** You talking about the vehicle going up to the
18 house?

19 **Q** Yeah. From across the street. I know we
20 kind of get there. So -- so what you've learned is
21 that, you know, Boleg, you know, is dealing drugs and
22 received some drugs that day, right?

23 **A** That's my understanding, yes.

24 **Q** He was drinking that day, right?

25 **A** That's correct.

1 **Q** He lost all this money that he brought to the
2 card game, right?

3 **A** That's correct.

4 **Q** He came back with it later with some more
5 money. Lost that as well.

6 **A** Yes.

7 **Q** And then wanting to keep playing, but then
8 was not allowed to borrow any money to keep playing the
9 game, right?

10 **A** That's what I was told, yes.

11 **Q** And then went back to his house and was
12 hanging back with Mr. Sapp, who you understand is a
13 friend of his, right?

14 **A** I don't know -- I may -- it's clearly an
15 acquaintance. But I don't know their relationship --
16 whether it was a friendship or not. And got some money
17 from the -- or excuse me -- some liquor from the
18 bootlegger of the way and drank a little bit with
19 Mr. Sapp before kicking Mr. Sapp out, right?

20 **A** That's the understanding that I have,
21 although we did try to follow up on the bootlegger
22 angle, which was denied that that occurred.

23 **Q** Yeah. The bootlegger wasn't admitting to
24 bootlegging, was he?

25 **A** She was not.

1 **Q** She was not. Okay. Right. Right. Right.
2 So that -- that's all in your report.

3 **A** Yes, sir.

4 **Q** So those are some of the things that you did
5 to try to figure out what Mr. Boleg was doing that day.
6 Because it's important figure out who he came in
7 contact to help develop leads for you, right?

8 **A** That's the standard procedure for anytime we
9 have a death.

10 **Q** Sure.

11 **A** We try to figure out what they're -- what
12 they did leading up to their death.

13 **Q** Now fast-forwarding a bit. In your
14 investigations, you and your investigators called in
15 Jamira Davis to be interviewed. And we've kind of
16 watched some video and covered some of that, correct?

17 **A** Yes, sir.

18 **Q** Okay.

19 And you have testified that you were watching
20 Jamira's interview from a different streaming monitor
21 and a different part of the sheriff's department,
22 right?

23 **A** Yes, sir. I watched some of it. I don't
24 know that I watched all of it that day. I have since
25 watched all of it. But I don't know that I viewed it

1 in its entirety as it transpired.

2 Q Okay.

3 Well, I'm gonna just -- and if we need it, I
4 got this for you. I kind of left this with you
5 yesterday and you gave it back to me on our break. But
6 this is a transcript of the interview of Jamira Davis.
7 And I'm just gonna kind of fast-forward right to the
8 part where you get involved. All right?

9 A Yes, sir.

10 Q And I'm asking about place and portions of
11 it. And I'm going to ask you some questions. We can
12 talk about that a little bit.

13 So I'll play a little bit. And then, I'm
14 going to ask you some questions. All right?

15 A Yes, sir.

16 (Exhibit is played.)

17 **BY MR. B. SHEALEY:**

18 Q So that's you pretty much initially after you
19 came in with Jamira and you were introducing yourself
20 and trying to build rapport with her, right?

21 A Yes, sir.

22 Q And you're saying things. The audio is not
23 great in terms of the volume. But you're saying things
24 like, you know, you've been watching her -- her body
25 language. And you say something, "When that old boy,

1 referring to Eisenhower, brings up the fact that the
2 dude may have tried something with you, you dropped
3 your head." Do you remember saying that to Jamira?

4 **A** Yes, sir.

5 **Q** Okay.

6 And then you're building rapport with her by
7 saying, "Listen. I've been doing this a long damn
8 time." And she's looking you in your eyes, right?

9 **A** Yes, sir.

10 **Q** And she's nodding her head?

11 Okay.

12 Bear with us here. Okay.

13 **THE COURT:** You need a chair, Mr. Shealey?

14 **MR. B. SHEALEY:** Yeah. Probably.

15 **THE COURT:** You're free to grab one.

16 **MR. B. SHEALEY:** I'll be all right for now.

17 **BY MR. B. SHEALEY:**

18 **Q** All right.

19 This part's a little longer. But once we get
20 it set up, I'm going to have a couple of questions for
21 you.

22 **A** Yes, sir.

23 (Exhibit is played.)

24 **BY MR. B. SHEALEY:**

25 **Q** All right.

1 Then you're confirming some information
2 you -- you know, trying to again build rapport with her
3 that Sapp brought over alcohol. I think you talked
4 about that, right?

5 **A** Yes, sir.

6 **Q** And your words are that "Boleg had been
7 drinking his ass off," right?

8 **A** Yes, sir.

9 **Q** And that "everyone knows he's an asshole when
10 he's been drinking like that," right?

11 **A** Yes, sir.

12 **Q** Okay.

13 And she's agreeing with everything you're
14 telling her at this point, right?

15 **A** Yes, sir.

16 **Q** Okay.

17 A couple more questions for you.

18 (Exhibit is played.)

19 **BY MR. B. SHEALEY:**

20 **Q** So again, you go over the fact that he's
21 telling Sapp it's time to go because someone is coming
22 over, right?

23 **A** Yes, sir.

24 **Q** Okay.

25 And that he knows -- well, he's -- he's gonna

1 try something with you or he feels that something's
2 going to happen between you, right, referring to Boleg?

3 **A** That's what I said. Yes, sir.

4 **Q** And I even Sapp thought there was a chick
5 coming over. And then you're sitting there -- the
6 other investigator that we haven't really seen in this
7 courtroom but has been part of this interview, he's
8 sitting right here. That's Steven Dauway, isn't it?

9 **A** Yes, sir.

10 **Q** Okay.

11 And he's still with the Richland County
12 Sheriff's Department?

13 **A** He currently is a lieutenant with the
14 sheriff's department.

15 **Q** And so he's helping out and providing
16 information that he knows as part of this interview
17 that Sapp says is a booty call, right?

18 **A** Yes, sir.

19 **Q** And then you heard -- the last thing you said
20 there, which was basically, "You know, you didn't think
21 it was that type of party. But I'm telling you, he may
22 have had different intentions from what you thought.
23 Okay?" And so you -- recall saying that, right?

24 **A** Yes, sir.

25 **Q** And again, you're -- you're trying to connect

1 with Jamira there, right? To get her to talk a little
2 bit.

3 **A** I'm connecting. But I'm also what's called
4 "theming."

5 **Q** All right.

6 A couple of more things for you here.

7 **MR. B. SHEALEY:** Beg the Court's
8 intelligence.

9 (Exhibit is played.)

10 **BY MR. B. SHEALEY:**

11 **Q** So, at that point, for the first time, she
12 says, "Yeah. He tried something." Right?

13 **A** Yes, sir.

14 **Q** And so, at that point, you've got her,
15 essentially for the first time admitting what's -- you
16 know, she's getting ready to open up to you about what
17 happened, right?

18 **A** Yes, sir.

19 **Q** Okay.

20 So you -- you know, you've been in there a
21 relatively short amount of time compared to your
22 partners, right? And you're getting her to basically
23 feel comfortable enough to tell you something, right?

24 **A** Yes, sir.

25 **Q** And so at this point, you know, she talks to

1 you about exactly -- you know, whether you believe it
2 or not, she tells you that, you know, that was a normal
3 thing to go over there and smoke weed with someone that
4 she trusted, right? Considered to be like a stepfather
5 basically, right?

6 **A** I believe you're correct. But I have some...
7 Yes, sir.

8 **Q** Okay.

9 And that was all normal, relatively speaking,
10 until, you know, he moved closer towards her, right?

11 **A** That's correct. She said they were sitting
12 on opposite sides of the couch, two different couches.

13 **Q** Yeah. And would it -- would you disagree
14 with me that was like a sectional, kind of connected,
15 but like an L-shape sectional?

16 **A** I never saw the couch. Because the house
17 burned up. I was just kind of going off what her
18 description was for the period of time.

19 **Q** Sure. I got you. That's fair. And you
20 learned a little bit as well that she had kind of
21 disregarded him before he moved with his hands in his
22 pants. And she kind of -- that threw her for a second.
23 She kind of didn't think a whole lot about that.
24 Because sometimes guys will have their hands in their
25 pants, right?

1 **A** That's correct.

2 **Q** But what really got her attention was when he
3 sat beside her and grabbed her between her legs, right?
4 She's telling you that's what made her jump up, right?

5 **A** Yes, sir.

6 **Q** Threw her off, right?

7 **A** Yes, sir.

8 **Q** Okay.

9 And then she lets you know that she is trying
10 to go out that front door and he's grabbing her,
11 holding her back from doing that, right? That's what
12 she's telling you?

13 **A** Yes, sir.

14 **Q** Okay.

15 And that he's saying things like, "Let me
16 talk at you. Let me talk at you," while preventing her
17 from leaving, right?

18 **A** That's -- that was my understanding.

19 **Q** Okay.

20 And she's described an ottoman in this small
21 living room that had some weed on it and it also had a
22 gun on it, right?

23 **A** That's correct.

24 **Q** And in this struggle, where he's preventing
25 her from leaving, she basically says that they, you

1 know, fall to -- down towards the ottoman, right?

2 **A** I don't know if she got into as much detail
3 with me about that. But I think that is the end
4 version of what she says, something to that nature. I
5 don't know the exact verbiage. But it was something to
6 that nature.

7 **Q** Okay.

8 And then she basically, while he's still
9 wrestling with her, she gets the gun that she says is
10 his, right?

11 **A** Yeah. She didn't say they wrestled over a
12 gun. She says, at some point, she does get the gun.

13 **Q** Sure. But he's -- she says he's preventing
14 her from leaving, right?

15 **A** That's what she says, yes.

16 **Q** And then she's able to get his gun that was
17 sitting on the ottoman, right?

18 **A** Yes, sir.

19 **Q** And that's what she uses, right?

20 **A** That's what she says, yes, sir.

21 **Q** Okay.

22 Now, whether you believe her or not, you
23 know, she's described to you a number of things as a
24 very experienced law enforcement officer -- today's
25 your last day.

1 **A** Today is my last day.

2 **Q** Okay. Okay.

3 Long time. Like you told her, you've been
4 doing this a long damn time.

5 **A** I did. It was a long night.

6 **Q** All right.

7 **A** Tonight -- last night.

8 **Q** And so you agree with me that what she's
9 describing, if true, of what he's doing to her when
10 someone grabs someone between their legs, that's
11 criminal sexual conduct, correct? That's a charge law
12 that enforcement can bring, right?

13 **A** We could. If it was investigated and deemed
14 to be truthful, we -- or probable cause existed, we
15 could make an arrest, correct.

16 **Q** Sure. And it also could be a charge called
17 assault battery first degree, right, improper touching
18 someone's private area for the gratification of
19 another, right?

20 **A** If it rose to the probable cause, we could
21 charge for that, yes.

22 **Q** Also could be and older charge on the books,
23 lewd act, right? You've charged people with lewd act
24 before probably?

25 **A** Been around a long time, yeah.

1 **Q** Been around a long damn time?

2 **A** Yeah.

3 **Q** Right?

4 **A** Yeah.

5 **Q** And also is -- and I'm certain you've charged
6 someone with this. If someone is preventing someone's
7 freedom of movement -- you know, like in the movies and
8 stuff, you know, you got someone tied up or something.
9 But it doesn't have to be like that and charge someone
10 with kidnapping if they prevent someone's freedom of
11 movement trying to leave the house. If it was
12 investigated properly, that could be a kidnapping
13 charge. That's a very serious charge in South
14 Carolina, right?

15 **A** It could be.

16 **Q** Okay.

17 And again, that's what she's telling you
18 after she finally opens up to you, right?

19 **A** Yes, sir.

20 **MR. B. SHEALEY:** Beg the Court's indulgence.

21 (Exhibit is played.)

22 **BY MR. B. SHEALEY:**

23 **Q** Last thing that Dauway said was, "And you
24 ain't built to go in there and just murder someone, you
25 feel me?" Right?

1 **A** Yes, sir.

2 **Q** Okay.

3 And you're there with him. And you're saying
4 that, you know, you can't -- you're asking her if she
5 told anyone, told anybody in her life. And she was
6 saying no. You know, I tell my girlfriend Alesha at
7 the time. She couldn't handle it. And you're saying,
8 You can't handle this situation, right?

9 **A** I did say that. Yes, sir.

10 **Q** And the tissue box is out, because she's
11 crying. And you're looking at her tears, right?

12 **A** Yes, sir.

13 **Q** Okay.

14 Godfrey, at that point, you have successfully
15 come into a room with her to admit to shooting, right?

16 **A** Yes, sir.

17 **Q** And then she has connected with you enough or
18 she's telling you what happened in her words, right?

19 **A** Yes, sir.

20 **Q** And then after Dauway says that you're not
21 built to go in there. We can tell. You're not built
22 to go in there and murder someone. Basically, at that
23 point, you're -- your job is done, right? You kind
24 of -- you're not -- you're not confronting her with
25 really facts and details at that point. I mean, your

1 job is over at the point. You're going out and then
2 Jordan's come back in, right?

3 **A** The reason for that, generally -- generally,
4 I would have stayed in there and got the rest of her
5 story. And I would have continued to go. I had to go
6 get my children that particular evening. And -- and I
7 walked out and told Jordan I had to go get my children.
8 And for him to go back in and get a more detailed
9 version of her -- what -- what she says occurred.

10 **Q** That's fair. And, you know, I'm not saying
11 you're -- you gotta get your kids, you gotta get your
12 kids.

13 **A** Yes, sir.

14 **Q** What I'm saying is once she -- once you got
15 her to admit to the killing and she's telling you the
16 details preceding it, why it happened, why she had to
17 do what she had to do, you're not challenging her on
18 those details. You're just letting her talk to that
19 point, right?

20 **A** Yes, sir.

21 **Q** Okay.

22 Do you see at the defense table sitting next
23 to Jamira, a young lady named Ms. Demer?

24 **A** Yes, ma'am. Yes, sir. I'm sorry.

25 **Q** You remember meeting her on May 16 at

1 Richland County Sheriff's Department?

2 **A** I remember meeting her at the sheriff
3 department's. I don't know the specific if it was
4 May 16. But I -- I trust that it was May 16.

5 **Q** It was an evidence, discovery review kind of
6 situation when you were there, right?

7 **A** Yes, sir.

8 **Q** Ms. Demer was there, right?

9 **A** Yes, sir.

10 **Q** Okay.

11 Had you ever met her before?

12 **A** I had not.

13 **Q** Okay.

14 Did you realize that she was a lawyer, part
15 of Ms. Davis's defense?

16 **A** I did not.

17 **Q** Okay.

18 And you remember telling her that you believe
19 Boleg tried something Jamira that night, right?

20 **A** I said -- I was asked if it was possible.
21 And I said it's possible. I -- the only people that
22 would know what happened in that room that day would be
23 her and him. Anything's possible. I don't know the
24 answer to that question. I wasn't present. I didn't
25 have a crystal ball to determine whether or not what

1 she says is true.

2 Q Thank you, Lieutenant Colonel Godfrey.

3 **REDIRECT EXAMINATION**

4 **BY MR. SCOTT:**

5 Q So they played a lot of the video where you
6 guys make assertions. "We know he's an asshole when
7 he drinks. You know, we know he's violent"?

8 A Yes, sir.

9 Q But you -- you don't know that, do you?

10 A I don't. It was all theming.

11 Q Okay.

12 And he asked you about that you started
13 talking about theming. But he kind of left it alone.
14 But I want to ask you some more about theming.

15 A Yes, sir.

16 Q Okay.

17 Because again, they're talking about how
18 Dauway says, "You're not built for being a murderer."
19 Does Dauway have any clue who Jamira Davis is or what
20 she's capable of?

21 A First day we ever met.

22 Q Okay.

23 So in the video, you'll are acting like you
24 know a lot about the different characters, you know
25 about Jamira Davis. But you know zero about her

1 really, do you?

2 **A** That's correct.

3 **Q** Okay.

4 So explain to the jury why it is that you are
5 not pretending but -- but you're portraying yourself to
6 be somebody very knowledgeable about her and her
7 capabilities? Very knowledgeable about --

8 **MR. B. SHEALEY:** Objection. That's a
9 mischaracterization of video. There's a lot of
10 information about Boleg. There's not a lot of
11 information about Jamira other than what she's
12 saying. He's saying that's the first time they
13 ever met her that day. So I don't know how he's
14 going to answer a question about, you know, her
15 personal history. That's not (inaudible). So I'd
16 object.

17 **THE COURT:** What was the question?

18 **BY MR. SCOTT:**

19 **Q** The question was the defense attorney played
20 a portion of the video. And he harped on the fact that
21 Dauway said, "Jamira, we know that you're not
22 capable -- you're not built to murder somebody." But
23 y'all had no clue. That was the first time I've ever
24 met her, wasn't it?

25 **A** That's correct.

1 **THE COURT:** That question is overruled. But
2 let's move on.

3 **BY MR. SCOTT:**

4 **Q** All right.

5 That was the first day you met her. So you
6 don't have any knowledge of what she's capable of; is
7 that correct?

8 **A** That's correct.

9 **Q** Brandon Burden, you said, "We know he's an
10 asshole and he drinks." Many times during that three
11 and a half hours did Jamira Davis say he's violent when
12 he drinks?

13 **A** I don't remember her saying that.

14 **Q** You remember her ever saying that to you?

15 **A** She said a lot -- actually, most of the stuff
16 that she said about him was positive.

17 **Q** All right.

18 Would it surprise you that twice she denied
19 he was ever violent when he drank or agitated when
20 drank?

21 **A** I remember talking about that.

22 **Q** So when y'all say these things about, you
23 know, people's characteristics and knowing personally
24 about this, is that not true a lot of the times?

25 **A** That's correct.

1 **Q** Law enforcement will sometimes use a ruse in
2 order to have people open up and talk about things
3 they're unwilling to talk about at times.

4 **A** Yeah. We them. So we -- we listen to
5 interviews. We watch people's body language. We try
6 to -- like I talked about earlier, we try to
7 rationalize, minimize, project on someone else other
8 than themselves. We -- we come up with stories. We
9 theme. We tell stories that we believe will make
10 people open up and talk about and feel comfortable
11 talking about what occurred.

12 **Q** And I guess all three of those clips that
13 defense played for you, was you or another officer
14 endorsing a set of facts or endorsing -- we know
15 something happened to you. Did you, in fact, know
16 anything happened to her?

17 **A** No, sir.

18 **Q** Okay.

19 And explain to the jury, why would you tell
20 her "we know something happened to you"?

21 "I know something happened to you. What
22 happened to you? I knew something happened to you.
23 What happened to you?"

24 Why would you been doing that to her?

25 **A** So at this point, she had given so many

1 different versions of what occurred, from not being
2 there ever to being there but only for a moment with
3 her girlfriend to but never going in the house to go in
4 there but never going in the house but she was by
5 herself this time to going there by herself, staying in
6 the car for a little, and then going into the house.
7 So we -- she had changed her story so many times. And
8 with what we knew, based on the video and based on the
9 set of facts and what we knew going in, we knew that
10 she had to be present during the time that the incident
11 occurred, and that she had went in that way.

12 So we go in there. And we theme. And we --
13 a lot of times, it's easier for someone to say that
14 they did something as significant as shoot someone.
15 They a lot of times give self -- they'll latch on to
16 reasons for self why they would do it, some kind of
17 rationalization as to why they did what they did
18 whether it's true or not. But it's easier to say
19 sometimes, or acknowledge just by shaking your head
20 that that's in fact what happened.

21 Q So as -- as you're speaking with her, you got
22 that video. So you know her car's there?

23 A Yes, sir.

24 Q You know she was there an hour and four
25 minutes. You know there's that muzzle flash. And then

1 you know she leaves?

2 **A** Yes, sir.

3 **Q** So she's still sticking with "he was alive
4 and well when I left." But you knew that was not the
5 case?

6 **A** A hundred percent, yeah.

7 **Q** And so you're trying to get her to go ahead
8 and fess up that you shot him. Because we know you did
9 it. It's on the video.

10 **A** Yes, sir.

11 **Q** And so she's still denying it. In fact,
12 would it surprise you that Eisenhower brought up the
13 prospect of sexual assault no less than 10 times before
14 you came in there?

15 **A** I know he had brought it up. I didn't count
16 the number of times. But I -- I wouldn't disagree with
17 that.

18 **Q** Okay.

19 And he was the first person to ever bring
20 sexual assault into this calculation, was he not?

21 **A** Yes, sir.

22 **Q** And then when you come in, you pick up on
23 that theme too. And you hammer at least four or five
24 more times?

25 **A** Yes, sir.

1 **Q** And she's been there two hours and 50 minutes
2 now. And that's the point where she finally says,
3 "Yeah. Yeah. It was a sexual assault. You guys --
4 yeah. Okay. I'm gonna go with that. You've given me
5 an out. And I'm gonna go with it"?

6 **A** Yes, sir.

7 **Q** Is that -- and have you used theming before
8 in interrogating a suspect?

9 **A** Countless number of times.

10 **Q** And is this something you were taught? Is
11 this something law enforcement is taught as far as a
12 strategy in interviewing somebody who won't come clean?

13 **A** Yes, sir.

14 **Q** Because at this point, you said it, No. 1, "I
15 haven't been to Brandon Burden's house since the week
16 before this happened"?

17 **A** Yes, sir.

18 **Q** No. 2, "I went to Hartsville that day and
19 then went straight home. I never spoke to Brandon
20 Burden on that day"?

21 **A** Yes, sir. Correct.

22 **Q** And No. 3, "I'm actually did speak with
23 Brandon Burden on the phone around 1 or 2 a.m. but
24 never saw him in person"?

25 **A** That's correct.

1 **Q** And No. 4, "We didn't go straight from
2 Hartsville, we, she and Alesha, actually went to
3 Ishmael Scott's home before going home"?

4 **A** Yes, sir.

5 **Q** Five, "We actually did go to Brandon Burden's
6 home after Hartsville. We were only there a couple
7 minutes and never went inside. We went to Ishmael's
8 house afterwards"?

9 **A** That's correct.

10 **Q** And six, "Okay. I actually did go to Brandon
11 Burden's home alone to get weed. But I stayed outside
12 of my car for 30 or 40 minutes"?

13 **A** Yes, sir.

14 **Q** And seven, "Okay. I went to Brandon Burden's
15 home alone and actually did go inside to get some free
16 weed. I stayed in the living room area, but he was
17 still alive when I left. I went to Ishmael's house
18 afterwards. And then I went home"?

19 **A** Yes, sir.

20 **Q** And then finally, eight, "Okay. I went there
21 alone. And I was there for smoking five blunts. And
22 he gets up unexpectedly. Never done anything like this
23 before in my life, his life. He touched me between my
24 legs. I jumped up the leaf. I'm right by the door."
25 She was very clear she was right by the door. Was she

1 not?

2 **A** Yes, sir.

3 **Q** Okay.

4 He grabbed me from behind. And we even
5 demonstrated. He -- he [sic] grabbed Jordan by the --
6 by the size of his shirt and held it.

7 **A** Yes, sir.

8 **Q** "Let me talk to you. Let me talk to you," is
9 what Brandon Burden is saying her as she's trying to
10 leave?

11 **A** That's correct.

12 **Q** Never threatened her. Did she ever say he
13 threatened her in any way?

14 **A** No, sir.

15 **Q** Did she ever say that he said anything other
16 than "Let me talk to you"?

17 **A** Not to my knowledge.

18 **Q** Okay.

19 And then she reaches down with her right
20 hand, okay?

21 **A** Yes, sir.

22 **Q** Do you recall her saying they fell down --
23 the defense lawyer used the term that they "wrestled
24 around." Did you remember her ever using that or was
25 that just the defense attorney's words?

1 **A** That was probably his depiction. I don't
2 remember those words specifically.

3 **Q** Did she ever say "we wrestled"?

4 **A** Not when I was in the room.

5 **Q** Did she ever say "we fault for the gun"?

6 **A** No, sir.

7 **Q** Okay.

8 So that would have been his words and his
9 interpretation?

10 **A** Yes, sir.

11 **Q** 'Cause we got the video of her words, right?

12 **A** Yes, sir.

13 **Q** Correct me if I'm wrong. She says, "I
14 reached down on the ottoman with my right hand."

15 Again, he's holding her from behind, facing
16 her. Facing her back. Grabs a gun and turn around and
17 starts shooting?

18 **A** Yes, sir.

19 **Q** Okay.

20 They were right by the front door. She was
21 very, very clear on that, was she not?

22 **A** Yes, sir.

23 **Q** Okay.

24 So now, we are to believe after all those
25 lies, this is the truth. This is what she's saying is

1 the final truth right there, right?

2 **A** Yes, sir.

3 **Q** But she's still lying, is she not?

4 **A** She is.

5 **Q** Because she said -- what'd she say she did
6 with the gun? She threw it down and then left?

7 **A** Yes, sir. So she left it in the fire -- in
8 the house.

9 **Q** Did we ever find a gun right there at the
10 threshold of that door, right in the house?

11 **A** We did not.

12 **Q** She still lies to this day about the gun,
13 does she not?

14 **A** Yes, sir.

15 **Q** And then, y'all say, "Did you even go to
16 Ishmael's house at all?"

17 **A** I did not.

18 **Q** Okay.

19 But she denies ever going to Ishmael's house?

20 **A** She then reversed course, and said she denied
21 that she ever went to Ishmael's house.

22 **Q** And that, too, was just another pointless lie
23 in a cornucopia of lies, was it not?

24 **A** Absolutely.

25 **Q** Did her story that she told you January [sic]

1 1, 2021, fit the facts and the evidence as you knew
2 them?

3 **A** I do not believe so.

4 **Q** And again, who was it that first brought up
5 the prospect of a potential sexual assault?

6 **A** Lieutenant Eisenhower.

7 **Q** That was something that you picked up on and
8 ran with as well?

9 **A** Yes, sir.

10 **Q** And if you said -- if you believed something
11 happened in there as far as a sexual assault, did you
12 have any real knowledge or real -- any real reason to
13 believe that?

14 **A** I had zero reason to believe it. I just
15 thought that she would go for it.

16 **Q** And that was part of your strategy that you
17 call "theming"?

18 **A** That's correct.

19 **Q** Thank you, Lieutenant Colonel.

20 **MR. B. SHEALEY:** Briefly, Your Honor.

21 **THE COURT:** Yes, sir.

22 **RECROSS-EXAMINATION**

23 **BY MR. B. SHEALEY:**

24 **Q** Just about the falling on the ottoman, I want
25 to -- you've already said you don't remember her saying

1 that. So I'm going to go ahead and show you the
2 transcript.

3 **A** Okay.

4 **Q** And for the record, we're at page 213. And
5 just, do you see Sergeant Jordan -- Jordan. And the
6 unidentified officer is Dauway, for this purpose of
7 this transcript?

8 **A** Yes, sir.

9 **Q** But you agree, he says, "Did you fall onto
10 the ottoman to get the gun? Or when he was holding
11 you, you were able to reach it?"

12 She's like, "Yeah, a little bit."

13 So you see that?

14 **A** It says, "Did you fall into the ottoman and
15 get the gun? Or when he was holding you, you was able
16 to reach and" -- and then there's some dots like he's
17 in anticipation of some kind of answer.

18 And Ms. Davis says, "Yeah, a little bit."

19 **Q** Right.

20 So, Godfrey, when you're talking about the
21 prosecutor was asking you questions about themes and
22 that kind of thing. So you've been doing this a long
23 damn time. Themes come from reality, right? Themes
24 come from experiences that you've had in investigating
25 criminal matters as well as other officers in your

1 department, right?

2 **A** I -- themes do come from that. Themes come
3 up from things. I've made up some themes that were
4 completely unbelievable to a person who wasn't in a
5 situation. But because of the gravity of the
6 situation, they grasp onto it. I've -- I've used some
7 pretty interesting themes over the years.

8 **Q** Yeah.

9 And you've also investigated cases with guys
10 that are drunk and/or high or both assault women,
11 correct?

12 **A** I've investigated those types of cases over
13 the years. I have.

14 **Q** Right. I mean, that's a reality in your
15 career, correct? That's -- those are -- those are real
16 cases that you've investigated, right?

17 **A** I've investigated people who weren't high and
18 drunk and have assaulted people. I've investigated a
19 lot of different types of crimes. But I have had cases
20 that fit that criteria.

21 **Q** Of course, you have.

22 **A** Yes, sir.

23 **Q** And you know, you spoke to a lot of people.
24 You've already talked to me about this earlier. That
25 knew Boleg, personally, in terms of what kind of guy he

1 was. And we'll cover this again. And it's in your
2 report. But you talked to Darryl Sapp --

3 **A** Yes, sir.

4 **Q** -- right?

5 He knew Boleg?

6 **A** Yes, sir.

7 **Q** You and your investigators talked to Wynette
8 Thompson, who was the on-again/off-again girlfriend of
9 Boleg, right?

10 **A** I don't know that I talked to her. But she
11 was talked to. Correct.

12 **Q** Correct.

13 You talked to Derek Jacobs, "Geek," right?

14 **A** Yes, sir.

15 **Q** Giving crack to Boleg that night, right?

16 **A** That's correct.

17 **Q** Talking to Antonio Richardson's. Antonio
18 Richardson, there was, you know, the card game and all
19 that kind of stuff, right?

20 **A** Yes, sir.

21 **Q** And then David Woodard. I mean, these are
22 people on Boleg's life, right?

23 **A** That's correct.

24 **Q** So -- and so when you're saying that we all
25 know he's an asshole when he drinks? You've actually

1 talked to a lot of people that know Boleg, right?

2 **A** That's correct. I've also -- I've also
3 listened to her talk about him. And she said great
4 things about him.

5 **Q** Sure.

6 And talking about themes and theory. You
7 know, Mr. Scott had a lot of discussion with you about
8 themes and theory and surplanting information into
9 people that are being interrogated. But you weren't
10 working on a theme and theory, when you told Ms. Demer
11 that you believed Boleg could have tried something.
12 You weren't -- you know, a couple of months ago, you
13 weren't working teams and theory in the interrogation
14 room, right? You're talking to people about this case,
15 right?

16 **A** Say the question again.

17 **Q** You were not trying to work a theme and
18 theory with Ms. Demer when you told her that I believe
19 could have tried something with your client, were you?

20 **A** Was I theming her at that moment?

21 **Q** Correct.

22 **A** I was. I -- there was no way that I could
23 have ever known what exactly happened in that house.

24 **Q** You were theming her in an evidence review?

25 **A** No, no, no.

1 **Q** You understand my question?

2 **A** No, I missed it apparently. I -- you talking
3 about Ms. Demer. I thought you were talking about the
4 defendant.

5 **Q** I keep on saying Ms. Demer.

6 **A** I know. I missed -- I don't recognize her as
7 Ms. Demer.

8 **Q** So you weren't working -- you weren't
9 workshop, theming, and theorying a --

10 **A** I was not.

11 **Q** You were just --

12 **A** That's correct.

13 **Q** -- talking your truth, right?

14 **A** Sorry. I misunderstood the question.

15 **Q** Right? Talking your truth?

16 **A** I was, yes, sir.

17 **Q** Okay. Thank you.

18 **THE COURT:** All right.

19 Thank you, Mr. Godfrey. Please step down.

20 **THE WITNESS:** All right.

21 **MR. SCOTT:** The state calls Ricky Johnson.

22 **THE COURTROOM DEPUTY:** Do you swear or affirm
23 that the testimony that you're about to give in
24 this case to be the truth, the whole truth and
25 nothing but the truth so help you God?

1 **THE WITNESS:** I do.

2 **THE COURTROOM DEPUTY:** Would you please state
3 your full name for the record?

4 **THE WITNESS:** Ricky Johnson.

5 **THE COURTROOM DEPUTY:** Thank you. You may be
6 seated.

7 **RICKY JOHNSON**

8 having first been duly sworn, testifies as follows:

9 **DIRECT EXAMINATION**

10 **BY MR. SCOTT:**

11 **Q** Mr. Johnson, what is your title at the
12 sheriff's department?

13 **A** I'm a captain.

14 **Q** Okay.

15 And then what section of the sheriff's
16 department did you work in?

17 **A** Currently, I'm the captain over the narcotics
18 division as well as our technical services unit.

19 **Q** Tell me about the technical services unit and
20 your duties there?

21 **A** Primary duty is to collect, preserve, and
22 analyze digital devices, primarily cell phones, mobile
23 devices. But we also do hard drives, thumb drives
24 video, audio, so forth.

25 **Q** Okay.

1 So what is a -- what is Cellebrite? You ever
2 use Cellebrite?

3 **A** Yep. So Cellebrite is a company -- is a --
4 they make forensic tools, digital forensics tools to
5 image or copy data from a cell phone.

6 **Q** Okay.

7 And is it -- I don't want to minimize it.
8 But is it as easy as taking a phone and plug it into
9 the machine, and performs a full extraction from the
10 cell phone?

11 **A** I don't like those terms. But the process
12 itself is you do plug it into the machine, yes.

13 **Q** Okay.

14 Well, describe it in your terms.

15 **A** So knowing -- knowing when -- what settings
16 to have the device in knowing. If you don't do it the
17 right way, there's a chance you could -- you could
18 delete certain evidence, so forth and so on. So it's
19 not as simple as just plugging it in. Because if you
20 do it the wrong way, then you can potentially delete
21 evidence.

22 **Q** Okay.

23 But at the end of the day, you're -- you're
24 connecting it to the Cellebrite machine. And it's
25 taking data off the cell phone and moving it onto some

1 other hardware that you have?

2 **A** Yes.

3 **Q** Okay.

4 And then you're able to analyze and look at
5 the information that was pulled off the phone?

6 **A** Yes.

7 **Q** This is State's 35. Do you recognize this?
8 Were you asked to do an extraction on State's 35?

9 **A** Yes.

10 **Q** Okay.

11 Were you able to view phone logs and text
12 messaging logs?

13 **A** Yes.

14 **Q** Were you able to view Instagram messages?

15 **A** Yes.

16 **Q** I want to show you what's been marked as
17 State's 29 and see if you recognize this.

18 **A** I do.

19 **Q** Okay.

20 And what is that? Without reading, what is
21 it generally?

22 **A** It's a -- it's a -- it's a report that was
23 produced from the Cellebrite reader of a Instagram
24 thread between two users.

25 **Q** Okay.

1 **A** Or conversation thread.

2 **Q** And is one of the users of that cell phone
3 belong -- whoever had that cell phone?

4 **A** Yes.

5 **Q** Okay.

6 And that would be, once you -- once you
7 pulled or you extract all the information, you would
8 have different tabs. And you could click on messages
9 and Instagram and then see what the user of that phone
10 was messaging during a certain time and date?

11 **A** Yes.

12 **Q** And we did that as far as on that phone. And
13 you pulled some messages between January 21, 2021, and
14 January 22, 2021?

15 **A** Yes.

16 **Q** Okay.

17 And in that State's 29, the owner of the
18 phone would be the green thought bubbles?

19 **A** That's correct.

20 **Q** Is that safe to say?

21 And then whoever they're speaking with would
22 be the blue thought bubble?

23 **A** Yes.

24 **Q** And then, they're speaking with somebody
25 named Jaquan. Is that -- is that what you can tell?

1 **A** Yes. That is the Instagram username.

2 **Q** And it looks like on this exhibit, the
3 messaging starts January 19, 2021, about 10:01 p.m.?

4 **A** Yes.

5 **Q** And then the last message would have been
6 sent from State's 35 phone on January 23, 2021, about
7 6:26 p.m.?

8 **A** That's correct.

9 **Q** Okay.

10 And this fairly and accurately represents
11 what you yourself observed when you performed an
12 extraction on -- on the state's evidence, the cell
13 phone?

14 **A** It is.

15 **MR. SCOTT:** Okay.

16 Your Honor, the state offers State's 29 for
17 admission into evidence.

18 **MS. YOUNG:** Over our prior objection,
19 Your Honor.

20 **THE COURT:** That objection is noted for the
21 record and is overruled and will be admitted as
22 29.

23 (State Exhibit No. 29 is admitted into the
24 record.)

25 **BY MR. SCOTT:**

1 **Q** Okay.

2 Directing you just to the first message we
3 have on the device said -- from the owner of that
4 phone. It was testified earlier that this phone was
5 seized from Mr. Davis during her interview, State's 35,
6 January 19, 2021, at 10:01 p.m. This device sends the
7 message, "You on wheels? Question mark. I got a serve
8 for you."

9 **MS. YOUNG:** Objection. Relevance.

10 **MR. SCOTT:** It was just admitted into
11 evidence. And I'm publishing it now.

12 **THE COURT:** Overruled.

13 And can the jurors in the back seat see this
14 angle; is it okay?

15 **BY MR. SCOTT:**

16 **Q** Okay.

17 And so you work in the narcotics unit? What
18 is a "serve" in your experience?

19 **A** It's a sale.

20 **Q** A sale of anything in particular in your
21 experience?

22 **A** It can. It can be any drug. I mean, I hear
23 it could be anywhere from hard drugs to pills to
24 marijuana. Typically, they call it a serve. It's a
25 sale.

1 **Q** Okay.

2 So this phone sends the message January 19,
3 "I got a serve for you."

4 Two days later, the other person who this --
5 this phone is communicating with, Jaquan, just says,
6 "Yo." January 21, 2021, 6:20 p.m., this phone responds
7 with, "Yo."

8 January 21, 2021, at 6:28 p.m., Jaquan says,
9 "Who can I get some pressure from?"

10 Are you familiar with that term? Does that
11 mean anything in your --

12 **A** I believe it to be marijuana.

13 **Q** Okay.

14 "Who can I get some marijuana from?"

15 January 21, 2021, this phone at 6:28 p.m.
16 says, "What do you need? What you need?"

17 January 21, 2021, 6:29 p.m., okay. This is
18 the day before our incident, or the night before our
19 incident. Because ours happened June 22, the early
20 morning hours. Jaquan asks, "What the zip going for?"

21 And a "zip" is what? What is that?

22 **A** It's an ounce or 28 grams.

23 **Q** Okay.

24 So what is 28 grams of marijuana going for?

25 This phone responds, "160." And that's 6:29

1 p.m., the night of January 21.

2 Jaquan asks at January 21, 6:30 p.m., "it's
3 some gas? Question mark. Who got it?"

4 What is "gas"?

5 **A** Quality. Is it good quality?

6 **Q** He's asking --

7 **A** Potent.

8 **Q** Oh, okay. I'm sorry.

9 **A** I was just gonna say, Is it potent? High
10 levels of THC.

11 **Q** Jaquan apparently is asking is it quality
12 marijuana and who's got it?

13 6:30. Just after that, in response
14 apparently, this phone answers, "Yeah. My cuz."

15 Do you have an interpretation? Is that just
16 maybe?

17 **A** I'm not sure on that one.

18 **Q** January 22. Okay. 11:14 a.m. I believe our
19 incident to happen between 2:40 and 3:50 a.m.,
20 January 22. So the next morning, 11:14 a.m., this
21 phone is saying, "Yo."

22 Jaquan answers at 11:14, 13 seconds later,
23 "Yeah."

24 This particular phone says, "Nine for sale.
25 For the low too."

1 What is a "nine," in your experience?

2 **A** The caliber, a nine-millimeter pistol.

3 **Q** Okay.

4 So this phone is looking to sell a
5 nine-millimeter to Jaquan, 11:24, the morning after our
6 incident.

7 Jaquan, around 12:50 p.m., January 22, says,
8 "What kind and how much?"

9 This phone, State's 35, responds with, "Smith
10 & Wesson, 200."

11 So is that that they're selling a Smith &
12 Wesson for \$200 or is there a Smith & Wesson 200 model.
13 Or do you know?

14 **A** I took it as a Smith & Wesson is the model.
15 And then the 200 is the price.

16 **Q** It says attachment in the file. Were you
17 able to extract that picture? Or was it a link? Or
18 what was that?

19 **A** It was. It was just a record of what -- the
20 description of the link that was set. It was a
21 multimedia photo set through a link. And that was no
22 longer available to me. Just a record that had been
23 set.

24 **Q** And accompanying with this picture, this --
25 this phone room wrote like this. But you were unable

1 to get the picture that they sent, is what you're
2 saying? Or the link. I guess you weren't able to --

3 **A** That's correct. The link doesn't work.

4
5 **Q** Jaquan, January 22, 2:50 p.m. says, "You got
6 bullets? Question mark."

7 And then, 3:07 p.m., the afternoon after our
8 incident, January 22, 2021, State's 35 responds with,
9 "A couple."

10 5:45 p.m., January 23, 2021, "You can save it
11 for me Friday? Question mark." From Jaquan.

12 And then January 23, 2021, 6:46 p.m., State's
13 35 responds with, "It's already sold."

14 And this is what you extracted from State's
15 35?

16 **A** Yes.

17 **Q** Now there was a interview with the defendant
18 and one of the investigators, once he seized her phone,
19 began looking through it, and noted that there was some
20 missing phone calls and text messages. The explanation
21 was that the iPhone automatically deletes messages and
22 cell phone calls. Did you find that to be the case
23 in -- in your examination of this phone?

24 **A** No.

25 **Q** Is that -- is that a capability of the iPhone

1 where you can just have them automatically delete
2 certain texts and leave others or delete phone calls
3 and leave others? Is that a setting?

4 **A** Yes. So by default, the iPhone is set to
5 save your messages forever; however, you can go in and
6 change that to be only saved for one year or for 30
7 days.

8 **Q** Okay.

9 Was that setting applicable in this case?

10 **A** No. It wasn't changed. It's still forever.

11 **Q** Okay.

12 So in order to delete text message or phone
13 call, you would manually have to do it?

14 **A** That's correct.

15 **Q** Were you able to corroborate whether or not
16 text messages have been deleted?

17 **A** I was.

18 **Q** And were you able to corroborate whether
19 phone calls had been deleted?

20 **A** I was.

21 **Q** If you were to examine my phone, and I was
22 texting with you, the history of our texts would have
23 numerics chronologically assigned to each message? Is
24 that how it works?

25 **A** You wouldn't see that logically on the

1 interface of the phone. But the way it's stored on the
2 phone in the database, you would, yes.

3 Q So the very first time you would text me,
4 that would be the first event. Is that safe to say?

5 A Yes.

6 Q And if I responded, would that the second
7 event?

8 A Yes. It's assigned a primary key. So it's
9 in sequential order. One, two, three, four, five.
10 That primary key never gets reused. So if you delete
11 it, it's gone. It can't be reused. So it should go
12 one, two, three, four, five. And should never skip a
13 number.

14 Q So in my analogy, if you were looking at our
15 text messages, and it went one, two, three, four, five,
16 and then 10, 11, 12, 13, you would say, "Wait a minute.
17 What happened to six, seven, eight, nine messages?"

18 A That's correct.

19 Q And so the interpretation would be that those
20 were deleted?

21 A Yes. In this case, yes.

22 Q Okay.

23 And again, she -- an explanation for her
24 deletions were they were automatically deleted, but she
25 said that that setting was not engaged, as far as

1 automatic deletions?

2 **A** That's true. It was not.

3 **Q** Did you specifically look at -- you were
4 given the timeline, I guess, of when this occurred or
5 relevant events in this particular case?

6 **A** Yes.

7 **Q** And did you examine some of the phone calls
8 from January 22, 2021?

9 **A** I did.

10 **Q** And you -- you were able to confirm, as she
11 said, that she had deleted some phone calls on that
12 particular day?

13 **A** I did confirm that, yes.

14 **Q** Okay.

15 Tell us the timeline when you -- when you
16 first noticed the deleted phone calls on January 22.

17 **A** If I recall correctly, the last call on the
18 21st was around 9 or 10 at night. And then the very
19 next call was around 9 or 10 the next morning. So
20 there was no calls between 9 at night on the 21st and 9
21 in the morning on the 22nd.

22 **Q** Okay.

23 Were you able to determine how many -- were
24 you able to locate where those phone calls had been
25 deleted?

1 **A** Yes. Well, I could see the primary keys were
2 missing in the database where the data has been stored,
3 yes.

4 **Q** Okay.

5 How many phone calls did you locate that --
6 that were deleted?

7 **A** I believe it was seven.

8 **Q** During the time periods of -- tell me again.

9 **A** I believe it was 9 or 10 at night on the 21st
10 until around 9 or 10 in the morning on the 22nd.

11 **Q** Okay.

12 And how many phone calls? Did you say seven?

13 **A** I believe there were seven, yes.

14 **Q** Okay.

15 During that same time period, did you locate
16 deleted text messages?

17 **A** Yes.

18 **Q** And do you remember the times that those were
19 deleted?

20 **A** I don't remember the times. I believe there
21 were 11 total messages.

22 **Q** Okay.

23 I'm going show you and see if that refresh
24 your memory.

25 **A** So there are 11 -- 11 total deleted messages

1 from 10:49:34 on the 21st until 10:18 a.m. on the 22nd.

2 Q Okay.

3 So how many messages were deleted between
4 January 21 and the morning of January 22?

5 A Eleven.

6 Q Eleven messages?

7 A Yes.

8 Q Okay.

9 I think that's all the questions I have for
10 you -- or Captain Johnson. Please answer any questions
11 the defense attorney has for you.

12 THE COURT: All right.

13 Before that, we're going to take just a short
14 break to stretch our legs and use the restroom.
15 While you're in the deliberation room, do not
16 discuss the case. Do not do any independent
17 research. Do not discuss the case. We'll get you
18 in about 10 minutes. All right.

19 (The jury exits the courtroom at 10:09 a.m.)

20 THE COURT: Mr. Johnson, you are still under
21 oath. Do not discuss your testimony.

22 THE WITNESS: Yes, Your Honor.

23 THE COURT: 10:30.

24 (A recess is taken.)

25 THE COURT: All right.

1 Anything before I get the jury?

2 **MS. YOUNG:** Your Honor, thank you. Before
3 you bring the jury back in. These folks at my
4 table are smarter than I am, and pointed out that
5 I completely missed the beginning of those text
6 messages that involved potential drug-dealing
7 activities. I was expecting the selling the gun
8 part. I was ready for that. But I completely
9 skipped over the first part. That's my I tried to
10 object to relevance afterwards.

11 I think I have to rule a mistrial at this
12 point because under Rule 402, 403, and 404(b),
13 prior bad acts, just, you know, bad character
14 evidence of Jamira potentially selling drugs
15 several days prior to this event has now been
16 published to the jury. And it's not relevant.
17 And it's just bad character. And it's trying to
18 smear her and make her look bad.

19 So for those reasons, we'd move for a
20 mistrial at this point.

21 **THE COURT:** Your objection is noted for the
22 record. I believe it's tied back to your
23 objection for relevance. So I'll put it back
24 there for contemporaneous purposes; however, it's
25 noted for the record and overruled. Okay?

1 **MS. YOUNG:** Thank you, Your Honor.

2 **THE COURT:** Anything else before we bring the
3 jury out? Are you ready?

4 **MS. YOUNG:** I'm ready.

5 **THE COURT:** You need to get anything set up?

6 **MS. YOUNG:** No.

7 **THE COURT:** All right.

8 Let's bring the jury.

9 (The jury enters the courtroom at 10:41 a.m.)

10 **THE BAILIFF:** The jury is seated, Judge.

11 **THE COURT:** All right.

12 Cross-examination.

13 **MS. YOUNG:** Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 **BY MS. YOUNG:**

16 **Q** Good morning --

17 **A** Good morning.

18 **Q** -- Captain Johnson, right?

19 **A** Yes.

20 **Q** Okay.

21 **THE COURT:** Make sure you speak into that
22 microphone so the court reporter --

23 **THE WITNESS:** Yes, Your Honor.

24 **BY MS. YOUNG:**

25 **Q** We've never met before, right?

1 **A** No, ma'am.

2 **Q** And I'm going to start by telling you I'm
3 probably the least qualified person in the courtroom to
4 discuss cell phones and/or how they work. So I'm going
5 to ask everybody to bear with me.

6 But you started with Mr. Scott by talking
7 about kind of talking about what the process is at the
8 start, right?

9 **A** Yes.

10 **Q** And you said you plug the device into a
11 machine. I know I'm simplifying. But that actually
12 extracts raw data, right, straight from the device?

13 **A** Yes.

14 **Q** And then in order to make it kind of
15 accessible for you to analyze and look at, it's
16 actually, then, kind of interpreted by your software or
17 whatever the -- you call -- the Cellebrite?

18 **A** That is part of it, yes.

19 **Q** Okay.

20 So there's this raw data. It gets fed
21 through Cellebrite. And then it spits out what
22 eventually you look at to pull your information from?

23 **A** I kind of do it differently. I use the raw
24 data to do my own interpretation. And then use
25 Cellebrite to validate my findings.

1 **Q** Okay. Okay.

2 And Ms. Davis, as you know and are aware, she
3 provided the code to her phone to open it?

4 **A** Yes. I was provided the code --

5 **Q** Okay.

6 **A** -- from the investigator, yes.

7 **Q** And he got it from Jamira?

8 **A** That was my understanding, yes.

9 **Q** And she signed a consent to search her phone,
10 a consent form.

11 **A** Yes. Yes.

12 **Q** Okay.

13 So -- and you didn't just use Cellebrite in
14 this case, right? You used some other apps and some
15 tools?

16 **A** For the analysis part, yes.

17 **Q** Okay.

18 Some of which I think you can like download
19 for free on the internet, right?

20 **A** Yes.

21 **Q** Okay.

22 So it's not just Cellebrite, you're using
23 other stuff?

24 **A** Yes, we use other third-party tools as
25 well --

1 **Q** Okay.

2 **A** -- that we don't have to pay for.

3 **Q** I'm gonna go kind of -- let me go back for
4 one second and ask you about the image that you --
5 that -- there was that Instagram thread that you were
6 asked about. And then there was an image that was sent
7 that you couldn't open the link. Is that -- it's
8 stored -- it's stored on an external server?

9 **A** Yes.

10 **Q** Okay.

11 So it's not -- nobody did anything to make
12 that image not visible.

13 **A** No.

14 **Q** And I kind of want to just now turn to the
15 communications that you -- the deleted calls, I think
16 that you talked about with Mr. Scott. You were able to
17 recover those, right?

18 **A** No.

19 **Q** Well, in the sense that from the call detail
20 records, did you review call detail -- detail records
21 in this case?

22 **A** No, I was told -- so we did -- we did -- I
23 was told about call detail records for the phone logs
24 between the -- the phone I examined and the victim's
25 phone. And I was given times between where there were

1 call logs. And then, I could show on the phone during
2 that time that those files were -- those records were
3 deleted. And then I could also show within logs that
4 audio was being used during that time to show that a
5 phone call was happening.

6 Q Okay.

7 Well, so let's back up then. So you -- you
8 reviewed her extraction through Cellebrite and used
9 some tools to analyze it, right?

10 A Yes.

11 Q Okay.

12 And then you reviewed Brandon Burden, we've
13 been referring to as "Boleg," his nickname, he used his
14 call detail records and reviewed those?

15 A I only -- I only -- so no, I didn't review.
16 I was told times by the investigator that they
17 reviewed. So they gave me times to look for. So I was
18 corroborating, tried to corroborate.

19 Q Okay.

20 Then through those call details, let me ask
21 you this --

22 A Sure.

23 Q -- do you look at Ms. Davis's call detail
24 records at all?

25 A No. I was not provided that.

1 **Q** Okay.

2 And were you asked to look at any sort of
3 location data, cell phone tower -- from the call detail
4 records?

5 **A** From the call detail records, no.

6 **Q** Okay.

7 So you -- you weren't asked to try to verify
8 that Ms. Davis was in Hartsville at midnight on the
9 morning of January 22, for example?

10 **A** Well, I was. But from the locations from the
11 device.

12 **Q** Okay.

13 So you actually did pull some location data
14 from the device itself, and didn't have to necessarily
15 rely on her call detail records?

16 **A** Yeah. In most cases, the data from your
17 phone is way more accurate and precise than the call
18 detail records.

19 **Q** But you'd agree with me that call detail
20 records do contain cell tower information that can also
21 be used to help locate a device and where it's calling
22 from or where it's receiving text messages from. You'd
23 agree with that?

24 **A** I agree, yes.

25 **Q** And you didn't review any of that as far as

1 Ms. Davis's records?

2 **A** No.

3 **Q** So you were able to recover to see, to view
4 that there were calls between Ms. Davis's device and
5 Mr. Burden's device during that time period where they
6 would delete it from her phone, right?

7 **A** No. So I did recover the actual record. So
8 again, I was given -- I was given times of when the
9 victim's call detail records show communication between
10 the victim and the defendant. And then during those
11 same times, that's when the phone records were missing,
12 deleted from the record.

13 And then, I was able to locate other locked
14 files into device that shows that during that time,
15 audio was coming from the device via a phone call, at
16 the exact time, to corroborate the missing records.

17 **Q** So were you able to identify the times those
18 calls were made?

19 **A** Yes.

20 **Q** Okay.

21 I guess that's what I meant?

22 **A** Yes. Yes. Sorry.

23 **Q** Sorry.

24 **A** Yes.

25 **Q** I told y'all, bear with me. I'm not good at

1 this. So you were able to identify when the
2 communications between those two devices occurred?

3 **A** Yes. For the phone calls?

4 **Q** For the phone calls?

5 **A** Yes.

6 **Q** Right. Sorry. I will limit this to phone
7 calls. We're talking about phone calls right now.

8 And you, I believe, located one that was --
9 let me find my notes. You have a call from -- let's
10 see. I guess it's a call from Jamira -- Jamira's
11 device to Boleg's device at 1:40 a.m?

12 **A** Can -- can -- can I refer to my report?

13 **Q** If that would help to refresh your
14 recollection.

15 **A** Yeah. Sure.

16 **Q** This was information that we compiled from
17 the Cellebrite extract, right?

18 **A** Yes, yes. Can you ask me your question
19 again? I'm sorry.

20 **Q** Sure. Let's see. You kind of outlined some
21 calls that were made between the two devices. And I
22 believe the first one that you noted is that Jamira's
23 phone calls Mr. Burden at 1:40 a.m.?

24 **A** Yes, that was the information --

25 **Q** I'm sorry. Other way around. He calls her

1 at 1:40 a.m. I think that's why I was being confusing.

2 **A** Well, I don't have the call sequence here.
3 And again, these are the times. There were four times
4 given to me from the investigator from the victim's
5 call detail records. And that's what I was trying to
6 verify.

7 **Q** Okay.

8 So when you note these calls at 1:40 a.m.,
9 1:57 a.m., 2:14 a.m., and 2:15 a.m., you didn't bother
10 to see who was calling who?

11 **A** No. Again, these were, again, provided -- my
12 report says per call detail records from the victim's
13 phone. And again, when I look at it, I can only -- the
14 way it's stored, I can only look at the primary keys.
15 And I could see they were missing during that
16 timeframe.

17 **Q** But you have the call detail records, right?

18 **A** No. I never -- again, I never -- I wasn't a
19 part of obtaining the call detail records. I was
20 provided this information from the investigator.

21 **Q** I see. So you never verified any of that
22 yourself?

23 **A** No.

24 **Q** And then, as far as text messages are
25 concerned, were you able to -- I guess if you didn't

1 look at the call detail records, you wouldn't have any
2 knowledge about any text messages between those two
3 records?

4 **A** It's very possible. A lot of the messages
5 that I recovered were iMessages. And they would not
6 show up on a call detail record. They would be on
7 Apple server. So it is possible if they were -- you
8 know, one person was using an Apple device and one was
9 using the Android, you would see that. However, if
10 they were both using iPhones, it would not be on a call
11 detail record.

12 **Q** And those are called SMS messages, right? Is
13 that --

14 **A** A text message is an SMS message. Apple to
15 Apple is called an iMessage.

16 **Q** Okay.

17 So other than looking at this Instagram
18 thread and some deleted calls and text messages from
19 this Davis's device, that's the extent of what you did
20 in this case?

21 **A** Yes.

22 **Q** Okay.

23 And you didn't review any location data. You
24 weren't asked to try to help verify any location that
25 Ms. Davis provided to investigator or anything like

1 that?

2 **A** I did.

3 **Q** Oh, you did?

4 **A** I have -- I have a location data in my
5 report.

6 **Q** Okay.

7 So let's talk about that, then. So I believe
8 that you were able to verify that she was at her
9 apartment, right? Or her -- I'm not sure if you know
10 that's her apartment. [REDACTED] Garners Ferry Road, she's
11 there at 1:49?

12 **A** Yes.

13 **Q** Are you aware that that's her apartment?

14 **A** I believe -- I believe I do remember that.

15 **Q** Okay.

16 And then I think the next thing that you have
17 is that at 2:49, she's at [REDACTED] American Avenue?

18 **A** She's there within a 21 meter -- so the way
19 you're -- the way your phone logs record is it will
20 give you a latitude and longitude. And then, it will
21 give you a horizontal radius. So what you do is you --
22 you pin that latitude or longitude. And if it's a
23 horizontal radius of 20 meters, you go out 20 meters
24 and draw a circle. It's somewhere in that circle. So
25 it encompassed [REDACTED] American Avenue.

1 **Q** And that's Boleg's house, you aware of that?

2 **A** Yes.

3 **Q** And those two pinpoints that you were able to
4 create, what is that -- what's the data that that's
5 related to?

6 **A** So those are from significant locations in
7 your device.

8 **Q** There -- there's -- there's three very
9 reliable databases that your phone interprets data
10 from, right? And one of them is called cache.SQL and
11 this one in particular is called Local.SQL. And this
12 is logging when the vehicle is actually parked.

13 So again, this is a very reliable source. I
14 tested this source on multiple devices. Very accurate
15 information.

16 **Q** And so you learned, then, that she's at her
17 apartment at 1:49 a.m. or very close to it. And then,
18 at 2:49, she's at Boleg's house or very close, within
19 the 22 meters of it. And then, at 4:29, she's back at
20 her apartment?

21 **A** Yes.

22 **MS. YOUNG:** Beg the Court's indulgence.

23 No further questions, Your Honor.

24 **THE COURT:** Redirect?

25 **MR. SCOTT:** None from the state, Your Honor.

1 **THE COURT:** All right.

2 Thank you, Mr. Godfrey. You may step down.

3 **THE WITNESS:** Thank you, Your Honor.

4 **MR. JACKSON:** Your Honor, the state calls
5 Amanda Metz.

6 **THE COURTROOM DEPUTY:** Do you swear or affirm
7 that the testimony you're about to give in this
8 case to be the truth, the whole truth and nothing
9 but the truth so help you God?

10 **THE WITNESS:** I do.

11 **THE COURTROOM DEPUTY:** Would you please state
12 your name for the full record?

13 **THE WITNESS:** Amanda Metz, M-e-t-z.

14 **THE COURTROOM DEPUTY:** Thank you. You may be
15 seated.

16 **AMANDA METZ**

17 having first been duly sworn, testifies as follows:

18 **DIRECT EXAMINATION**

19 **BY MR. JACKSON:**

20 **Q** Good morning, Ms. Metz. How are you today?

21 **A** Good. How are you?

22 **Q** Doing well. Thank you.

23 Where are you currently employed?

24 **A** I work at the Richland County Sheriff's
25 Department in the forensic sciences laboratory.

1 **Q** What is your official title there?

2 **A** I am a firearm and tool mark examiner.

3 **Q** What do your duties entail as a firearm and
4 tool mark examiner?

5 **A** The primary duty is to examine firearm --
6 firearms and ammunition components, as well as other
7 tools and their tool marks and examine them for
8 markings and report my findings to the court.

9 **Q** So what does a typical day entail for you?

10 **A** A typical day is to receive casework, which
11 could include firearms, ammunition components in the
12 form of projectiles or bullets, fired cartridge cases,
13 unfired cartridges, which is ammunition, as well as
14 other tools, such as bolt cutters, hammers, crowbars,
15 and any -- anything, any markings made by those tools,
16 cut copper wire, cut copper pipe, fencing. And I
17 examined all those for individual markings and tried to
18 compare -- I do comparisons between bullet to bullets,
19 cartridge case to cartridge case to help our
20 investigators know how many firearms might be used at a
21 scene, as well as when a firearm is recovered, compare
22 that firearm to our evidence to see if that firearm
23 fired any of that evidence. That's the bulk of what we
24 do. Tool marks are also what we do. We just don't see
25 that as often.

1 **Q** Ms. Metz, are you able to take unknown
2 projectiles and determine what caliber gun they were
3 likely fired from?

4 **A** So depending on their condition when we
5 receive projectiles, we can determine caliber. We can
6 determine if they're fired by the same firearm. And we
7 can sometimes provide a -- what we call a "DTW," or a
8 determined type weapon list, for our investigators.
9 That just gives a general class characteristic list,
10 meaning it's not specifically saying this specific
11 firearm. It's saying this brand of firearm
12 manufacturers could be it, as well as these potential
13 models. So it's just a help -- a helpful investigative
14 tool.

15 **Q** And when you're given an unknown projectile,
16 could you explain what tests are done to try and
17 determine what kind of caliber gun it came from?

18 **A** Sure. So for projectiles, again,
19 determine -- depending on their condition, projectiles
20 generally strike things, sometimes go through multiple
21 objects, cars, windows, doors, walls, as well as the
22 target. And depending on their condition, we look at
23 them. We examine them for trace. We, then, will look
24 at, again, class characteristics. So what I mean
25 that -- for that -- for projectiles would be what he

1 keeps asking about which is caliber. And that is the
2 diameter of the bullet that determines what firearm
3 could possibly fire it. And so by doing that, we look
4 at how the bullet actually looks like, the shape of the
5 bullet, as well as measuring the diameter of that
6 projectile if it's intact.

7 **Q** Ms. Metz, how long have you been with
8 Richland County Sheriff's Department?

9 **A** I've been with the Richland County Sheriff's
10 Department for 13 years. I've been in the actual
11 forensic laboratory for 12. And I've been a certified
12 firearm and tool mark examiner for 10.

13 **Q** And your time there, about how many tests
14 would you say you've done on firearms?

15 **A** I've worked approximately 1000 cases, general
16 exam cases, which can range from, you know, a singular
17 firearm to 100 plus cartridge cases or pieces of fire
18 evidence.

19 **Q** Okay.

20 Ms. Metz, would you mind telling us a little
21 about your educational background?

22 **A** I have a bachelor's in art history and
23 anthropology from Oakland University in Michigan. I
24 have a master's of science in forensic archaeology and
25 international crime scene investigation from

1 Bournemouth University in England. And then I also
2 have training for -- specifically for firearm and tool
3 mark examination in which I did a year through the
4 ATF's program, the National Firearm and Tool Mark
5 Examiner's Academy. And then after that, I had to then
6 complete a two-year in-house training program.

7 **Q** Ms. Metz, have you ever been qualified as an
8 expert before?

9 **A** Yes.

10 **Q** How many times?

11 **A** Approximately a dozen. And then what have
12 you been qualified?

13 **A** In firearm and tool mark examination or
14 identification.

15 **MR. JACKSON:** Your Honor, at this point, the
16 state would move to have Amanda Metz qualified as
17 an expert in firearm and tool mark examination.

18 **MR. L. SHEALEY:** Your Honor, I have no
19 objection to her being qualified in that field.

20 **THE COURT:** Qualified in firearm and tool
21 marking examinations; is that correct?

22 **MR. JACKSON:** Thank you, Your Honor.

23 **THE COURT:** Ladies and gentlemen, typically,
24 witnesses do not give their opinion. They'd be
25 able to say whether they did this, observed, saw,

1 smelled, felt, heard. But the rules do allow for
2 some witnesses to give their opinion if they're
3 deemed to be an expert.

4 In this case, Ms. Metz is deemed an expert in
5 the specific field of firearm and tool marking
6 examination. It doesn't mean her testimony is
7 better or worse than anybody else's. It just
8 means she's giving her opinion to that specific
9 field. You're going to do with her testimony as
10 you see fit.

11 **MR. JACKSON:** Thank you.

12 **BY MR. JACKSON:**

13 **Q** Ms. Metz, do you recall a request being made
14 to test projectiles on January 22, 2021, for Case No.
15 2101009922?

16 **A** Yes.

17 **Q** And what did you receive to test?

18 **A** I received two fired metal-jacketed bullets.
19 Bullets are the part of the ammunition that goes down
20 and out the barrel of the firearm and strikes the
21 target.

22 **Q** Ms. Metz, it's been already testified to that
23 the coroner's office gave projectiles to Mr. Holt, who
24 took them to evidence. Do you recall who you received
25 those from?

1 **A** I don't recall. But I can reference the AFIS
2 property report.

3 **Q** Okay.

4 **A** And it looks like I received the two
5 projectiles from Courtney Merz, who at that time was
6 part of our evidence and property staff.

7 **MR. JACKSON:** Your Honor, may I approach?

8 **THE COURT:** You may.

9 **BY MR. JACKSON:**

10 **Q** Ms. Metz, this has been marked as State's
11 Exhibit 34. Do you recognize that?

12 **A** I -- I recognize the outer packaging, yes.

13 **Q** Okay.

14 And what is that?

15 **A** Well, the -- the outer packaging looks like
16 the items one and two, the Richland County items one
17 and two, which are the metal jacket bullets. The two
18 metal-jacketed bullets.

19 **Q** So those -- those are the bullets that you
20 received on January 22?

21 **A** Well, if you -- if you want me to verify
22 that's what's in here, I'd need to open it, if that's
23 all right.

24 Do you have a pair of scissors?

25 Thank you.

1 And so these are from autopsy. But I do a
2 thorough cleaning with a bleach solution and foaming
3 disinfectant. So they are safe to touch and not
4 biohazardous material.

5 Yes. I recognize and identify State's
6 Exhibit 34 as Richland County items one and two, two
7 fired metal jacket bullets, projectiles.

8 **Q** Once you receive those projectiles, what
9 tests were done?

10 **A** So I do the same thing for any evidence that
11 I receive. I do an inventory so I document what it is
12 I received and any sort of packaging, labeling. Then I
13 look for any trace evidence. In this case, it being
14 from autopsy, there was biological material. That's to
15 be expected. So I clean it with a bleach solution and
16 foaming disinfectant.

17 Once it's clean, I then take photos of what I
18 receive. And then from there, I proceed to examine
19 them for class characteristics. I fill out worksheets.
20 And our worksheets just help me document what I've
21 seen, what I've done so far, the diameter of the
22 projectile, the specific caliber.

23 So calibers come in -- you've got your
24 nominal caliber, which is what we call the class. And
25 in this case, these are 38 class. But that could mean

1 it's a wide variety. That just means the diameter and
2 all the specific calibers that could be in that 38
3 caliber class could range from a 38 special 357 Magnum,
4 which are revolvers to the nine millimeter Luger. 380
5 auto is also in that class. But everything is just a
6 little bit different. They're shaped differently. You
7 expect to see different characteristics.

8 So in this case, it had the physical
9 characteristics for nine millimeter Luger specific
10 caliber. And that doesn't -- that's not like a Luger
11 firearm. Sometimes people hear that. And they've seen
12 in movies the -- the Luger caliber firearm. That's
13 where it comes from. But in these days, there are a
14 lot of firearm manufacturers that manufacture the nine
15 millimeter Luger caliber. And I determined that they
16 were the nine millimeter Luger caliber based on weight
17 and diameter.

18 I also then examine them for what is the
19 bread and butter, rifling. Rifling is what's on the
20 inside of the barrel. It's what imparts the spin on
21 the projectile as it's moving down and out the barrel.
22 Those are highs and lows. There are peaks and valleys
23 that the manufacturer cuts. And they determine how
24 many they want, what direction of twist. And during
25 that manufacturing process, they -- they decide if they

1 want six right, five left, five right. So that's
2 manufacturer specific. That's a class, meaning it's a
3 generality. It's nothing specific to a specific
4 firearm.

5 So once I determine number of rifle --
6 rifling and twists, then I'll put them on the
7 microscope to get any other information, look at the
8 individual characteristics, what's going to tell me
9 about those projectiles and where they came from

10 Q So your expert opinion was that those came
11 from a nine-millimeter?

12 A So they are a nine-millimeter caliber
13 projectile, yes. So being fired by a nine-millimeter
14 caliber firearm.

15 MR. JACKSON: Your Honor, at this time, I
16 would ask to move State's 34 into evidence.

17 THE COURT: So admitted.

18 (State Exhibit No. 34 is admitted into the
19 record.)

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

21 BY MR. JACKSON:

22 Q Ms. Metz, please answer any questions the
23 defense has.

24 A Sure.

25 MR. L. SHEALEY: May it please the Court?

1 **THE COURT:** Yes, sir.

2 **MR. L. SHEALEY:** Madam court reporter, do you
3 mind marking this for me?

4 (Defense Exhibit No. 8 is marked for
5 identification.)

6 **CROSS-EXAMINATION**

7 **BY MR. L. SHEALEY:**

8 **Q** Ms. Metz, just so the jury knows, I know you
9 spend a lot of time in your lab, right?

10 **A** Yes.

11 **Q** It's not your job to go out in the field and
12 do crime scene investigations or really make opinions
13 on how some event unfolded, right?

14 **A** Not typically. We are called upon just for
15 our expert opinion sometimes with trajectory. Because
16 I am trained in crime scene reconstruction, for
17 firearms evidence, so trajectory rods and such. So
18 sometimes we're called to scene not often, as our crime
19 scene is -- is quite capable, right?

20 **Q** And a lot of your work is in that lab with a
21 microscope. And you're trying to do things like
22 compare, like in this case, projectiles to each other,
23 correct?

24 **A** Correct. Yes.

25 **Q** Or determine shell casings to each other,

1 right?

2 **A** Correct. Yes.

3 **Q** Because a semiautomatic weapon will be the
4 shell casing on the -- you know, as part of that --
5 that firing mechanism, right?

6 **A** Yes. If it's functioning properly, that's
7 correct, and assuming that they're able to find
8 cartridge cases at scene. Just because cartridge cases
9 aren't found at scene doesn't mean that it wasn't fired
10 by a semi-automatic.

11 So in this case, we had nine-millimeter
12 projectiles but no cartridge cases. This was fired by
13 a semi-automatic pistol, but there just were not
14 cartridge cases recovered.

15 **Q** So in this case, you got -- you received no
16 weapon to compared to, right?

17 **A** At this time --

18 **Q** Initially?

19 **A** Initially, that's correct. No, I did not.

20 **Q** And you received no cartridge casings, but
21 you did have these two fairly well intact projectiles.

22 **A** Yes, I had two projectiles. Correct.

23 **Q** And you talked with the solicitor about your
24 job at that point is to -- to learn information. Let's
25 figure out how we're going to determine a class

1 characteristic, right?

2 **A** Well, so I did more. He only asked about the
3 class. So I was able to determine that they were fired
4 by one firearm. And then provided the DTW, the
5 determined type weapon list, to our investigators. So
6 that just gives the possible makes and models of
7 firearms that may have fired those projectiles.

8 **Q** And the one firearm determination, and that's
9 because, and help me if I don't understand this, but
10 you know, that particular firearm has some unique
11 characteristics specific to let's say, the barrel. And
12 when a bullet is -- goes through it, based on the
13 rifling, it leaves some type of microscopic impression
14 on that projectile, right?

15 **Q** So individual characteristics, we -- I kind
16 of only touched on class as that was the question about
17 caliber. Individual characteristics are what enables
18 me to determine whether two projectiles or two
19 cartridge cases were fired by the same gun or fired by
20 another. It also allows me to ID it to a specific gun,
21 or eliminate it to a specific gun if a gun is provided.
22 And that is the tiny microscopic imperfections in the
23 forms of nicks, spurs and cuts that just happen
24 naturally when a firearm is being manufactured. So
25 every single firearm has a fingerprint, essentially.

1 And not just that firearm, it's the parts and pieces of
2 that firearm have their own individual fingerprint.

3 So in the rifling, which is what imparts the
4 spin on a projectile to ensure accuracy, in each land
5 and groove, high spot and low spot, you'll end up with
6 individual markings, individual characteristics. And
7 each land is unique and special inside that -- that
8 barrel.

9 And so looking at those on a comparison
10 microscope, which is just two microscopes combined by
11 an ocular bridge, it allows me to look at two different
12 items under the same lighting and magnification. And
13 being able to compare them side by side allows me to
14 determine whether they're fired by one firearm or two
15 firearms. And then if I'm provided a firearm, to
16 determine whether that firearm fired those projectiles
17 or not.

18 **Q** In this case, you're able to make that
19 determination, as you said, due to the specific
20 microscopic kind of hallmarks of these two projectiles
21 were close enough to each other to let you know they
22 were both fired from the same gun, right?

23 **A** Yes. So there was enough agreement of the
24 individual characteristics to determine the two
25 projectiles were fired by one firearm.

1 **Q** And given that you didn't have a firearm at
2 that time to compare to, it looks like part of your job
3 was to put the information we had, discern some type of
4 database and generate a list of potential weapons that
5 might have been what fired these bullets, right?

6 **A** Correct.

7 **Q** So that's the DTW, the determined-type
8 weapon. We also call it a GRC, a general rifling
9 characteristic, database. And it's run by either
10 our -- the FBI. Or there's actually two databases.
11 They're very similar. The other one is run by our
12 professional organization, the Association of Firearm
13 and Tool Mark Examiners. And what you do in that
14 database is just thousands and thousands of entries.
15 People have been measuring the widths of the lands and
16 grooves for different firearm makes and models. And
17 then that's in the database.

18 So to get this DTW, I measured the land and
19 groove widths and put them into this database, included
20 the caliber, how many lands and grooves and what
21 direction twists as well as their measurements. And
22 then we also bracket that kind of high and low just in
23 case people measure slightly differently. And we get a
24 list that we provide as an investigative tool to our --
25 our investigators.

1 **Q** And in this case, that list generated 26
2 potential make and models of firearms that could be
3 consistent with what fired these, correct?

4 **A** That's correct. Yes.

5 **Q** And clearly in your report, it says this list
6 isn't all inclusive.

7 **A** Correct.

8 **Q** But it's a list?

9 **A** It's not all-inclusive. Firearms are ever
10 changing. It seems, you know, as somebody's
11 manufacturing a new firearm every day pretty much. And
12 you can -- you can make firearms out of anything
13 really. You can make firearms out of a Super Soaker,
14 out of a pen, out of anything. So this is obviously
15 not all-inclusive, but it's the best investigative tool
16 we can give to our investigators.

17 **Q** But just looking at this list, it looks like
18 of the 26 make and models kind of produced, 24 of those
19 were Smith & Wesson, correct?

20 **A** Correct. Yes.

21 **Q** And you had a couple of outliers. There's
22 one in Fabrique Nationale and one Ruger. But all the
23 rest were Smith and -- Smith & Wessons of various
24 models, right?

25 **A** That's correct. Yes.

1 **Q** All nine-millimeter?

2 **A** Yes. Correct.

3 **Q** Now, have you received in this case, an
4 additional -- a firearm that's been linked to this case
5 in a way for your testing or your awareness?

6 **A** So as of last Friday -- well, this Monday, I
7 was notified that last Friday, a firearm was turned in.
8 I -- I did receive a possible request to examine it.
9 And then I was told that I didn't need to. And so I
10 have not done anything with it as we were currently in
11 court. And so I told them, I would not be able to do
12 the comparison and have everything reviewed. We do a
13 100 percent verification, meaning not just -- I don't
14 just look at it. Another qualified firearm and tool
15 mark examiner comes behind me and checks all my
16 conclusions. And then my work is thoroughly reviewed,
17 tech reviewed and admin reviewed for any mistakes or
18 errors, before we can never post that report for
19 discovery.

20 So as of Monday, I'd received a quest a
21 request to work it. And then later that afternoon was
22 told that -- not to work it as court was going ahead.

23 **Q** Monday of this week, you were --

24 **A** That's correct.

25 **Q** -- you received a request?

1 **A** Yes. That's correct.

2 **Q** Who advised you not to test it?

3 **A** The solicitor said it was not needed. And
4 then I spoke with Investigator Godfrey who said that
5 since court was going ahead and they weren't pausing
6 court that we didn't need it examined right now.

7 **Q** Which solicitor, Mr. Scott?

8 **A** I believe I talked to Jack.

9 **Q** This gentleman?

10 **A** I -- you know, we've not actually met in
11 person. So it was via phone.

12 **Q** Okay.

13 So the solicitor's office and Lieutenant
14 Colonel Godfrey with your agency said don't test it?

15 **A** Well, his answer was in response to the
16 solicitor's response. So he had originally requested
17 that I work it. He's the one who notified me on Monday
18 of the firearm being put into evidence and property on
19 that previous Friday. It was even pulled up into my
20 custody.

21 And then upon the go-ahead of court this week
22 and my inability to have that report for court and the
23 solicitor's response, then Godfrey -- Investigator
24 Godfrey said, then, the examination would not need to
25 be done at this time.

1 **Q** Now, do you have your report in front of you?

2 **A** I do.

3 **Q** I'm looking at it. It looks like your
4 analysis was initiated on January 22, 2021?

5 **A** That's correct. And completed on that --

6 **Q** And completed. And the report generated,
7 right?

8 **A** Yes. Correct.

9 **Q** And are you aware that the incident was
10 January 22, 2021?

11 **A** That's correct.

12 **Q** So you got that worked quickly. You're an
13 efficient examiner?

14 **A** Correct. Yes.

15 **Q** Now, do you have information with you about
16 the make and model of the firearm that was submitted to
17 you but then was --

18 **A** I don't have that property report. And I
19 never opened the box that it came in. So I don't have
20 what make and model that firearm is.

21 **Q** Not a clue?

22 **A** No.

23 **Q** I want to turn your attention to the list
24 that was computer-generated of possible weapons. Will
25 you go down to the very bottom with me?

1 **A** The GRC.

2 **Q** Yes, please.

3 **A** Yes.

4 **Q** The very last one is a Smith & Wesson SW9VE.

5 Do you see that?

6 **A** That's correct. Yes.

7 **Q** Do you anything -- do you as a firearms
8 expert know anything specifically about that particular
9 weapon?

10 **A** In what regards?

11 **Q** Well, do you know if it is similar to a Smith
12 & Wesson SD9VE?

13 **A** I mean, they're both marketed by Smith &
14 Wesson. But they are slightly different models.
15 They -- they have slight differences. I do not know
16 those slight differences off the top of my head. But
17 they are marketed differently as -- one is the SW9VE,
18 one is the SD9. Off the top of my head, I don't know
19 their differences of what the manufacturer has -- has
20 done differently.

21 **Q** If I told you that the SD versus the SV was a
22 later addition with a slight different grip, would you
23 dispute that?

24 **A** I wouldn't.

25 **Q** Okay.

1 Do you have any expert opinion on whether the
2 SD9VE would be capable of firing these projectiles
3 similar to the SW9VE?

4 **A** The best of my recollection, most Smith &
5 Wessons SD, SW, have the five-right rifling, which is
6 what was on these projectiles. But without looking at
7 a specific firearm, I can't tell you for sure, as
8 barrels can be interchanged. But to the best of my
9 knowledge, it would be the same rifling
10 characteristics.

11 **MR. L. SHEALEY:** Okay.
12 Beg the Court's indulgence.
13 Nothing further, Ms. Metz.

14 **MR. JACKSON:** Briefly, Your Honor.

15 **REDIRECT EXAMINATION**

16 **BY MR. JACKSON:**

17 **Q** Ms. Metz, if you had received that firearm
18 from the defense in a timely manner, would you have
19 been able to complete that test before trial?

20 **A** Yes.

21 **Q** Okay.

22 So you would have been able to compare it to
23 the ballistics we have the evidence and the -- the gun
24 that you had?

25 **MR. L. SHEALEY:** Your Honor, I would object

1 to the burden shifting at this point.

2 **THE COURT:** Overruled. This door was opened.

3 **THE WITNESS:** Yes. If it was provided to me
4 even a week beforehand. Even by Monday, the
5 projectiles were actually here at court. So I
6 wouldn't have been able to do that comparison.
7 But if it had been submitted a week ago or two
8 weeks ago, I would have been able to complete that
9 examination and provide the report.

10 **MR. JACKSON:** Okay.

11 Beg the Court's indulgence.

12 Nothing further, Your Honor.

13 **RECROSS-EXAMINATION**

14 **BY MR. L. SHEALEY:**

15 **Q** Briefly. That report from when you tested
16 these projectiles, you testified you did it in one day,
17 right?

18 **A** Yes. It was completed. It does go through a
19 verify -- a tech and admin review. So I actually
20 didn't send out the report until 1/29. But yes, it was
21 done quickly.

22 **Q** Okay.

23 When you got the info -- do you have any idea
24 when that gun was taken into evidence by Richland
25 County Sheriff's Department?

1 **A** I do not. I was told Friday. But nobody
2 knew about it to tell me until Monday.

3 **Q** Okay.

4 And then Monday, you were told to potentially
5 test it but then stop, correct?

6 **A** So Monday morning, I was told to test it. Or
7 mid-morning, I received it out of -- from our crime
8 scene. And then noticed that the projectiles were
9 actually an Investigator Jordan's custody for here at
10 court. I e-mailed him and asked for them to be brought
11 back for examination purposes.

12 Later that afternoon, I spoke with the
13 solicitors and asked what they wanted to do with that.
14 And then was -- was told that court was going ahead and
15 I just let them know that without the projectiles, I
16 couldn't do the examination and that I certainly
17 wouldn't be able to have the report done before court
18 started officially.

19 **Q** So this little bag had the projectiles?

20 **A** That's correct.

21 **Q** Had this little bag been with you Monday in
22 your lab, you could have -- and you were advised to
23 complete your work, you could have done it in one day
24 just like you did the other in one day.

25 **A** If they were in my custody on Monday, I could

1 have at least started, probably finished. However,
2 then it would have at least been another day or two for
3 verification and tech and admin review. We do our
4 verification process slightly different now.

5 **Q** What day is it today?

6 **A** It is Thursday.

7 **Q** And who told you not to test it?

8 **A** I believe Jack. I'm sorry. I don't know the
9 last name.

10 **Q** Okay.

11 **A** A solicitor.

12 **THE COURT:** All right.

13 Thank you, Ms. Metz.

14 And I believe the only evidence that came in
15 through her was that, correct?

16 **MR. L. SHEALEY:** Yes, sir.

17 **THE COURT:** All right.

18 You may step down.

19 (A sidebar conference is held off the record.)

20 **THE COURT:** All right.

21 Ladies and gentlemen, we're going to take,
22 again, another early lunch. It is 11:25. If you
23 will be back in the jury deliberation room at
24 12:45, that will give you plenty of time.

25 Again, do not discuss the case. Do not do

1 any independent research. Do not have any
2 discussion amongst yourselves or any friends or
3 anyone else. And we will see you back here at
4 12:45. Thank you again for your patience. I do
5 appreciate it.

6 (The jury exits the courtroom at 11:26 a.m.)

7 **THE COURT:** All right. 12:45.

8 (A recess is taken.)

9 **THE COURT:** Let's bring the jury.

10 (The jury enters the courtroom at 12:48 p.m.)

11 **THE BAILIFF:** The jury is seated, Your Honor.

12 **THE COURT:** Thank you, sir.

13 The state may call its next witness.

14 **MR. SCOTT:** The state calls Amy Durso,
15 Dr. Amy Durso.

16 **THE COURTROOM DEPUTY:** Do you swear or affirm
17 that the testimony you're about to give in this
18 case to be the truth, the whole truth and nothing
19 but the truth so help you God?

20 **THE WITNESS:** I do.

21 **THE COURTROOM DEPUTY:** Please state your full
22 name for the record.

23 **THE WITNESS:** Amy Durso, D-u-r-s-o.

24 **THE COURTROOM DEPUTY:** Thank you. You may be
25 seated.

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AMY DURSO

having first been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MR. SCOTT:

Q Dr. Durso, where are you employed?

A I'm employed by Professional Pathology Services as a forensic pathologist.

Q Okay.

And you explain to the jury what forensic pathology is?

A Yes. So we're medical doctors. But we go through special training to basically examine bodies after death, specifically with an autopsy, which is procedure to look at the body both outside and in to determine the cause of death, as well as documenting any illnesses, injuries, that sort of thing.

Q Okay.

How long have you practiced in that area?

A About 13 years now.

Q Okay.

You have any clue how many autopsies you performed?

A I believe it's a little over 3000.

Q And you've testified in this court a number of occasions, have you not?

1 **A** Yes, numerous times. Yes.

2 **Q** You have been qualified as an expert in
3 forensic pathology before?

4 **A** Yes.

5 **Q** You know approximately how many times?

6 **A** 50 to 100. I lost count a while ago.

7 **MR. SCOTT:** Your Honor, the state offers
8 Dr. Amy Durso as an expert in the field of
9 forensic pathology.

10 **MR. L. SHEALEY:** No objection.

11 **THE COURT:** All right.

12 She'll be qualified in the field of forensic
13 pathology.

14 Ladies and gentlemen, as I stated earlier,
15 typically, witnesses do not give their opinion but
16 rather their observations. The rules do allow for
17 certain witnesses to give their opinions in
18 certain fields. This witness here, Dr. Durso, has
19 been qualified as an expert in forensic pathology.
20 It doesn't give her testimony any more weight than
21 other evidence. However, you may do with it, as
22 you see fit.

23 **BY MR. SCOTT:**

24 **Q** Okay.

25 Dr. Durso, January 22, 2021, at about 11:30

1 a.m., did you have occasion to perform an autopsy on a
2 Brandon Burden?

3 **A** Yes, I did.

4 **Q** Okay.

5 And tell us your general observations when
6 you were first presented with Mr. Burden.

7 **A** He actually was presented to me as a burned
8 body from a house fire. And then as we examined his
9 body, we noticed that there were several gunshot wound
10 defects to the body. So we then went through and were
11 able to determine there were at least three if not four
12 gunshot wounds to the body, as well as a lot of
13 postmortem thermal injuries. So it means that he was
14 already dead at the time that his body was burned in
15 the fire. There was no soot in his lungs, no evidence
16 that he was alive when he was burned.

17 **Q** Okay.

18 So three gunshot wounds, that -- you've done
19 a diagram, have you not?

20 **A** I have, yes.

21 **Q** Would you be willing, just for demonstrative
22 purposes, to -- to show the jury where these gunshot
23 wounds would have been located on the body if I had a
24 mannequin or something like that?

25 **A** I'm sure.

1 **Q** What I'm going to get you to do is with the
2 Court's permission, step down. And I just want to go
3 over three, potentially four of those gunshot wounds,
4 just to illustrate their location if you can do that
5 for me.

6 Okay. Now we just need to speak up so that
7 the court reporter can hear us. But that shouldn't be
8 a problem we'll be nearby.

9 So let's start with, if you could, No. 1
10 Gunshot Wound. And describe it as you label it, if you
11 could.

12 **A** Sure. So these are -- these are just in
13 order for recording purposes. I can't tell what order
14 these gunshot wounds happened in. But I just kind of
15 go through for recording purposes.

16 So the first one enters the left back around
17 here. (Demonstrating.)

18 Like around here. (Demonstrating.)

19 It then goes through the back of the ribs
20 here on the left side. It then goes to the left lobes
21 of the lung, both the upper and lower lobe, so both
22 lobes of the left lung. It then -- it goes through
23 the -- it goes to the midline through the vertebral
24 body there. And then it goes through the superior vena
25 cava, which is the main vein that is feeding from the

1 top and found into the heart. So it goes to a very
2 large caliber vein.

3 And then now it's on the other side. It's
4 now across to the -- can I turn him around to show
5 where it comes out?

6 Q Sure. It's kind of unstable, so.

7 A So it's traveling from left to right, and
8 upwards. So it actually travels, this is where the
9 exit wound is here.

10 Q So this particular Gunshot Wound A, or 1, has
11 an exit -- an exit slope?

12 A It exits. But then it goes back into the --
13 the arm.

14 Q Okay.

15 Let's do this. Will you mark where it exits?

16 A Right here.

17 And then, it actually goes back into the arm
18 around here.

19 Q Would you mark that with corresponding rib?

20 A Sure.

21 So the arm, you can't really bend the arm the
22 way it needs to go. It's not movable on the mannequin.
23 But it kind of goes right back in. And then it
24 actually tracks through. And the projectile for this
25 one was actually found within the arm here, near where

1 the bend in the elbow is. So that means for it to go
2 in a straight line from the back here and keep going to
3 here, the arm would have had to be up. Now I can't
4 tell what the arm was doing, the lower arm. But the
5 upper arm had that up. So that was the first
6 described. And so again, it hit the lungs and it hit a
7 major vessel, the superior vena cava.

8 Q Okay.

9 Without immediate medical attention, would
10 that have been a wound that you would expect somebody
11 to survive?

12 A No. Because of the blood and hitting the
13 lungs on both sides, it would not.

14 Q Okay.

15 A Without immediate attention, you could
16 survive a short time, but minutes.

17 Q So this particular trajectory, it enters from
18 the back and its general trajectory is from left to
19 right?

20 A It's left to right, upwards and back to
21 front.

22 Q Back to front. Okay.

23 So he was shot from behind?

24 A Yes.

25 Q Okay.

1 Let's move on to the second gunshot wound.
2 And again, Wound 1, the projectile was recovered in the
3 arm?

4 **A** Yes.

5 **Q** Okay.

6 No. 2, please.

7 **A** So the second gunshot wound goes again in the
8 left back, some more this way. So this was in the left
9 upper back. It actually goes through the upper neck
10 here and through the spinal cord. And just -- can't
11 really tell. But you can feel your spine back here
12 just in front of the spine. The upper cervical spine
13 in the very upper neck is where I got the projectile
14 out of. So again, this one's going back to front,
15 upwards and also left to right.

16 **Q** Okay.

17 But that -- that projectile again was
18 recovered from Mr. Burden's body?

19 **A** Yes, sir.

20 **Q** In this particular trajectory?

21 **A** Yes.

22 And this is the upper cervical spinal cord.
23 So this would have caused him to drop to the ground
24 immediately. There's no way you can stand after you
25 have damage to the spinal cord at that level.

1 **Q** Let's do this. Just so -- trying to color
2 code them at the same time. Could you mark "1" and "2"
3 on corresponding entry wounds?

4 **A** Sure.

5 (Witness complies.)

6 **Q** All right.

7 Let's move on to No. 3.

8 **A** So the third one goes in the left back of the
9 head. And this one travels through the brain. So
10 again, this would have been a fatal wound just like the
11 other two. And it actually comes out -- up around
12 here. Like up around here.

13 **Q** So again the general trajectory, again, left
14 or right, upward?

15 **A** It's left to right, upwards, and back to
16 front, same as the other two.

17 **Q** All right.

18 This is three right here?

19 **A** Yeah.

20 **Q** Okay.

21 And there is a four that's a little bit
22 different?

23 **A** Right.

24 **Q** This is a probable gunshot wound to the left
25 upper leg?

1 **A** Right. So the body was more severely charred
2 and burned on the left side, especially near the area,
3 the left leg. But I did notice a fracture of the left
4 femur, so the upper left leg bone. It looks dramatic
5 in nature. So I'm assuming it's most likely from a
6 gunshot wound. But because all of the skin and most of
7 the soft tissue around had been burned away after
8 death, I cannot really definitively say it was a
9 gunshot wound.

10 **Q** Okay.

11 And that was the left leg?

12 **A** Yes.

13 **Q** Now, the nature of that injury, would Mr.
14 Burden have been mobile? Would he had been able to
15 walk or run or anything?

16 **A** No. It completely would fracture -- the
17 femur's completely fractured. So that would have -- he
18 would not be able to run with that now.

19 **Q** Might sound like a dumb question. But this
20 gunshot to the back of his head, would he have been
21 moving around and running or anything like that?

22 **A** After that, he immediately unconscious.

23 **Q** Dropped to the floor.

24 **A** Dropped to the floor. The same with the one
25 that goes to the spinal cord, immediately drop to the

1 floor. But you could keep running for a short time.
2 But the first one I described, because it doesn't hit
3 the spinal cord or the brain, but you wouldn't be able
4 to run far, but you could run some. Yes.

5 Q So -- so and you can't tell what order they
6 are?

7 A No.

8 Q Every one of the identifiable gunshots, he
9 was shot in the back?

10 A Yeah. They're all going from back to front,
11 yes?

12 Q And left or right?

13 A Left to right, and --

14 Q Slightly upwards?

15 A -- upwards.

16 Q All right.

17 That's all that you noted. Is that right?

18 A Yes.

19 Q How tall was Mr. Burden?

20 A We measured him to be 65 inches, which is
21 five feet five inches tall.

22 Q He was five-foot-five?

23 A Yes.

24 Q State's No. 20 is -- what does this?

25 A So we have these generic male and female

1 diagrams. And this is a copy of the one I made when I
2 did the autopsy on Mr. Burden. It just kind of
3 notice -- notes all my external findings with the
4 gunshot wounds and the charring and anything else.
5 Like they even have a whole section that talks about
6 eye color and all of my findings like that.

7 **Q** Okay.

8 But -- and that's -- basically what we just
9 did in front of the jury, that's what you attempted to
10 do in State's No. 20?

11 **A** Yeah. I was referring to my diagram in order
12 to match it up with the --

13 **Q** Okay.

14 **A** -- mannequin.

15 **MR. SCOTT:** Your Honor, the state calls for
16 State's No. 20 for admission into evidence.

17 **MR. L. SHEALEY:** No objection.

18 **THE COURT:** All right.

19 So admitted.

20 (State Exhibit No. 20 is admitted into the
21 record.)

22 **BY MR. SCOTT:**

23 **Q** Okay.

24 The manner of death, your opinion was what?

25 **A** The manner of death would be homicide.

1 **Q** Okay.

2 Cause of death?

3 **A** Is multiple gunshot wounds to the head and
4 body.

5 **Q** In your opinion, is that any one of those
6 three shots would have been fatal?

7 **A** Yes.

8 **Q** And your opinion was Mr. Burden would not
9 have been able to move about with his leg injury, walk
10 around with that leg --

11 **A** Correct.

12 **Q** -- fracture?

13 And your opinion was the gunshot to the back
14 of his head would have dropped him pretty much right
15 there?

16 **A** Yes.

17 **Q** And then Gunshot 2, likewise, would have
18 dropped him right then and there?

19 **A** Yes. Because it hit the upper spinal cord.
20 Yes.

21 **Q** You tell us that there's evidence that humans
22 suffering from a gunshot wound like in No. 1 would have
23 been able to move?

24 **A** Yes, there's some evidence that people who
25 are shot and even with intense bleeding in lungs, are

1 able to sprint at least the short distance due to
2 adrenaline and that sort of thing.

3 **Q** Okay.

4 Dr. Durso, the projectile that you recovered,
5 we have testimony that you gave those to, was it Ralph
6 Phillips from the coroner's office?

7 **A** Yes. So this autopsy was ordered by the
8 Richland County Coroner's Office. So one of their
9 representatives attends the autopsy and takes into
10 custody any projectiles we recover and passes it along
11 to the law enforcement.

12 **Q** Okay.

13 There's been some testimony that the
14 toxicology for Brandon Burden, what were your
15 results -- did you do these tests? Or have you
16 reviewed them at least?

17 **A** Yes. So pretty much in all of our autopsies,
18 we always draw samples for toxicology testing to look
19 for drugs and that sort of thing in the system. And it
20 is sent the SLED by the coroner's office. So we were
21 able to draw femoral blood on Mr. Burden. And I did
22 review the results, yes.

23 **Q** Okay.

24 And what was the toxicology as far as
25 ethanol?

1 **A** So his blood ethanol level was .237. It was
2 also positive for a cocaine metabolite. It was
3 positive for tetrahydrocannabinol, which is marijuana,
4 the active ingredient, plus two of the metabolites.
5 And we also took a bit of fluid from the eyeball,
6 because we can also get an accurate alcohol level on
7 that. It's usually similar, but slightly different to
8 the blood alcohol. And it was very similar. It was
9 0.248 percent whereas the blood was 0.237. So similar
10 about .24 in both.

11 **Q** Okay.

12 So had some cocaine and marijuana and a
13 fairly significant amount of alcohol in his system?

14 **A** Yes.

15 **Q** And we've talked about this before. But
16 alcohol levels are relative to the person and their --
17 maybe their habits of drinking.

18 **A** Right. So tolerance, as far as alcohol. So
19 someone that's a chronic alcoholic can walk around with
20 like a .3. Whereas someone who's not frequent drinker,
21 they would probably be unconscious. So there are
22 definitely tolerance to alcohol that you can build up
23 over time. Yes.

24 **Q** I imagine you've seen some extremely high
25 blood-alcohol concentrations?

1 **A** Yes, I have.

2 **Q** Okay.

3 And .23 is very significant to somebody?

4 **A** It is quite high. I mean, it's a -- .08, we
5 think about is the legal limit for driving. So it's
6 about three times the legal limit for driving. So that
7 would be significantly intoxicated --

8 **Q** Okay.

9 **A** -- for most people. Yes.

10 **Q** Okay.

11 Man was shot in the back of his head, shot
12 twice in his back?

13 **A** Yes.

14 **Q** And three of his injuries would have dropped
15 him right there to the ground immediately?

16 **A** Yes.

17 **Q** All right.

18 I think that's all the questions I have,
19 Dr. Durso. Answer any questions the defense attorney
20 has for you.

21 **CROSS-EXAMINATION**

22 **BY MR. L. SHEALEY:**

23 **Q** Good afternoon, Doctor.

24 **A** Good afternoon.

25 **Q** This isn't the first time we've talked about

1 this case, is it?

2 **A** It is not.

3 **Q** I think I came to your office maybe a couple
4 of weeks ago, right?

5 **A** Yes.

6 **Q** And even while you were waiting to testify
7 maybe a couple of days ago, we might have chit chatted
8 a little bit, right?

9 **A** Yes.

10 **Q** Okay.

11 Now, as a forensic pathologist, when you get
12 a body and you're trying to figure out cause of death,
13 manner of death and -- also pull out anything that may
14 be of investigative value like a projectile, right?

15 **A** Yes.

16 **Q** You aren't always probably flooded with lots
17 of information about the scene or perhaps even theories
18 by law enforcement, are you?

19 **A** No.

20 **Q** Okay.

21 But it was obvious in this particular case
22 that you had a very burnt individual, Mr. Burden?

23 **A** Right. It came in with the only information
24 of a -- as a victim from a house fire.

25 **Q** Right.

1 And so at first, you didn't -- it didn't. No
2 one came to you and said this is a gunshot wound. They
3 said, "Well, this is a gentleman that died in a house
4 fire," right?

5 **A** Correct.

6 **Q** But you being forensically trained as a
7 pathologist started to notice impact points where there
8 could be bullet wounds, right?

9 **A** Right.

10 **Q** We unfortunately do a lot of gunshot wounds
11 in Richland County. And it was very clear that these
12 were gunshot wounds when we looked at him.

13 **Q** And so one of the things you would do is take
14 X-rays of the body. And that helps you kind of
15 pinpoint where a projectile might be, right?

16 **A** Yeah. So all of our gunshot wound cases that
17 are homicides, we always x-ray the body to make sure we
18 know where the projectiles are, and if there are any in
19 there so we can recover them for law enforcement before
20 we even open the body.

21 **Q** So you noted two projectiles pretty visible
22 on your X-rays on this case?

23 **A** Yes.

24 **Q** And you list three but probably four gunshot
25 wounds total in this case?

1 **A** Yes.

2 **Q** So two projectiles were somewhere at the
3 scene and didn't -- didn't come to you?

4 **A** Correct. They exited. So they did not come
5 with the body.

6 **Q** I think you testified that for sure. Because
7 no presence of any soot in Mr. Burden's lungs that he
8 was dead prior to this fire?

9 **A** Yes. In fact, we also took blood samples,
10 some of the blood samples that we sent for tox also
11 went to SLED. And we test for carboxyhemoglobin, which
12 is carbon monoxide in the blood, which happens when you
13 inhale smoke. And his was zero, like he had none. So
14 he was definitely dead before the fire started.

15 **Q** And now I know from talking to doctors like
16 yourself and talking to you before that a fire, a
17 burned individual that can make it a little more
18 difficult to determine a lot of things that usually you
19 might determine in relation to stippling from gunshots
20 and things like range, right? Can you talk about that?

21 **A** Sure.

22 **Q** So what we normally look for in gunshot
23 wounds are soot and stippling on the skin or within the
24 wound. So soot is, you know, usually very close range
25 if we see that. The gun would be within six inches.

1 Stippling is about 18 to 24 inches. And that's the
2 gunpowder, if it's within close proximity actually hits
3 the skin and causes little pinpoint abrasions. So we
4 always look for those.

5 But unfortunately, in this case, because of
6 the charring of the skin and the loss of the skin in
7 some areas, I was unable to assess if that was present
8 or not before he was burned. So I have no idea if
9 could -- the head wound definitely wasn't a contact
10 wound. I can definitely tell that because contact
11 wounds to the head have a very typical appearance with
12 splitting of the skin and that sort of thing. But it
13 definitely was not a contact. But other than that, I
14 really can't tell how far the gun was from him when he
15 was shot.

16 Q And contact wounds can sometimes create
17 pretty distinctive fractures and things to a bone,
18 right?

19 A Yeah. Especially in the head.

20 Q And you didn't see any evidence of that in
21 this case?

22 A No, I did not.

23 Q So that's -- that's telling you that the gun
24 was not pressed to any kind of head, right?

25 A Correct.

1 **Q** But due to the charred nature of Mr. Burden's
2 remains, you were not able to say, "Well, I got
3 stippling from, you know, powder coming from the
4 barrel." All you can say is kind of indeterminate
5 range, right?

6 **A** Right. I labeled it indeterminate because I
7 really can't tell if it was six inches or 10 feet away.
8 There's no way for me to tell in this case.

9 **Q** It could have been six inches or it could
10 have been 10 feet?

11 **A** True.

12 **Q** But you know it's not a contact wound or
13 anything of that nature?

14 **A** Not to the head. No, definitely not.

15 **Q** But part of your skills and training allows
16 you to determine directionality and just simply by the
17 nature of the wound and whether a bullet is traveling
18 this way and the way it might exit. Those are pretty
19 distinct things for a forensic pathologist to ID,
20 right?

21 **A** Yes.

22 **Q** You didn't have any trouble with that except
23 for the leg in this case?

24 **A** Correct. Because there was no skin or soft
25 tissue or -- really remaining.

1 **Q** And so in this case, you listed that there
2 was a probable gunshot wound to the left upper leg,
3 correct?

4 **A** Yes.

5 **Q** And you don't -- unlike the rest of your
6 diagram where you actually try to fairly discern entry
7 and exit points, you really can't do that to the leg
8 because of the loss of tissue and things of that
9 nature?

10 **A** Correct.

11 **Q** And there's really not a discernible entry
12 wound or exit wound. You just see a leg fracture?

13 **A** Correct.

14 **Q** Okay.

15 So the wound -- that -- that leg shot could
16 have come in the front?

17 **A** It could have. I have no way of telling.

18 **Q** Okay.

19 Or it could have come in the back. You just
20 have no way of telling?

21 **A** Correct.

22 **Q** And you and the solicitor were going through
23 some of this. And I want to cover -- on that same
24 ground. Do you mind stepping down one more time?

25 **A** (Witness complies.)

1 **Q** Now, I know you and I spent a lot of time
2 talking about some of these wounds. For example, this
3 wound, that's Gunshot Wound No. 1?

4 **A** Yes.

5 **Q** Okay.

6 And so when you're looking at two
7 dimensional, like a piece of paper, it's easy to say
8 what's the front and the back of this piece of paper,
9 right?

10 **A** Yes.

11 **Q** But human bodies are three-dimensional,
12 right?

13 **A** Yes.

14 **Q** And so although you list on your diagram
15 back, I mean, it's coming -- if you had to say back
16 side, front, right, I mean, it enters the back but at
17 an angle up and to the right, correct?

18 **A** Exactly, yes.

19 **Q** So it's going to be -- is it fair to say --
20 let's see. Where's -- where is that rod?

21 So is it fair to say it's kind of like this?

22 **A** Yes.

23 **Q** And this arm. I noticed you were wanting to
24 point out how -- I don't know if it can work -- I don't
25 know if it can work on this particular mannequin.

1 **A** This arm from the mannequin, we can make it
2 work.

3 **Q** Okay.

4 **A** So again, it would have to be like that. But
5 again, past the elbow, that could have been in any
6 direction. But yes, it was definitely up.

7 **Q** So looking at my arm, is this -- would this
8 be an appropriate --

9 **A** Yes.

10 **Q** -- kind of representation?

11 Where it would come in like this and then
12 come out the chest and hit the arm up that way?

13 **A** Yes.

14 **Q** Okay.

15 And it's traveling in an upwards direction,
16 correct?

17 **A** Yes.

18 **Q** So what you know is the position of a
19 potential shooter is low, right?

20 **A** Or he could be bending --

21 **Q** Okay.

22 **A** -- down.

23 **Q** Fair.

24 **A** So as long as -- I don't know where the
25 shooter was.

1 **Q** Right?

2 **A** And I don't know what position. Because no
3 one ever stands there and gets shot in --

4 **Q** Right --

5 **A** -- anatomical positions. So --

6 **Q** Right. So I mean, in general, a shooting
7 event is a fairly dynamic thing, correct, generally?

8 **A** Right. People don't normally just stand
9 still while they're being shot multiple times.

10 **Q** Right?

11 **A** There's twisting, turning, movement of the
12 body, bending over. So this is just the direction if
13 he was standing upright in anatomical positions. But
14 it doesn't mean that he wasn't bending forward. Or the
15 shooter could have been below him or a combination of
16 both. So there's really no way to tell as long as the
17 gun goes in that direction.

18 **Q** Right. And you use some trajectory rods in
19 your autopsy, correct?

20 **A** Yes.

21 **Q** And they're not that dissimilar to something
22 like this, where you put them in a hole and try to
23 match them up, right?

24 **A** Right. So one of the ways we figure out
25 which entrance goes with which exit wound or which

1 projectiles. We do have these metal rods. Because one
2 things that bullets do is they always travel in a
3 straight direction. So we do put the rods to the body
4 to help line up and figure out which projectile or
5 which exit wound goes with which entrance.

6 **Q** And that was pretty difficult for this
7 particular wound. Because although you were getting
8 the trajectory into the arm, when this gentleman is
9 lying flat on your autopsy table, that's more of a
10 static flatness that didn't really match up with this
11 trajectory, right?

12 **A** Correct.

13 **Q** So just so the jury can see. And you can
14 hold this if you want. Will you get behind me a little
15 bit?

16 **THE COURT:** Just make sure you speak up so
17 she can hear.

18 **MR. L. SHEALEY:** Yes.

19 **BY MR. L. SHEALEY:**

20 **Q** Would it be fair to say that -- if it's going
21 in there that it could be turned like that with an arm
22 up. Would that be consistent with those angles?

23 **A** Yes.

24 **Q** Okay.

25 So not just like this, but --

1 **A** Yes.

2 **Q** Okay.

3 **A** That's possible. Yes.

4 **Q** Thank you.

5 And that wound, I think you told the
6 solicitor, would not have been immediately fatal. But
7 would be a bad enough wound where he would -- he would
8 need attention very quickly. But that wound would not
9 have just dropped him in an incapacitated style?

10 **A** Correct.

11 **Q** So -- and you have no idea, based on the
12 condition of this body, which could have occurred
13 first?

14 **A** In general, we never know which one occurs
15 first --

16 **Q** Right.

17 **A** -- unless there are special circumstances.
18 So I do not know which one. Again, I just -- I number
19 them -- I have to pick an order and just go with it.

20 **Q** And this will -- this -- let's talk about
21 your second wound. Again, it's left to right and front
22 to back, correct?

23 **A** Yes, and upwards.

24 **Q** And this is at an upwards angle pretty much
25 in this case, correct?

1 **A** Right. Yes.

2 **Q** So someone is either shooting from below or
3 he's bent over in some extreme way?

4 **A** Yes.

5 **Q** Okay.

6 This shot up here that goes behind his ear,
7 again, left to right; front to back. Is that fair?

8 **A** Yes. Front to back and upwards. Yeah.

9 **MR. SCOTT:** Back to front or front to back?

10 **THE WITNESS:** Back to front, I hope, is what
11 I said. I did not?

12 Okay.

13 Back to front, left to right, and upward.

14 **MR. L. SHEALEY:** Is that an objection? Or
15 just a correction?

16 **MR. SCOTT:** Correction.

17 **BY MR. L. SHEALEY:**

18 **Q** So back to -- back to front?

19 **A** Yes.

20 **Q** Okay.

21 **A** 'Cause this is the back of his head.

22 **Q** And left to -- and left to right?

23 **A** Yes.

24 **Q** Now, as far as these wounds entering your
25 body, based on your training experience, would you say