

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Mar 05 2025

SC Court of Appeals

Appeal from Dorchester County
Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASON BARRY BELL,

APPELLANT

APPELLATE CASE NO. 2023-001326

RECORD ON APPEAL

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

R. BRANDON LARRABEE
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-6305

HON. DAVID M. PASCOE, JR.
Solicitor, First Judicial Circuit
101 Ridge Street, 2nd Floor
St. George, SC 29477
(843) 871-2640

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED AUGUST 7-10, 2023	1
<u>JACKSON V. DENNO HEARING</u>	6
TESTIMONY	
ADAM DUNAWAY	
Direct Examination by Mr. Osborne.....	8
Cross Examination by Mr. Chisholm.....	11
Redirect Examination by Mr. Osborne	15
Continued Cross Examination by Mr. Chisholm.....	27
Continued Redirect Examination by Mr. Osborne	31
BRETT CAMP	
Direct Examination by Mr. Osborne.....	33
Cross Examination by Mr. Chisholm.....	38
ADAM DUNAWAY	
Direct Examination by Mr. Osborne.....	41
Cross Examination by Mr. Chisholm.....	48
DEFENDANT’S MOTION TO EXCLUDE JAIL CALL	50
RULING OF THE COURT	60
JURY VOIR DIRE	64
JURY SLECTION	98
TESTIMONY	
LARRY BOWERS (IN CAMERA)	
Direct Examination by Mr. Osborne.....	107
Cross Examination by Mr. Chisholm.....	110
JANETTE MIZZEL (IN CAMERA)	
Direct Examination by Mr. Osborne.....	124
Cross Examination by Mr. Wehman.....	130
OPENING STATEMENT BY MR. OSBORNE.....	159
OPENING STATEMENT BY MR. CHISHOLM.....	163

TESTIMONY

DONALD WEATHERFORD

Direct Examination by Mr. Osborne.....167

HOLLY POTTER LOBO

Direct Examination by Ms. Frederick.....176

Cross Examination by Mr. Chisholm.....182

PAUL BROTHERS

Direct Examination by Mr. Osborne.....183

Cross Examination by Mr. Chisholm.....193

Redirect Examination by Mr. Osborne 196

BRETT CAMP

Direct Examination by Mr. Osborne.....197

Cross Examination by Mr. Chisholm.....207

KAREN GARCIA

Direct Examination by Mr. Osborne.....210

BRANDON BERG

Direct Examination by Mr. Osborne.....216

Cross Examination by Mr. Wehman.....239

KAREN GARCIA

Direct Examination by Mr. Osborne.....242

Cross Examination by Mr. Chisholm.....247

ADAM DUNAWAY

Direct Examination by Mr. Osborne.....252

Cross Examination by Mr. Chisholm.....279

Redirect Examination by Mr. Osborne 289

LARRY BOWERS

Direct Examination by Mr. Osborne.....291

Cross Examination by Mr. Chisholm.....299

JANETTE MIZZEL

Direct Examination by Mr. Osborne.....300

Cross Examination by Mr. Chisholm.....309

Redirect Examination by Mr. Osborne 311

KIRKLAND HOWELL (IN CAMEA)

Direct Examination by Mr. Osborne.....313

HANNAH JEFFERSON	
Direct Examination by Ms. Frederick.....	315
BAILEY HAYNES	
Direct Examination by Ms. Frederick.....	320
Cross Examination by Mr. Wehman.....	325
CAMERON WISNIEWSKI	
Direct Examination by Mr. Osborne.....	326
CHRISTINE DADABO	
Direct Examination by Ms. Frederick.....	336
ROBIN DUKES	
Direct Examination by Mr. Osborne.....	341
Cross Examination by Mr. Chisholm.....	346
Redirect Examination by Mr. Osborne	348
ERIC WATSON	
Direct Examination by Mr. Osborne.....	351
Cross Examination by Mr. Chisholm.....	360
Redirect Examination by Mr. Osborne	364
ROSE BELL	
Direct Examination by Mr. Osborne.....	365
RACHEL JOHNSON	
Direct Examination by Ms. Frederick.....	370
SCOTT OLIVIA	
Direct Examination by Ms. Frederick.....	375
CHAD SMITH	
Direct Examination by Mr. Osborne.....	381
Cross Examination by Mr. Chisholm.....	393
VIRGINIA RICHARDS	
Direct Examination by Mr. Osborne.....	397
CATHERINE LEISY	
Direct Examination by Mr. Osborne.....	408
THE STATE RESTS	424
MOTION FOR DIRECTED VERDICT.....	424

RULING OF THE COURT DENYING MOTION FOR DIRECTED VERDICT	425
OBJECTION TO PATHOLOGIST READING IN OF TOXICOLOGY REPORT	425
RULING OF THE COURT	426
COLLOQUY WITH THE DEFENDANT REGARDING HIS RIGHT TO TESTIFY	426
CLOSING ARGUMENT BY MR. OSBORNE	438
CLOSING ARGUMENT BY MR. CHISHOLM	462
CHARGE ON THE LAW	477
VERDICT	493
SENTENCING	506
INDICTMENT	508
SENTENCE SHEET	510
CERTIFICATE OF COUNSEL	512

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBITS #4 (BODY-WORN CAM), #9 (DEFENDANT’S STATEMENT), #19
(911 CAM), AND #92 (DEFENDANT’S JAIL CALL-CLIPPED)**

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 1
COUNTY OF DORCHESTER) DOCKET NO. 2021-GS-18-00121

STATE OF SOUTH CAROLINA,)
 Plaintiff,)
versus))
))
JASON BARRY BELL,))

 Defendant.)

H E A R I N G
BEFORE THE HONORABLE HEATH P. TAYLOR

DATE: August 7-10, 2023
TIME:
LOCATION: South Carolina Circuit Court 1

TRANSCRIBED BY: Natasha Barrientos

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

1 APPEARANCES:

2

3 DAVID OSBORNE, ESQUIRE

4 JILLIAN FREDERICK, ESQUIRE

5 First Circuit Solicitor's Office

6 101 Ridge Street, 2nd Floor,

7 St. George, South Carolina 2947

8

9 Attorney for the Plaintiff,

10

11 ASH CHISHOLM, ESQUIRE

12 PIERCE WEHMAN, ESQUIRE

13 First Circuit Public Defender

14 107 West 6th North Street, Suite 100

15 Summerville, South Carolina 29483

16

17 Attorney for the Defendant.

18

19

20

21

22

23

24

25

1	INDEX				
2					
3	Proceedings.....	4			
4	Certificate of Transcriber.....	209,350,435,507			
5					
6	EXAMINATIONS				
7	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
8	For the State:				
9	Donald WeatherFord	154			
10	Holly Potter Lobo	177	183		
11	Coroner Paul				
12	Brothers	185	194	196	
13	Chief Brett Camp	199	208		
14	Karen Garcia	210			
15	Brandon Berg	216	239		
16	Karen Garcia	242	247		
17	Captain Adam Dunaway	252	279	289	
18	Larry Bowers	291	299		
19	Janette Mizzel	300	309	311	
20	Kirkland Howell	312			
21	Hannah Jefferson	314			
22	Bailey Haynes	319	325		
23	Cameron Wisniewski	326			
24	Christine Dadgbo	341	346	348	
25	Dr. Eric Watson	354	363	367	

1	Rose Bell	368	
2	Rachel Johnson	372	
3	Scott Olivia	378	
4	Chad Smith	384	396
5	Virginia Richards	400	
6	Catherine Leisy	411	
7			
8		EXHIBITS	
9	STATE'S	DESCRIPTION	PAGE
10	Exhibit 4	Body-worn Cam	172
11	Exhibit 10 through 17	Photos	190
12	Exhibit 19	911 Cam	201
13	Exhibit 39 through 87	Photos	222
14	Exhibit 25	Photo	228
15	Exhibit 23 and 24	Swabs	230
16	Exhibit 21 and 22	Swabs	235
17	Exhibit 88 through 90,		
18	and 94	Photos	236
19	Exhibit 30, 31 and 36	Photos	237
20	Exhibit 26, 27, 28, 29	Swabs	239
21	Exhibit 1	911 Call	256
22	Exhibit 7	Miranda Warning Form	257
23	Exhibit 51	Cream Medicine	358
24	Exhibit 53	Cream Medicine	359
25	Exhibit 54	Lung Medicine	359

1	Exhibit 55	Stomach Acid Medicine	359
2	Exhibit 20	Blood Spot	371
3	Exhibit 22	Interior Back Door Swab	371
4	Exhibit 23	Back Door swab	371
5	Exhibit 24	Exterior Back Door Swab	371
6	Exhibit 25	Revolver	371
7	Exhibit 26	Cult 38 Handle Swab	371
8	Exhibit 27	Cult 38 Trigger Swab	371
9	Exhibit 28	Cylinder Handgun Swab	371
10	Exhibit 29	Barrel Swab	371
11	Exhibit 34,35	Fired Bullets	374
12	Exhibit 32	Buccal Swab	378
13	Exhibit 93	Photo Printout	387
14	Exhibit 37	Body Diagram	401
15	Exhibit 38	Head Specific Diagram	401
16			
17			
18			
19			
20			
21			
22			
23			
24	(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL		
25	IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)		

1 THE COURT: Good morning.

2 MR. OSBORNE: Good morning.

3 MR. CHISHOLM: Good morning.

4 THE COURT: We got pretrial stuff we're going to take
5 up. You tried to before. You get started with jury
6 selection, correct?

7 MR. OSBORNE: Yes, sir.

8 THE COURT: All right. what you got?

9 MR. OSBORNE: After talking to Mr. Chisholm, it seems
10 to make most sense to kind of kick into the demo first.

11 THE COURT: Okay.

12 MR. OSBORNE: So as best I can remember, and I think
13 it's probably a good idea to put this on the record, talking
14 about interactions with the Defendant that don't -- that I
15 don't think require a demo hearing, because he wasn't in
16 custody and they were voluntarily given.

17 The first interaction is going to be with paramedic
18 Lobo. Obviously, if she's a paramedic, she's not law
19 enforcement. He was inside of her house -- or inside of his
20 house. And I think the only thing that's really relevant
21 there was when paramedic Lobo was asking the Defendant just
22 general background questions about his dad, the victim. He
23 said that he had been experiencing increased pain in the
24 past. So I think as a preliminary matter that we don't need
25 a demo hearing for that statement.

1 THE COURT: Okay.

2 MR. OSBORNE: And I believe the Defense agrees.

3 MR. CHISHOLM: Yes, that's correct.

4 MR. OSBORNE: The next statement is -- is with law
5 enforcement and that's with Captain Dunaway who is the case
6 agent of this case. That's about, I think it is about a 12
7 or 13 minute interview. It is mostly background things.
8 Captain Dunaway, at that point, I think it's fair to say
9 along with all the other law enforcement who was there, were
10 working under presumption that this was a suicide. In fact,
11 I -- I believe that Captain Dunaway even asked the Defendant,
12 well, what do you think happened? And he said, well, I think
13 he shot himself in the head.

14 Our position on that is, once again, he was not in
15 custody. He was free to leave. He was in our house.
16 Statement was voluntarily given. I don't believe that we
17 need a demo hearing for that, but if we do, we have the
18 statement put that Captain Dunaway was there. THE COURT:
19 Chisholm, what's your position on that?

20 MR. CHISHOLM: Your Honor, this is a little bit
21 different. I agree with everything that was presented,
22 however, and it certainly doesn't come across as an
23 interrogation, but he is in the house. He's not told
24 (inaudible) take off if he wants something down park, some
25 caution wouldn't.

1 THE COURT: Okay. All right.

2 MR. OSBORNE: The State calls Captain Dunaway.

3 CAPTAIN ADAM DUNAWAY,

4 being first duly sworn testifies as follows:

5 DIRECT EXAMINATION

6 BY MR. OSBORNE:

7 Q. Good morning, Captain.

8 A. Good morning.

9 Q. All right. Real quick, where do you work?

10 A. I work for the St. George Police Department, sir.

11 Q. Okay. And on the morning of January the 1st 2021,
12 were you working with St. George then?

13 A. I was.

14 Q. Did you have the occasion to respond to 104 Kelly
15 Street in reference to a death investigation?

16 A. Yes, sir.

17 Q. And did you have the occasion to speak to the
18 defendant in this case, Jason Bell?

19 A. I did.

20 Q. Were you wearing a -- a body-worn camera at time?

21 A. Yes, sir.

22 Q. And did that capture the interview?

23 A. Yes, sir. It did.

24 MR. OSBORNE: Okay. Your Honor, may I approach?

25 THE COURT: Yes, sir.

1 BY MR. OSBORNE:

2 Q. I'm showing you State's 5 and State's 6. Can you
3 take a look at them and tell me if you recognize them?

4 A. I do, sir.

5 Q. All right. What is State's 5?

6 A. State's 5 is the body camera footage for me
7 talking to the Defendant.

8 Q. Okay. State's 6?

9 A. State's 6 is the same thing, but it's just
10 clipped.

11 Q. Okay. So State's 5, is it fair to say that this
12 contains all of your body-worn camera footage from that day?

13 A. Yes sir.

14 Q. Okay. And State's 6 is the clip version of that?

15 A. Yes, sir.

16 MR. OSBORNE: Your Honor, at this time, State would
17 play State 6.

18 THE COURT: Any objection?

19 MR. CHISHOLM: No, Your Honor.

20 THE COURT: All right. You can publish

21 MR. OSBORNE: And Your Honor, while I'm queuing this up
22 for your edification and the Defense as well, I have provided
23 clips of all of the videos to the Court as well as the
24 Defense and -- and give them access to that. During trial, I
25 may play it from my -- some of the clips from my hard drive

1 because it -- so it won't glitch up as much. Or take as
2 long.

3 (Video plays)

4 MR. OSBORNE: And Your Honor, for your edification, I
5 know that's rather abrupt. I forgot about that. The Defense
6 had asked me to cut the last part of the interview out, which
7 I did cut out. And -- and the last part of that interview,
8 or last thing the Defendant says is, "I just came back from
9 New York where I was beaten and left in a ditch to die." I
10 didn't see that's relevant to this case. He asked it to be
11 cut and I cut it. But I -- but I did -- I don't want the
12 jury left with some sort of impression. So I'll probably ask
13 this. I'll say something like, all right, Captain Dunaway,
14 does that represent pretty much the entirety of the interview
15 of the Defendant?

16 A. Yes, sir.

17 Q. Okay. And then for purposes of the demo hearing,
18 I would ask, did you interview Ms. Rose Bell, the victim's
19 wife, as well as the Defendant's mother?

20 A. Yes, sir.

21 Q. Did the tone and the demeanor of your questions,
22 that we just witnessed to the Defendant, that sort of mirror
23 the tone and the demeanor that she had toward Ms. Bell ---

24 A. Yes, sir.

25 Q. --- to answer questions?

1 MR. OSBORNE: Okay. No further questions.

2 THE COURT: Chisholm?

3 MR. CHISHOLM: Thank you, Your Honor. Please the
4 Court?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. CHISHOLM:

8 Q. All right. Detective, do you remember what time
9 you got out there that morning?

10 A. I believe it was around 8:20.

11 Q. And you weren't the first officer to respond, were
12 you?

13 A. No, sir.

14 Q. Do you remember how many other officers were there
15 when you got there?

16 A. It was just one.

17 Q. And do you remember how many ultimately were on
18 the scene?

19 A. Officers, it would've been three from the St.
20 George. Well, it'd been Officer Weatherford, Officer Garcia,
21 myself, and Chief Camp, so be four for St. George.

22 Q. Okay. So four from St. George out there. And
23 then did you also have Dorchester County? A couple people
24 responded, I guess? Berg and ---

25 A. They had their crime scene, yes -- yes sir.

1 Q. Okay. And when you got there, did you start
2 talking to people right off the rip or did you go and and --
3 and observed Mr. Bell first?

4 A. I went there. I -- I met up with the -- the
5 initial officer on scene. Kind of told me -- or I learned
6 what happened through him. Walked around, I saw the -- the
7 victim. And then at that time I basically, I spoke with the
8 -- the mother and the son as well, of the Defendant.

9 Q. So at the time you spoke to the mother and the son
10 did the other -- other officer make you aware, did you
11 observe the -- the gunshot wounds at that -- already at that
12 point?

13 A. I -- I observed it.

14 Q. Okay. And did you speak to the mother, Rose,
15 first or did you speak to Jason first?

16 A. I spoke to the mother first.

17 Q. Okay. And you did, I guess a similar kind of
18 interview with her?

19 A. Yes, sir.

20 Q. Okay. One of the questions you had for her, I'm
21 guessing is Mr. Bell right-handed or left-handed?

22 A. Yes, sir.

23 Q. And is it fair to say, the reason you were asking
24 that is because the injury was on the left side of Mr. Bell's
25 head; is that correct?

1 A. Yes, sir.

2 Q. And the information you got from Ms. Bell, or Mrs.
3 Bell rather, was that Mr. Bell was right-handed; is that
4 correct?

5 A. Yes, sir.

6 Q. So essentially this would be inconsistent with the
7 self-inflicted wound. Is that kind of what you were
8 operating under that assumption at that point?

9 A. Not necessarily. Well, it was inconsistent, but I
10 was unaware if it was a -- a homicide or a suicide at the
11 time. I know we had some medical problems. You know,
12 there's -- there's literature out there that people do shoot
13 themselves with their left hand. We couldn't find the gun.
14 There's literature out there that says the family members
15 moved the gun. So I honestly wasn't sure if -- if this is a
16 suicide or not. So that -- that's basically why I was asking
17 these questions.

18 Q. Got you. And then you asked the same question,
19 Jason Bell, is you Right-handed or left-handed. Is that
20 right?

21 A. Yes, sir.

22 Q. Okay. The same reasons?

23 A. Yes, sir.

24 Q. Okay. And it looks like when the interview
25 starts, you're basically telling him, all right, I'm just

1 going to have you sit here. Is that right?

2 A. He was already sitting there.

3 Q. And at one point -- or a couple points during the
4 interview, you're saying, okay, I'm going to go do a search.
5 And he's saying, do I just stay here? And you tell him to
6 stay here; is that right?

7 A. Well, I told him he can stay there.

8 MR. CHISHOLM: One -- one moment, Your Honor.

9 THE COURT: Sure.

10 BY MR. CHISHOLM:

11 Q. All right. And I -- I guess I might be able to
12 shed a little more on this. When the interview starts --
13 read the transcript anyway -- do you not say, Jason, I think
14 you should step out for a minute?

15 A. I don't believe I did. If that's what the
16 transcript says, then I said it.

17 Q. And at another portion in the interview --
18 (inaudible).

19 THE COURT: No problem. Take all the time you need.

20 BY MR. CHISHOLM:

21 Q. Do you recall at another point in the interview we
22 just watched where he is saying, he's wondering if I'm going
23 to see him, like you want me to stay here, and you say, yeah,
24 I would like you to stay right here. Is that right?

25 A. Yes, sir. That's what the transcript says.

1 Q. And -- and another part, you recall in the
2 interview where he says, "So if you tell me to stay here, I'm
3 going to stay here." And you say, "Yeah, you can watch TV,
4 do what you want to do?"

5 A. Yes, sir.

6 Q. So at that point, from the questions he's asking
7 you, he is unaware if he can leave the room he's in?

8 A. You could assume that. I would -- I would say,
9 yes sir.

10 MR. CHISHOLM: If could have one moment?

11 THE COURT: Yes, sir.

12 MR. CHISHOLM: Thank you. No further questions.

13 THE COURT: All right.

14 REDIRECT EXAMINATION

15 BY MR. OSBORNE:

16 Q. Just briefly. When you arrest people, and I guess
17 in this case in particular for murder, do you tell them, I'd
18 like you to see here?

19 A. No, sir.

20 Q. That -- that's pretty much not going anywhere,
21 right?

22 A. Yes, sir.

23 Q. Okay. That's not the case with this guy from what
24 we saw. Is that fair to say?

25 A. Yes, sir.

1 Q. All right. Just some other points of
2 clarification. Is it fair to say that the Dorchester County
3 Sheriff's Office, Lieutenant Brandon Berg arrived after the
4 Defendant was already taken from the scene?

5 A. Yes, sir.

6 Q. And I think Mr. Chisholm said, "Observe the
7 gunshot wounds." Was it perfectly clear to you prior to
8 speaking to the Defendant that he had been shot once or
9 twice?

10 A. I thought it was only once. I wasn't -- I -- I
11 wasn't really aware of a second shot.

12 Q. Without watching Ms. Rose's interview, but do you
13 remember if you would have -- or maybe you did, maybe you
14 didn't -- said similar things to her, like can I just ask you
15 to stay here while we're working the case, you know, things
16 like that?

17 A. Yes, sir.

18 Q. Was Ms. Rose in custody?

19 A. No, sir.

20 Q. Okay. Oh, have you seen literature, though, that
21 says that it is possible, although I suppose rare, that an
22 individual could shoot the himself twice?

23 A. Yes, sir. They're called hesitation. So
24 basically if somebody was to shoot themselves, and they --
25 they get a ---

1 Q. Glancing wound?

2 A. Yeah, basically they -- they, you know, the shock
3 of it.

4 Q. And then the second one is ---

5 A. Yes, sir.

6 MR. OSBORNE: Okay. No further question.

7 THE COURT: Mr. Chisholm?

8 MR. CHISHOLM: Thank you, Your Honor. Our position
9 would be this is a custodial interrogation. As you can see
10 from the video, there's several points Mr. Bells told to stay
11 here, and it is pretty clear he doesn't realize he's allowed
12 to leave the room, much less the house. I don't think for it
13 to be custodial you have to have a situation where he is
14 cuffed and -- and held at gunpoint or put into a car or
15 anything like that. I think it comes down to whether a
16 reasonable person would feel that they had the ability to
17 leave or not. Obviously, that -- our position would be that
18 you do not feel like he had the ability to leave.

19 The questions that are being asked, a lot of them, as I
20 said, are -- are pretty innocuous, you know, did you hear
21 anything last night? You know, when's the last time you saw
22 them? I get it. That's all standard questions. But if --
23 if you look at this in order, the police arrive, they notice
24 gunshot wound or wounds, they see that it's on the left side
25 of Mr. Bell's head, and then they go speak to the mother

1 first, Rose Bell. And they ask her, was he right-handed or
2 left-handed?

3 Obviously, at that point, the only reason you're asking
4 that question is you're trying to determine if the body had
5 been (inaudible) play involved. And then she tells them he's
6 right-handed. So I would argue inconsistent with the
7 injuries they observed. That after that interview is when
8 they speak to Mr. Bell. And, you know, they're -- they're
9 going beyond, what did you hear? All right, what time did
10 you get up? When did you take a shower? Did you take a
11 shower before or after this? So I think at this point, you
12 know, whether they called him a suspect, claimed him as a
13 suspect, or told him they're getting a warrant, at this
14 point, I -- I don't think it's really the issue. I think
15 it's, was this a custodial interview where they're looking at
16 him as a -- as a suspect?

17 Our position would be that they were, he was -- I don't
18 think contested that at this point Miranda warnings had not
19 been given at all. So I think (inaudible).

20 THE COURT: Yes, Mr. Osborne.

21 MR. OSBORNE: As -- as a preliminary matter, Judge, I
22 do like to apologize. I said it was a 10 minute interview.
23 It's clearly a 20 minute interview. Secondly, as you know,
24 Judge, it's a totality of circumstances to test, to determine
25 whether the Defendant is in custody or not. If you determine

1 that he is, then Miranda was required, but there's two parts
2 to that. It's not only in custody, but it's subject to
3 interrogation. I would say you have neither in this case.

4 One, he wasn't handcuffed in any way. The comments of
5 asking him to stay here are simply like, there's a -- there's
6 a dead body in hit the room. We need you to stay here, and
7 not go mess with the crime scene. And then, you know, just
8 some of the -- you can also look at the tone and the demeanor
9 of the conversation to determine whether he was in custody,
10 because it's an objective standard, as Mr. Chisholm said, not
11 a subjective standard. And I thought it was pretty telling
12 what he said in the beginning, Captain Dunaway. I know this
13 has to be hard for you and everything like that. You've got
14 a lot going on right now. I'm going to ask you some
15 questions. I'm going to try to get some insight on some
16 things and maybe, you know, you can kind of tell me what you
17 think happened.

18 At no point during the interview, if this is an
19 interrogation, did you shoot your dad? You shot your dad?
20 You'd never hear Mr. Dunaway or Captain Dunaway say that
21 because it's not an interrogation. He's literally gathering
22 facts.

23 Its calm and cordial and, you know, you don't have the
24 advantage of watching Ms. Bell's interview, but I don't think
25 the Defense would argue, it almost mirrors Ms. Bell's

1 interview. You know, St. George Police Department, they
2 don't work a whole lot of murders. They did not think this
3 was a murder at the beginning, and the interview reflects
4 that. So I would ask you to just go ahead, find that that's
5 a voluntary statement. Miranda wasn't required and submit it
6 to jury. Thank you.

7 THE COURT: All right. After seeing everything, I'm --
8 I'm not going to find that he -- that a reasonable person
9 under those circumstances would believe they were in custody.
10 I believe it was -- it all seemed voluntary to me. There was
11 nothing confrontational about it. I would tend to agree with
12 the state because I believe, and I made a note of at one
13 point, Mr. Bell even mentioned escorting him around during
14 the search or something of that nature. And so I think his
15 in -- I -- at least based on what I see, again, it was not
16 custodial, it was basically securing a scene. And didn't
17 want him potentially walking around the house with them as
18 they're investigating.

19 All right. What's next?

20 MR. OSBORNE: So I think it might make more -- makes
21 sense to do it kind of like in chronological order. I'll
22 pick back up with Captain Dunaway, get the Miranda in and
23 then move to the Chief Camp (inaudible).

24 BY MR. OSBORNE:

25 Q. All right, Captain, where we left off in the

1 investigation, was there a time in which the Defendant was
2 transported to the station?

3 A. Yes, sir.

4 Q. Okay. And did you have the occasion to meet with
5 the Defendant at the station?

6 A. I did.

7 MR. OSBORNE: Well, so I'm going to ask him some
8 questions right now, but I don't plan on listening in front
9 of the jury, but just for your edification so that you can
10 make it a ruling.

11 BY MR. OSBORNE:

12 Q. What was the purpose of meeting with him at the
13 station?

14 A. It was to get a GSR test.

15 Q. Okay. And did you bring Dorchester County Crime
16 Scene Investigator Lieutenant Branden Berg with you?

17 A. Yes, sir.

18 Q. And was -- was he the one that was going to
19 collect the -- the GSR?

20 A. Yes, sir.

21 Q. Prior to speaking to him about the GSR, did you
22 advise him of Miranda?

23 A. I advised him his Miranda rights, sir.

24 MR. OSBORNE: Okay. Your Honor, may I approach?

25 THE COURT: Yes, sir.

1 BY MR. OSBORNE:

2 Q. All right. It was -- well, then for this purposes
3 I'm showing you State's 7. Can you take a look at that and
4 tell me if you recognize it?

5 A. Yes, sir. It's the Miranda warning form for the
6 St. George Police Department.

7 Q. And you advised the Defendant of his Miranda
8 warnings?

9 A. Yes, sir.

10 Q. And then -- then Lieutenant Berg was present as
11 well?

12 A. Yes, sir.

13 Q. All right. I'm now showing you State's 7. All
14 right. What are we looking at?

15 A. That's the Miranda warning form.

16 Q. What's the date?

17 A. It's 1 -- January 1, 2021.

18 Q. Okay. And I know -- it looks like we had the
19 time, you know, well, is this your handwriting?

20 A. It is.

21 Q. And -- and you didn't put in time?

22 A. I -- I did not.

23 Q. Did you document, though, the time in any other
24 fashion that you did advise him of his Miranda warnings?

25 A. I -- I did. I documented on the, I believe it was

1 the incident report.

2 Q. Okay. And what time was that?

3 Q. I believe it was around 11:20, 11:30.

4 A. Okay. And so this is information that you wrote
5 down from the Defendant?

6 A. Yes, sir.

7 Q. Tell the judge how you went about advising him of
8 his -- the Defendant of his Miranda warnings.

9 A. So every time I advise somebody of their -- their
10 rights, in a setting at the police department, we use this
11 form. I go over, one, you have the right to remain silent.
12 I go over, two, you have anything you can say that can be --
13 or anything you say can and will be used against you in a
14 court of law. I read it verbatim, sentence by sentence.
15 Then explain -- or, you know, read number three, number four.

16 A. Would you mind going ahead and doing that for the
17 record? I know we're all looking at it, but.

18 Q. Yes, sir. So number three, I would say "You have
19 the right to talk to a lawyer and have him present with you
20 while you're being questioned." Number four, "If you cannot
21 afford to hire a lawyer, one will be appointed to represent
22 you before any questioning if you wish." And as I'm going
23 through these I'll give the piece of paper to the Defendant
24 and have them initial that saying that they understand that
25 line basically.

1 Five is a little different. It's just my practice to
2 have the Defendant read that out loud. That's done for a
3 couple different reasons. One, to make sure that the
4 Defendant can read. He has the education level basically to
5 understand that what I am reading him. And then also five is
6 kind of important for me because -- and I'll just read it
7 real quick. "You can decide at any time to exercise these
8 rights and I'll answer any questions or make any statements."

9 Because I always have the same line. I always say, I
10 say, you know, there's always two sides to the story. You
11 tell me your side and you just don't want to answer any
12 questions at that point, you just, it is what it is. It's,
13 you know, that's your right.

14 Q. Okay. And continuing going down.

15 A. Next thing, I ask them, "Do you understand each of
16 these rights as they were explained to you?" Yes, they
17 initial. "Having these rights in mind, do you wish to talk
18 to us now?" They initial.

19 Q. Okay. And whose signature is that above -- above
20 victim subject witness signature?

21 A. Jason Bell.

22 Q. And under officer's signature?

23 A. That's my signature.

24 Q. And I -- I see the signature of the witness is
25 blank, but your testimony is that Lieutenant Brandon Berg was

1 present during that?

2 A. Yes, sir.

3 Q. Now, where did this occur in the St. George Police
4 Department?

5 A. It -- it occurred at the interview room.

6 Q. Okay. Is -- did we have an audio and video
7 recording of this waiver?

8 A. We -- we don't.

9 Q. And why is that?

10 A. So we just recently moved into that PD. During
11 this -- well, before this trial, this was a new system. I
12 was under the impression that it was recording 24/7 when the
13 door opened. We later learned that that was not the case.

14 Q. Later that day?

15 A. Yes, sir.

16 Q. Okay. So you did come back later on and interview
17 him that day?

18 A. Yes, sir.

19 Q. Was it Chief Camp, I think with you?

20 A. Yes, sir.

21 Q. All right. During your encounter, when you
22 advised Defendant these Miranda warnings, did he appear to be
23 intoxicated on the influence of drugs?

24 A. No, sir.

25 Q. Did the Defendant appear to have any physical or

1 mental disabilities that would have impaired his ability to
2 understand what was being said to him?

3 A. No, sir.

4 Q. Prior to or during this meeting with the Defendant
5 did you offer any break strength, bathroom or otherwise?

6 A. Yes, sir.

7 Q. Was the Defendant denied access to a telephone or
8 more importantly, food or drink?

9 A. No, sir.

10 Q. All right. And were there any threats or promises
11 made in exchange to get him to waive his Miranda?

12 A. No, sir. There was not.

13 Q. No?

14 A. No.

15 Q. Okay. At -- well, again, not for the jury's
16 purposes, we're not going to mention GSR at all to the jury,
17 unless the Defense wants to. After he -- you advised him his
18 Miranda warnings, what was the conversation between -- or was
19 there a conversation between you and the Defendant?

20 Q. The only conversation was Lieutenant Berg
21 explained the GSR test, and that we'd like to get one from
22 him. Defendant denied doing a GSR test. He stated that he
23 was shooting a 22 rifle a couple days prior in his backyard
24 and he would felt like he would've failed the test.

25 Q. And what we're saying GSR as if we're all on the

1 same shoot, we use a gunshot residue test?

2 A. Yes, sir.

3 Q. Okay. And when he refused to submit to a gunshot
4 residue, did you all hold him down and forcefully take it
5 from him?

6 A. Yes, sir.

7 Q. Okay. Did that pretty much (inaudible) the
8 conversation with him?

9 A. Yes, sir.

10 MR. OSBORNE: And so, again, Your Honor, for your
11 edification, if it comes up --

12 BY MR. OSBORNE:

13 Q. Well, let me ask you this. How long was your --
14 how long was your entire encounter with the Defendant
15 including the GSR conversation?

16 A. Maybe 20 minutes.

17 MR. OSBORNE: Okay. For purposes to the jury, I think
18 the answer, if we could just say something like, he was only
19 there for a couple minutes. A few minutes. Okay. And
20 that's all I have.

21 THE COURT: Okay.

22 BY MR. CHISHOLM:

23 Q. So Detective, I guess it's kind of continuing
24 where we left off.

25 A. Yes, sir.

1 Q. From the point you had the interview with Mr. Bell
2 to the point where the decision was made to take him to the
3 Department, was there new evidence that was obtained that
4 kind of switched gears there? Because You testified that at
5 that point he wasn't a suspect. You're just trying to figure
6 out if it was -- what was going on. And was there new
7 information that came in between those?

8 A. Yes, sir. We -- the coroner had actually found
9 the firearm.

10 Q. Okay. But that didn't clear up suicide or
11 homicide, I guess?

12 A. So the firearm, when the coroner found the
13 firearm, the firearm was underneath the blanket. So at this
14 time, the -- the victim would've had to shoot himself in the
15 head. And then we found out that there were two shots. The
16 victim would've had to shoot himself in the head twice then
17 put the -- the gun underneath his blanket and then cover
18 himself back up.

19 Q. Got you. So at some point he is transported to
20 the station; is that right? He being Mr. Bell. And you go
21 to speak with him with Detective Berg at that point; is that
22 correct?

23 A. Yes, sir.

24 Q. And that's when Miranda warnings was given?

25 A. Yes, sir.

1 Q. And the solicitor pointed out that there's a space
2 on this form for signature of the witness and for the time,
3 and that they are not filled out on this. Is that right?

4 A. Yes, sir.

5 Q. Is there a reason they wouldn't be filled out?

6 A. So the time -- as the solicitor stated, we don't
7 work a lot of homicides. I wanted this to be 100 percent by
8 the book. So what we were trying to do is, we were trying to
9 do everything in that room because we were under an
10 assumption that it was recorded. There's no clock in that
11 room. I was hoping that I would be able to come back, look
12 at the timestamp on the clock, write the timestamp in, and
13 just not on a whim, just write the -- the timestamp. And as
14 far as the signature for the witness, I -- I don't -- I don't
15 have an -- I don't know why it wasn't signed.

16 Q. Okay. And I understand what you're saying you
17 thought the room was rigged. So it automatically record when
18 you go in there. Did you also -- I guess you had body cam
19 capabilities as well, did you not?

20 A. Yeah, we did.

21 Q. And I believe your report indicates that your --
22 your summaries and everything, that it was entered or changed
23 on January 4th. Can you tell me when you wrote this report?

24 A. I would -- if it says January 12th, it would have
25 to be entered in January 12th or January 4th.

1 Q. Okay. That would've been the date that you
2 entered it, so three days later?

3 A. Most likely, yes, sir.

4 Q. Okay. So kind of circling back, if you're doing
5 it three days later, how did you remember that you gave the
6 Miranda at 11:30?

7 A. Because throughout the -- throughout the
8 investigation, there's notes that was written. Notes
9 basically on a notepad, you know, times and whatnot.

10 Q. Okay. Did you provide that to the solicitor?

11 A. We just took those notes and put them into the --
12 the incident report.

13 Q. So the actual notes were discarded, I guess.

14 A. I -- I guess, yeah. They were -- they were put in
15 the incident report.

16 Q. Did you inquire with the Defendant if he was on
17 any kind of medication, mental health or otherwise, or
18 whether he should have been on medication or any medication?

19 A. No, I did not.

20 Q. And do you act -- when it comes to being under the
21 influence of alcohol, drugs, that kind of thing, do you act
22 under the -- if you notice it looks like they are, you notate
23 that or do you ask them?

24 A. If they look like they are it's not common
25 practice to say, hey, are you -- have you taken any drugs or

1 are you drunk, or anything like that. It's one of those
2 perception thing. You smell alcohol, you see erratic
3 behavior.

4 MR. CHISHOLM: Okay. (Inaudible) have one moment?
5 Thank you. I have no further questions.

6 MR. OSBORNE: Okay. Before Mr. Chisholm has some heart
7 issues, I'll preface this question by saying I will not ask
8 this in front of the jury.

9 BY MR. OSBORNE:

10 Q. Did you have a previous encounter with the
11 Defendant and the victim that also led to your belief that
12 the Defendant was the one that in fact shot the victim?

13 A. Yes, sir. There's -- there's past incidents for
14 assault and battery, et cetera, between the victim and
15 Defendant.

16 Q. Okay. And that I believe it's from 2019?

17 A. Yes, sir.

18 Q. And just briefly can you tell the Judge just a
19 little bit about that.

20 A. If -- basically the Defendant was never convicted,
21 the victim came in, and didn't wish to pursue any -- any
22 other actions against the victim, but just going off of what
23 the victim said. The victim said that the Defendant struck
24 him in the face.

25 Q. Okay. Again, I -- I don't -- I don't believe that

1 line of questioning from the Defense opened that door because
2 I wouldn't appear there. But I mean, I guess possibly could,
3 but that didn't do it, I don't think.

4 THE COURT: All right. So what exactly are we
5 addressing here? Because you -- you told me you're not going
6 to say that he refused the GSR, so ---

7 MR. OSBORNE: So what we're talking ---

8 THE COURT: --- just for my edification, what exactly
9 are we talking about.

10 MR. OSBORNE: This -- the only thing we're doing right
11 here is showing that the Miranda was -- was given and
12 voluntarily waived.

13 THE COURT: Okay.

14 MR. OSBORNE: We're conceding that for custody
15 purposes, he was in custody.

16 THE COURT: Okay.

17 MR. OSBORNE: You're being transported to the station.
18 You're being detained there. He's getting smoke breaks and
19 all that. But we are conceding that custody had been
20 triggered. Miranda was necessary. We're demonstrating here
21 that we're a voluntary waiver of Miranda. That's going to
22 then piggyback into Chief Camp's first encounter. Well, we
23 also have Officer Garcia and those clips for demo purposes.
24 But then I was going to be able to do with the Chief Camp
25 thing next, but the first thing I needed to do was get

1 through a voluntary.

2 THE COURT: Okay. So there's nothing I need to rule on
3 right now. Okay.

4 MR. OSBORNE: I think -- I think we do need to rule on
5 that it was a Miranda was given and that there was a
6 voluntary waiver of (inaudible).

7 THE COURT: Well, for -- for, I mean there's sort of a
8 four prong analysis for the whole demo -- demo issue as a
9 whole. I mean, I can find, yes that he was advised of his
10 Miranda warnings, but that, you know, we've sort of put the
11 car full. I hadn't heard the other statements. He might not
12 have knowingly waived them.

13 MR. OSBORNE: Fair enough. Why -- why would I do if
14 we're not going to introduce anything?

15 THE COURT: Right.

16 MR. OSBORNE: Got you. All right. Your Honor, at this
17 time, the State calls Chief Camp.

18 CHIEF CAMP,
19 being first duly sworn testifies as follows:

20 DIRECT EXAMINATION

21 BY MR. OSBORNE:

22 Q. Chief Camp, where are you currently employed?

23 A. St. George Police Department.

24 Q. Okay. And we're just going to kick right into
25 this. Did you have the occasion to respond on January 1,

1 2021, to 104 Kelly Street in reference to a deceased
2 individual, sir?

3 A. Yes, I did.

4 Q. All right. At a certain point during this
5 encounter, did you have the occasion to I guess change gears
6 and treat this like a homicide?

7 A. Yes, I did.

8 Q. And did you advise the Defendant as such?

9 A. I did tell him, yes, sir.

10 Q. And what -- have you seen any clip of that? Is it
11 on Officer Garcia's body-worn camera?

12 A. It is, yes.

13 Q. Okay. And so I'm not going to -- I'm not trying
14 to trick. Generally speaking, what did you tell the
15 Defendant?

16 A. I told the Defendant that I was treating this case
17 as a homicide and that he would be escorted back -- or he'd
18 be escorted to the police department by Officer Garcia.

19 Q. Okay. And is it -- is it fair to say at that
20 point that he's in custody?

21 A. Yes, it is.

22 Q. You hadn't advised him he was under arrest or
23 anything like that?

24 A. I did not.

25 Q. Okay. But if he tried to run, I mean, you all

1 might just going to let him run away?

2 A. Correct.

3 Q. Okay. When you get him back to -- all right, so
4 when the Defendant is transported to the police station, what
5 do you do?

6 A. I walk back in and stayed with the crime scene
7 unit and also speaking to individuals that were pulling up.
8 Again as a small town, people pulling up, asking questions,
9 and I did not want to get -- I was trying to get as many
10 people away from the scene as I -- as I could.

11 Q. And at a certain point, did Crime Scene Lieutenant
12 Brandon Berg with Dorchester County come and process the
13 scene?

14 A. Yes, I did.

15 Q. At the conclusion of him processing the scene, did
16 you have the occasion to go back or go to the St. George
17 Police Department?

18 A. Yes, I did.

19 Q. And did you have the occasion to meet with the
20 Defendant?

21 A. Yes, I did.

22 Q. When you met with him, had he already been
23 provided dinner?

24 A. He had.

25 Q. Was the purpose of going back to interview the

1 Defendant?

2 A. Yes, I was.

3 Q. Prior to beginning the interview, did you offer
4 the Defendant anything, you know, like other than a -- a
5 (inaudible)?

6 A. Yes, he was -- he was offered a bathroom break,
7 smoke break, use the phone, whatever he needed. He -- he was
8 free to not leave the apartment but free to, you know, use
9 whatever facilities he needed to.

10 Q. Okay. And did the Defendant -- or accept your
11 offer of a smoke break?

12 A. He did.

13 Q. All right. What did you and the Defendant do
14 then?

15 A. We walked outside. Was just he and I. And he
16 smoked a cigarette and that's when he indicated that, chief I
17 was the one that killed my father. I did it.

18 Q. Okay. Was this -- were you wearing body-worn
19 camera at ---

20 A. I was not.

21 Q. Okay. So it's not audio or video recorded, it's
22 just you and him?

23 A. That's correct.

24 Q. Okay. Before I get into what you did next, during
25 your interaction with the Defendant, at any time did he

1 appear to be intoxicated or under influence of drugs?

2 A. He did not.

3 Q. Did the Defendant appear to have any physical or
4 mental disabilities that would've impaired his ability to
5 understand what was being said to him?

6 A. He did not.

7 Q. Prior to or during your smoke break with the
8 Defendant -- well, I guess kind of duplicative -- but did --
9 if he had -- if -- if he had asked to go to the bathroom or
10 something, would you have refused to let him go?

11 A. No, I would not.

12 Q. Okay. Were there any threats or promises that you
13 made to him in exchange for that comment?

14 A. No.

15 Q. After he said that he was the one that had killed
16 his father, what did you all do then? Or you did?

17 A. We immediately turned around and walked straight
18 back into the department and went to the interview room.

19 Q. Okay. You and Captain Dunaway?

20 A. Yes. I walked in and -- and then soon after I got
21 him set down, I told Captain Dunaway to come on in.

22 Q. Okay. And that is audio and video recorded?

23 A. That is.

24 MR. OSBORNE: All right. Your Honor, I was going to
25 publish that and -- and move that in through Captain Dunaway.

1 But for -- for this purposes, for that statement, that was
2 outside during the smoke break, that's all (inaudible).

3 THE COURT: (Inaudible). Anything on
4 cross-examination?

5 CROSS-EXAMINATION

6 BY MR. CHISHOLM:

7 Q. Chief, you could have just -- when Mr. Bell said,
8 you know, I did it, I killed my father, however it's phrased,
9 can you tell me what the conversation was leading up to that?

10 A. We walked out. He smoked cigarettes. We were
11 only there for probably less than a minute before he said it.
12 And I do not recall, I think I said something about -- he
13 said something about the football game, they were going to
14 watch that day. And right after that, he looked at me. He
15 made that statement. He put -- he finished the cigarette.
16 And he was finishing the cigarette, we turned and we walked
17 right back in.

18 Q. And I think you were present, you heard Detective
19 Dunaway's testimony about the cameras that weren't working?

20 A. That is correct.

21 Q. And that's why you had the body cams, or -- or the
22 camera were going for this portion of the interview when you
23 go back into the Department; is that right?

24 A. Correct. After we -- it was at -- the time that
25 it was a small portion there where Captain Dunaway went back

1 in and pulled the camera, pulled the audio up on his -- his
2 computer and realized it wasn't working, and he got it
3 working before we went back in, before myself and the
4 Defendant went back into the interview room.

5 Q. That's where I was kind of getting at. So he was
6 saying he Mirandized him at 11:30 that morning. Do you know,
7 I mean, did he like discover right after that or right before
8 you interviewed him that the video was ---

9 A. I don't -- I don't recall what -- what time.

10 Q. Was Officer Garcia with you when you went out for
11 the smoke break, Mr. Dunaway?

12 A. No, he was in the building. He was actually
13 standing near the interview room and he stayed in the -- in
14 the building and I walked down and -- and stepped out into
15 the back portion of the Department.

16 Q. And were you equipped with the body-cam that
17 night?

18 A. I was not.

19 MR. CHISHOLM: Thank you. Have any further questions?

20 THE COURT: Anything else?

21 MR. OSBORNE: No, Your Honor.

22 And Your Honor, just for planning purposes, we do have
23 Garcia under a subpoena. So, you know, chronologically, we
24 have Dunaway in the same room. We rule on that. We have
25 Chief Camp outside and it's a little bit on border because we

1 have Garcia with three -- I think two smoke breaks in
2 between. Garcia -- I think Garcia worked last night. Pete
3 away. That's my fault. I didn't have him here for this, but
4 I'll have him here this afternoon. So we (inaudible) this
5 afternoon.

6 THE COURT: All right. Anybody need to be heard on
7 the, I guess ---

8 MR. OSBORNE: The statement.

9 THE COURT: --- to Chief Camp?

10 MR. CHISHOLM: No, Your Honor.

11 THE COURT: Okay. All right. I -- I'll find that
12 Defendant made the statement. He was advised of his Miranda
13 warnings earlier in the day. He knowingly and intelligently
14 waived his constitutional rights, and it was voluntarily
15 given. And I find all that by the preponderance of the
16 evidence. So that statement will be admissible. What we got
17 next?

18 MR. OSBORNE: Your Honor, I think the jury was supposed
19 to be here at 10:00.

20 THE COURT: Okay.

21 THE DEPUTY: Yes, sir. (Inaudible) be at 10:00.

22 THE COURT: All right. So they getting ---

23 THE DEPUTY: No, no. They are already -- some of them
24 are already here.

25 THE COURT: Okay.

1 THE DEPUTY: Yeah, the majority of them are here.

2 THE COURT: It is normally like 10:30 or so before
3 she's ready, right?

4 THE DEPUTY: Yes, sir.

5 MR. OSBORNE: We could roll with, I got Dunaway that
6 night. I've seen it many times. That's about a 21 minute
7 interview. Or at least that's what we'd be seeking to
8 introduce your ruling into that.

9 THE COURT: Sure.

10 MR. OSBORNE: Okay. State calls Captain Dunaway.

11 THE COURT: Captain Dunaway, I just remind you, you're
12 still under oath.

13 THE WITNESS: Yes -- yes, sir.

14 MR. OSBORNE: Okay. All right. Your Honor, may I
15 approach?

16 THE COURT: Yes, sir.

17 BY MR. OSBORNE:

18 Q. I'm showing you 8 -- State's 8 and 9, can you take
19 a look at 8 and 9 and tell me if you recognize those?

20 A. I do.

21 Q. All right. What is 8?

22 A. 8 is the whole interview with the Defendant.

23 Q. Okay. And what is 9?

24 A. 9 is -- it -- it looks like it's the interview,
25 but it says clips on it.

1 Q. Okay. And, you know -- and you know that's what's
2 on the CDs because -- have you watched them?

3 A. Yes, sir.

4 Q. Are those your initials on them?

5 A. Yes, sir.

6 MR. OSBORNE: All right. And Your Honor, for -- for
7 your knowledge, I believe he was in the -- the Defendant was
8 in the interview room for about an hour, although there was
9 some breaks in there. But we're only going to be seeking to
10 introduce the first 21 minutes after speaking to -- to
11 Defense. If it's ruled admissible, that's where we cut off.

12 MR. CHISHOLM: Correct.

13 THE COURT: All right.

14 (Video plays)

15 MR. OSBORNE: Your Honor, the blank spots were when
16 they were talking about lie detectors GSR.

17 BY MR. OSBORNE:

18 Q. All right, so same questions. During this entire
19 -- during your entire interview with the Defendant, did he
20 appear to be intoxicated under influence of drugs?

21 A. No, sir.

22 Q. Did the Defendant appear to have any physical or
23 mental disabilities that would have impaired his ability to
24 understand what was being said to him?

25 A. No, sir.

1 Q. During your interview with the Defendant, I think
2 this occurs later, but anyways, during your interview with
3 the Defendant, did he offer -- did you offer any breaks,
4 drink, bathroom or otherwise?

5 A. Yes, sir.

6 Q. Did you deny if he had asked?

7 A. No, sir.

8 Q. And were there any threats or promises made in
9 exchange for his statement?

10 A. No, sir.

11 MR. OSBORNE: All right. No further questions.

12 THE COURT: Anything on cross-examination?

13 MR. CHISHOLM: No, Your Honor.

14 THE COURT: All right. With regard to that statement,
15 which is, I believe in State's 9, I find by a preponderance
16 of the evidence that the Defendant made the statement. He
17 was previously advised of his Miranda warning before he was
18 questioned. During this interview, at approximately 11:20,
19 11:30 that morning, he knowingly and intelligently waived his
20 constitutional rights and the statement was voluntary. Well,
21 next?

22 MR. OSBORNE: The only thing I forgot to mention, Your
23 Honor, was I think we have an agreement of sorts to the
24 transcripts. And we did plan on handing those out to the
25 juror -- jury and the witness during the -- when the -- some

1 of the body-worn cameras are being played as well as the
2 Defendant's interview.

3 THE COURT: (inaudible) without objection?

4 MR. CHISHOLM: It is, Your Honor. The only thing is
5 I'd like to figure out some kind of proposed instruction for
6 the jury about, you know, you have a transcript, it's not
7 going to be entirely accurate, that kind of thing. Which we
8 can work on that, if that works for the Court and (inaudible)
9 solicitor can agree on that.

10 MR. OSBORNE: Sure.

11 THE COURT: Yeah. Whatever you all work out in that
12 regard is fine with me.

13 MR. OSBORNE: Your Honor, I think we could knock out
14 here. I think the Defense has an objection to playing a jail
15 call from the Defendant. As far as all authentication and,
16 you know, 901 and laying the foundation so, I think it's
17 mostly just a relevance objection and a 403 objection.

18 MR. CHISHOLM: Yeah.

19 MR. OSBORNE: All right, Your Honor, just real quick.

20 BY MR. OSBORNE:

21 Q. All right. So Captain Dunaway, do you -- in your
22 position, do you have access to jail calls?

23 A. Yes, sir.

24 Q. Okay. Okay. So explain to the Judge if you can
25 -- if you can access the inmate's jail calls, how do you go

1 about doing that?

2 A. I got to send a letter to the -- well, I contact
3 the jail -- the jail. Then I got to provide them a request
4 via a letterhead, through email, through the -- the proper
5 channels. I -- I really don't know the lady's name that we
6 have to do that through. They verify that it's -- it's us
7 through our letterhead, but as well as our departmental
8 email. This is stgeorgepolice.com. Once they -- they get
9 that information, they then assign me a -- a login and a -- a
10 password.

11 Q. Okay. So can anyone just get this username login
12 and password?

13 A. I -- I would think not. No, sir.

14 Q. Okay. You're law enforcement?

15 A. Yes, sir.

16 Q. They put in a special request to get it?

17 A. Yes, sir.

18 Q. And are those -- are the calls, the inmate calls,
19 recorded at -- recorded or kept at/or near the time the call
20 was made?

21 A. Yes, sir.

22 Q. And how do you know that? Like how do you know
23 they -- they're recorded and kept at the time it was made?

24 A. Well, I've -- I've actually listened to some jail
25 cells that are live, as well as listened to jail calls that

1 are moments after the -- the call has been placed.

2 Q. Okay. So -- all right, so we've got that. Now,
3 how do you go about actually -- like, how -- how can you hear
4 that jail call? How do you do it?

5 A. There's a portal online. It's a system, I believe
6 it's called Pay Tel. Pay Tel, you log in through Pay Tel,
7 then you put the -- the individual's name in there, or you
8 can put a phone number for the -- the person that they call.
9 Then it will bring up a list of all their calls or the -- the
10 person that received the call per se.

11 Q. Okay. And did you have the -- and so you have to
12 use your own unique username and password to be able to
13 access that information?

14 A. Yes, sir.

15 Q. Okay. And did you have the occasion to listen to
16 some of the Defendant's -- or I should say, did you have the
17 occasion to listen to the Defendant's jail call in this case?

18 A. Yes, sir.

19 MR. OSBORNE: All right. Your Honor, may I approach?

20 THE COURT: Yes, sir.

21 BY MR. OSBORNE:

22 Q. I'm showing you State's 91. Can you take a look
23 at that and tell me if you recognize that?

24 A. Yes, sir. This is the jail call. This is clipped
25 from the system Pay Tel that we just spoke about.

1 Q. Okay. And how do you know that's what's on this
2 CD?

3 A. Because I reviewed it. My initials are on there
4 as well.

5 Q. Okay. Now, this time we'll play State's 91.

6 THE COURT: Is that the clipped version?

7 MR. OSBORNE: That is the clipped version.

8 THE COURT: Okay. Well, I'm -- I'm looking at your
9 witness -- or your -- your exhibit list, and on the one you
10 gave me 91, the whole thing in 92 is the clip. I want to
11 make sure.

12 MR. OSBORNE: Yeah, no, you are right. Let me see how
13 far back the error goes. That should be 92.

14 THE COURT: Okay.

15 MR. OSBORNE: All right. Showing 92.

16 (Video plays)

17 BY MR. OSBORNE:

18 Q. All right. That was on March 24, 2001?

19 A. Yes, sir.

20 Q. So we're talking, I guess, maybe three and a half
21 months after his arrest?

22 A. Yes sir.

23 Q. You had the occasion to speak to the Defendant?

24 A. Yes, sir.

25 Q. And you had the occasion to speak to Ms. Rose?

1 A. Yes, sir.

2 Q. Who -- or do -- do you recognize these two voices?

3 A. Yes, sir. The Defendant and Ms. Rose, his mother.

4 Q. Okay. And for purposes of this hearing alone, the
5 blackout portion that we did not hear, was the Defendant
6 talking about being in prison before?

7 A. Yes, sir.

8 Q. And do you know the Defendant was in prison
9 before?

10 A. Yes, sir.

11 MR. OSBORNE: Okay. Okay. No further questions.

12 THE COURT: Anything on cross-examination?

13 MR. CHISHOLM: Yes, sir. Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. CHISHOLM:

16 Q. All right. I -- I got a couple questions.

17 Basically, you said you can contact the jail and they can
18 provide you access to inmate calls; is that correct?

19 A. Yes, sir.

20 Q. And that they basically, they'll just give you a
21 login information for that person's account, essentially, so
22 you can access it?

23 A. It's for everybody.

24 Q. It's like a master log.

25 A. Yeah. Yes, sir. Well, let me reiterate, I'm

1 sorry. Let me -- when you say a master log, it's my access
2 only, it's my login only, but I can -- I can listen to any
3 jail call for any Defendant, and that's incarcerated there.

4 Q. So even cases that aren't yours, I guess you have
5 access to, just wouldn't have a reason to go to them?

6 A. Yes, sir.

7 Q. And when you do this, when you listen to jail
8 calls, I mean, I'm assuming you don't listen to every call in
9 every -- in -- that a Defendant makes in every case you make,
10 right?

11 A. No, sir. Not every case.

12 Q. Okay. Is this something that you do on your own
13 initiative or is this something that's requested by the
14 solicitor, or both?

15 A. It's a little bit of both. It's my own initiative
16 because we were able to make the case stronger a lot of times
17 through jail calls, through my experience.

18 Q. And that was one of my next questions, that you're
19 looking for evidence basically to aid in prosecution is the
20 whole point of listening to him. Is that right?

21 A. Yes, sir.

22 Q. And you said you have the ability to listen live?

23 A. Yes, sir.

24 Q. Okay. And when you make this request, I think you
25 said you have to give them your law enforcement credentials,

1 that kind of thing, but you don't have to give them a reason
2 or anything like that, basically, at this point?

3 A. No. We sometimes we have to give them a case
4 because it's a -- the -- the login expires, so we have to do
5 this occasionally, but sometimes we have to give them a case
6 that we -- we would possibly be looking for. Other than
7 that, that's it. No reasons.

8 Q. Right. You don't have to say, I need to access
9 these calls and this is why you don't have to explain any of
10 that to them at all. Right?

11 A. Right. Yes, sir.

12 MR. CHISHOLM: If I can have a moment, Your Honor?

13 THE COURT: Sure.

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

15 THE COURT: Anything on redirect?

16 MR. OSBORNE: None, Your Honor.

17 THE COURT: All right. Happy to hear from you.

18 MR. CHISHOLM: Thank you, Your Honor. Almost
19 forgotten. This is my motion. (Inaudible) do the motion to
20 exclude this jail call. And essentially it's -- it's kind of
21 two parts. For beginning, I would say that use of these
22 recorded jail calls, I believe that they would be - they
23 should constitute unreasonable invasion of privacy that would
24 violate the rights of my client, his constitutional rights,
25 namely the Fourth Amendment.

1 Essentially, I believe the State should be required to
2 obtain search warrants for these calls. The reason for that
3 is ostensibly these recording policies that they have,
4 they're for security purposes. So that if law enforcement or
5 a jailer gets word, there's a breakout that's being planned
6 or somebody's calling in hits from inside the jail, or the
7 cartels running a drug smuggling ring from inside the jail.
8 Obviously I think everyone would agree that those would aid
9 in preventing an ongoing crime or to preventing a future
10 crime. It -- it would be important to have these calls
11 available as a resource, and they could simply get a search
12 warrant pretty easily in that scenario.

13 But that's rarely what we have here. As long as I've
14 been doing this, I don't think -- I don't remember getting a
15 jail call that was being used in a case that that arose out
16 of a -- a security concern. And that's certainly the case
17 here. There's no evidence that Mr. Bell was planning a crime
18 on the phone, committing a crime on the phone, that there's
19 any valid security concern whatsoever. And I certainly
20 understand the state's position is that when you are
21 incarcerated, even pre-trial, that your expectation of
22 privacy, you know, your rights are -- are reduced. And you
23 know, I agree with that.

24 And they always point out that, you know, it does say
25 on there that, you know, these calls are being monitored,

1 which I also agree with. You can hear it on the call itself,
2 but I think there's an important distinction between saying
3 the Defendant waives, you know, his -- he can consent to
4 monitoring for security purposes without saying that he's
5 consenting to basically giving completely wide open access to
6 any agent of the state to aid in the prosecution against him.
7 Which is basically what these calls are at this point. It's
8 simply a mining tool for the prosecution to build evidence
9 against the client.

10 And it gets into sticky areas. I mean, if you've got a
11 client that is in jail unable to post bond, or unable to
12 afford to post bond versus their defendant brethren on the
13 streets, I guess you would say if you're on the street, you
14 can call your friends, family, loved ones anytime you want.
15 You have unfettered access, it's not recorded. Whereas if
16 you are in the jail, you basically have two options. One,
17 don't call anybody, don't talk to your friends, family,
18 lovers. Don't talk to them about what's happening at the
19 house or what's happening in your case. Or you can, but
20 basically if you do that, any call you make for no reason at
21 all can be monitored and then subsequently used against you.

22 I don't believe it's appropriate for the State to use
23 these calls as a purely investigative tool. And I believe it
24 violates my client's rights. I think from the testimony it's
25 pretty clear we're not talking about search warrants or even

1 given a reason. It's simply, sure, you want to log in,
2 here's your access and you can even listen live without any
3 reason being given for security or -- or anything else. I do
4 think it's inappropriate.

5 I have another basis for this as well, but I don't know
6 if you'd rather me pause here and we'll allow the State to
7 respond, or I can plow through Your Honor -- your -- either
8 way, Your Honor.

9 THE COURT: I'll hear from the State on it.

10 MR. OSBORNE: All right. I bet there's a young lady in
11 the Charleston County Detention Center right now that wishes
12 her judge would make new law. And that's basically what Mr.
13 Chisholm is asking you to do. She likes to use the phone a
14 lot. So the -- the first case that I found was State v.
15 Martin. I just pulled this up. It isn't unpublished,
16 (inaudible) state that. But I think that, you know, it's a
17 court of appeals from 2017 and they go into the Omnibus Crime
18 control. I can --- there's some good quotes in here, but the
19 gist of it is this, "There's a law enforcement exception to
20 the" -- "to the federal wiretapping statute." And this court
21 found that it applied and the -- the law enforcement
22 exception applies because the recording of the Defendant's
23 conversations were made as part of SCDC's routine monitoring.
24 The disclaimer that we all heard was this call is subject to
25 monitoring.

1 I could go on, Your Honor, but this has already been
2 litigated and jail calls aren't subject to a search warrant
3 requirement. At least not yet.

4 THE COURT: All right. Yeah, I -- I appreciate the
5 argument, Mr. Chisholm, but I -- I agree with the State on
6 that. Certainly they lose that expectation of privacy there.
7 And I agree, they don't have any other choice by which to
8 communicate, but they don't have to say anything stupid
9 either. Now, which gets us to where I guess you're going
10 next. What -- what's the relevance of this? I mean, what --
11 why is the State -- is that where you're going next?

12 MR. CHISHOLM: Yes, sir.

13 THE COURT: Okay. Because I didn't --

14 MR. OSBORNE: Oh, it's ---

15 THE COURT: --- really ---

16 MR. OSBORNE: Oh, it's -- it's a biggie. So if you
17 listen in there, he says, what -- what's -- what's he looking
18 for? He's looking for money. He's looking for money from
19 his mom, 5,000 bucks. When he doesn't get that money, you
20 see the reaction, cuts off his mom. He also was under the
21 impression, or at least was inquiring as to whether he was
22 going to get any money in the will. And -- and if you
23 listen, he said, when she told him no, when Ms. Rose told him
24 no, he said, oh yeah, me and him talked about it.

25 Now, you know, our -- the whole theory of this case is

1 that we have a young man who has been given everything
2 throughout his life. And this was two incidents, one with
3 Ms. Rose, where he didn't get what he wanted and he cut her
4 off. I didn't listen to his testimony, but I believe Captain
5 Dunaway would say since that phone call, he hasn't spoken to
6 his mom at all.

7 But more importantly, and this is kind of, you know,
8 this is going to be, you know, an area in which I believe the
9 Defense is, you know, there's -- there's some (inaudible)
10 there for him. You know, motive. Well, I believe that this
11 (inaudible) and that will be the material issue at fact here
12 for the jury to determine, I believe, whether there was
13 malice. Okay? We don't get that inferred charge anymore.
14 We're not even going to ask for it because it -- it'd be a --
15 a dangerous weapon. I think that's -- it's too dicey for
16 appeal.

17 But I think what we see right here is he thought he was
18 getting money and he wanted to confirm it. And when he
19 didn't get the money from Ms. -- Ms. Rose, we saw his
20 reaction and we know that he had a conversation with his dad
21 because he said it right there; me and him talked about it.
22 And I think, you know, our position is pretty clear or what
23 we would argue. And he can certainly argue the relevance to
24 it too. I'm not saying he obviously will, but I, you know,
25 our position would be, when he doesn't get what he wants,

1 it's not (inaudible).

2 And as far as relevance, Your Honor, "Evidence may be
3 excluded if it's probative value is substantially overweight
4 by the danger of unfair prejudice." I guess the unfair
5 prejudice here would be that, you know, maybe he's rude to
6 his mama on the phone, you know, maybe he's not -- he's not
7 nice to her. He's been charged with murder. So to
8 substantially -- the -- the rudeness that he displayed on the
9 phone to his mom, for that to substantially have a danger of
10 unfair prejudice, I -- I think is a bit of relief. So I
11 think it is relevant and it should be admitted.

12 THE COURT: Mr. Chisholm.

13 MR. CHISHOLM: Thank you, Your Honor. Please the
14 court?

15 So kind of break this call down into two parts. You
16 got the first call, or the first portion of the call where he
17 is asking about the letter he received, I guess presumably
18 from probate attorney or something along those lines, talking
19 about the will. The way I interpret this call, he's talking
20 to his mother saying, hey, I got this letter. Am I in the
21 will? And then, you know, why am I getting this letter? She
22 says, he's not. And he says, no, I didn't think so. I'd
23 already talked to dad about that.

24 They're saying -- I think what they're saying is that
25 when he didn't -- when he found out he wasn't in the will, he

1 then killed his father, I guess is what makes it relevant.

2 But portion we're missing there is, he could've known that

3 for 30 years. There's no link here that says he found out

4 the day before, which would certainly make it more relevant.

5 And -- and there's no evidence to show when that conversation
6 took place.

7 I think this whole line of inquiry would be more

8 relevant if what you had on this call instead was the

9 opposite. He calls mom and says, hey, I got a letter from

10 the law. When am I getting my share? And she says, oh no,

11 you're not. And he says, what do you mean I'm not, I was cut

12 out of the will? That could provide actual motive. That

13 could go towards the malice that he committed this crime for

14 financial gain.

15 But we've got the opposite. We've got him saying, why

16 did I get this letter? I didn't think I was in the will to

17 begin with. And then she confirms that, and that's that. As

18 to the rest of it. I mean, I don't really see what else they

19 want to get out of the portion of where he is asking for

20 money. I mean, every client I've ever had in jail tries to

21 shake every tree they can to get canteen money, and when they

22 can't get the money, they get upset. I mean, I think that's

23 pretty natural reaction. But other than just showing he's

24 mean to his mom, which I think gets into bad character

25 evidence and anything else, I don't see how that's relevant

1 either.

2 I don't think either one of these calls -- or either
3 portion of the call, I guess would be relevant. I think it
4 definitely gets into Rule 403, that even if there is some
5 portion relevance there, that the prejudice highly outweighs
6 it. It just -- again, it just goes to show that he's mean to
7 his mom. Is the only real value that I can see that you get
8 out of this thing. I don't think it goes towards showing
9 motive, intent, malice, or anything else. I think it's a
10 pretty big leap to say he called to found out why he is
11 getting this letter. He has confirmed what he already knew,
12 that he wasn't in the will. How that does anything to show
13 malice or anything else that they're arguing?

14 MR. OSBORNE: Your Honor, the only thing I would add to
15 that is, you know, obviously all evidence -- if we're trying
16 to introduce the evidence, it's got some prejudicial value
17 otherwise we wouldn't be trying to introduce. The fact is,
18 is it substantial? Is there a substantial danger of unfair
19 prejudice? And generally the -- the case law and substantial
20 danger of unfair prejudice mostly deal with, I'm trying to
21 get the jury to come to a decision for improper means. I've
22 already listed the two reasons why we're arguing and why we
23 want to admit it. And it's not to say like he's a bad
24 person. I'm saying he's spoiled. That's what I'm saying.

25 And I'm saying that, you know, this, you know, he gets

1 the letter from the representative. And he's asking, he's
2 double checking. Me and him have talked about it. I want to
3 make sure. You know, and the fact that -- Mr. Chisholm makes
4 some good arguments right now, there's no counterpoints to
5 its admission. It doesn't make it inadmissible. And sure,
6 you know, we would love to hear him say that he, you know,
7 was told that he is in the will or not in the will that
8 morning. That doesn't make it -- that would just make --
9 make it the evidence better, but that doesn't make it less
10 admissible.

11 And -- and I know I -- I -- we are asking you to kind
12 of rule in a vacuum, but as far as the timing goes I -- I
13 believe that you're going to hear plenty of testimony that
14 Defendant moved back into his home in September of October,
15 into his parent's home. We're not talking about 30 years.
16 We're talking about three months.

17 THE COURT: Anything else Mr. Chisholm?

18 MR. CHISHOLM: Just -- just briefly. I mean, as to the
19 timing, I guess if he's talking about his father told him he
20 wasn't in the will. It doesn't mean that he found that out
21 when he moved back into the house a couple minutes. That
22 could have been when he was 20 years old. I mean, there is
23 no evidence that shows this was recent news for him. That
24 could have been something he knew since he was a child. We
25 don't have anything to show otherwise. It goes to the

1 weight, not admissibility.

2 THE COURT: All right. Based upon the represent --
3 representations of the State and the Rule 401 definition of
4 -- of relevance, I'm going to find that it's -- it is
5 relevant and that it is not any prejudicial effect, does not
6 substantially outweigh the probative value at this juncture.
7 If -- now, I think at some point obviously there's going to
8 have to be an appropriate foundation laid for the call. And
9 when they get into that issue, I'm assuming there's going to
10 be some testimony from Ms. Bell. So it -- that really won't
11 be subject to any other contemporaneous objections you may
12 have at the time, Mr. Chisholm. All right.

13 MR. OSBORNE: Just in all candid to the Court, I have
14 not made a 100 percent decision on whether I'm going to call
15 Ms. Bell.

16 THE COURT: Okay.

17 MR. OSBORNE: She -- she's not in the courtroom now.
18 So just for your edification, she has two children. One
19 committed suicide, Jamie. The second one killed her husband.
20 So this has been a lot for her. So I'll assume because she
21 kind of that (inaudible).

22 THE COURT: We'll -- we'll address it then, but I -- I
23 -- at least conditionally as of now, I'll rule that it is
24 relevant and admissible.

25 MR. OSBORNE: Okay.

1 THE COURT: All right. What do we have next?

2 MR. OSBORNE: Your Honor, the -- the other -- well,
3 hearsay witnesses and stuff. One we can't get today is
4 doctor's appointment, Janette Mizzel, and the others we could
5 have here this afternoon.

6 THE COURT: All right. You want to go ahead and pick
7 the jury?

8 MR. OSBORNE: Yes.

9 THE COURT: How long do you think we'll need this
10 afternoon with those witnesses?

11 MR. OSBORNE: I don't think the testimony's going to be
12 that long. You know, the legal stuff, I've argued to the
13 best I could in the (inaudible) I mean, I don't -- I think
14 maybe an hour or two.

15 MR. CHISHOLM: (Inaudible), Your Honor, by an hour or
16 two.

17 THE COURT: All right. Before we start with jury
18 selection, how long you all think this trial is going to
19 take?

20 MR. OSBORNE: I'm thinking lunch Thursday would be
21 about what -- what I would anticipate. And -- and I don't
22 know if I mentioned, Garcia did have to work last night, so
23 we tried to call him and he's probably sleeping. We could
24 have him definitely testify tomorrow morning if he wanted to
25 do that. Give him a day (inaudible) before the jury comes

1 out.

2 MR. CHISHOLM: And I would say Thursday around lunch.

3 THE COURT: All right. Okay. Madam Clerk, are they
4 ready down there? All right. Well, let's -- let's take a
5 short break. We'll be back up at 11:00.

6 (Off the record.)

7 THE COURT: Good morning, ladies and gentlemen. My
8 name is Heath Taylor and I'm a circuit court judge. It's my
9 privilege to preside over court this week in Dorchester
10 County. I'm one of your resident circuit court judges for
11 the First Circuit, which is Calhoun, Orangeburg in
12 Dorchester.

13 I happen to reside in Calhoun County which again is
14 part of this circuit, but I'm technically one of your
15 resident circuit judges, and it's my pleasure to be here
16 today. Now one thing I need you to do before you get
17 started, and I'm sure the clerk has asked you already, but
18 make sure you're in the right court. If not, you're going to
19 spend a lot of your time in the wrong place. So let's make
20 sure your summons had you here in general sessions today and
21 not for magistrate's court or city court.

22 This term of court is for one week. Therefore, your
23 service as jurors will end this Friday. We do not believe
24 this case is going to go past Thursday, but again, we -- you
25 are limited to this week. If there was something strange to

1 happen, we would certainly let you know. We understand the
2 inconvenience that jury service causes to each of you, and we
3 appreciate you being here. We're going to do our best to
4 inconvenience you as little as possible.

5 But we have to have you to do our work. Without folks
6 like you being willing to show up and appear in court and
7 appear and sit through this selection process, we can't move
8 cases and we can't move trials along. And it's important to
9 both the State and the Defendant that folks are willing to
10 show up and do their job as jurors.

11 Now around the courtroom you'll see bailiffs and
12 there'll probably be some deputies around at some point.
13 These folks are here to assist you this week. If you have
14 any questions, concerns, need any help with anything, please
15 feel free to reach out to them and they will be able to
16 assist you, or -- or get a message to me if necessary. In
17 front of me is the clerk. They're going to be assisting
18 throughout the trial -- or clerks, I shouldn't say plural.
19 Triple down there right now. They're going to be assisting
20 me as well as the attorneys throughout the case. They will
21 be assisting with jury selection and qualification here
22 shortly.

23 Now, the purpose this morning is determine -- initially
24 to determine your qualification and eligibility to serve as
25 jurors. Jury qualification is done in several stages.

1 First, you're going to be sworn in and the clerk will call
2 the roll. After the call of the roll for everyone, we will
3 then move into the qualification. The clerk will tell you as
4 she's calling the roll, what information they'd like to get
5 from you, so please follow her directions.

6 Madam Clerk, can you swear in the jury please?

7 THE CLERK: If you're willing, please stand and raise
8 your right hand.

9 THE CLERK: And being seated. Thank you.

10 THE COURT: All right, Madam Clerk, please call the
11 roll.

12 THE CLERK: When I call your name, if you'll stand and
13 give us the information from the monitor here or from the
14 card that you were given. Juror number 12, Michael Bledsoe
15 (ph).

16 JUROR NUMBER 12: I'm employed by Boeing. My job title
17 is Production Lead Management. I do not have a spouse and I
18 believe that is it.

19 THE CLERK: Okay, thank you. Juror number 19, Matthew
20 Brantley (ph).

21 JUROR NUMBER 19: I'm employed by Brantley
22 Construction. My job is vice president. Myself -- or my
23 spouse is employed by Dorchester District II. She's an
24 eighth grade math teacher.

25 THE CLERK: Okay, thank you. Juror number 25, Caroline

1 Horner (ph).

2 JUROR NUMBER 25: I am employed by Charleston, ENT and
3 Allergy. My job is medical assistant and my spouse is
4 employed by Sunbelt Rentals. He is a shop foreman diesel
5 mechanic.

6 THE CLERK: Okay, thank you. Juror 26, Rosemary Bunch
7 (ph).

8 JUROR NUMBER 26: Disability and I don't have a spouse.

9 THE CLERK: Okay, thank you. Juror 27, Colleen Burgess
10 (ph).

11 JUROR NUMBER 27: I'm retired. I was a former nuclear
12 medicine technologist, specializing in cardiology. My
13 husband is retired. He was USN. Retired now.

14 THE CLERK:

15 Okay, thank you. Juror 28, Keith Campbell (ph).

16 JUROR NUMBER 28: I'm employed by KFC restaurants. I'm
17 the district manager and my spouse is retired.

18 THE CLERK: Okay, thank you. Juror 30, Adriana --
19 Adriana Campbell Weathers.

20 JUROR NUMBER 30: I'm employed by PepsiCo. I'm a
21 manager (inaudible) and no spouse.

22 THE CLERK: Okay, thank you. Juror 38, Kathleen
23 Sharpey (ph).

24 JUROR NUMBER 38: I'm employed by Medical University of
25 South Carolina. My job is a registered nurse. My spouse is

1 employed by Scout Boats and he's a plant manager.

2 THE CLERK: Okay, thank you. Juror 43, Ella Comer
3 (ph).

4 JUROR NUMBER 43: I'm currently unemployed and looking
5 for a job. And I don't have a spouse.

6 THE CLERK: Okay, thank you. Juror 44, Cheryl Coy.

7 JUROR NUMBER 44: Cheryl Coy. I work for Churchill
8 Forge Properties. Property manager and my husband is outside
9 sales.

10 THE CLERK: Okay, thank you. Juror 49, Elaine Roy
11 Smith (ph).

12 JUROR NUMBER 49: I'm employed by Charleston Parks and
13 Recreation and my job title is maintenance specialist. And
14 my husband is employed by Havertys Furniture Company as a
15 driver assistant.

16 THE CLERK: Okay. Thank you. Juror 51, Marsha Date
17 (ph).

18 JUROR NUMBER 51: I'm employed by HCA healthcare and my
19 job is a team lead for the cash management department, and my
20 husband is a freelance photographer/graphic designer, so he's
21 self-employed.

22 THE CLERK: Thank you. Juror 54, Melissa Dixon.

23 JUROR NUMBER 54: I'm employed with the FDA, Food and
24 Drug Administration. And I am a technical information
25 specialist with the web hosting team. I have no spouse.

1 THE CLERK: Okay, thank you. Juror 55, Joshua Dover.

2 JUROR NUMBER 55: I am employed by Bosch. I'm a
3 maintenance technician/electrician and divorced.

4 THE CLERK: Okay, thank you. Juror 62, Christopher
5 Elmer.

6 JUROR NUMBER 62: I'm employed by Tim Elmer RLS. I'm a
7 land surveyor and no spouses.

8 THE CLERK: Okay, thank you. Juror 66, (inaudible).

9 JUROR NUMBER 66: I'm employed by Charleston Water
10 System. I'm the career administrator. My spouse is employed
11 by Atlantic Electric and he's the service manager.

12 THE CLERK: Okay, thank you. Juror 68, Ebony Frazier
13 (ph).

14 JUROR NUMBER 68: I'm employed by Evidence Health and
15 I'm a behavioral health case manager. No spouse.

16 THE CLERK: Okay, thank you. Juror 70, Alfreda Gadson
17 (ph).

18 JUROR NUMBER 70: I'm employed by Maple Information
19 Walker Center Atlantic. My job is administrative assistant.
20 My spouse is employed by Chadwell Supply and he's a warehouse
21 manager.

22 THE CLERK: Okay, thank you. Juror 71, Angela Gadson
23 Towns (ph).

24 JUROR NUMBER 71: I'm employed with Banks Construction.
25 I'm a foreign. My husband worked for the postal service as a

1 driver.

2 THE CLERK: Okay, thank you. Juror 73, Adam Gathas
3 (ph).

4 JUROR NUMBER 73: I'm employed by Avonex Code
5 Technologies. I'm a warehouse manager. My wife works for
6 Charleston County Schools. She's a school psychologist.

7 THE CLERK: Okay, thank you. Juror 77, Theresa
8 Granger.

9 JUROR NUMBER 77: I'm employed by Aetna Medicare. I'm
10 a project management analyst and my spouse employed by
11 Matthew Ward Landscape. He's a delivery driver.

12 THE CLERK: Okay, thank you. Juror 78, Angela Gravely
13 (ph).

14 JUROR NUMBER 78: I'm employed by Charleston Southern
15 University. I teach in the English Department. My husband
16 is also a CSU, he's also a professor.

17 THE CLERK: Okay, thank you. Juror 89, Harmin Haskins.

18 JUROR NUMBER 89: Yes, I'm a caregiver for a special
19 kids, and no spouse.

20 THE CLERK: Okay, thank you.

21 JUROR NUMBER 89: You are welcome.

22 THE CLERK: Juror 93, Justin Henning.

23 JUROR NUMBER 93: I'm employed by Alliance Physical
24 Therapy Partners. My job is exercise physiologist. My
25 spouse works for -- or is employed by Bayada Home Health and

1 she's a chart auditor.

2 THE CLERK: Okay, thank Juror 94, Kelly Hickman.

3 JUROR NUMBER 94: I'm employed by the Medical
4 University of South Carolina. I'm the communications
5 instructional design and training program manager. And my
6 husband works for Brown & Root. And he is a defense
7 contractor.

8 THE CLERK: Okay, thank you. Juror 95, Jody Hicks.

9 JUROR NUMBER 95: I am unemployed. My husband works
10 for Mag Aerospace and he is a DD overseas/UN government
11 contractor.

12 THE CLERK: Okay, thank you. Juror 97, Trudy Holder.

13 JUROR NUMBER 97: I am employed by Aqua Blue Pools. My
14 job is in the accounting department and I am a widow.

15 THE CLERK: Okay, thank you. Juror 105, Dave Jackson.

16 JUROR NUMBER 105: I'm employed by Jackson Ruven (ph).
17 I'm a supervisor. My spouse is unemployed.

18 THE CLERK: Okay, thank you. Juror 106, Virginia
19 Jenkins.

20 JUROR NUMBER 106: I'm a student at -- for Georgetown
21 Tech and I have no spouse.

22 THE CLERK: Okay, thank you. Juror 108 -- oh, I'm
23 sorry -- 107, Ashley Jimenez.

24 JUROR NUMBER 107: I'm employed by Oakbrook Family
25 Dentistry and Regional Hygienist. My spouse works at Squash

1 and he's a process technician.

2 THE CLERK: Okay, thank you. Juror 108, Jacob John?

3 JUROR NUMBER 108: I'm employed by Scout Boats. My job
4 is product development and project manager.

5 THE CLERK: And are you married?

6 JUROR NUMBER 108: No, ma'am.

7 THE CLERK: Okay. Thank you. Juror 109, Adrian
8 Johnson.

9 JUROR NUMBER 109: I'm employed by Berkeley County
10 School District. I'm an art teacher and I have no spouse.

11 THE CLERK: Okay, thank you. Juror 113, Thomas Kennedy
12 III.

13 JUROR NUMBER 113: I'm employed by Cummins Inc.
14 Engineering technician. And my wife works for Irvine and --
15 excuse me -- Weeks & Irvine. She's a CFO.

16 THE CLERK: Okay, thank you. Juror 15, Sandra Kirby.

17 JUROR NUMBER 115: I'm employed by Summerville Primary
18 Care and my job is front desk and billing supervisor. And I
19 do not have a spouse.

20 THE CLERK: Okay, thank you. Juror 119, Janette
21 (inaudible).

22 JUROR NUMBER 119: I am employed by Ethics Education
23 Staffing (ph). I'm a regional recruiter manager. My husband
24 is a retired electrical engineer, however, he does work
25 part-time for Daniel Island Golf Club.

1 THE CLERK: Okay, thank you. Juror 121, Lanet Laden
2 (ph).

3 JUROR NUMBER 121: I'm employed by the 628th Civil
4 Engineer Squadron as a budget analyst. My spouse is employed
5 at 628th Civil Engineer Squadron as a housing element chief.

6 THE CLERK: Thank you. Juror 126, Michael (inaudible).

7 JUROR NUMBER 126: I'm employed by Aldora Aluminium and
8 Glass Products at Charleston. My wife is employed by Waffle
9 House. Oh, my job is warehouse operations supervisor. My
10 wife is employed by Waffle House and she is a unit manager.

11 THE CLERK: Okay, thank you. Juror 127, Ryan Long.

12 JUROR NUMBER 127: I work for CODIS. I'm a data
13 technician and I have no spouse.

14 THE CLERK: Okay, thank you. Juror 130, Isaiah
15 (inaudible).

16 JUROR NUMBER 130: I'm employed by Building
17 Distribution. I am a materials handler and I don't have
18 spouse.

19 THE CLERK: Okay, thank you. Juror 139, Leslie
20 McCrudden.

21 JUROR NUMBER 139: I'm employed by Sergeant Strikes
22 Family Entertainment Center. My job as a server and I don't
23 have a spouse.

24 THE CLERK: Okay, thank you. Juror 140, Janet McDuff.

25 JUROR NUMBER 140: I'm employed by Dorchester School

1 District 2. I'm a school bus driver and my husband is
2 self-employed. He's a subcontractor.

3 THE CLERK: Okay, thank you. Juror 142, Caroline
4 McGinnis.

5 JUROR NUMBER 142: I'm employed by Dorchester District
6 2 schools. I am a first grade teacher. My spouse is
7 employed by Conex Property and he is an accountant.

8 THE CLERK: Okay, thank you. Juror 145, Michael
9 McLennan Jr.

10 JUROR NUMBER 145: I'm self-employed. I'm a fireplace
11 installer and my spouse is unemployed.

12 THE CLERK: Okay, thank you. Juror 146, (inaudible).

13 JUROR NUMBER 146: I work for Allied Security. I'm an
14 enterprise account executive. I don't have a spouse.

15 THE CLERK: Okay, thank you. Juror 147, Paul Mayer.

16 JUROR NUMBER 147: I'm employed by Affinity Integrated
17 Solutions. My job is outside sales. My wife is a substitute
18 teacher with DD 2.

19 THE CLERK: Okay, thank you. Juror 148, Tyrone
20 Middleton.

21 JUROR NUMBER 148: I'm employed by GXO Logistics. I'm
22 a truck driver. My wife is employed with the VA. She is a
23 pharmacy technician.

24 THE CLERK: Okay, thank you. Juror 149, Sebastian
25 McCalsky.

1 JUROR NUMBER 149: I'm employed by Octopharma Plasma
2 and my job is senior phlebotomist.

3 THE CLERK: And are you married?

4 JUROR NUMBER 149: I'm not married.

5 THE CLERK: Okay, thank you. Juror 151, Walter
6 Millette Jr.

7 JUROR NUMBER 151: I'm employed by Master Tech
8 Transmission. (Inaudible) Tech. No spouse.

9 THE CLERK: Okay, thank you. Juror 164, Grayson
10 (inaudible).

11 JUROR NUMBER 164: I'm employed by Pet Supplies Plus in
12 Summerville and I manage that location, and I have no spouse.

13 THE CLERK: Okay, thank you. Juror 168 Olin
14 (inaudible).

15 JUROR NUMBER 168: I'm employed by Cummunis Turbo
16 Technology. I'm a process manager. My wife is
17 self-employed.

18 THE CLERK: Okay, thank you. Juror 169, Judy Oliver.

19 JUROR NUMBER 169: I'm employed by Joint Base
20 Charleston Weapons Stations Child Development Center. My
21 husband's employed by Allied Trade, so he's a welder veteran.

22 THE CLERK: Okay, thank you. Juror 175, David Parker
23 Sr.

24 JUROR NUMBER 175: I'm employed by Charleston County as
25 a (inaudible) tech and my wife is a disabled homemaker.

1 THE CLERK: Okay, thank you. Juror 176, Donnie Parker
2 II.

3 JUROR NUMBER 176: I'm employed by Charleston Southern
4 University. I'm a professor of Christian Studies. My spouse
5 is self-employed. She's an interior designer.

6 THE CLERK: Okay, thank you. Juror 178, Lindsey
7 Corden.

8 JUROR NUMBER 178: I'm employed by the Medical
9 University of South Carolina. I am a guest services
10 representative and I don't have a spouse.

11 THE CLERK: Okay, thank you. Juror 179, Gregory
12 Pecora.

13 JUROR NUMBER 179: I'm employed by Paul Davis
14 Restoration Reconstruction. I'm a project manager and my
15 wife works for a custom home builder called (inaudible)
16 Homes.

17 THE CLERK: Okay, thank you.

18 JUROR NUMBER 179: She's an office manager. Sorry.

19 THE CLERK: Juror 181, William Peter.

20 THE COURT: I'm retired. Currently working part-time
21 as a contractor for the same company I retired with, Cummins.
22 My wife is medically retired and previously worked as a
23 special needs bus driver.

24 THE CLERK: Okay, thank you. Juror 184, Vernon
25 Phillips.

1 JUROR NUMBER 184: I'm employed by Brinks. I'm a guard
2 driver messenger and my spouse is employed by BD as a
3 microbiologist.

4 THE CLERK: Okay, thank you. Juror 187, Ronald Pinkney
5 (ph).

6 JUROR NUMBER 187: Retired. No spouse.

7 THE CLERK: Okay, thank you. Juror 192, Shannon
8 Powell.

9 JUROR NUMBER 192: I work for Alchemy Corporation,
10 which is a pharmaceutical manufacturer and I'm -- my title is
11 a senior quality specialist and I'm unmarried.

12 THE CLERK: Okay, thank you. Juror 193, Jessica
13 Rainey.

14 JUROR NUMBER 193: I work for MUSC. I work in the EEG
15 technician and I'm unmarried.

16 THE CLERK: Okay, thank you. Juror 195, David Ray Jr.

17 JUROR NUMBER 195: I work for Sitecore. I'm a director
18 of business development and strategy. My wife works for
19 Ashley Ridge Church and she's an administrative assistant.

20 THE CLERK: Okay, thank you. Juror 197, Taylor Rohr.

21 JUROR NUMBER 197: I'm employed with Automaxx of The
22 Carolinas. I work in internet sales as a business
23 development representative and my spouse works for Dominion
24 Energy in the gas department as adjourn.

25 THE CLERK: Okay, thank you. Juror 203, Nancy Ross.

1 JUROR NUMBER 203: I'm employed at School District 4.
2 My job is full service manager/athletic department.
3 Full-Time CD driver. And my husband worked for DD -- DD 2
4 and he's a truck driver.

5 THE CLERK: Okay, thank you. Juror 208, Cynthia
6 Alberta.

7 JUROR NUMBER 208: I'm not employed. I'm on
8 disability. I have no spouse.

9 THE CLERK: Okay, thank you. Juror 209, Kimberly
10 Sanders.

11 JUROR NUMBER 209: I'm employed by T-Mobile. My job is
12 a customer service representative. My husband worked for TGI
13 Hico (ph). He's a machine operator.

14 THE CLERK: Okay, thank you. Juror 214, Eric Shelton.

15 JUROR NUMBER 214: I'm employed by city of Eastcreek as
16 a water distribution operator and I have a spouse.

17 THE CLERK: Okay, thank you. Juror 224, Andrew
18 Stewart.

19 JUROR NUMBER 224: I'm employed by Computer Consultant
20 Group. I'm an information technology consultant. I have no
21 spouse.

22 THE CLERK: Okay. Thank you. Juror 226, Valerie
23 Tallman.

24 JUROR NUMBER 226: I am employed by DD 2. My job is at
25 will. And I'm a widow.

1 THE CLERK: Okay, thank you. Juror 231, Jerelli
2 (inaudible) Martinez (ph).

3 JUROR NUMBER 231: I -- I'm employed by Tobias Saloon.
4 I'm a hairstylist and I have no spouse.

5 THE CLERK: Okay, thank you. Juror 232, Christine
6 Billion (ph).

7 JUROR NUMBER 232: I'm employed Dorchester School
8 District 2. I am a district professional development coach.
9 Husband is deceased.

10 THE CLERK: Okay, thank you. Juror 233. Anthony Trice
11 (ph).

12 JUROR NUMBER 233: I'm employed by the Department of
13 Homeland Security. I am a transportation security officer.
14 My wife is employed at KinderCare as a preschool teacher.

15 THE CLERK: Okay, thank you. Juror 234, Samuel Raso
16 Rodriguez (ph).

17 JUROR NUMBER 234: I'm employed by the Elliot Law Firm
18 and I'm a legal assistant. I have no spouse.

19 THE CLERK: Okay, thank you. Juror 236, Peter Qui
20 (ph).

21 JUROR NUMBER 236: I'm employed by engineering company
22 called HDR. I'm a civil engineer. My spouse is a registered
23 nurse, but she's currently unemployed.

24 THE CLERK: Okay, thank you. Juror 237, Brandy
25 (inaudible).

1 JUROR NUMBER 237: I am employed by InLight Connection.
2 My job is publishing specialist. My spouse is employed by
3 Upon the Water Ministries. His job is missionary.

4 THE CLERK: Okay, thank you. Juror 238, Greg Vos Jr.
5 (ph).

6 JUROR NUMBER 238: I'm employed by a Walmart warehouse;
7 ,8980 in Ridgeville. My wife -- I'm shipping lead. My wife
8 is a newly retired for District 2. School teacher.

9 THE CLERK: Okay, thank you. Juror 240, Geraldine
10 (inaudible).

11 JUROR NUMBER 240: My husband and I are both retired.

12 THE CLERK: Okay, thank you. Juror 242, Gail Burn
13 (ph).

14 JUROR NUMBER 242: I'm a retired hospice nurse and I'm
15 a widow.

16 THE CLERK: Okay, thank you. Juror 243, Christine
17 (inaudible).

18 JUROR NUMBER 243: I am employed by Advanced Dental
19 Center. I'm billing and insurance coordinator. My spouse is
20 retired permanent disabled US Army.

21 THE CLERK: Okay, thank you. Juror 251, Orlando
22 Washington.

23 JUROR NUMBER 251: I'm employed by (inaudible)
24 Department Inc. My job is assistant manager.

25 THE CLERK: Okay, thank you. Juror 252, (inaudible)

1 Watson.

2 JUROR NUMBER 252: I'm employed by Aging Gracefully as
3 a caregiver. My spouse is a retired post office manager, but
4 he works part-time for Dorchester County as a site manager --
5 site attendant.

6 THE CLERK: Okay, thank you. Juror 261, Michelle Ruda
7 (ph).

8 JUROR NUMBER 261: I -- I am employed by ManTech, a
9 government contractor. I'm a logistic analyst V. And no
10 spouse.

11 THE CLERK: Okay, thank you. Juror 264, Kevin
12 (inaudible).

13 JUROR NUMBER 264: My -- I'm employed by World Wildlife
14 Fund. I'm a CRM services manager. My spouse is employed by
15 Agape Care. She's a business operations specialist.

16 THE CLERK: Okay, thank you. Are there any names I did
17 not call? Thank you.

18 THE COURT: Very good. Thank you, Madam Clerk.

19 Ladies and gentlemen, I now have certain questions to
20 ask you to determine your qualifications as jurors in this
21 court. These questions determine your general eligibility to
22 serve. State law requires that I ask these questions. Some
23 of these questions are very personal in nature and you may
24 not want to stand and disclose this information openly in
25 court in the presence of your fellow jurors.

1 After each of the questions, if anybody needs to
2 respond, I'll ask you to stand. If you don't want to stand,
3 that is also fine. At the end of the process, I will give
4 you all a chance to come forward and speak privately with me,
5 the clerk, and the lawyers. We don't want anybody to be
6 embarrassed here today. So if you don't want to stand, just
7 please make a mental note and remember to come forward at the
8 end when I ask you to do so. It's absolutely essential that
9 we have accurate information for each of you.

10 First question is any member of the jury panel not a
11 citizen of the United States? If so, please stand. Is any
12 member of the jury panel not a resident and citizen of
13 Dorchester County, South Carolina? If so, please stand. Is
14 any member of the jury panel unable to read, write, speak, or
15 understand the English language? If so, please stand.

16 Does any member of the jury panel have less than a
17 sixth grade education or its equivalent? If so, please
18 stand. Is any member of the jury panel unable because of
19 mental or physical infirmities to render efficient jury
20 service? For example, does any member of the jury panel have
21 any medical condition that would prevent you from serving?
22 Typically, court will go for about one to two hours before we
23 break. I know some folks have issues where it is difficult
24 for them to sit for long periods of time, things of that
25 nature, but that's -- that's what that question addresses.

1 Does that apply to anyone?

2 Has any member of the jury panel been convicted by
3 guilty plea or trial in a state or federal court of record of
4 a crime punishable by imprisonment for more than one year,
5 and your civil rights have not been restored by pardon or
6 amnesty? Punishable by more than one year means that you
7 could have received a sentence of more than one year
8 regardless of what the sentence actually was. If so, please
9 stand. Is any member of the jury panel a clerk or deputy
10 clerk of court, constable, sheriff, or other commission law
11 enforcement officer, probate judge, county commissioner,
12 magistrate, or other county office, or employed within the
13 walls of any courthouse? If please -- if so, please stand.

14 Is there any member of the jury panel who has
15 previously served on jury duty and circuit court, not city
16 court, magistrate court, or federal court during this
17 calendar year? If so, please stand. Has any member of the
18 jury panel served as a member of the Dorchester County Grand
19 jury during the past several years. If so, please stand.

20 All right. Now, we're going to move to the exemptions.
21 State law provides several exemptions to jury service. An
22 exemption does not mean you are not qualified to serve. It
23 means you have the right to choose not to serve. First one
24 of those exemptions is for those of you 65 years of age or
25 older. Those of you who are 65 years of older certainly

1 bring with you a wealth of knowledge and experience and we
2 would love for you to serve, but if you don't want to, you
3 certainly have the option of being exempted. If so, please
4 stand.

5 Another exemption concerns prior jury service. No
6 person is required to serve as the juror more often than once
7 every three calendar years. Therefore, if any member of the
8 jury panel has served on jury duty during the last two
9 calendar years, you may be exempt from service this week if
10 you choose to be exempt. Please note this is not apply to
11 magistrate court, city court, or federal court. If this
12 applies to you and you wish to be exempted, please stand.

13 Persons who have served as grand jurors in the last
14 five calendar years may also be exempt from jury service. If
15 any member of the panel has served on a grand jury during the
16 last five calendar years, you may be exempt from service this
17 week. If you choose to do so. If this applies to you,
18 please stand.

19 Next exemption deals with those of you who have legal
20 custody of young children. Please listen very carefully to
21 -- to this exemption as it has several parts, all of which
22 must apply for you to be exempted. You may be exempted from
23 jury service if you have a child under the age of seven. You
24 have legal custody of your child or children, you have the
25 principal care, custody, and control of the child or

1 children, and you are unable to make arrangements for the
2 adequate care of your child or children while performing jury
3 duty. If all these requirements apply to you, then you may
4 be exempted on this basis. If you wish to be exempted for
5 this reason, please stand.

6 Next, deals with whether or not you are a primary
7 caretaker of a person 65 years of age or older and are unable
8 to provide adequate care for the person while performing jury
9 service. You may be exempted. If this exemption applies to
10 you and you are the primary caretaker for a person 65 years
11 of age or older. If that applies, please stand.

12 If you are the primary caretaker of a severely disabled
13 person who's unable to care for himself or herself and cannot
14 be left unattended and you are unable to provide adequate
15 care for that person while performing jury service, you may
16 be exempted. If this exemption applies to you and you wish
17 to be exempted, please stand.

18 The next exemption involves those of you who may be
19 attending school at this time or working in some capacity
20 with the school. If this exemption applies to you and you is
21 to be exempted, we'll transfer you to another term, a time
22 which will not conflict with your school obligations. Is
23 there any member of jury panel who is a full-time student,
24 school teacher, school crossing guard, school bus driver, or
25 who otherwise serves in any other school related function

1 who's unable to serve on jury duty this week as a result of
2 your school involvement? If so, please stand. Is there any
3 member of the jury panel who is employed with the department
4 of corrections at a correctional facility? If so, and you
5 would like to be exempted, please stand.

6 Is there any juror who perform services for a business,
7 commercial, or agricultural enterprise, which are so
8 essential to the operation of the enterprise, that if you
9 were required to form jury duty, the enterprise would have to
10 close or stop functioning. If so and you wish to be
11 exempted, please stand.

12 Ladies and gentlemen, that concludes the statutory list
13 of qualifications and exemptions for jury service. It may be
14 that you are qualified and no exemption applies to you, but
15 jury service this week would constitute an extreme hardship
16 on you for a particular reason. I cannot permanently excuse
17 a qualified juror from jury service per under extreme and
18 compelling circumstances. I may excuse a juror from this
19 term of court and transfer you to another term, particularly
20 if you've never been transferred before. Please understand
21 that general inconvenience is not a sufficient reason to
22 transfer you from another term. To justify transfer to
23 another term, service this week must constitute an extreme
24 hardship. Some examples of that may be someone who's an
25 hourly worker, who won't be paid, and you're the family's

1 only source of income. You may have a doctor's appointment
2 this week that you've been waiting on for months. That's
3 certainly something we would consider. Does -- do any of
4 those potential exemptions apply? If so, please stand.

5 All right. Yes, sir. I'll start with you. What's
6 your juror number?

7 JUROR NUMBER 130: 130.

8 THE COURT: 130. Yes, sir.

9 JUROR NUMBER 130: So I do have two children and I was
10 -- I was actually hoping I can talk to you.

11 THE COURT: Okay. You can come forward in a minute.
12 Oh, just -- just wait a minute.

13 JUROR NUMBER 130: Yeah, no problem.

14 THE CLERK: All right. Yes, sir. I -- I'm sorry. We
15 got -- you're tall. I'll start with you.

16 JUROR NUMBER 175: I have a medical appointment;
17 dealing with some medical issues.

18 THE COURT: What's your juror number?

19 JUROR NUMBER 175: 175.

20 THE COURT: 175?

21 JUROR NUMBER 175: Yes.

22 THE COURT: And is that -- that appointment is this
23 week?

24 JUROR NUMBER 175: Yes.

25 THE COURT: When is it?

1 JUROR NUMBER 175: Wednesday at 12:00.

2 THE COURT: Now, I have a couple options I can give
3 you. I can transfer you to another term. I'll tell you, we
4 normally break for lunch somewhere in that neighborhood. And
5 if you were selected and you reminded me, I could -- I could
6 work around that. So which -- which one of those would you
7 rather try?

8 JUROR NUMBER 175: I would rather be transferred.

9 THE COURT: Okay. Well, if you want to come forward,
10 we'll transfer you to another term. That's juror number 175.
11 All right. Yes, ma'am.

12 JUROR NUMBER 197: I'm commission based for my pay with
13 (crosstalk).

14 THE COURT: All right. What -- what's your juror
15 number?

16 JUROR NUMBER 197: It's 197.

17 THE COURT: 197. You say you're commission based for
18 your pay?

19 JUROR NUMBER 197: Uh-uh.

20 THE COURT: All right. Well, I can -- I can transfer
21 you so that would -- it would be a more convenient with your
22 schedule for next time, or if you'd like to stay with us, we
23 can see how it goes. If you're not selected, certainly you
24 wouldn't have to serve. However, we -- if you want to be
25 transferred, we can do that.

1 JUROR NUMBER 197: Can we do the transfer?

2 THE COURT: Yes, ma'am. 197. Yes, ma'am?

3 JUROR NUMBER 169: Number 169. I have a medical.
4 appointment that I've been waiting for months to get to.
5 It's on Wednesday, but later afternoon.

6 THE COURT: Okay. What time?

7 JUROR NUMBER 169: I believe it's 3 -- 3:00, 3:30.

8 THE COURT: Okay. All right. I will transfer you
9 because that's not a -- not a time we often break. I try to
10 accommodate everybody as best we can, but we'll just have to
11 transfer you to another term. You'll come forward and see
12 the clerk. Yes ma'am?

13 JUROR NUMBER 203: I got a doctor's appointment on
14 Thursday at 8:00 in order to keep my CDO license.

15 THE COURT: Okay. Thursday at 8:00 in the morning?

16 JUROR NUMBER 203: Yes, sir.

17 THE COURT: You'll be all right.

18 JUROR NUMBER 203: Okay.

19 THE COURT: I can't get these lawyers here that early.

20 JUROR NUMBER 203: Okay.

21 THE COURT: What was your juror number?

22 JUROR NUMBER 203: 203.

23 THE COURT: 203. Okay. And ma'am, if you are
24 selected, if you'll just make sure you let us -- you remind
25 us of that because I know how doctor appointments can be

1 sometimes they run over and we'll -- we'll make sure we
2 accommodate that as well.

3 JUROR NUMBER 203: Thank you, sir.

4 THE COURT: All right. All right, ladies and
5 gentlemen, now's the chance for those of you to not respond
6 earlier to questions I ask and those of you that may have a
7 reason to request a transfer to come forward. If you believe
8 you're disqualified or exempt from jury service or if you
9 have any questions about whether or not you might be
10 disqualified or exempt and you want to be transferred, please
11 come forward and we will address it.

12 All right. I find the jury panel is now qualified.
13 Ladies and gentlemen, some general guidelines for service
14 this week. We're going to ask you -- you probably have
15 already been asked when you're in the courtroom -- please
16 turn your cell phones on vibrate or off just so they don't
17 disturb court by going off. You know, that's pretty easy. I
18 think most folks understand that. If you are selected, we
19 will ask you to leave them in the jury room. Someone will --
20 will take care of them and make sure they're safe. While
21 you're in here, you'll of course have access to them during
22 breaks and at the end of the day. We will make arrangements
23 if you are selected and for opportunity for you to you to be
24 reached if there's an emergency. That was easy for me to
25 say, right?

1 It's very important that you have no contact with the
2 parties throughout the case, that includes any of the
3 lawyers, potential witnesses, even innocent conversations may
4 be misconstrued. So if you happen to be standing by one of
5 these people at the elevator and they turn and walk away,
6 they're not being rude. They're following my instructions.
7 So please understand that. I'm going to ask you to please be
8 prompt. It's not fair when we delay things because one or
9 two of you aren't on time. Let's see what we got.

10 Typically court's going to begin about 9:00. I usually
11 have the lawyers here about 9:00. And we take care of any
12 legal stuff we need to deal with outside of your presence.
13 And we will start up around 9:30. Some days that will
14 fluctuate. I can't tell you how that works. A lot of it
15 depends on witnesses. We'll usually try to break around
16 5:00. Sometimes that'll be a little earlier, possibly a
17 little bit later, just depending on the flow of the trial.
18 We'll break each day of course for lunch somewhere around
19 1:00.

20 Also, Dorchester County has a call in system, which
21 we're going to ask you -- are -- you'll receive instructions
22 from the clerk. If you are not selected about when you need
23 to call in, in the event there is another trial, that we will
24 summon you back for.

25 All right. We are about to begin the case of the State

1 vs. Jason Bell. Before we select the jury, here are several
2 other questions that I'm going to ask you. Now, Mr.
3 Chisholm, do you have an indictment?

4 MR. CHISHOLM: I do, Your Honor.

5 THE COURT: Okay.

6 MR. CHISHOLM: May I approach?

7 THE COURT: Yes, sir.

8 MR. OSBORNE: Your Honor, the State calls Jason Bell.
9 And Mr. Bell has been charged with murder. The indictment
10 number is 2021-GS-18-012.

11 THE COURT: All right. Ladies and gentlemen, you have
12 heard the solicitor call the case. Now, have -- or is anyone
13 related by blood or marriage to Mr. Jason Bell or to James
14 Bell? Anybody ever had a close personal relationship or
15 social or business relationship with either Jason Bell or
16 James Bell?

17 All right, I'm going to read to you a list of potential
18 witnesses in this case. They include Chief Brett Camp;
19 Captain Adam Dunaway; Scott Oliva; Trey Weatherford; Aaron
20 Garcia; Christopher Evelyn; Mark Clark; Dorchester County
21 Coroner, Paul Brothers; Lexington County Sheriff,
22 Investigator Mike Phipps; Dorchester County's Sheriff's
23 Office, Lieutenant Brandon Berg; Dorchester County Detention
24 Center, Deputy Mary Ellen Bud (ph); EMS technician, Holly
25 Lobo; First Circuit, Investigator Ray Halt.

1 And these individuals work for SLED; Ms. Hannah
2 Jefferson, Rachel Johnson, Bailey Haynes. Cameron
3 Wisniewski, Christine (inaudible), Catherine Lyce (ph), Chad
4 Smith. Next would be Dr. Virginia Reynolds from MUSC. Also
5 Rosedale, Larry Bowers, Janette Mizzel, Kirkland Howell, or
6 Dr. Aaron Watson. Is anybody related by blood or marriage to
7 any of those folks or have any sort of close personal or
8 social relationship with those folks?

9 MR. OSBORNE: Your Honor, I'm so sorry I left off Robin
10 Duke.

11 THE COURT: Robin Duke. The same would apply to Ms.
12 Duke.

13 All right. The State is represented by the First
14 Circuit Solicitor's office. I'm going to ask Mr. Osborne,
15 Mr. Fredrick to please identify themselves or introduce
16 themselves to you.

17 MR. OSBORNE: Thank you, Your Honor. My name's David
18 Osborne, I'm an assistant solicitor. That's what they call
19 us in South Carolina. Be a prosecutor in any other State.
20 This is Jillian Frederick. She's going to -- she's also a
21 prosecutor, assistant solicitor going to be helping me out
22 with the case. This is Carrie Huff, she's my legal
23 assistant. You'll also see Captain Dunaway with St. George
24 Police Department in back of the courtroom. And my
25 investigator Ray Heart (ph) will be coming in and out the

1 courtroom routing with us.

2 THE COURT: And Mr. Chisholm, Mr. Wehman.

3 MR. CHISHOLM: My name is Ash Chisholm. I'm with the
4 Public Defender's Office and this is Pierce Wehman, who's
5 also with the Public Defender's Office. We are represent Mr.
6 Bell.

7 THE COURT: All right. Has any member of the jury
8 panel ever been represented by any of the attorneys involved
9 in this case or have any sort of personal, family or social
10 relationship with? Has any member of the jury panel formed
11 or expressed an opinion about any issue or matter involved in
12 this case? Is any member of the jury panel aware of any bias
13 or prejudice toward either the State or the Defendant in this
14 case? Is there any member of the jury panel that was a
15 member of the grand jury which issued the indictment in this
16 case?

17 Have -- has any member of the jury panel ever had
18 criminal charges handled by the First Circuit solicitor's
19 office? Does any member of the jury panel have any personal,
20 political or religious beliefs that would prevent him or her
21 from sitting in judgment of another person and finding that
22 person guilty of a criminal offense?

23 Has any member of the panel ever had a particularly bad
24 experience with a law enforcement officer, such that it would
25 taint your view of a law enforcement officer's testimony or

1 his or her capacity to tell the truth? Would any member of
2 the jury panel have any problem following the law as the
3 Court cites to you, even if you may personally believe the
4 law is inappropriate or unfair?

5 Is any member of the jury panel related by blood or
6 marriage or have a close social or personal relationship with
7 a member of any law enforcement agency?

8 Okay. Ma'am, and you are number 54?

9 JUROR NUMBER 54: Yes.

10 THE COURT: And we already talked about that?

11 JUROR NUMBER 54: Yes.

12 THE COURT: Thank you for standing up again.

13 All right. Yes, sir. In the blue shirt.

14 JUROR NUMBER 146: I'm 146. My name is Ira Metz (ph).
15 I'm also a retired law enforcement officer from the federal
16 system. My son also is a deputy sheriff for Aiken County
17 Sheriff's Office.

18 THE COURT: What was your juror number, again, sir?

19 I'm sorry.

20 JUROR NUMBER 146: 146.

21 THE COURT: 146. Do you believe the fact that you're a
22 retired law enforcement officer or that your son works for
23 Aiken County Sheriff's Department will prevent you from being
24 impartial in this case?

25 JUROR NUMBER 54: No, sir.

1 THE COURT: Very good, thank you. You can have a seat.

2 All right. Yes, ma'am. Up front in the white?

3 JUROR NUMBER 242: 242. Brother-in-law is the

4 sheriff's deputy in -- in Ohio.

5 THE COURT: Do you believe that will prevent you from

6 being fair and impartial in this case?

7 JUROR NUMBER 242: No, sir.

8 THE COURT: All right. Thank you.

9 Yes, ma'am, in the pink?

10 JUROR NUMBER 243: Yes, sir. I have a niece and a

11 nephew works for Charleston Police Department and a close

12 personal relationship with a Dorchester County Sheriff.

13 THE COURT: Okay. What was your juror number?

14 JUROR NUMBER 243: 243.

15 THE COURT: 243?

16 JUROR NUMBER 243: Yes, sir.

17 THE COURT: You believe that would prevent you from

18 being fair and impartial in this case?

19 JUROR NUMBER 243: No, sir.

20 THE COURT: You said, no?

21 JUROR NUMBER 243: No, sir.

22 THE COURT: Okay, thank you. Yes, sir.

23 JUROR NUMBER 108: 108. My brother is a officer at the

24 Air Force base.

25 THE COURT: Do you believe that would prevent you from

1 being fair and impartial in this case?

2 JUROR NUMBER 108: No, sir.

3 THE COURT: All right. Thank you, sir. Yes, sir.

4 JUROR NUMBER 62: Juror 62.

5 THE COURT: Yes, sir.

6 JUROR NUMBER 62: Brother-in-law is Summerville Police
7 Department. Sister-in-law is retired North Charleston.

8 THE COURT: Do you believe that would prevent you from
9 being fair and impartial in this case?

10 JUROR NUMBER 62: No, sir.

11 THE COURT: And have a seat. Thank you. Yes, sir.

12 JUROR NUMBER 181: 181. Son is a USC police officer.

13 THE COURT: And do you believe that will prevent you
14 from being fair and impartial?

15 JUROR NUMBER 181: Negative.

16 THE COURT: Very good. Thank you, sir. Yes, sir.

17 JUROR NUMBER 19: Number 19. I have several cousins
18 and extended family in law enforcement from various agencies.

19 THE COURT: Okay.

20 JUROR NUMBER 19: And I probably should have stood up
21 earlier. I've had a brief social discussion with one of the
22 DAs, but not -- not something I would consider close.

23 THE COURT: Okay. Do you believe either of those
24 issues will prevent you to be fair and impartial in this
25 case?

1 JUROR NUMBER 19: No, sir.

2 THE COURT: All right. Is any member of the jury panel
3 employed by or related by blood or marriage to or a friend or
4 acquaintance of any perspective witness in this case? Has
5 any member of the jury panel read or heard anything about
6 this case either today or before today? Has any member of
7 the jury panel discussed this case or heard anyone else
8 discuss this or a similar case either today or before today?
9 Has any member formed a -- or an opinion about this case?
10 Have you any family member or close personal friend ever been
11 the victim of a violent crime?

12 JUROR NUMBER 233: Juror 233. My spouse mother was
13 beaten to death.

14 THE COURT: Okay. Do you believe that would prevent
15 you from being fair and impartial in this case?

16 JUROR NUMBER 233: No, sir.

17 THE COURT: Okay. Thank you. Yes, ma'am.

18 JUROR NUMBER 237: Number 237. My half-brother was
19 murdered.

20 THE COURT: Okay. Do you believe that would prevent
21 you from being fair and impartial in this case?

22 JUROR NUMBER 237: No, sir.

23 THE COURT: All right. Thank you, ma'am. Yes, sir.

24 JUROR NUMBER 179: My brother and I were involved in a
25 bar fight a few years ago and both were stabbed multiple

1 times.

2 THE COURT: Okay. What was your juror number?

3 JUROR NUMBER 179: I'm sorry, 179.

4 THE COURT: Do you believe that would prevent you from
5 being fair and impartial in this case?

6 JUROR NUMBER 179: No, sir.

7 THE COURT: Thank you. Yes, sir.

8 JUROR NUMBER 146: 146. My sister-in-law was murdered
9 in Liz's thickest (ph) in Orangeburg and it would not affect
10 my opinion about this case.

11 THE COURT: Very good. Thank you, sir. Is any member
12 of the jury panel and/or a member of your family or close
13 personal friend, a member of Mothers Against Drunk Driving
14 Students Against Drunk Driving, Citizens Against Violence or
15 any other similar type organization which has a goal of the
16 promotion of law enforcement or victim's rights? Is there
17 anything in the nature of the allegations in this case which
18 would cause any member of the jury panel any problem in
19 sitting as an impartial juror?

20 The victim, Mr. James Bell was a local attorney here in
21 St. George. Has any member of the jury panel related by
22 blood or marriage or a friend, acquaintance or former client
23 of Mr. Bell? This case may involve some testimony of the use
24 of alcohol and or drugs. Does any member of the jury panel
25 have any moral or religious opposition to the use of alcohol

1 or drugs? Does any member of the jury panel know of any
2 reason whatsoever why he or she should not serve as a juror
3 in this case with particular emphasis being placed on your
4 ability to be fair and impartial to both the State and the
5 Defendant? Anything else from the State?

6 MR. OSBORNE: No, Your Honor.

7 THE COURT: Anything else from the Defense?

8 MR. CHISHOLM: No, Your Honor.

9 THE COURT: All right. Madam Clark, you going to get
10 us a list? Okay. Ladies and gentlemen, just be patient with
11 us. The clerk is generating a list of a random subset of
12 each of you. So that'll take a minute and then we'll begin
13 the selection process. All right. Ladies and gentlemen,
14 we're -- while we're working on this list, we're going to
15 give everybody about a 10 minute break. So let's be back
16 here at 12:20.

17 (Off the record.)

18 THE COURT: Counsel, please approach. All right. I
19 need to see, I believe it's jurors 12 and 95.

20 THE BAILIFF: Juror number 12. Juror number 95.

21 THE COURT: All right. We're going to transfer juror
22 number 95.

23 All right. Counsel, instead of reprinting, we're just
24 going to strike through those two juror.

25 All right, Madam Clerk, you all ready?

1 THE CLERK: One second.

2 THE COURT: Okay.

3 THE CLERK: If I call your name, if you will come to
4 the front right here and turn around and face the audience,
5 but bring your belongings with you. Juror number 49, Elaine
6 Debra Smith. Just turn around and face the audience. What
7 say at the State.

8 MR. OSBORNE: Please present this juror.

9 THE CLERK: The Defense?

10 MR. CHISHOLM: Please seat the juror.

11 THE CLERK: Okay. And you'll just have a seat in the
12 jury box. Juror 236, Peter Qui. What say at the State?

13 MR. OSBORNE: Please present this juror.

14 THE CLERK: The Defense?

15 MR. CHISHOLM: Please seat the juror.

16 THE CLERK: Okay. You'll have a seat in the jury box.
17 Juror 149, Sebastian Nicholski. What say the State?

18 MR. OSBORNE: Please present this juror.

19 THE CLERK: The Defense?

20 MR. CHISHOLM: Please excuse the juror.

21 THE CLERK: Okay. You'll have a seat back out in the
22 audience. Juror 193, Jessica Rainey. What say at the State?

23 MR. OSBORNE: Please present this juror.

24 THE CLERK: The Defense?

25 MR. OSBORNE: Please excuse the juror.

1 THE CLERK: Have a seat back out in the audience.

2 Juror 89, Cameron Haskin. What say the State?

3 MR. OSBORNE: Please present this juror.

4 THE CLERK: The Defense?

5 MR. CHISHOLM: Please excuse the juror.

6 THE CLERK: You have a seat back out in the audience.

7 Juror 142, Caroline (inaudible). What say at the State?

8 MR. OSBORNE: Please present this juror.

9 THE CLERK: The Defense?

10 MR. CHISHOLM: Please seat the juror.

11 THE CLERK: Have a seat in the jury box. Juror 181,

12 William Peter. What say at the State?

13 MR. OSBORNE: Please present this juror.

14 THE CLERK: The Defense?

15 MR. CHISHOLM: Please excuse the juror.

16 THE CLERK: Have a seat back out the audience. Juror

17 203. Nancy Vos. What say at the State?

18 MR. OSBORNE: Please present this juror.

19 THE CLERK: The Defense?

20 MR. CHISHOLM: Please seat the juror.

21 THE CLERK: Go have a seat in the jury box. Juror

22 number 9 -- oh, I'm sorry. Juror number 240, Gerald D Zible

23 (ph). What say at the State?

24 MR. OSBORNE: Please present this juror.

25 THE CLERK: The Defense?

1 MR. CHISHOLM: Please excuse this juror.

2 THE CLERK: Okay. Go have a seat back out in the
3 audience. Juror 261, Michelle (inaudible). What say at the
4 State?

5 MR. OSBORNE: Please present this juror.

6 THE CLERK: The Defense?

7 MR. CHISHOLM: Seat the juror.

8 THE CLERK: Have a seat in the jury box. 234, Samuel
9 Caso Rodriguez. What say at the State?

10 MR. OSBORNE: Please excuse this juror.

11 THE CLERK: Have a seat back out in the audience.
12 Juror 151, Walter Mullet Jr. What say at the State?

13 MR. OSBORNE: Please present this juror.

14 THE CLERK: The Defense?

15 MR. CHISHOLM: Please seat the juror.

16 THE CLERK: Have a seat in the jury box.

17 THE CLERK: Juror 71, Angela Gaon Town. What say at
18 the State?

19 MR. OSBORNE: Please excuse this juror.

20 THE CLERK: Have a seat back out in the audience.

21 THE CLERK: Juror 43, (inaudible). What say at the
22 State?

23 MR. OSBORNE: Please excuse this juror.

24 THE CLERK: Have a seat back out in the audience.

25 Juror 66, Donna Polk. What say the State?

1 MR. OSBORNE: Please present this juror.

2 THE CLERK: The Defense?

3 MR. CHISHOLM: Please seat the juror.

4 THE CLERK: Have a seat in the jury box. Juror 25,
5 Caroline (inaudible). What say at the State?

6 MR. OSBORNE: Please present this juror.

7 THE CLERK: The Defense?

8 MR. CHISHOLM: Please excuse the juror.

9 THE CLERK: Have a seat back out in the audience.

10 Juror 119, Jeanette (inaudible). What say the State?

11 MR. OSBORNE: Please present this juror.

12 THE CLERK: The Defense?

13 MR. CHISHOLM: Excuse this juror.

14 THE CLERK: Have a seat back out in the audience.

15 Juror 51, (inaudible). What say the State?

16 MR. OSBORNE: Please present this juror.

17 THE CLERK: The Defense?

18 MR. CHISHOLM: Please excuse the juror.

19 THE CLERK: Have a seat back out in the audience.

20 Juror 209, Kimberly Sanders. What say at the State?

21 MR. OSBORNE: Please present this juror.

22 THE CLERK: The Defense?

23 MR. CHISHOLM: Please seat the juror.

24 THE CLERK: Have a seat in the jury box. Juror 109,

25 Adrian Johnson. What say at the State?

1 MR. OSBORNE: Please present this juror.

2 THE CLERK: The Defense?

3 MR. CHISHOLM: Please seat the jury.

4 THE CLERK: Have a seat in the jury box.

5 Juror 179, Gregory (inaudible). What say the State?

6 MR. OSBORNE: Please present this juror.

7 THE CLERK: The Defense?

8 MR. CHISHOLM: Please seat the juror.

9 THE CLERK: Have a seat in the jury box.

10 Juror 187, Ronald Pinkney. What say at the State?

11 MR. OSBORNE: Please present this juror.

12 THE CLERK: The Defense.

13 MR. CHISHOLM: Please seat the juror.

14 THE CLERK: Have a seat in the jury box. Juror 97,

15 Trudy Holder. What say at the State?

16 MR. OSBORNE: Please present this juror.

17 THE CLERK: The Defense?

18 MR. CHISHOLM: Please excuse the juror.

19 THE CLERK: You'll have a seat back out in the
20 audience. Juror 231, (Inaudible) Martinez. What say at the
21 State?

22 MR. OSBORNE: Please excuse this juror.

23 THE CLERK: You'll have a seat back out in the
24 audience. Juror 77, Theresa Ranger. What say at the State?

25 MR. OSBORNE: Please present this juror.

1 THE CLERK: The Defense?

2 MR. CHISHOLM: Please seat the juror.

3 THE CLERK: You'll have a seat In the jury box.

4 Juror 242, Gail (inaudible). What say at the State?

5 MR. OSBORNE: Please present this juror.

6 THE CLERK: The Defense?

7 MR. CHISHOLM: Please excuse the juror.

8 THE CLERK: Have a seat back out in the audience.

9 Juror 176, Don Harper II. What say at the State?

10 MR. OSBORNE: Please present this juror.

11 THE CLERK: The Defense?

12 MR. CHISHOLM: Please excuse the juror.

13 THE CLERK: Juror 30, Adriana Campbell Weathers. What
14 say at the State?

15 MR. OSBORNE: Please present this juror.

16 THE CLERK: The Defense?

17 MR. CHISHOLM: Seat the juror.

18 THE CLERK: That is for alternate one. Juror 224,

19 Andrew Stewart. What say at the State?

20 MR. OSBORNE: Please present this juror.

21 THE CLERK: The Defense?

22 MR. CHISHOLM: Please seat the jury.

23 THE CLERK: Have a seat in the jury box. Alternate
24 two. Juror 226, Valerie Coleman. What say at the State.

25 MR. OSBORNE: Please present the juror.

1 THE CLERK: The Defense?

2 MR. CHISHOLM: Please seat the juror.

3 THE CLERK: That's the alternate jurors.

4 THE COURT: All right. Madam Clerk, you want to
5 release the remainder and tell -- give them their
6 instructions?

7 THE CLERK: For the remaining jury panel, if you will
8 call back tonight, the -- the number is on the card, but call
9 night tonight after 6:00 for further instructions.

10 THE COURT: All right. Ladies and gentlemen, what I'm
11 going to do right now is excuse you all for lunch and you're
12 going to get to take a little bit of -- of an extended lunch.
13 We have some legal stuff and I'll go through all that with
14 you a little bit later. I got some things I'm going to have
15 to tell you before we start the trial, but sometimes we have
16 some legal matters that we have to take up outside of your
17 presence. And I want to minimize your downtime back there as
18 much as I possibly can.

19 So what I'm going to ask is, you can be back here at
20 2:45, that -- that should give us time to go grab a quick
21 bite to eat and then come back and do our work. And that way
22 you're not sitting back there waiting on the lawyers as well
23 as the Court endeavor to be mindful of your time as much as
24 we can, but sometimes we just have to pick up some things
25 after. You'll be back here at 2:45. Enjoy your lunch. And

1 please don't discuss the case; don't do any research about
2 the case. Come back to me with an open mouth.

3 (JURY EXITS)

4 All right. Anything from the State or Defense with
5 regard to the selection?

6 MR. OSBORNE: Nothing from State?

7 MR. CHISHOLM: No, Your Honor.

8 THE CLERK: Okay. All right. Well, let's -- let's
9 just go -- you want to be back here at 1:45 and we will -- we
10 will take up all these complicated law school arguments you
11 all have?

12 MR. OSBORNE: I made it real easy. Just follow the
13 (inaudible).

14 THE COURT: Yeah. Don't like that. All right. We'll
15 see you all back at 1:45.

16 (Off the record.)

17 THE COURT: Okay. You are dealing with this hearsay
18 stuff now, right?

19 MR. OSBORNE: Yes, Your Honor.

20 THE COURT: All right.

21 MR. OSBORNE: So I'm just going to kind of go in order
22 with the -- with the trial brief I think. And first call
23 Larry Bowers.

24 THE COURT: Okay.

25 MR. OSBORNE: All right. State calls Larry Bowers.

1 LARRY BOWERS,

2 being first duly sworn testifies as follows:

3 DIRECT EXAMINATION

4 BY MR. OSBORNE:

5 Q. Good afternoon, Mr. Bowers?

6 A. (Inaudible).

7 Q. And you'll probably got to speak up.

8 A. Good afternoon.

9 Q. Yes, sir. I'll ask you more background questions
10 when the jury's present. But for purposes of this pretrial
11 motion, can you just tell the judge what your relationship
12 was to the victim of case, Jim?

13 A. We've been friends for 30 more years.

14 Q. Okay. All right. During the past few years of
15 Jim's life and this -- and I'm -- I'm specifically talking
16 about before October of 2020 -- how many times would you say
17 you visited Jim and Rose in any given week?

18 A. Three to four.

19 Q. Okay. And did that change about four months prior
20 to Jim's death around September of 2020?

21 A. Yes, sir, it did.

22 Q. And why did your visitation change?

23 A. Jason came back and I was worried about their
24 health.

25 Q. Okay. And why was it that you were worried about

1 Rose and Jim's health when the defendant, Jason, moved back
2 in?

3 A. I didn't like the way he was treating.

4 Q. Okay. Now, in all fairness, you never witnessed
5 any ill treatment; is that fair to say?

6 A. No, sir, I didn't.

7 Q. Okay. Okay. I want to talk about a specific time
8 in which you had visited Jim and you two had a conversation
9 about a weapon, okay?

10 A. Yes, sir.

11 Q. But before we go into that conversation and what
12 was said, approximately what month was it that you had this
13 conversation with Jim?

14 A. October.

15 Q. Okay. Right the October prior to him being
16 killed?

17 A. Yes, sir.

18 Q. Okay. About two months before, I guess?

19 A. Uh-uh.

20 Q. And was this at Jim's house?

21 A. Yes, sir.

22 Q. While you were talking to Jim, where was he
23 seated?

24 A. He was in his recliner.

25 Q. All right. And you, you know, and I kind of

1 preface it by saying discussions about a weapon. What type
2 of weapon are we going to talk about?

3 A. He had a revolver stuck between the cushion and
4 the arm of the chair.

5 Q. All right. When you saw the gun, did you say
6 anything to Jim?

7 A. I asked him to give it to me.

8 Q. And why did you ask him to give it to you?

9 A. Because I was worried about his safety.

10 Q. In what regards?

11 A. It -- it would be taken from him or used on -- on
12 Rose.

13 Q. Or Rose?

14 A. Either one.

15 Q. And who was you -- who were you afraid was going
16 to ---

17 A. Jason.

18 Q. Jason. Now, you can't say what Jim said in
19 response to that comment, but how would you describe Jim's
20 existing state of mind?

21 A. He was concerned about his health and also his
22 safety.

23 Q. And was there anyone he was concerned about?

24 A. Jason.

25 MR. OSBORNE: Okay, Your Honor, I would have other

1 questions, background stuff, and then I would show him a
2 picture of the gun that was taken. I think Mr. Bowers
3 probably going to say it looks similar to the gun he saw
4 tucking the recliner, but for the hearsay purposes, that's
5 all I have.

6 THE COURT: Chisholm? Mr. Wehman?

7 MR. CHISHOLM: Thank you, Your Honor. Please the
8 Court?

9 CROSS-EXAMINATION

10 BY MR. CHISHOLM:

11 Q. Good afternoon, Ms. Bowers.

12 A. Good afternoon.

13 Q. Okay. So I think the solicitor was asking you had
14 visited about three or four times a week with the Bells prior
15 to October. Is that right?

16 A. Yes, sir.

17 Q. And that you started going less often after Jason
18 came back and you think that was in October?

19 A. Yes, sir.

20 Q. Okay. And you said that you didn't go over
21 because you didn't like the way that he was treating them.
22 Is that correct?

23 A. Yes, sir.

24 Q. And you said you didn't personally observe any ill
25 treatment; is that correct?

1 A. No, sir, I never did.

2 Q. Okay. The treatment that you were concerned about
3 was information that had been relayed to you by other
4 sources, by Jim or his brother, or something like that?

5 A. By Jim, mainly.

6 Q. Okay. So again, you didn't have any firsthand
7 reason other than what you'd been told?

8 A. (Inaudible).

9 Q. Okay. And in October you had this conversation
10 where you asked him to give you the gun; is that right?

11 A. Yes, sir.

12 Q. Okay. And you were worried about the gun being
13 used on him by Jason?

14 A. Yes, sir.

15 Q. And this, again, was based on what Jim had told
16 you previously; is that right?

17 A. Yes, sir.

18 Q. Okay. And again, you said you were worried about
19 his health and safety, and that was based on what Jim had
20 told you. Is that right?

21 A. Yes, sir.

22 MR. CHISHOLM: Have one moment, Your Honor?

23 THE COURT: Yes, sir.

24 BY MR. CHISHOLM:

25 Q. You've known Jim for how long now?

1 A. 30 years.

2 Q. 30 years.

3 A. At least.

4 Q. Okay. And back in, let's say October, around this
5 time, what was -- how would you describe his health?

6 A. His health, it was going down.

7 Q. It was going down. Were you aware if he needed
8 oxygen, that kind of thing?

9 A. At this point, in October, that he was starting to
10 use oxygen, yes.

11 Q. Okay. And I know this is -- these are hard
12 questions. I apologize. I wish I could think of a better
13 way to ask them, but had he become more frail, falling down,
14 concerns like that?

15 A. He -- he'd become more frail, but I didn't witness
16 him falling down, no.

17 Q. Did you guys go out and do things on the town
18 together or would you just visit him in his home?

19 A. We go out to eat occasionally.

20 Q. And you would visit him at his home?

21 A. Uh-uh.

22 Q. He's typically in that recliner; is that right?

23 A. Yes, sir. In that recliner.

24 MR. CHISHOLM: Okay. Thank you. I have no further
25 questions.

1 THE COURT: Anything on redirect?

2 MR. OSBORNE: No, Your Honor.

3 THE COURT: All right. I'll hear from you.

4 MR. OSBORNE: Well, I guess this is my motion to -- can
5 he go ahead and step down?

6 THE COURT: Sure.

7 MR. OSBORNE: Yeah, I would -- just to avoid any
8 confusion, because I'm about to say some things that aren't
9 going to be admissible. I don't -- we should ask him to go
10 ahead and leave the courtroom.

11 THE COURT: Yes, sir.

12 MR. OSBORNE: You know, Judge, I'm going to preface
13 this by saying a lot of times, you know, when prosecutors ask
14 for evidence, they'll ask for 10 things. No one -- they
15 should only probably get in five. The things that I'm asking
16 for here, I think are all admissible. The -- the one part,
17 and -- and I put this in a summary that I included to Mr.
18 Chisholm and I didn't want Mr. Bowers to get confused.
19 That's the testimony that we're seeking to elicit, what Jim
20 really said when -- well, let me give you the whole picture.
21 This is the whole story.

22 The whole story is this; Mr. Bowers went to Holcomb --
23 Holcomb Bell, who is Jim's Bell's brother's, (inaudible). He
24 -- Holcomb is now deceased. He was talking to Holcomb. And
25 Holcomb said that since the Defendant had moved back home,

1 that Jim said, I got to get all these guns out of the house
2 because he's convicted felony.

3 So he took all the guns from his house and give them to
4 Holcomb. So when Larry goes to go visit Holcomb on this day
5 that he's talking about, Holcomb says, you know, Jim had come
6 over and said that he was afraid of his son. And he said
7 that he wanted to borrow a revolver. Holcomb then gave him
8 the revolver.

9 When Larry heard that, Larry was concerned that the
10 Defendant would do exactly what he did, that he would then
11 take that gun, then use it against Jim. So he went to Jim
12 and he told me, he said, hey, you know, you wouldn't got the
13 gun from -- from Holcomb. And -- and Jim said, yeah, it is
14 okay. He's not going to use it against me. I got to hide it
15 in -- in the cushion. And then Larry goes, Jim, I can see it
16 right there. I mean, he's not hiding (inaudible).

17 Well, and he said, you know, give me the gun. And then
18 Jim told Larry, no, I'm not going to let him beat on us
19 anymore. And -- and that's what I'm not seeking to elicit
20 because I think the case law is clear, the present sense
21 impression. He can talk about what was Jim's present sense
22 impression, that he had fear of Jason, but not "why." The
23 "why" would be eliciting hearsay that goes back to something
24 that -- that occurred earlier. Namely him taking a beating
25 from the Defendant.

1 THE COURT: Well, it's not really a present sense
2 impression analysis as much as a state of mind. Right? And
3 those are two different exceptions.

4 MR. OSBORNE: Well, this -- okay.

5 THE COURT: I was reading your brief correctly, how you
6 were arguing.

7 MR. OSBORNE: Let's see what I wrote.

8 THE COURT: Yeah, you have present sense impression
9 there.

10 MR. OSBORNE: Yeah. And I think ---

11 THE COURT: And then you said you would be -- he would
12 be testifying to his state of mind. And those are two
13 different, I mean, I -- I have to make a separate analysis
14 under each of the exceptions, don't I?

15 MR. OSBORNE: All right. So 803(1), I'm definitely
16 arguing for admissibility. At 803(1), present sense
17 impression.

18 THE COURT: Well, how is it -- how is this statement
19 contemporaneous with the event?

20 MR. OSBORNE: His fear. We're not talking about --
21 we're talking about his fear.

22 THE COURT: The present sense impression is very
23 similar to the excited utterance, needs to be in conjunction
24 with some type of event, doesn't it?

25 MR. OSBORNE: Excited utterance is a different one.

1 THE COURT: I know they have different but similar
2 analysis.

3 MR. OSBORNE: Right. And -- and we're not ---

4 THE COURT: There -- there has to be a -- a -- an
5 impression or an utterance related to an event.

6 MR. OSBORNE: Well, it's contemporaneous to the event.
7 The event is his fear. You know, the -- the event is how he
8 feels at that moment. The reason for that emotion would be
9 taking a -- a weapon from Jason, that wouldn't be admissible.
10 But his feeling, his fear would be. And he is currently
11 under that fear, which is why he armed himself on that day.

12 And I think it is admissible under his existing mental,
13 physical condition, 803(3). Statement of clearance, then
14 existing state of mind, of emotion, fear. That's what I've
15 argued. Sensation of physical condition.

16 THE COURT: Well, I would -- I would tend to agree more
17 with that as opposed to the present sense impression. It was
18 actually a -- a similar case, State versus Weston, where the
19 defendant was accused of moving in with the mother and
20 killing her. And sort of, they used that analysis and
21 getting the statements in, but not the reasons.

22 MR. OSBORNE: And then I think I quoted Cone and
23 Garcia.

24 THE COURT: Garcia -- and Garcia cited -- cited in --
25 I'm looking at State vs. Hughes, but it cites Weston, which

1 cites Garcia.

2 MR. OSBORNE: Okay. Yeah. So basically what we're
3 trying to do, which is what he did in Garcia, elicit
4 testimony saying Jim was scared, but not why.

5 THE COURT: Okay. All right. Mr. Chisholm.

6 MR. CHISHOLM: Hey, Your Honor, please the Court?

7 THE COURT: And just to streamline it a little bit,
8 tell me about the state of mind. I don't -- I'm not -- I
9 don't believe the present sense impression fits in this box,
10 but let's talk about state of mind.

11 MR. CHISHOLM: Yes, sir. Yah, I can -- I can skip
12 ahead of that, yeah, in the brief court's analysis. I also
13 don't believe this would fall under the state of mind
14 exception. Before I forget, I would argue the relevance of
15 this testimony and also if it was found to be relevant, I
16 would argue in 403, it's more prejudicial and probative.

17 But when it comes to, you know, the state of mind, I --
18 I've read the same case law, Your Honor. I understand that
19 the Court's -- Garcia's little ambiguous about exactly what
20 you can get into. It certainly says that you can say
21 fearful, but you can't say the reason for the fear. You
22 know, I'm fearful because he beat me. I mean, I think the
23 solicitor concedes you can't get into that. But it's a
24 little more ambiguous about, you know, what seems like it
25 might be a minor distinction, but I think it's pretty major,

1 which is the Defendant -- or the witness was fearful versus
2 the witness was fearful of the Defendant. I think that's a
3 -- a pretty major distinction.

4 And I don't think the solution of, you know, simply
5 saying that he was fearful of his son without saying why
6 really accomplishes anything. Because what it does is it
7 invites rampant speculation by the jury on why he was afraid
8 they could jump to conclusions that are worse than what the
9 State would even allege.

10 THE COURT: And I -- I don't necessarily disagree with
11 your position on that, but that's certainly not what the
12 cases say.

13 MR. CHISHOLM: Yes, sir. I understand.

14 THE COURT: And I was a bit -- I'd never really gotten
15 that deep into that exception, and I was reading it did -- I
16 -- I understand. I think what you're saying it does
17 certainly -- they speculate for any reason he was afraid for
18 anything.

19 MR. CHISHOLM: Yes, sir. But ---

20 THE COURT: That doesn't seem to be the way I read
21 Garcia, this Weston case, the Hughes case, with regard to the
22 state of mind.

23 MR. CHISHOLM: Yes, sir. I understand. Weston, you
24 know, I guess like you said, it circles back to Garcia, which
25 in Garcia it doesn't really elaborate on. It says you can't

1 have the second part of that. You know, here's why I'm
2 afraid, but it doesn't say whether or not you can limit it to
3 the witness was fearful versus the where -- the witness was
4 fearful of the defendant. I don't think it clearly outlines
5 which one would be permissible and which one wouldn't. I
6 guess ---

7 THE COURT: Well, Weston said, and I -- I'm reading --
8 read Garcia as Weston just suggests, "We requires to hold a
9 witness may testify to the fact that decedent was afraid, but
10 not that the decedent was afraid of the defendant and they
11 bolded it." And then the Supreme Court said, "This is simply
12 to constrain the reading of Garcia."

13 MR. CHISHOLM: Yes, sir.

14 THE COURT: So that he could say I was afraid -- or he
15 was afraid -- he told me he was afraid of the defendant and
16 that's it. And I agree with you that sounds odd in the
17 context of a trial ---

18 MR. CHISHOLM: Yes, sir.

19 THE COURT: At least that's what the case law supports.

20 MR. CHISHOLM: Sure, sure. No, I understand Your
21 Honor. Still make the same objection of course. The reason
22 you stated ---

23 THE COURT: I understand.

24 MR. CHISHOLM: --- but ---

25 THE COURT: I understand.

1 MR. CHISHOLM: --- but you know, it's a little
2 ambiguous to me. But -- but I do understand what the Court,
3 you know, said in that case.

4 THE COURT: I'm -- I'm going to allow it under -- under
5 Hughes and Weston in that line of cases.

6 MR. CHISHOLM: Your Honor ---

7 THE COURT: --- but not as a present sense impression
8 ---

9 MR. CHISHOLM: Yes, sir. I did ---

10 THE COURT: --- state of mind.

11 MR. CHISHOLM: Yes, sir. I do -- I did have a couple
12 other things if I could.

13 THE COURT: Okay. Yeah, put them on -- they need to be
14 on the record.

15 MR. CHISHOLM: Basically, one of the problems that we
16 also have here is that the proposed testimony from Mr. Bowers
17 would be that he used to visit, you know, the Bell house
18 three or four times a week in October, that stopped. And the
19 reason for that is because he didn't like the way that the
20 Bells were being treated.

21 The reason that he didn't like -- or his knowledge of
22 how they were being treated doesn't come from him at all. He
23 says he didn't witness any ill treatment. It would be based
24 on impermissible while and/or hearsay testimony that my
25 understanding, he's not going to be introduced in this case.

1 So it kind of leaves us a problem if he's getting up
2 there saying, I didn't like the way they were being treated.
3 Well how do you know how they were being treated? Well, we
4 can't get into that. And likewise, you know, he said he goes
5 over to the house and that's -- that's the whole reason he
6 wanted to get the gun, was based on what I would say is
7 impermissible hearsay or prior bad act information that
8 shouldn't be going to the jury. It basically puts us in a
9 position that, you know, I was really worried about him.
10 Why? We don't know. And I went over there to take the gun
11 because I was really worried about their health. Why? We
12 can't explain.

13 So, you know, I think that's problematic in itself and
14 -- and just -- I'm about to be done. Circling back to
15 relevance, I mean, it -- it kind of gets back to the point,
16 you know, I think the State is saying in their brief that it
17 goes, that these -- these interactions go towards the ill
18 will or the hatred of the victim on the -- on the part of the
19 Defendant, which, you know, I don't think it does. I think
20 the -- the victim's fear, whether it's warranted or not,
21 doesn't go towards showing ill will or hatred on the part of
22 the Defendant.

23 THE COURT: And Mr. Osborne, when he said he didn't
24 like the way they were being treated, he -- he did testify
25 that he didn't -- he never witnessed any of that.

1 MR. OSBORNE: That's right Judge. And that's what
2 cross-examination is for. So, you know, we see this in every
3 case. You know, Mr. Chisholm (inaudible) for us, but you --
4 you never witnessed anything, any did -- any of ill treatment
5 toward. In fact, you never lied to him, did you? That's the
6 risk that the State takes when they elicit that kind of
7 testimony under those parameters. You know, it opens up the
8 door for cross in giving him his closing argument.

9 And you know, that's just the way it goes. I mean, if
10 -- if it was up (inaudible) a jury to hear all of it, but
11 they don't get to -- they only get to hear what we can
12 present. And I would say that it is relevant, too, because
13 you don't fear someone that loves you, you know, at least
14 scientifically. And -- and that's sort of what he was
15 telling Captain Dunaway the whole time. I loved him. This
16 was a mercy killing. Well, the man that you took the life
17 of, it -- had fear for you. It's definitely (inaudible).

18 THE COURT: Okay.

19 MR. CHISHOLM: Your Honor?

20 THE COURT: Yes, sir.

21 MR. CHISHOLM: I told you I was about done. I'm going
22 to spin off on that. The other thing is ---

23 THE COURT: I know -- I know lawyers better than that.

24 MR. CHISHOLM: You did here before, Judge. The other
25 thing I would point out is I think you also probably, we have

1 to look at the temporal relationship. We're talking about, I
2 guess conversation about the gun being two or three months
3 prior to the --- incident as well.

4 THE COURT: Well, and I -- and that's why I am not --
5 I'm specifically not doing it under the present sense
6 impression, but under the state of mind. Because I -- I
7 don't -- I don't think they satisfy the temporal component
8 there. And -- but -- and Mr. Osborne, I mean, make sure he's
9 careful, you know, I don't want him blurting out something
10 and we do this all over again.

11 MR. OSBORNE: I might -- might just request a little
12 bit of leeway in leading him.

13 THE COURT: All right. So Mr. Bower's testimony as to
14 the state of mind, just to the fear of the Defendant, that's
15 all. But that -- that would be admitted under the state of
16 mind exception and -- all right, who's next?

17 MR. OSBORNE: And I assume the other objection about --
18 what was the (inaudible).

19 THE COURT: Relevant?

20 MR. OSBORNE: And that's fine.

21 THE COURT: Yeah. That -- I -- I note his objection,
22 but I'm going to allow it.

23 MR. OSBORNE: All right. The other hearsay is going to
24 be with Janette Mizzel.

25 THE COURT: Janette Mizzel. I thought Ms. Mizzel was

1 the law issue.

2 MR. OSBORNE: You are right. I'm so sorry. Yeah. So
3 the other part of the hearsay is with Lynn Howell. He's
4 unavailable today. I think he's got a doctor's appointment.
5 This is super quick. We can take his in-camera if you want
6 ---

7 THE COURT: Okay.

8 MR. OSBORNE: And you're right, Ms. Mizzel would be the
9 law.

10 THE CLERK: Please state your full name for the record.

11 MS. MIZZEL: Howell Janette Mizzel.

12 THE CLERK: Thank you.

13 JANETTE MIZZEL,
14 being first duly sworn testifies as follows:

15 DIRECT EXAMINATION

16 BY MR. OSBORNE:

17 Q. All right. Good afternoon, Ms. Mizzel. So I'm
18 just going to ask you a couple quick questions. We're going
19 to skip ahead for now. When the jury comes, I'll ask you
20 more detailed questions about your background. Okay? How is
21 it that you know -- just briefly, how is it that you know the
22 victim in this case, Jim Bell?

23 A. Very good. I worked for him.

24 Q. Okay.

25 A. --- years.

1 Q. And he ended up retiring, correct?

2 A. Yes, sir.

3 Q. When -- and I know you worked for him -- when he
4 retired, did you continue to see him and Ms. Rose?

5 A. Yes, sir.

6 Q. In any given week, how many times would you see
7 Jim and Ms. Rose?

8 A. Three, four times a week.

9 Q. Okay. And at some point did the defendant, Jason
10 Bell, move back into his parents' home and live with his mom
11 and dad?

12 A. Yes, sir.

13 Q. And when would that have been about?

14 A. About September, October.

15 Q. Okay. At any time from that period, September or
16 October, up until the time of Jim's death, did you see Jason
17 there, the defendant?

18 A. Yes -- Yes, sir.

19 Q. Was -- did you see him there often or
20 infrequently?

21 A. Often.

22 Q. And did you ever see the defendant interact with
23 Jim and Rose?

24 A. Yes, sir.

25 Q. Did you see him interact with Jim and Rose a lot

1 or infrequently?

2 A. A lot.

3 Q. Okay. And through your observations, not what
4 anyone told you, how would you describe the Defendant's
5 treatment to his parents?

6 A. Very cruel.

7 Q. All right. Can you give a specific example of
8 that? Like, let's just say if you were ever there and you
9 saw the Defendant on the recliner -- or I'm sorry -- the
10 Defendant on the couch and the victim on the recliner, what
11 might be a common occurrence that you would see?

12 A. It would be like if Mr. Bell was looking at Jason,
13 he would say something on the order, shut up while you
14 looking at me.

15 Q. And what would Jim do then?

16 A. Go ahead and read a book or watch TV.

17 Q. Okay. Did Jim or Rose do anything to antagonize
18 or precipitate this sort of treatment of them from the
19 Defendant?

20 A. Oh, no sir.

21 Q. The Defendant moved in around September of
22 October; is that correct?

23 A. Yes, sir.

24 Q. And Jim died in January?

25 A. Yes, sir.

1 Q. Or New Year's Eve night. Would you say that the
2 Defendant's treatment of Jim from September or October to
3 January got worse or did it get better?

4 A. Worse.

5 Q. Okay. I want to talk about a specific incident.
6 One in -- in the garage at the Bell's home, okay? That
7 incident, you -- you know which one I'm talking about?

8 A. Yes, sir.

9 Q. About how long prior to Jim's death did this
10 incident we're about to talk about occur?

11 A. Maybe like a week -- week or -- a week or two.

12 Q. Okay. Did you have the occasion to go to the
13 Bell's home that day?

14 A. Yes, sir.

15 Q. And was it in the morning or was it in the
16 afternoon?

17 A. In the morning.

18 Q. And did you have the occasion to leave there home?

19 A. Yes, sir.

20 Q. And -- and where did you go?

21 A. To the Piggly Wiggly.

22 Q. And was this still in the morning?

23 A. Yes, sir.

24 Q. Why did you go to the Piggly Wiggly?

25 A. To pick up cleaning and supplies.

1 Q. When you left the Bell's home, was the Defendant
2 there?

3 A. Yes, sir.

4 Q. The victim?

5 A. Yes.

6 Q. Okay. And Rose?

7 A. Yes, sir.

8 Q And how long were you at the Piggly Wiggly before
9 you returned back home?

10 A. Probably 10, 15 minutes.

11 Q. All right. When you walked back home, did you see
12 the victim, Jim?

13 A. Yes.

14 Q. Where was he?

15 A. He was laying on the concrete up under the car
16 garage.

17 Q. Okay. And did you see the Defendant?

18 A. Yes, sir. He was standing there smoking a
19 cigarette.

20 A. Did you say anything?

21 Q. Yes, sir. I said, oh my God, what happened?

22 A. Now, before you say what Jim said in response to
23 your question, if anything, based on Jim's tone or the manner
24 of his response, did it seem to you like Jim was excited or
25 upset when he responded to your question?

1 A. Yes, sir.

2 Q. Did his answer to your question relate to what was
3 making him excited or upset?

4 A. Yes, sir.

5 Q. What did Jim say?

6 A. That master shoved me down.

7 Q. And the only other person there was the Defendant?

8 A. Yes, sir.

9 Q. All right. I want to move ahead. Police came out
10 on New Year's Day, that's when they found Jim's father. The
11 day before on New Year's Eve, did you see Jim that day?

12 A. Yes, sir.

13 Q. When you saw Jim, did you see anything around him,
14 or did you have a conversation with him about something that
15 was around him?

16 A. Yes, sir.

17 Q. And what was that?

18 A. His pistol.

19 Q. Okay. Was it common for him to keep his pistol
20 with him?

21 A. He kept it on the little stand right there beside
22 his recliner.

23 Q. Okay. And did you tell Jim that he should do
24 something with that pistol?

25 A. Yes, sir. I asked him to take the bullets out.

1 Q. And why did you ask him that?

2 A. Because at that time I was getting scared that he
3 would do something to Jim and Rose.

4 Q. Okay. And him being the defendant, Jason?

5 A. (Inaudible).

6 MR. OSBORNE: Okay. No further questions.

7 THE COURT: Mr. Wehman?

8 MR. WEHMAN: Judge, please the Court?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. WEHMAN:

12 Q. Good afternoon, Ms. Mizzel. I know this is
13 difficult, but we'll work through it. So you said that you
14 would visit at the Bell home three to four times a week?

15 A. Yes, sir.

16 Q. Okay. Now, let's talk a little bit about these
17 visits. Would these be personal visits? You mentioned you
18 were getting cleaning supplies. Would they -- would you help
19 them around the house? What was the nature of your visits
20 with them?

21 A. Well, we were friends, but I basically, I cleaned
22 for them and done different things that they needed.

23 Q. So a little bit of both you would say?

24 A. Yes, sir.

25 Q. Okay. When you would go visit with them, how long

1 would you be there, on average? I know it might vary, but
2 typically would it be a -- a quick visit, would it be all
3 day?

4 A. Sometime it would be like four hours or maybe just
5 if Jim called for me to pick up boiled peanuts or whatever,
6 maybe 30 minutes.

7 Q. So it would vary based on what you had going on
8 ---

9 A. Yes.

10 Q. --- what they had going on? Okay. All right.
11 Now, you said that you would characterize the treatment that
12 you observed as ,I think you said, very cool. Is that
13 correct?

14 A. Excuse me?

15 Q. The treatment that you saw Jason Bell basically
16 give his parents, you -- you characterize that as very cruel;
17 is that correct?

18 A. And what do you mean by very cruel?

19 Q. Is that what you just testified to? That he acted
20 very cruel towards his parents?

21 A. He was cruel, yes.

22 Q. Okay. That's -- that's all I was asking.

23 A. Yeah.

24 Q. Yes, ma'am. Okay. And you said an example of
25 that is that, basically, Jason Bell would say, shut up. Why

1 are you looking at me? If his father was to look at him?

2 A. Right.

3 Q. Okay. Now, all the time if that would happen, you
4 weren't always there for the lead up to that, correct? I
5 mean, you --this is when you're cleaning or interacting with
6 somebody else in the household. Is that fair to say?

7 A. Whenever the three of them would be there.

8 Q. Okay. All right. Now, let's talk about the
9 garage incident. Now, you said that it was a week or two
10 prior; is that correct?

11 A. Yes, sir.

12 Q. You also -- do you remember meeting with the
13 solicitor's office in July to get ready for trial? Do you
14 remember giving them a -- an interview? July 12th? I'm not
15 trying to trick you. I did ---

16 A. Yes.

17 Q. Okay. Do you remember telling them that it was
18 three weeks before? Is it -- is it possible that it might
19 have been as far as three weeks prior to the incident?

20 A. Well, it could have been, but I was thinking it
21 was more or less two, but it could have been three.

22 Q. Okay. I understand you didn't mark it down on
23 your calendar.

24 A. No, I did not.

25 Q. All right. And you said at that time when you met

1 with the solicitor's office that Jim told you, quote, "That
2 bastard knocked me down." Is that correct?

3 A. Yes, sir.

4 Q. Okay. And today you testified that the statement
5 was that he shoved him down.

6 A. Right.

7 Q. Is it possible that he said, knock me down instead
8 of shoved me down?

9 A. He knocked me down.

10 Q. Knocked me down. Okay. Let me ask you this, the
11 -- when you talked to Mr. Jim Bell regarding the -- the
12 pistol, do you know if he kept that gun loaded?

13 A. Sure it was loaded.

14 Q. It was loaded that -- did you see it that day? Do
15 you know if it was loaded that day?

16 A. It was loaded because I asked him to take the
17 bullets out, which he did.

18 Q. Okay. He removed them in front of you?

19 A. Yes, sir.

20 Q. Briefly, back in July when you met with the
21 solicitor's office, do you remember telling them that you
22 didn't see if he removed the bullets or not?

23 A. I told him that he did move the bullets.

24 Q. Okay. So your -- your testimony is -- is that at
25 that time in July you told the solicitor's office that as

1 well?

2 A. Yes, sir. As far as I can remember. I said he --
3 that I asked him to move the bullets out of the pistol and he
4 did right then while I was standing there by his recliner.

5 Q. Where'd he put them? Do you remember?

6 A. He had a little bowl right here on the -- the
7 little table and he put them in there.

8 Q. Do you remember how many were in there?

9 A. I'm not sure. Six or eight, but I'm not sure.

10 MR. WEHMAN: I don't have any other questions.

11 THE COURT: All right.

12 MR. OSBORNE: Your Honor, I would just ask the same
13 thing with the witness, step down -- if we might get into
14 some other stuff, we might get confused.

15 THE COURT: Sure.

16 MR. OSBORNE: Ms. Mizzel, you can step down.

17 Okay, Your Honor, at the -- at the outset, I guess we
18 got two issues. The first one is the interaction, and this
19 -- in her observations of seeing the Defendant behave in a
20 mean manner toward the Defendant or at least (inaudible)
21 manner, although she characterized it as cruel. And I
22 thought that's exactly what cross-examination did. And sound
23 like cruel, but maybe mean. But either way that was her
24 observations. It -- I think it's relevant because it
25 certainly doesn't jive with the Defendant's version of loving

1 his dad.

2 I -- I don't believe it's Lyle at all, but I believe if
3 it is Lyle, he comes under a motive and intent. And this
4 gets, you know, a little bit in the weeds. I understand the
5 case law in Lyle is a little -- little confusing at times, at
6 least it is to me.

7 But motive and intent, which is what we'd be seeking,
8 I'm kind of already the same thing again, but I guess I'll
9 just simply say that, you know, Plyer, which is from 1980,
10 seems like it's still a good law. It says, "Evidence of
11 previous difficulties or ill feelings between the accused and
12 the victim, and the fact showing the cause of such
13 difficulties or ill will, is admissible on the question of
14 motives, where there is some connection of cause and effect
15 between the evidence and the crime." And in this case the
16 motive, which is what the -- the Defendant's saying this is a
17 mercy killing.

18 I believe, once again, this is more evidence that shows
19 that it's not a mercy killing, that there was ill will
20 between the Defendant and the victim. We have a witness with
21 direct knowledge. So we satisfy the requirement of clear and
22 convincing -- a clear and convincing standard of the evidence
23 itself. And so, Your Honor, I can go on to the next one, but
24 I think you're doing separately. I believe that's admissible
25 for those reasons.

1 THE COURT: Mr. Wehman?

2 MR. WEHMAN: Thank you, Judge.

3 THE COURT: You disagree? I'm sure.

4 MR. WEHMAN: I do, Your Honor. And I would -- I would
5 agree in part that the Lyle case law is tricky. I don't know
6 that it supports this type of admission, specifically with
7 motive. The -- and I have cases for the Court. The type of
8 cases that are admitted using a motive theory are far more --
9 there -- there's much more of a causal connection between the
10 incident seeking to be admitted and the actual act.

11 THE COURT: Well, answer this for me, is this even a
12 Lyle issue? The what? The first one, about her just
13 witnessing an overall bad demeanor towards his parents.

14 MR. WEHMAN: Judge, I -- I ---

15 THE COURT: Is -- I always felt -- and I -- I do not
16 profess to understand Lyle any more than you or Mr. Osborne
17 just admitted to. I mean this seems like just an attitude
18 towards his parents, assuming what she's saying, it's the
19 truth as opposed to a specific instance of conduct.

20 MR. WEHMAN: Sure. And -- and I understand that the
21 Lyle side of it, but I also think we can't forget about 404.
22 I think this is clearly bad character evidence that sought to
23 be introduced. And I don't think you abandoned the analysis
24 just because it might not fit under Lyle case law. I still
25 think 404 applies.

1 THE COURT: Okay.

2 MR. WEHMAN: And you still get to the same analysis.

3 It is just a different method to get there. So while the --
4 the solicitor may be correct that Lyle and his progeny aren't
5 directly on point or a court covers it, this is clearly bad
6 character evidence in that he was mean to his parents,
7 therefore he was mean the date of the incident. It's
8 propensity is what -- is what they're trying to get at.

9 As to motive, the -- the cases that are on point with
10 motive -- let's see. So I -- I think Plyer -- I'll start
11 with Plyer. Plyer, they used the -- the solicitor just --
12 just noted this was a murder case. There was a verbal
13 altercation between, basically, the Defendant and the murder
14 and his sister-in-law. The verbal altercation took place a
15 day or two prior to the murder. It's an ex-sister-in-law.
16 So it would've been his wife's sister -- ex-wife's sister.
17 Two days later, someone knocks on the door murders his
18 ex-wife's sister, and the wife is on the phone at the time
19 and testifies that was his voice. And this bad blood, this
20 -- this issue that they had was admissible to show motive.
21 They had an altercation two days before. These are not
22 people that other -- otherwise would've had communication.
23 It's kind of a stretch to say, yeah, my ex-husband who I
24 don't like and who doesn't like me killed my sister. Right?
25 It would be a -- an easy target to pick out. This prior

1 altercation, this ill will, this bad blood was admissible in
2 that case. Very specific and very relevant to -- as to why
3 he would kill that individual.

4 Judge, we don't have that.

5 THE COURT: You too far ahead, but I see what you're
6 saying on this issue. But doesn't that hurt you on the next
7 one?

8 MR. WEHMAN: As for?

9 THE COURT: The knocking down incident.

10 MR. WEHMAN: I don't think so, Judge, and I -- I think
11 also -- so as for the -- and I can skip to the knocking down
12 if you'd like to ---

13 THE COURT: I'll let Mr. Osborne be heard first, but
14 I'm -- I'm getting ahead of myself.

15 MR. WEHMAN: Judge, I -- I don't see any instance where
16 this evidence that -- that they are introducing is any more
17 than, he was mean then; he must have been mean now. The
18 State in their brief indicates that there's a legitimate
19 purpose of establishing malice. Intent, which is what
20 they're arguing as a Lyle exception, and state of mind,
21 malice are very different things. I understand they want to
22 say he was mean and therefore he acted with malice at the
23 time. But it's very different. It doesn't get you past 404.
24 You still have to find a valid 404 argument. The intent
25 cases that we see in -- in -- with Lyle, a lot of them are

1 bad checks. He forged this check. He forged that check. I
2 think Lyle was a bad check case. He did all of these
3 forgeries and therefore we have a new forgery. He must have
4 had the intent to defraud.

5 That's not what we have intent as to the criminal act
6 in this case. You've heard the statement; intent really
7 isn't an issue. He says he shot his father. So intent, I
8 don't think fits. Motive wouldn't fit as well because the
9 meanness has nothing to do with the -- the action that
10 they're seeking to introduce. There are other cases that --
11 that deal with motive. I'll go through -- through them
12 briefly.

13 One of which was a rape case in which the -- the
14 defendant in that case was charged with a larceny. Victim
15 testified against him in that larceny. Was -- defendant was
16 put in prison. When he was finished with prison, he broke
17 into her house, raped her, and told her, this is for putting
'18 me in prison. Motive. This is why I'm doing this. The
19 case, this doesn't -- this isn't that. This is just, he's
20 mean. We want to say he's mean, but we can't say that. We
21 want to say that it's motive or intent. I don't see a basis
22 for this to come in, Judge.

23 MR. OSBORNE: Only thing I would just add briefly. If
24 you believe the Defendant's intent, he did not commit a
25 murder. I -- I would find it hard to believe the Defense is

1 going to get up and stipulate in their closing that malice
2 existed. They're -- they're going to argue there is no
3 malice. And if there's no malice and there's no intent.
4 He's innocent. He walks. This is evidence that directly
5 refutes that, that the love wasn't there. The ill will, the
6 hostility is what was there. And that's what that -- that
7 testimony shows.

8 THE COURT: Well, I mean, in the way, Mr. Wehman's
9 argument, at least on that issue, at least from one
10 perspective, you're just trying to say he's a bad guy?

11 MR. OSBORNE: Well, that's exactly what I'm saying.

12 THE COURT: I mean, but he was ---

13 MR. OSBORNE: And then -- and then ---

14 THE COURT: But didn't that -- couldn't that be
15 construed as --- improper character evidence under Rule 404?

16 MR. OSBORNE: Absolutely. Yeah, no, that that's
17 exactly right. "Evidence of a person's character or trait of
18 a character is not admissible for the purpose -- purpose of
19 proving action and conformity therewith on a particular
20 occasion, except when we're trying to prove motive and
21 intent." And that's what we're doing here. That's -- that's
22 what 404(b) is. We're getting into that. We're -- we're
23 showing these other -- these other acts.

24 THE COURT: Well, but to get to that character under
25 404(a)(1) doesn't -- doesn't there have to be basically an

1 opening of the door by them? Yeah, that -- I think that was
2 -- well, in the (inaudible) case from Coleton County, wasn't
3 that sort of the -- where all that stuff started coming in is
4 when they opened the door about what a good guy was?

5 MR. OSBORNE: Well, not in swept though. Is that the
6 one you're talking about?

7 THE COURT: No, no. It was the -- the murder case when
8 ---

9 MR. OSBORNE: Oh.

10 THE COURT: I mean, I had -- I had a couple down weeks
11 and I was able to watch it and I think that's where -- where
12 Judge Newman went with that, is the -- the door just got
13 kicked open by the defense.

14 MR. OSBORNE: Under common scheme and plan.

15 THE COURT: Yeah.

16 MR. OSBORNE: Which is a higher burden.

17 THE COURT: But he -- but the door got kicked open
18 there ---

19 MR. OSBORNE: Yeah.

20 THE COURT: --- is what I'm saying. I -- and I -- I
21 think if they come in and say -- or if -- if they present any
22 evidence that says, oh, you know, like he says on that video,
23 we had a -- I was his only friend, we had a great
24 relationship, then, yeah, I think maybe the door's open under
25 404(a).

1 MR. WEHMAN: And if I may, Judge, I -- I don't mean to
2 cut off the solicitor. I -- I think what I was going to say
3 is, what they -- I believe are trying to do is impeach a
4 witness that hasn't testified yet. They're trying to impeach
5 his -- I think it's in the brief. The Defendant says this,
6 the Defendant says that. When the Defendant says that, then
7 we go and we look at this stuff and see if it's admissible.

8 MR. OSBORNE: The Defendant has said that. He said
9 that in his statement. And then that is relevant evidence
10 that we are seeking to bring in to brief up that he -- this
11 is his statement. If he didn't say that, if he never made
12 those comments, then I would agree with you, it doesn't come
13 in. But the fact that he made those comments as a reason for
14 killing his dad, that's what makes this relevant evidence.

15 THE COURT: All right. I'm going to think about that
16 one.

17 MR. WEHMAN: And -- and, Judge, if I may?

18 THE COURT: Yeah.

19 MR. WEHMAN: I -- I'm sorry.

20 THE COURT: Oh, no.

21 MR. WEHMAN: The solicitor mentioned suite as part of
22 -- and I think it's also in the brief, as part of the
23 argument as to why this should come in. Safety suite, this
24 is a domestic violence case. Again, the cases don't support
25 this type of a situation. The domestic violence case, the

1 defendant was arrested, charged with domestic violence, was
2 in jail for 45 days. In the interim, the victim moves out of
3 the home, finds a new romantic partner, and then drops
4 charges because she's away from the relationship. That was
5 her goal. Eleven days later, the defendant breaks back into
6 her house, assaults her -- basically burglary, assault,
7 probably kidnapped involved in there too. Motive, you put me
8 in jail, I am now out and now I've done this. This is
9 nowhere similar. And I still -- I -- I don't agree with the
10 characterization. I think if you're impeaching a statement
11 that you put in yourself, I don't think that would.

12 MR. OSBORNE: All right. You know, you said it
13 earlier, Judge, lawyers. And one other thing I would say to
14 that, there is another aspect here that we have not talked
15 about. During the Defendant's statement, he says that he
16 loads two bullets into the gun. The gun, that means the gun
17 was empty. The gun is empty because Ms. Mizzel told him to
18 empty the gun. Just the day before, the Defendant would then
19 use the gun after putting two bullets in it and then kill his
20 father.

21 THE COURT: Well, I -- I'm not as concerned -- and --
22 and maybe I didn't make myself clear -- I'm -- I don't really
23 have any particular problem with her testifying about that.
24 I think it's more --- he would -- the -- the cruelty aspect
25 of it. Where -- where it sounds like to me, and I think

1 that's what Mr. Wehman's arguing is, you know, he just always
2 treated his parents coolly. You know, as -- as of a -- a
3 character trait. He, you know, you're saying he's just a bad
4 guy.

5 MR. OSBORNE: Well, I don't know what he was like
6 toward his friends, but ---

7 THE COURT: Well, and I don't either.

8 MR. OSBORNE: --- you know, I mean, but to his parents,
9 he didn't treat him well. And that's the hostility that's
10 still will -- that's why I think it's relevant.

11 THE COURT: And I -- and I -- and I don't disagree that
12 you believe it's relevant. I'm -- but again, I feel like you
13 -- you're trying to elicit more of a character trait as
14 opposed to a specific issue. It is my, again, flawed
15 understanding of Lyle as everybody else. But aren't those
16 more specific instances of issues or -- or prior -- I know
17 rule 5 -- 405 says specific instances of conduct and it's a
18 term of art there, but don't all -- all the other Lyle or
19 most of them a specific happening, if you will.

20 MR. OSBORNE: Yeah, I -- I get what you're saying and I
21 -- and I understand, you know, I guess, I would (inaudible)
22 it to this. He didn't have to give a statement, but he did.

23 THE COURT: Right.

24 MR. OSBORNE: He was advised of his Miranda warnings
25 and he didn't have to say a word, but he did. And I think

1 the jury has the right to not only hear that, but you've
2 already ruled on they can. But they can also have evidence
3 to rebut his statement. And that's where I think it comes
4 in.

5 THE COURT: Okay. All right. Let's move to the next
6 one.

7 MR. OSBORNE: Yes, sir. The next one, the garage
8 incident. And we sort of have each (inaudible) there inside
9 of evidence from -- from the victim.

10 THE COURT: Yeah. We -- you -- you threw a little
11 hearsay into the Lyle issue. Thank you.

12 MR. OSBORNE: It's another wrinkle. It's like an
13 onion. So, well, I mean, the excited utterance, I think it
14 definitely (inaudible), I feel it's definitely an excited
15 utterance. It's been close, temporal time. She's saying 10
16 to 15 minutes, she left. He's not on the floor. She comes
17 back, he is on the floor. She asked him directly, oh my God,
18 what happened? And he said something like, he got shoved
19 down or knocked down, or something like that. So I think it
20 definitely fits under excited utterance. It relates to the
21 event. There's a close proximity. He's on the ground. She
22 said he appeared to be excited. So I think it's definitely
23 an excited utterance.

24 THE COURT: I would argue it is.

25 MR. WEHMAN: Judge -- Judge, I think it's hearsay. I'd

1 ask to exclude that.

2 THE COURT: Well, I -- I think it -- I think it is. I
3 -- I think it falls under excited utterance exception,
4 assuming -- well, you'll certainly be able to examine that or
5 go into that on cross-examination, but then how does that
6 fall into the Lyle issue now? All right. We're past
7 hearsay. I -- I think it falls into the excited utter --
8 utterance exception. So I -- I ruled on that.

9 MR. OSBORNE: Yes.

10 THE COURT: Now, the other.

11 MR. OSBORNE: It's a similar argument. Obviously,
12 Judge, you know, if -- if we're to believe Ms. Mizzel that
13 Jim did say that, and if Jim did in fact say that, and we now
14 we have an assault by the victim -- or by the Defendant onto
15 the victim within a week to three weeks from the time in
16 which he would end up then shooting the victim.

17 Now, I've went through -- in -- in my brief, I -- I
18 couched it as -- I couched it under common scheme of plan,
19 which is what Perry envisions. That's a higher standard. I
20 think we met that standard. But really, I believe what this
21 falls under is motive and intent. And that kind of kicks us
22 back to basic law. And it's not a higher standard. I
23 believe it comes in even under the higher standard. There's
24 a logical connection. I think it passes rigid scrutiny, but
25 it's not promising plan. But I still put it in there because

1 I think it probably will come a time in which all Lyle go
2 under that analysis. So I think we're good there, but we're
3 definitely good under Lyle.

4 The proffered evidence must be relevant. He assaulted
5 the victim just a week to three weeks before. The evidence
6 must be clear and convincing. We have a witness's testimony
7 here. We have the excited utterance. We're -- we're seeking
8 to admit it. This is number three. We're seeking to admit
9 it under motive and intent. And I don't see how the
10 probative value must not be substantially outweigh --
11 outweigh by the danger of unfair prejudice. We're talking
12 about assault compared to a murder. So I don't think there's
13 any danger of unfair prejudice.

14 THE COURT: Mr. Wehman?

15 MR. WEHMAN: I'm sorry, Judge. I don't think I'm going
16 to be that brief.

17 THE COURT: Okay.

18 MR. WEHMAN: Judge, I think that this once again is --
19 it's a specific act. So we're past the character evidence,
20 but at the same time, I think the real reason for
21 introduction is the same. And if I could circle back on --
22 on the 404, the solicitor intends to introduce that as well
23 as this. He said he -- he thinks that it's a character trait
24 that's introduced. But the rule says that evidence of a
25 pertinent trait of character offered by an accused -- I think

1 offered means that -- I mean, I still think you have to
2 testify before he can come in and start impeaching a witness
3 that hasn't testified. But moving on to this specific issue,
4 I -- I don't think this meets the Lyle case law with regard
5 to intended motive. I -- I've listed those cases before for
6 motive, for intent. Had this been an instance where the
7 rules were reversed and our client is on the ground and the
8 deceased is hovering over him, that makes more sense for
9 motive. That gives you a motive for why this murder
10 occurred. This does not.

11 And the solicitor doesn't believe there's prejudice.
12 And -- and I can see that he would like there not to be. But
13 just because this is an assault and assault and battery third
14 to a murder, the reason they want to get it in is he was mean
15 and cruel. And therefore, on this day, he was mean and
16 cruel. This, again, is offered for propensity. It doesn't
17 help the trier of fact establish really anything. And even
18 if it does, it can't fit under any of these cases that I've
19 seen with regard to Lyle. If there's anything out there
20 that's similar to this, again, we're talking a rape where you
21 put me in jail, this is why I'm doing this. That was an
22 unfortunate statement by the defendant in that case. Or the
23 -- the CDV, you put me in jail, now I am going to do this to
24 you. This is not that. This is, he knocked his dad down.
25 His behavior afterwards was clearly rude and disrespectful

1 according to the witness. But it has nothing to do with the
2 murder.

3 Once again, it's -- he was mean; he was cruel. We want
4 the jury to hear that because that's how he acted this day.
5 In the -- the brief, it -- it says, with respect to this,
6 again, it negates the Defendant's assertion that the shooting
7 was a mercy killing or assisted suicide. Again, if and when
8 he testifies to that, I think that is when the Court examines
9 this and determines whether or not it's admitted. I think
10 this is premature.

11 And in addition, when we're talking about we still have
12 to get to unfair prejudice, there must be something in the
13 Defendant's criminal process that logically connects to the
14 other bad acts. I don't know how this logically connects for
15 motive or intent. The -- the prejudice case law also
16 discusses that what we're trying to do is we're trying to
17 prevent the jury from acting on an emotional basis in their
18 decision. And this is a tragic case, and I don't mean to
19 belittle it in any way, but what we have is we have an
20 elderly man and his wife, who has been shot. And we have the
21 State trying to introduce evidence that the Defendant was
22 cruel to him, pushed him down, said mean things to him. How
23 does that not have an emotional impact on the jury? They're
24 going to see this man. They're going to see his wife.
25 That's all that this is. Couched in a Lyle argument, it

1 doesn't fit.

2 MR. OSBORNE: A couple things, Your Honor.

3 THE COURT: Sure.

4 MR. OSBORNE: Under that rationale, any assault from a
5 defendant toward a victim would be (inaudible) to murder
6 itself. And that's simply not the case. And I'm not saying
7 it's not prejudicial. I'm -- I'm saying it is prejudicial.

8 THE COURT: Well, that's why you want to offer it.

9 MR. OSBORNE: That's right. And -- and just so we're
10 back, we're on this analysis right here of him being pushed
11 down. There's no mention of cruel or anything like that to
12 that. I mean, I guess the action itself might be cruel,
13 especially considering there's been testimony that was
14 elicited in this pretrial. It's going to come up again, I'm
15 sure, that the victim suffers from pulmonary fibrosis and
16 it's a stiffening of his lungs. He's got a difficulty
17 breathing. It's especially, I think, evidence to show an ill
18 will or disdain or hatred toward his father, that he would
19 sit there and smoke over him. A man that has a difficulty
20 breathing.

21 The criminal process analysis comes under Perry.
22 That's the common scheme and plan. I don't -- do not believe
23 it currently comes under Lyle. But even if we are to -- and
24 this is why I did that even without exercise -- even if we do
25 go through that criminal process analysis, I think it's still

1 good. The criminal process here, well, quoting Perry, "There
2 must be something in a defendant's criminal process that
3 logically connects to the other crime." The logical
4 connection here is the intent. It is the motive. And that
5 doesn't become relevant without the Defendant's voluntary
6 statement.

7 If the Defendant said that I murdered my dad because I
8 don't like him, I had ill will toward him. I don't think any
9 of this comes in, but it comes in because that's not his
10 statement. And if the jury doesn't get to hear that, quite
11 honestly, they're going to be left with this feeling like the
12 Defendant had this loving relationship with his father, which
13 simply isn't true.

14 THE COURT: Anything else?

15 MR. WEHMAN: Nothing, Judge.

16 THE COURT: All right. I'll give me about 15 minutes.
17 Be back out at 3:00.

18 (Off the record.)

19 THE COURT: All right. Here's what I'm going to do.

20 On the -- the talk about the -- the cruelty, that type stuff,
21 from Ms. -- Ms. Mizzel, I'm going to deny the State's motion
22 on that. I believe that is a -- it is a character trait they
23 are trying to establish, which -- and I understand the
24 State's position that the statement is going to be put into
25 evidence is going to be the type of evidence they would

1 normally offer that to rebut. But I don't think in this
2 instance you can let the exception swallow the rule if the
3 State's putting the evidence in. So I'm going to deny the
4 motion on that.

5 On the -- I -- I rule that the excited utterance is
6 admitted also. She will be able to testify as to the act of
7 knocking him down. Whatever the garage incident is. And
8 what I'm doing, I'm relying on some language in Perry that
9 says, "The state must show a logical connection between the
10 other crime and the crime charge, such that the evidence of
11 the other crime reasonably tends to prove a material fact and
12 issue." Well, you all -- all have made it very clear that
13 malice is a material fact and issue. And I will -- I will
14 essentially hold that the prior act, can go to malice, which
15 I think the State's intent for putting it in. So I'll admit
16 that. Anything else?

17 MR. OSBORNE: No, Your Honor.

18 MR. WEHMAN: No.

19 THE COURT: That's it. We are ready for a jury?

20 MR. OSBORNE: I mean, just one quick thing. We're
21 good, Judge.

22 THE COURT: Ready? All right. Bring in the jury.

23 (JURY ENTERS)

24 THE COURT: Madam Clerk, can you swear to jury please.

25 THE CLERK: Ladies and gentlemen of the jury, if you

1 please stand and raise your right hand.

2 THE COURT: All right, ladies and gentlemen, the case
3 you're about to try is the state of South Carolina vs. Jason
4 Bell. This trial is a solemn -- a solemn and serious
5 proceeding necessary for the protection and preservation of
6 the citizens' rights through what we have called the greatest
7 justice system ever created.

8 Lawyers that are appear in front of you are advocates
9 for the parties they represent, but first and foremost,
10 they're officers of the court. And they've sworn oath to
11 hold integrity and fairness of our judicial system. They're
12 professional, confident, and ethical and representation of
13 their clients. And remember, you've taken an oath to try
14 this case and reach a verdict. You are also expected to be
15 professional, reasonable, and ethical. I want to thank you
16 again for accepting responsibility of jury service and for
17 your contribution to our justice system. As I told you
18 upfront, without folks like you willing to show up, our
19 justice system cannot work. We simply cannot function and do
20 our job.

21 Now, the instructions I'm going to give you now are --
22 are an introduction to the trial. You (inaudible) not a
23 charge on the law in this case. At some point at the end of
24 the trial, I'll instruct you on the law. Now, and that will
25 before you consider a verdict. What I'm telling you now is

1 mere an explanation of the procedure we follow during the
2 trial to help you better understand what's happening. You're
3 not going to be taking any notes in this trial. It's -- what
4 we're telling me it's only going to take about four days. So
5 as far as trials go, that's not very long in the grand scheme
6 of things. So we're not going to be taking notes.

7 Mr. Bell is charged by warrants and a subsequent
8 indictment with the crime of murder. The elements of which
9 can be explained to you later. Warrants and indictments are
10 simply a charge by which the case is brought before this
11 court is not in any sense of evidence -- in any sense
12 evidence of the allegations they contain. Mr. Bell has pled
13 not guilty to the indictments.

14 Therefore the State has the burden of proving each
15 element of the crime beyond a reasonable doubt. It's your
16 duty, ladies and gentlemen, to decide whether the State has
17 met that burden. Your purpose as jurors is to find and
18 determine the facts. You are the sole judge of the facts.
19 If at any time I make a comment regarding the facts, please
20 disregard it. You'll determine the facts from the testimony
21 you hear and other evidence introduced in court. So if you
22 determine the inferences you feel may be drawn from the
23 evidence, especially (inaudible) you perform your duty of
24 determining the facts diligently and conscientiously because
25 ordinarily there is no way to correct an erroneous

1 determination of facts by a juror.

2 We have appellate courts that correct erroneous
3 interpretation of the law that I may make, but they don't go
4 back and look and see if you may narrow the fact. On the
5 other hand, with equal emphasis, the same rule that make you
6 the judges of the facts, makes me the judge of the law.

7 The law that is given by the Court, is the only law you
8 will consider. You must accept it and follow it even though
9 you may disagree with it. I can't tell you what the facts
10 are and you can't disagree with me about the law. It's your
11 job to take the law to you -- the law as I give it to you and
12 apply it to the facts as you find from the testimony of the
13 witnesses and any other evidence that is introduced.

14 After doing that, you'll be verdict under the oath that
15 you just took. (inaudible) instruct you to begin your
16 deliberation, you must not discuss the case with anyone.
17 That includes your fellow jurors, your family, your friends,
18 or anyone involved in the case. You must decide the case
19 based solely on the evidence presented in this courtroom.
20 That means during trial you must not conduct any independent
21 research about this case by searching the internet,
22 (inaudible), websites or other electronic means where we post
23 the information or through the media.

24 After the case is submitted to you, you must discuss it
25 only in the jury room -- jury room with one another. The

1 attorneys and parties in this case, as I told you earlier,
2 have been advised not to talk to you at all. So if you see
3 anyone involved in the case and they don't even say hello,
4 they're not being unfriendly, they're just following my
5 instructions.

6 It's important that you keep an open mind and not
7 decide any issue in any case until all the evidence has been
8 introduced. The parties have made their closing -- and after
9 the parties have made their closing arguments and I have
10 instructed you to law, if you become aware of another juror's
11 violation of these instructions you must inform the court
12 immediately.

13 It's also your responsibility to determine the guilt or
14 innocence of the Defendant. Your verdict must be based
15 solely on the evidence as it is presented to you in this
16 courtroom, during this trial, and on the law as I instruct
17 you, during and at the close of the trial. In just a moment,
18 the State will make what's called an opening statement and
19 what -- solicitor will explain to you the issues in the case
20 or at least what they think the issues are and what the
21 evidence will show. Counsel for the Defendant may also make
22 an opening statement, although they're not required to do so.
23 What the attorneys tell you during their opening statements
24 is not evidence in the case. It is only their contention as
25 to what the issues are or what they believe the evidence will

1 ultimately show. The evidence in this case will be presented
2 to you by the testimony of sworn witnesses from this witness
3 stand and by exhibits that may be introduced into evidence.

4 From time to time during the trial, you may hear one of
5 the lawyer say something like, Your Honor, I believe we have
6 a question of law or a matter of law to discuss with you, or
7 maybe we approach or -- at that point I might find it
8 necessary to excuse you in the courtroom for a short while so
9 the attorneys and I can discuss an issue of law. The reason
10 for this is that you as jurors are the judges of the facts in
11 the case. And sometimes when I'm discussing an issue of law,
12 it may be necessary for me to comment on the facts. However,
13 I'm not supposed to tell you what I think the facts are. So
14 that's why that's done outside of your presence in the
15 courtroom, is when I excuse you to the jury room. And I -- I
16 don't want any discussions or anything I may say to influence
17 anything you may think or do in the jury room.

18 In determining the facts of the case, you must decide
19 whether or not -- excuse me -- the testimony of a witness is
20 believable. It'll be my responsibility to rule as a matter
21 of law as to whether certain testimony is admissible. Once I
22 find the testimony is admitted, it is solely for you to
23 determine the believability of a witness of testimony. In
24 deciding whether to believe a witness, you have the right to
25 consider the interest of any witness, the bias of any

1 witness, the prejudice of any witness, the opportunity for
2 the witness to have seen the matters and things about what
3 the witness may testify and the way the witness acts on the
4 witness stand.

5 You have the right to consider anything that's in the
6 record that would help you evaluate testimony of a witness.
7 That means you must pay close attention to these witnesses,
8 (inaudible) the witnesses, listen to them, and pay close
9 attention to the attorneys and to the Court.

10 Don't pledge your thoughts longer, but give -- give --
11 (inaudible) attention to the testimony in this case. That at
12 the end of all the testimony, after the arguments of counsel
13 and my charge on the law, you will then be in a position to
14 determine what the applicable facts are and apply the law to
15 those facts and render a verdict.

16 All right. I need to appoint a foreperson. Ma'am,
17 what's your juror number?

18 JUROR NUMBER 77: 77.

19 THE COURT: 77. Okay. You sat in the special seat, so
20 you're going to be the foreperson. You're not going to get
21 paid anymore. It'll be your duty to preside in the jury room
22 and be the jury spokesperson here. If you have any questions
23 or anything like that, you address that to me. Then it'll be
24 your duty to write the verdict, but I'll give you further
25 instructions on that at the end of the case. Any exception

1 to anything I've said to the jury?

2 MR. OSBORNE: None from the State.

3 MR. WEHMAN: No, Your Honor.

4 THE COURT: All right, we'll begin. Mr. Osborne?

5 MR. OSBORNE: Thank you, Your Honor.

6 In September of 2020, Jim and Rose Bell were living the
7 twilight years of their life. They were enjoying retirement
8 and enjoying each other. They were high school sweethearts.
9 They had been together for nearly 60 years, but it only took
10 six months after agreeing to let their son move back home and
11 Jim would be murdered.

12 The defendant in this case is Jason Bell, Jim and
13 Rose's spoiled son. On New Year's Eve, while Jim slept, this
14 defendant right here, ruthless -- ruthlessly took the life of
15 the man who helped give him life, by shooting him in the
16 head. It wasn't mercy, it was murder.

17 I want to echo what Judge Taylor just said, and thank
18 you all for agreeing to be jurors. And I know you probably
19 look at me like I didn't agree to anything, right? You were
20 selected. But I think you did sort of hear a few examples
21 early -- see a few examples where if you wanted to get out of
22 it, you're probably going to come up with something. So I
23 want to thank you for agreeing to serve.

24 The next morning. Ms. Rose would wake up and went
25 downstairs, just like she does every morning. And she

1 initially thought that there must be some sort of problem.
2 Because every morning Jim wakes up and he gets three
3 newspapers, one for him and Rose; another for his best
4 friend, Lynn, lifelong best friend; and Lynn's mom. Lynn and
5 Lynn -- Lynn's mom live right around the corner. So he'll
6 give them two papers and then one paper for him.

7 But that morning when Jim hadn't left, she thought, oh
8 my God, what happened? So she went and looked at Jim. Jim
9 was sitting on the recliner and she thought at first he was
10 sleeping. So she took a closer look and there was something
11 wrong. There was blood everywhere. She then went upstairs,
12 knocked on the door, to the Defendant's bedroom, looking for
13 help. The Defendant then put on a show. He rushed
14 downstairs with his mom. What happened? What could have
15 happened to dad? He even checked his pulse, but he found
16 none.

17 So then Ms. Rose called 911. Police, EMS, the coroner,
18 fire, they all came out. Defendant's show contingency. He
19 doesn't know what happened to Jim, he is dead. No idea.
20 Now, he does offer a little bit of insight. He says that
21 over the last couple days, you know, Jim has been complaining
22 of increased pain.

23 When Captain Dunaway of the St. George Police
24 Department interviews him, the first interview, that
25 increased pain then escalated. You know, my dad's been

1 screaming in pain for the last few days. Captain then asked
2 him, well, what do you think happened? Defendant's got an
3 idea. I think he shot himself in the head. It's open and
4 shut, case closed. And at first this did look like a
5 suicide. But when Coroner Brothers arrived on scene and
6 pulled back, Jim's blanket, a Colt 38 special revolver fell
7 to the ground. When Coroner Brothers opened up that
8 cylinder, he didn't see one fired shell casing. He saw two.
9 And that changed everything.

10 St. George Chief of Police Brett Camp then went to the
11 Defendant and told him, treating this like a homicide, going
12 to need you to go down to the station with my officers.
13 Defendant doesn't argue. You think he might say something
14 like, wait a second, you're saying somebody killed my dad.
15 He's only got one question. Do I need to be in handcuffs?

16 Dorchester County Sheriff's Office, Crime Scene
17 Investigator Lieutenant Brando Berg was called out to process
18 the scene. And he'll tell you that he swabbed the -- the
19 murder weapon for contact DNA. Those swabs were then sent to
20 SLED, and the scientists who those swabs and compared the
21 Defendant's DNA, and the victim's DNA, and she'll tell you --
22 to -- to the swabs from the gun -- and she's going to tell
23 you what -- what her results were.

24 There is a very, very high chance the DNA found on that
25 gun -- well, first of all, there's only two people, two

1 people's DNA on it. That's it. Very, very high chance. One
2 of the contributors, is the victim. Well, you would expect
3 that. It's his gun. The other him. And they didn't just
4 find the contact DNA on the gun that was on the trigger.

5 Later that day, Chief Camp and Captain Dunaway spoke to
6 the defendant at the police department to see if -- see what
7 his story was. And boy did he have a story. He said that
8 when he was 10 years old, it was 40 years ago, his dad told
9 him, if you ever see me in pain and I can't do it myself, I'm
10 going to want you to kill me. Forty years ago. 10-year-old
11 Defendant promises that he would. And when he saw him in
12 increase pain, time to make good on that promise.

13 He said that New Year's Eve when Rose and Jim left go
14 to lunch or dinner, now's the time. He went downstairs, he
15 took Jim's gun, he put two bullets in the gun, and his words,
16 he waited. He waited till fireworks on New Year's Eve
17 because the sound of the bang bang would be masked by the
18 fireworks and no one would notice. So that's what he did.
19 He went upstairs and waited to hear those fireworks. And
20 when he did, he went downstairs. His dad was on the recliner
21 just like he always is, made sure he was sleeping and he put
22 two in his head and killed him. Then he went back upstairs
23 and he cried and he prayed. And he cried and he prayed.

24 Now, you're going to hear that Jim had pulmonary
25 fibrosis. That is a disease which causes your lungs to

1 stiffen and makes it difficult to breathe. And you're going
2 to hear that eventually that disease would've killed Jim.
3 But he didn't need to die two years ago. And in fact, he
4 could be alive today. And you'll hear family and friends who
5 love Jim. And you'll hear that Jim and Rose had made plans.
6 They had made plans the following year to go on a big
7 vacation to New York together. You don't make vacation plans
8 when you're planning suicide. You'll hear plenty of evidence
9 that Jim was loved, respected, and he wanted to live. He did
10 not want to die.

11 We may never know the real reason why the Defendant
12 murdered his dad, but we know the killing wasn't mercy.
13 You'll hear from the witnesses and you judge for yourself.
14 Did the Defendant care for his dad or did he just care for
15 himself? And ladies and gentlemen, at the end of the straw,
16 I'm going to ask you to see through his lies and see his
17 actions for what it was. It was murder. Thank you.

18 THE COURT: Chisholm?

19 MR. CHISHOLM: Thank you, Your Honor. May I please the
20 Court?

21 THE COURT: Yes, sir.

22 MR. CHISHOLM: My name's Ash Chisholm. Seated beside
23 me is Pierce Wehman. He's the co-counsel. And then at the
24 end of the table there, we got Jason Bell, our client. I
25 would join the solicitor and thanking all of you for being

1 here. But as you kind of pointed out, you didn't really have
2 much choice in the matter, but you hear nonetheless. Thank
3 you for coming.

4 And this is a tough case to get picked for as a juror.
5 Sometimes we have cases up here that aren't very serious.
6 Sometimes they're entertaining and funny. And this isn't one
7 of those cases. This is a somber case. It's tragic. It
8 involves death. And you're going to hear some testimony that
9 is unsettling. You're probably going to see some unsettling
10 pictures and that's just kind of the nature of things. So
11 you didn't get an easy draw as a juror, I would say. You'll
12 probably be happy to know that this is going to be one of my
13 shorter opening statements. I don't have a whole lot to go
14 through with you.

15 The reason being as -- as the Judge indicated these
16 opening statements, they're kind of an opportunity for both
17 sides to, you know, we can give a roadmap, as the solicitor's
18 done, and kind of walk through bits and pieces all the way
19 through. Or we can just point out a couple things we think
20 are important we'd like to keep you -- for you to keep in
21 your head as you're listening to the testimony from the
22 stand, which is more of what I'm going to do here.

23 We're here for one reason; to see if they can prove
24 that Jason Bell killed his father and that it was murder.
25 Because murder is the charge that they selected when they

1 charged him. That's it. What is murder? It's pretty
2 straightforward actually. It's defined, I believe, as an
3 unlawful killing of another person with malice of
4 forethought. Malice of forethought.

5 What is malice? It's probably what you think it is if
6 you've heard of malice or malicious. It's ill will; patriot;
7 evil. I've heard cases refer to it as someone acting with a
8 cold malignant heart. So that's what we're here for. And if
9 they can't show both of these elements, then they haven't
10 proven their case. They have to show that Jason killed his
11 father with malice of forethought.

12 The Judge mentioned that as the defense, we don't have
13 the burden of proof in this case. We don't have to prove
14 anything because our system is sophisticated enough to
15 realize it's impossible sometimes to prove your innocence.
16 But we don't have to. I don't have to do an opening
17 statement. I don't have to ask a single question to the
18 witnesses that end up on the stand and some of them I might
19 not even have any questions for. We could simply turn our
20 table around, face the wall and not ask a single thing or say
21 a single thing in this case. And we could win if they can't
22 prove their case, because they have the entirety of the
23 burden of proof.

24 Mr. Bell is presumed innocent. You've probably all
25 heard that term. If you've watched court TV or you've seen

1 trials or you've watched movies with trials, you probably
2 already heard the presumption of innocence. And it's not
3 complicated. It's what it sounds like, that you are to
4 presume -- or I assume, I prefer, that he's not guilty.
5 That's how we start off here and that's pretty
6 straightforward, easy to understand. But most of us in the
7 real world, when we're sitting in our living rooms, we
8 operate under what I would call the presumption of guilt.

9 Now, I'll give you an example. If you watch the news
10 and you see John Smith has been arrested for robbing a bank,
11 we all say good. They got the guy that robbed the bank.
12 Nobody kind of bothers to sit back and say, well, do they
13 have the right guy? Do they have the evidence? We don't
14 bother with any of that. We presume that this guy got
15 arrested, therefore he must have committed this crime. And
16 when we do it at home, it doesn't matter. We're not involved
17 in that guy's case and everything's fine. But when you're
18 sworn in as jurors as you have been, when you take that oath
19 to follow the law, the law says we can't do that.

20 You cannot presume guilt, you can't say, well, he's
21 sitting over there so he must've done something. That's the
22 presumption of guilt. And just for clarity, we can't start
23 off saying, well, he's here so he must've done something.
24 But we also don't start off saying, maybe he did, maybe he
25 didn't. We'll just listen and play it down the middle. You

1 start off with the presumption of innocence, meaning he is
2 not guilty.

3 That is the lens you have to view the entire case
4 through. And that lasts all the way until the end of the
5 case when you begin your deliberations, only if and then when
6 they can change your mind and prove guilt. So that's how you
7 have to have it as a mindset as we get through this. So I'm
8 just going to ask you to listen to the testimony in the case.
9 And you know, they walk through a lot of the evidence they
10 intend to introduce. And you'll be able to judge for
11 yourself, you know, what's said, how it's said, they've got,
12 you know, it's a lot of the video or interviews they
13 mentioned they are on video, they have that, they can play
14 that for you. So I just ask you to pay close attention.
15 Thank you.

16 THE COURT: Mr. Osborne.

17 MR. OSBORNE: State Calls Donald Weatherford.

18 DONALD WEATHERFORD,
19 being first duly sworn testifies as follows:

20 DIRECT EXAMINATION

21 BY MR. OSBORNE:

22 Q. Good afternoon, Mr. Weatherford.

23 A. Good afternoon.

24 Q. And if you want you can pull that mic up closer to
25 you, so. everyone can hear you. Thanks for coming in.

1 Where are you currently employed?

2 A. I currently work for Resonac Graphite America.

3 Q. Okay. And what do you do there? What kind of
4 work do you do?

5 A. Basically run a crane.

6 Q. All right. And what -- so what do you all do at
7 Resonac Graphite?

8 A. We gravitize -- turn electrodes into -- or
9 graphite rods into electrodes for the steel companies.

10 Q. Is that local? Is that business local?

11 A. Yes, sir. It's located right outside Ridgeville.

12 Q. Okay. How long have you been doing that?

13 A. August of 2021 is when I started. So going on two
14 years.

15 Q. All right. Tell us about the -- your employer
16 prior to that.

17 A. I worked for the town of St. George for the police
18 department for about three years prior.

19 Q. Okay. And what was your assignment while you with
20 St. George PD?

21 A. I work patrol.

22 Q. All right. Back on January 1, 2021, were you
23 working with St. George Police Department then?

24 A. Yes, sir, I was.

25 Q. And so, just so the jury knows, when -- you know,

1 small town, I guess -- when you -- when you work in patrol,
2 do you work the whole town?

3 A. Yes, sir. You run calls, traffic stops, just a
4 little bit of everything. Yes, sir.

5 Q. Okay. And typically speaking, are you the only
6 guy or -- or one patrolman (inaudible)?

7 A. On day shift, most of the time, but on night shift
8 is usually always two officers.

9 Q. Okay. Did you have the occasion to respond to 104
10 Kelly Street in reference to a call for service?

11 A. Yes, sir, I did.

12 Q. Is that in the county of Dorchester?

13 A. Yes, sir.

14 Q. What was the nature of the call?

15 A. I believe the call came out for a unresponsive
16 male bleeding from his head.

17 MR. OSBORNE: Okay. Your Honor, may I approach?

18 THE COURT: Yes, sir.

19 BY MR. OSBORNE:

20 Q. I'm showing you for ID purposes only State's
21 Exhibit 2. Can you take a look at that and tell me if you
22 recognize that?

23 A. Yes, sir. That's the CAD report, looks like.

24 Q. All right. And so I guess just for the, you know,
25 just for the jury's knowledge, like what is a CAD report?

1 What -- what is -- what kind of information's on that?

2 A. The nature of the call, the caller, the
3 complainant who called, address to where it's coming from,
4 things of that nature.

5 Q. Okay. And CAD stands for what? Computer
6 Automated Dispatch?

7 A. Yes, sir.

8 Q. All right. Let's start by looking at the CAD.
9 Who is the complainant in this case?

10 A. Rose Bell.

11 Q. All right. And the address?

12 A. 104 Kelly Drive in St. George.

13 Q. And what time did the call come in?

14 A. Looks like it -- it was received at 8:01 a.m.

15 Q. All right. How long did it take you to get there
16 when you were dispatched?

17 A. I was dispatched at 8:02 and I arrived at 8:06.

18 Q. All right. I'll take that back. So not long?

19 A. No, sir.

20 Q. Were you wearing or were you equipped with a
21 camera body-worn camera?

22 A. Yes, sir.

23 MR. OSBORNE: All right. Your Honor, may I approach
24 again?

25 A. Yes, sir.

1 BY MR. OSBORNE:

2 Q. All right. I'm showing you State's 3 and State's
3 4. We'll start with 3 for ID purposes. You recognize
4 State's 3?

5 A. Yes, sir.

6 Q. And what is that?

7 A. It's my body-worn camera.

8 Q. Does that contain all of the footage from that
9 day?

10 A. Yes, sir.

11 Q. All right. And now I'm showing you State's 4. Do
12 you recognize that?

13 A. Yes, sir.

14 Q. And what is that?

15 A. It's clips from the body-worn camera.

16 Q. Okay. How do you know that, you know, 4 is
17 clipped from your body-worn, and 3 is to all of it.

18 A. We met (inaudible).

19 Q. Okay. And are those your initials on it?

20 A. Yes, sir, they are.

21 MR. OSBORNE: Okay. Your Honor, this time State seeks
22 to admit 4 into evidence.

23 THE COURT: Objection?

24 MR. CHISHOLM: No, Your Honor.

25 THE COURT: State's 4 will be admitted without

1 objection.

2 (State's Exhibit 4 was admitted into evidence.)

3 (Video plays)

4 BY MR. OSBORNE:

5 Q. And we just saw a guy walk by you in a camouflage
6 shirt. Who was that?

7 A. That's Jason Bell.

8 Q. Okay. The defendant in this case?

9 A. Yes, sir.

10 Q. Do you see him in the courtroom?

11 A. Yes, sir.

12 Q. Okay. Can you just, I guess, describe what he is
13 wearing, for the record?

14 A. Charcoal gray suit, white shirt.

15 Q. And the woman that was in the video?

16 A. That was ---

17 Q. Sorry. No, go. Go ahead. Who was that?

18 A. That was Ms. Rose Bell.

19 Q. Okay. Is that a fire?

20 A. Yes, sir.

21 MR. OSBORNE: That was clip 1 playing. Playing clip 2
22 now.

23 (Video plays)

24 BY MR. OSBORNE:

25 Q. You know that paramedic's name right there?

1 A. I believe that was Holly, but I'm not a hundred
2 percent sure.

3 Q. It might be Lobo now, or maybe it was Lobo. Does
4 that sound right?

5 A. Yes, sir.

6 (Video plays)

7 BY MR. OSBORNE:

8 Q. It is really almost impossible to hear on the
9 body-worn. We can see the Defendant talking there. Can you
10 remember anything that he was saying?

11 A. I remember they were speaking about him and his
12 dad were supposed to be watching the NCAA college football
13 championship that day and how he went grocery shopping the
14 prior evening, like (inaudible) and stuff like that, since it
15 was a New Year's Day, like a dinner.

16 Q. Fair to say he's not admitting to shooting his
17 dad?

18 A. No, sir.

19 Q. All right. That's 3.

20 (Video plays)

21 BY MR. OSBORNE:

22 Q. Now, not going to play all of this, but about how
23 long is Rose and the Defendant out on that sun porch?

24 (Video plays).

25 BY MR. OSBORNE:

1 Q. And again, it's hard, you know, we're not really
2 picking up on what's being said, but do you remember what was
3 being said at that time?

4 A. I remember he said Jason Bell was talking about
5 how him and his dad was watching the football game that night
6 and cooking a dinner and things -- things of that nature.
7 Other than that, no, sir.

8 Q. How about Rose Bell, did -- do you remember her
9 saying anything?

10 A. No, sir.

11 Q. Defendant was doing the talking?

12 A. Yes, sir.

13 Q. All right. I'm moving ahead to eight minute mark.

14 (Video plays)

15 BY MR. OSBORNE:

16 Q. Who's that guy?

17 A. Lieutenant Adam Dunaway.

18 Q. Captain Dunaway?

19 A. Yes, sir.

20 Q. All right. Four.

21 (Video plays)

22 BY MR. OSBORNE:

23 Q. Who -- who is that man there on the couch?

24 A. That's -- that's the corner, Paul Brothers.

25 Q. Okay. Just want to point out the time, what's the

1 timestamp?

2 A. 9:56 a.m.

3 Q. All right. Last short clip, clip 5.

4 (Video plays)

5 BY MR. OSBORNE:

6 Q. At the beginning of that last clip there, we saw
7 you taking Ms. Rose and the Defendant outside. Why was that?

8 A. I was advised by my superior officer, Lieutenant
9 Dunaway to take him outside while he and the corner were
10 investigating.

11 Q. Okay. And were you keeping an eye on the
12 Defendant for the rest of the day, I guess?

13 A. Yes, sir. Up until whenever Officer Garcia
14 arrived on scene and escorted Mr. Bell to the police
15 department.

16 Q. Okay. Did other, people, family members or
17 friends arrive on scene?

18 A. Yes, sir, they did.

19 Q. About how many in total?

20 A. I'd say 10 or so.

21 Q. Did they interact with Ms. Rose and the Defendant?

22 A. Yes, sir. They -- they interacted with Ms. Rose,
23 but not -- not the Defendant.

24 Q. Did you -- did they appear to be comforting Ms.
25 Rose in any way?

1 A. Yes, sir. They were.

2 Q. During your whole encounters with the Defendant
3 and all the times we saw in the video talking to other
4 responders and anything, did at any point he ever say, I shot
5 my dad?

6 A. No, sir.

7 Q. Did you find any suicide notes or any suicide
8 video? Anything?

9 A. No, sir.

10 MR. OSBORNE: No further questions.

11 THE COURT: Mr. Chisholm?

12 MR. CHISHOLM: I have no questions for this witness,
13 Your Honor.

14 THE COURT: All right. Mr. Weatherford, step down. Is
15 he released from his subpoena?

16 MR. OSBORNE: No objection from the State?

17 MR. CHISHOLM: No, Your Honor.

18 MS. FREDERICK: State calls Holly Potter.

19 HOLLY POTTER LOBO,
20 being first duly sworn testifies as follows:

21 DIRECT EXAMINATION

22 BY MS. FREDERICK:

23 Q. Thank you for being here Ms. Lobo. Would you mind
24 stating your full name for the record?

25 A. Yes, my full name is Holly Potter Lobo.

1 Q. Okay. And where do you currently work, Ms. Lobo?

2 A. I work for Meducare Air in Charleston, South
3 Carolina as a flight paramedic.

4 Q. Okay. And how long have you been with Medicare?

5 A. I started working there January of this year.
6 January, 2023.

7 Q. And what are some of your duties and
8 responsibilities as a flight paramedic?

9 A. Some of my duties each shift we, you know, we are
10 -- have to be ready to respond to -- to calls. So that
11 entails whether we respond to hospitals or emergency medical
12 services, and assess, treat, transport patients to where they
13 need to -- need to go, closest, appropriate facility.

14 Q. Where were you working prior to Meducare?

15 A. Prior to Meducare, I worked for a little over a
16 year in Augusta, Georgia at the new Air Care as applied
17 paramedic there.

18 Q. Okay. And what type of work did you do prior to
19 paramedic in Augusta?

20 A. Prior to that I worked for Dorchester County EMS
21 for about six and a half years.

22 Q. While you were with Dorchester EMS, what were some
23 of your duties as a paramedic there?

24 A. Duties there were to respond to emergency calls,
25 operate the ambulance, again, assess, treat, transport,

1 medical or trauma patients and transport (inaudible)
2 facilities, patient care reports, completed, and again, being
3 ready to respond to whatever the call is.

4 Q. Do you have any special training or education
5 related to your duties to paramedic?

6 A. I do. I obtained my emergency medical technician
7 from Tri Technical College. From there, obtained my
8 paramedic certification from both country and regional EMS
9 council. And the recently became (inaudible) during
10 certification for the international board (inaudible)
11 certifications.

12 Q. And were you working as a Dorchester County
13 paramedic in January of 2021?

14 A. I was.

15 Q. And on January 1, 2021, did you respond to an
16 unconscious party call for service at 104 Kelly Street in St.
17 George?

18 A. Yes, I did.

19 Q. And do you remember -- or what time did you arrive
20 on scene?

21 A. I believe it was approximately 8:17 p.m.

22 Q. Okay. Once you arrived on scene, what were your
23 initial observations?

24 A. When we arrived on scene there were already
25 multiple first responder vehicles in the -- at the address,

1 multiple people in the front yard. I -- we exited the
2 ambulance, went towards the residence, was directed into the
3 residence to what appear to the porch living room area where
4 we found the unconscious male and have some family members
5 (inaudible).

6 Q. While working at Dorchester EMS, what are the
7 protocols when you arrive on scene of deceased person?

8 A. So if -- once we arrive and perform our assessment
9 and, you know, decide that the individual is beyond what we
10 can do to resuscitate the individual to clearly deceased, we
11 try to preserve the scene the best we can. We're -- we're
12 taught to consider that as a crime scene until we proven
13 otherwise. And so we try to not disturb anything. We try to
14 keep people from the location of the -- the individual just
15 to preserve what we can, not contaminate anything.

16 Q. Okay. You mentioned that upon arrival you
17 observed Mr. Bell, James Bell, the deceased. Did you make
18 any attempts to resuscitate?

19 A. No, we did not.

20 Q. And why is that?

21 A. On my assessment, I found that he was unconscious,
22 (inaudible), pulseless, cold to the touch. I believe in my
23 report that there was rigor noted in his jaw. All that
24 indicates that he had been deceased for longer period of time
25 where (inaudible) resuscitated person would've been fetal.

1 Q. You also mentioned some, maybe not, was there any
2 dried -- dried blood that you observed on the ---

3 A. Correct, yes. There was dried blood on his head
4 and some clothing.

5 Q. Okay. Did you observe one wound or two wounds?

6 A. I was only able to observe one wound. There was a
7 lot of blood -- or dried blood (inaudible).

8 Q. Okay. After you pronounced victim deceased, then
9 what did you do?

10 A. After I announced him deceased, I started speaking
11 with the family members in (inaudible) information
12 (inaudible).

13 Q. We heard testimony earlier from former St. George
14 police officer Trent Weatherford or Donald Weatherford, that
15 Jason Bell, the victim's son in this case, and Rose Bell, the
16 victim's wife, were in the homes. Did you have the
17 opportunity to speak with them?

18 A. Yes, I did.

19 Q. And when you were speaking to those family members
20 -- or speaking to family members of a deceased individual,
21 what are some questions that you generally ask?

22 A. So normally, when I'm responding, you know, and
23 dealing with family members of a deceased party I start with
24 obtaining just the demographics, name, date of birth, things
25 like that. So that's what I'm asking the family questions

1 about. And other pertinent information, medical history, the
2 medications they would take and any situation that they
3 would, you know, explain the event leading up to -- to our
4 response for the deceased individual.

5 Q. And those are the types of questions you asked
6 both the Defendant and Ms. Rose Bell?

7 A. Correct.

8 Q. Okay. Did Jason Bell give you an answer that you
9 documented as being potentially relevant in this case?

10 A. Yes. When asking him anything that, well, you
11 know, was out of unusual or ordinary leading up to the event
12 that morning the only complaint he said was increased pain.

13 Q. So the Defendant said that his dad had complained
14 about increased pain the day before his death?

15 A. Correct.

16 Q. Did he elaborate on the source of his dad's pain?

17 A. He did not.

18 Q. The severity?

19 A. No.

20 Q. Just pain?

21 A. Correct.

22 Q. Okay. And how long do you estimate that you were
23 on scene before clearing -- clearing out?

24 A. I believe according to my report it was about 17
25 minutes.

1 Q. And during your entire time on scene then, did the
2 defendant, Jason Bell, ever look to you and say, look, I need
3 to tell you something, I killed my dad.

4 A. No.

5 MS. FREDERICK: Thank you

6 THE COURT: Mr. Chisholm?

7 MR. CHISHOLM: Thank you, Your Honor. Please the
8 Court?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. CHISHOLM:

12 Q. Good afternoon, Ms. Potter.

13 A. It is now Lobo.

14 Q. Lobo. Okay. I -- I've only got a couple
15 questions for you. We were showing a video a few minutes
16 ago, I think you might've been featured in, and did you speak
17 to Jason Bell and his mother in the living room, it looked
18 like. Is that about, is that ---

19 A. Yes, I believe that's where we were, yes.

20 Q. And when you're talking to them, getting this
21 background information, they were both in the room together?

22 A. Correct.

23 Q. And you're asking kind of both of them?

24 A. I was speaking to both of them, correct.

25 Q. Okay. And you noted that Jason said that Jim Bell

1 had been in increased pain; is that correct?

2 A. Correct.

3 Q. And that was what stood out to him from the last
4 time he was seen to that day; is that right?

5 A. Yeah. Really the only thing he -- he mentioned
6 to, yes.

7 Q. And when he told you that, was that contradicted
8 by Rose or anyone else?

9 A. Not that I remember.

10 MR. CHISHOLM: Thank you. I have no further questions.

11 THE COURT: Anything on redirect, Ms. Frederick?

12 MS. FREDERICK: No redirect.

13 THE COURT: Good. Is she released from her subpoena?

14 MR. OSBORNE: No objection.

15 MR. CHISHOLM: No, Your Honor.

16 MR. OSBORNE: The State is going to call Coroner Paul
17 Brothers. Maybe approach real quick?

18 THE COURT: Yes, sir.

19 MR. OSBORNE: State calls Coroner Paul Brothers.

20 CORONER PAUL BROTHERS,

21 being first duly sworn testifies as follows:

22 CROSS-EXAMINATION

23 BY MR. OSBORNE:

24 Q. All right. Coroner Brothers, the obvious
25 question, where are you employed?

1 A. The Dorchester County Coroner's Office.

2 Q. All right. And how long have you been the coroner
3 of Dorchester County?

4 A. Coming up on seven years.

5 Q. Prior to being the coroner, tell us about some of
6 your -- your previous employment, some of your previous jobs?

7 A. Previous to becoming coroner, I was a funeral
8 director and embalmer, a restorative artist with J Henry
9 Stuhr Funeral in Charleston. I did that for five years. And
10 prior to that I was with the South Carolina Highway Patrol.

11 Q. All right. How long were you with Highway Patrol?

12 A. Just shy -- a few months shy of 29 years.

13 Q. And during that time, what was some of your
14 various assignments and responsibilities?

15 A. My first assignment was to Dorchester County as a
16 road trooper. I came here in May of 1983 when I graduated
17 from patrol school. And I remained here in Dorchester County
18 until February of 2001. And then I was transferred to
19 headquarters as a -- an administrative officer over the
20 public information. Yeah.

21 Q. Okay. What is your educational background or any
22 training that you've received, I guess, that's relevant to
23 this case?

24 A. I have associate's degree in funeral service
25 education, which includes embalming and restorative arts.

1 Most of that curriculum is -- deals with anatomy and
2 physiology. And prior to that, of course I have law
3 enforcement.

4 Q. Okay. And as the coroner of Dorchester County,
5 what are your duties and responsibilities?

6 A. We investigate -- when I say we, my office -- we
7 investigate all deaths that occur within the -- the confines
8 of Dorchester County, as well as deaths that occur outside
9 the county, but the first harmful event occurred in
10 Dorchester County. For instance, if a person was involved in
11 a car crash in Dorchester County, but they expired at MUSC,
12 then we would be the authority to investigate that -- that
13 case.

14 Q. Okay. Back on January the first 2021, were you
15 the coroner?

16 A. I was.

17 Q. Did you have the occasion to respond to 104 Kelly
18 Street in reference to a deceased individual?

19 A. I did.

20 Q. About what time was it that you arrived on scene?

21 A. I arrived somewhere in the neighborhood of around
22 9:20 and was greeted by the police chief at the -- on the
23 front step.

24 Q. Okay. Who is -- well, yeah. Who is the victim in
25 this case?

1 A. Jim Bell.

2 Q. And do you know Mr. Bell?

3 A. I do.

4 Q. And how is that?

5 A. As you can well imagine as a trooper here, I tried
6 many cases against him, as well as the fact that he
7 represented me one time in a divorce.

8 Q. And so you said against him, what was Mr. Bell's
9 occupation?

10 A. He was a defense lawyer.

11 Q. And about how long have -- so it was more
12 professional, I suppose?

13 A. Yes.

14 Q. And about how long was it that -- or was it that
15 you've known him?

16 A. I met him very shortly after arriving in 1983 in
17 Dorchester County.

18 Q. Okay. Was that '93?

19 A. Forty years ago.

20 Q. Is -- did you ever attend any of his dove hunts on
21 this property?

22 A. I went to one. The one in -- in the Harley area,
23 but it was more his brother that invited me.

24 Q. Okay. Is that Holcomb?

25 A. Yes.

1 Q. All right. When was the last time that you
2 actually spoke to Mr. Bell?

3 A. I would have to say in 2006.

4 Q. Okay. And you talked about his -- his profession;
5 he was a lawyer. Was his -- do you know, was his office here
6 in St. George?

7 A. It was.

8 Q. Okay. As well have you had any interactions with
9 the defendant in this case, Jason Bell, prior to that day
10 that you responded to the home?

11 A. Not that I remember.

12 Q. Okay. All right. Let's get into that day. Walk
13 it jury through what you saw on what you did when you arrived
14 on scene.

15 A. When I arrived approximately 9:20, I spoke with
16 Chief Camp on the front steps of the house. It was indicated
17 to me that it's a -- a possible suicide. So I said, okay, so
18 we're going to go in and see what's what. So I go in and my
19 first thing was to go and speak with Mrs. Bell, who was
20 seated in the kitchen. I greeted her, told her who I was,
21 told her why I was there and that we had to do some things.
22 We had to take some photographs and do some things before the
23 -- the funeral home or anybody else could -- could come.

24 And she understood that. She remained -- I asked her
25 to remain in the kitchen and I said, I won't -- won't go all

1 through your house or anything, but I -- I do need to inspect
2 Mr. Bell and -- and photograph the room that he's in. She
3 understood that and that's what I did. I found Mr. Bell
4 seated in a club chair facing the television set. He had a,
5 like a knitted -- I don't know what you call it -- like a
6 throw over his -- his legs and up -- upwards up to about his
7 mid drift. And then there was another one, and then a suit
8 jacket on that.

9 And the detective and I, whom I'd never met before, was
10 standing next to me and I said, okay, I'm going to pull a
11 blanket back to see what's under it. And when I did, I heard
12 a thud and it turned out to be the revolver that had fallen
13 onto the floor. So I asked the detective who was wearing
14 gloves, I said, pick that gun up.

15 Q. Okay, we'll get to that in one second. Okay. You
16 -- you testified that it seems like the initial opinion or
17 belief was that it could possibly be a suicide?

18 A. Given the -- the, what it looked like and the room
19 was -- the ambient light was not really good. It -- I only
20 noticed at first the one bullet wound.

21 Q. Did that opinion or belief change?

22 A. Yes.

23 MR. OSBORNE: I think we are about to get into that.
24 Your Honor, may I approach.

25 THE COURT: Yes, sir.

1 BY MR. OSBORNE:

2 Q. Can I show -- show you -- I'm showing you State's
3 10 through 17. Can you take a look at those and tell me if
4 you recognize them?

5 A. 10 is a photo of the -- of the residence.

6 Q. Just, if you don't mind, just flip through them
7 and then we'll go through each one individually ---

8 A. All right.

9 Q. --- in a second. But as a preliminary matter, do
10 you under -- do you recognize 10 through 17?

11 A. Yes, sir.

12 Q. And what are they?

13 A. These are photographs of the scene.

14 Q. Okay.

15 A. And of the decedent.

16 Q. And do they fairly and accurately depict the scene
17 as you witnessed it on January 1, 2021?

18 A. Yes, sir.

19 MR. OSBORNE: Your Honor, at this time, State seeks to
20 admit 10 through 17 in evidence.

21 THE COURT: Any objection?

22 MR. CHISHOLM: No, Your Honor.

23 THE COURT: All right. They'll be admitted as State's
24 10 through 17.

25 (State's Exhibit 10 through 17 was admitted into

1 evidence.)

2 BY MR. OSBORNE:

3 Q. Okay. Now, we'll do that little game. Showing
4 you State's 10. What are we looking at here?

5 A. That is the -- the residence 104 Kelly Drive.

6 Q. 11?

7 A. That's the front of the house.

8 Q. 12?

9 A. That's the decedent in his glove chair. And over
10 his shoulder in the kitchen is Ms. Bell.

11 Q. 13?

12 A. That's his wallet on the end table next to the
13 chair, to the right of the chair.

14 Q. I'm not going to -- well, 14?

15 A. That's the decedent.

16 Q. And I think you'd already testified to this. It
17 -- it wasn't clear to you that whether it was one or two
18 shots at this time?

19 A. Correct.

20 Q. Okay. And -- and -- so, and -- and I kind of cut
21 you off a little bit. So you -- you were getting into, when
22 you pulled back the blanket, you heard a thud. All right, so
23 pick up where you left off, where I cut you off.

24 A. So I asked the detective -- once we realized that
25 it was the revolver that fell to the floor from under those

1 covers -- I said -- he had gloves on -- so I said, pick that
2 gun up and opened the wheel, the revolver cylinder. And when
3 he did, we saw the two spent casings with the remainder of
4 the holes empty. So that told me right there, this is no
5 suicide. You can't shoot yourself in the head with a
6 revolver more than one time. Not with the wound that he
7 sustained. So what I did from there, because the -- the
8 ambient light was not really good, I took my camera and
9 photograph -- took a photograph of Mr. Bell's head and it was
10 there with the flash and on the camera that I could see the
11 second wound. It was more in the parietal area near the
12 hairline. And that gave me great cause for concern.

13 Q. All right. And 16?

14 A. That's the revolver that fell to the floor.

15 Q. Okay. And I think this is what you're talking
16 about, 17?

17 A. Yes sir.

18 Q. Okay. All right. So with those two spent shell
19 casings in chamber, what did you -- what did you and the, I
20 guess the other officers do that?

21 A. Well, given the fact that Mrs. Bell and knowing
22 her history, I didn't want to alarm her or get her upset any
23 more than she already was. So I sat down in a chair in the
24 living room and started to take some notes. She came into
25 the room and sat on the other end of the sofa, the far away

1 end from where Mr. Bell was in his club chair. Mr. Bell Jr.

2 -- I guess Mr. Jason Bell came into the room also.

3 And I figured, well, Ms. -- I -- I wanted to assess
4 Mrs. Bell to make sure she's wasn't too excitable or
5 anything. And I asked her a couple of questions. And every
6 time I asked her a question here and there, the Defendant
7 would speak to answer the question. So I didn't want to talk
8 to -- to the Defendant. So I would just hold my hand up like
9 this and I wouldn't even -- I didn't even want to look at him
10 for a reason. And I just said, I'll get to you shortly, I'm
11 talking to your mother. So I never looked at him in the eye.

12 And I continued to ask her some questions and at -- at
13 the time I figured out that Mrs. Bell was, for the most part,
14 calm, and I thought then it's a good time to -- let's all
15 move out of the residence and outside. And I was going to
16 consult with captain and the chief about calling the crime
17 scene unit.

18 Q. When you were talking to Ms. Bell and the
19 defendant tried to interject or I guess answer questions,
20 maybe for her, maybe not, what did you do then to him?

21 A. I just put my hand up. It's -- and basically,
22 directed my questions to Mrs. Bell.

23 Q. Okay. I guess just yes or no, is it fair to say
24 that you suspected him?

25 A. Yes.

1 Q. Okay. Okay. Well, after talking to Ms. Rose, did
2 you -- did you have any issues or suspect her?

3 A. No.

4 Q. All right. Through -- all right, so you said then
5 you all contacted Dorchester County Sheriff's Office, have a
6 crime scene unit respond?

7 A. Yes.

8 Q. Okay. Through your investigation while you were
9 there, did you find any suicide note left by the victim?

10 A. No, sir.

11 Q. Did you locate any video or have you ever become
12 aware of any video, Mr. Bell or anyone from that matter, you
13 know, taken part in some sort of suicide act or anything of
14 that nature with this death investigation?

15 A. No, sir.

16 MR. OSBORNE: Okay. All right. No further questions.

17 THE COURT: Mr. Chisholm?

18 MR. CHISHOLM: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. CHISHOLM:

21 Q. All right. Just a few questions for you. You
22 were saying that Rose Bell and Jason Bell were both in the
23 room and you were trying to ask Rose Bell some questions?

24 A. Yes, sir.

25 Q. And that Jason started answering, you told him

1 hold off?

2 A. Yes, sir.

3 Q. When you told him that, did he stop?

4 A. He only did it once or twice, but I can't remember
5 how many times.

6 Q. But he wasn't like trying to speak over you or --
7 or being belligerent and told him I'm trying to talk to her.
8 He ---

9 A. No, sir.

10 Q. Okay. And I'm looking at, I believe, what's your
11 report about Mr. Bell Senior's medical history, (inaudible)
12 you can expand on that for me possibly. Do you have your
13 report available?

14 A. I -- I read it this morning. I can tell you from
15 memory pretty much what it said.

16 Q. Good. You're going to have to help me because I
17 can't pronounce any of this. I'm okay. Cardiomegaly 690
18 grams, what is that?

19 A. Cardiomegaly is an enlarged heart. The normal
20 male human heart generally weighs somewhere between 300 and
21 350 grams, and Mr. Bells was in excess of 600 grams.

22 Q. Twice the size weight, I guess?

23 A. Yes.

24 Q. And then coronary arteriosclerosis?

25 A. Atherosclerosis or arterials sclerosis, it's the

1 hardening of the arteries. Usually blockages,
2 calcifications, formed plaque in the arteries, which causes
3 the cardiomegaly because the heart has to work harder in
4 order to circulate the blood.

5 Q. Right after that it's got severe, and after that
6 it's got aortic valve stenosis. So I was trying to figure
7 out if, which of the two is severe or both?

8 A. Read it to me again, sir.

9 Q. It's listed ---

10 MR. OSBORNE: Your Honor, I don't --- may I see what
11 we're publishing to the jury?

12 MR. CHISHOLM: Yeah, that's okay.

13 BY MR. CHISHOLM:

14 Q. Well, the way it's listed out, "cardiomegaly,"
15 then it's got "coronary arteriosclerosis, severe, aortic
16 valve stenosis." The severe, I didn't know which one of
17 those conditions it was attached.

18 A. That would've been to the atherosclerosis.

19 Q. Okay. Okay. And the aortic valve stenosis, can
20 you tell me what those is?

21 A. That's a narrowing of the -- of the valve chamber,
22 which can cause restricted blood flow.

23 MR. CHISHOLM: Okay. And -- can have one moment, Your
24 Honor? Thank you. I have no further questions.

25 THE COURT: Anything on redirect?

1 REDIRECT EXAMINATION

2 BY MR. OSBORNE:

3 Q. Are you a doctor?

4 A. No. But she's just really good at what I do.

5 Q. I'm not questioning you. I -- are you aware that
6 -- well, of course you're aware -- there was a autopsy done
7 in this case?

8 A. I ordered it, yes sir.

9 Q. Yes, sir.

10 A. And that's the autopsy report he gave -- he
11 referred to.

12 MR. OSBORNE: Okay. Now, I was just impressed. I
13 wasn't even trying to question you. No further questions.

14 THE COURT: Anything on recross?

15 MR. CHISHOLM: No, Your Honor.

16 THE COURT: All right. You can step down.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Is he excused from his subpoena?

19 MR. OSBORNE: Yes, Your Honor.

20 MR. CHISHOLM: Yes, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, we're
22 going to take a break till about 4:30. Again, same rules
23 apply. Don't discuss the case with one another. And we'll
24 be back with you shortly.

25 (Off the record.)

1 THE COURT: All right. Mr. Osborne?

2 MR. OSBORNE: Thank you, Your Honor. State calls Chief
3 Brett Camp.

4 CHIEF BRETT CAMP,
5 being first duly sworn testifies as follows:

6 DIRECT EXAMINATION

7 BY MR. OSBORNE:

8 Q. Good afternoon, Chief. Where -- where are you
9 currently employed?

10 A. St. George Police Department.

11 Q. All right. And how long have you been there?

12 A. Over nine and a half years.

13 Q. Any prior law enforcement experience?

14 A. Yes, I spent little over 12 years with the City of
15 Florence Police Department and 16 years with the Florence
16 County Sheriff's Office.

17 Q. All right. What were some of your various ranks
18 and assignments? We'll start with the city of Florence
19 Police Department.

20 A. City of Florence, I was a patrol officer, I was in
21 the traffic division as a motorcycle officer and I was in the
22 criminal investigation division.

23 Q. Okay. And how about various assignments and
24 whatnot with Florence County Sheriff's Department?

25 A. The sheriff's office, I was a criminal

1 investigator over the seven years, and I made the promotion
2 to lieutenant over criminal investigation, and then I was a
3 captain over criminal investigation services on all -- in all
4 seven divisions of investigative services.

5 Q. All seven division. Did you all -- at -- at
6 Florence, did you all break it down to, you know, violent
7 crimes, robbery and -- and property, or did -- was it general
8 assignment?

9 A. Well, it was property crimes, sexual assault
10 investigators, law investigators, and I created a violent
11 time task force.

12 Q. Okay. All right. What is your educational
13 background?

14 A. Associates degree in criminal justice.

15 Q. And I've already introduced you -- your rank here
16 as the chief?

17 A. Correct.

18 Q. And -- okay, so as the chief of police for the St.
19 George Police Department, what are some of your duties and
20 responsibilities?

21 A. I coordinate, create, develop, and instrument
22 different various divisions throughout the department. My
23 day to day operations. I'm also coordinating and putting
24 together different task and goals -- current goals, different
25 goals within the department. And I'm also responsible for

1 the day in day safety of all public, are all individuals
2 within -- that live in and associate within the town of --
3 town of St. George?

4 Q. Any law enforcement training that's relevant to
5 this investigation?

6 A. Yes, sir. I've had numerous investigative courses
7 homicide investigations, interviewing and -- interviewing and
8 interrogation techniques and, again, other various
9 investigative services courses throughout the years.

10 Q. Okay. All right, let's go back January 1 2021.
11 Were you the chief of police for St. George back then?

12 A. Yes, I was.

13 Q. And did you have the occasion to respond to the
14 scene at 104 Kelly Street?

15 A. Yes, I did.

16 Q. Did -- I mean, just outta curiosity, I guess --
17 did Captain Dunaway get there before you or after you?

18 A. He got there prior to me.

19 Q. Okay. All right. We're going to hear from
20 Captain Dunaway. Is it fair to say that at first it was not
21 entirely clear whether you were dealing with a suicide or a
22 murder?

23 A. Yes. That is fair to say.

24 Q. But -- but is it also, I guess, fair to say that
25 at a certain point you felt like you were dealing with a

1 homicide?

2 A. Yes. That was also fair to say.

3 Q. And did you have a person of interest?

4 A. Yes, we did.

5 Q. And who was that?

6 A. The defendant, Jason Bell.

7 Q. And what did you do then?

8 A. I then spoke to Mr. Bell outside and informed him
9 that I was treating this case as a homicide.

10 Q. Okay. And were you wearing a body-worn camera at
11 the time?

12 A. No, I was not.

13 Q. And who is Aaron Garcia?

14 A. He's one of my -- he was -- at that time he was
15 one of my patrol officers.

16 Q. And was he equipped, I guess, wearing body-worn
17 camera?

18 A. Yes, he was.

19 MR. OSBORNE: Your Honor, may approach?

20 THE COURT: Yes sir.

21 BY MR. OSBORNE:

22 Q. I'm showing you State's 19. Can you take a look
23 at that and tell me if you recognize that?

24 A. Yes, I do.

25 Q. Okay. And what is that?

1 A. There's a clip from Officer Garcia's 911 cam.

2 Q. And have you seen that? Did you -- did you watch
3 it -- Officer Garcia's for some this probably one in my
4 office?

5 A. Yes I did.

6 Q. And were you on the video?

7 A. Yes, I am.

8 MR. OSBORNE: Your Honor, I think we can establish the
9 foundations of it later through Officer Garcia, but for now I
10 would seek to admit 19 subject 104 (b) into evidence.

11 MR. CHISHOLM: No, objection.

12 THE COURT: All right. State's 19 will be admitted.

13 (State's Exhibit 19 was admitted into evidence.)

14 MR. OSBORNE: We will be playing clip 1.

15 (Video plays)

16 BY MR. OSBORNE:

17 Q. At -- at the outset here, what is the time that
18 we're looking at?

19 A. Be 10:50 a.m. in the morning.

20 MR. OSBORNE: Okay.

21 (Video plays)

22 BY MR. OSBORNE:

23 Q. It's kind of -- of hard to hear, but it sounds
24 like he says do I need to be in handcuffs or anything?

25 A. I believe he did make that statement, yes, sir.

1 Q. Okay. And that was at 10:50. And we seen the
2 video, did he resist or fight in any way?

3 A. No, sir. Not at all.

4 Q. Just made that comment about the handcuffs?

5 A. Correct.

6 Q. All right. When the Defendant left the scene and
7 it looks like we're seeing Patrolman Garcia, he transported
8 into the station?

9 A. That is correct.

10 Q. What did you do then?

11 A. I stayed and waited for the search warrants, and
12 was at the scene while Lieutenant Berg and his crime scene
13 team worked their case inside the house.

14 Q. Okay. So, all right, we're -- we're skip ahead a
15 little bit. So this is about -- I think we said that was
16 about 11:00 or so, Defendant goes to the station; you all
17 notify Dorchester County Sheriff's Office that you need a
18 crime scene unit on scene. About that time?

19 A. Yeah, about that time, correct.

20 Q. Okay. And then give the search warrant. And --
21 and after the search warrant is secured, does Lieutenant Berg
22 arrive on scene?

23 A. He does.

24 Q. And -- and does he process the scene?

25 A. He does.

1 Q. Are you there while that's going on? Still on
2 scene?

3 A. I'm there, but I'm not in the house while they're
4 processing. I was outside with Ms. Rose and some other
5 individuals that were -- had -- had come up to the scene.

6 Q. Understood. After Lieutenant Berg is finished
7 processing the scene, what do you do then?

8 A. I then leave and come to the police department.

9 Q. All right. So about what time would that have
10 been?

11 A. That's hard to say. I'm going to say around 1:30
12 to 2:00.

13 Q. Or would it have been later?

14 A. It would've been a lot later. I -- I don't recall
15 that time.

16 Q. Okay. Was he already eaten at the time you got
17 there?

18 A. He had. He had already eaten.

19 Q. Okay. And -- okay. When he was at the station --
20 so, because I know we called you up, brought you up here a
21 little bit out of order, so make sure -- so while you -- you
22 were at the -- at the scene dealing Lieutenant Berg and
23 everything, Garcia was with the Defendant at the station?

24 A. He was.

25 Q. Okay. And then you get there later?

1 A. That's right, correct.

2 Q. Okay. When you get -- when you go to the station,
3 I guess the purpose was to interview the Defendant; is that
4 ---

5 A. That is correct.

6 Q. Did you offer the Defendant anything prior to
7 beginning the interview?

8 A. Yes, I offered him -- he had a chance to have a
9 smoke break. He usually asked (inaudible).

10 Q. Okay. And did he accept your offer of a smoke
11 break?

12 A. He did.

13 Q. What -- did you and him then walk outside?

14 A. We did.

15 Q. Just you all two?

16 A. That's correct.

17 Q. Okay. And was this interaction audio or video
18 recorded in any way?

19 A. It was not.

20 Q. Okay. Before you get into what the Defendant
21 said, just want to ask you a couple questions. During your
22 interactions with the Defendant, at any time, did he appear
23 -- any time that day, did he appear to be intoxicated or
24 under the influence of any drugs?

25 A. He did not.

1 Q. Did he appear to have any physical or mental
2 disability that would've impaired his ability to understand
3 what was being said to him?

4 A. He did not.

5 Q. Prior to or during your interview with the
6 Defendant -- well, you kind of already answered this. Did
7 you offer him a break?

8 A. Yes, I did.

9 Q. If he had asked for food, or drank, or used the
10 bathroom, would you have denied him that?

11 A. I would've not.

12 Q. Oh. Did you make any threats or promises to him
13 prior to saying what you're about to say he said?

14 A. I did not.

15 Q. Okay. All right. While you two were outside on
16 the smoke break, what did the defendant say?

17 A. He said, "Chief, I am the one and I killed my
18 father. I was the one that did it."

19 Q. Okay. And what did you do then?

20 A. I then escorted the Defendant back into the police
21 department. We -- we went straight into the interview room.

22 Q. Okay. So, and I just want to make sure, because I
23 know -- well, did -- did you then interview the Defendant?

24 A. Yes, myself and Captain Dunaway.

25 Q. And -- yourself and Captain Dunaway?

1 A. Correct.

2 Q. Okay. So from the time -- and I'm just trying to
3 -- to hammer this down. So, and was that audio, video
4 recorded?

5 A. It was.

6 Q. Okay. So if we look at the -- the timestamp from
7 the time that the interview began with the Defendant, we're
8 going to be able to see about when he made that comment to
9 you?

10 A. Yes.

11 Q. Not during the smoke break?

12 A. Yes, that's correct.

13 Q. Because you didn't -- did you linger outside with
14 him or did you take him right back in?

15 A. No, I took him right back in. We -- we were only
16 out there maybe a couple minutes.

17 Q. Okay. And you said that that interview is audio
18 and video recorded?

19 A. It is. Correct.

20 Q. And -- and Captain Dunaway was there during all
21 that?

22 A. That is correct.

23 Q. Okay. We'll talk about that later then.

24 A. Okay.

25 MR. OSBORNE: All right. Thank you. No further

1 questions.

2 THE COURT: Anything on cross-examination?

3 MR. CHISHOLM: Briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. CHISHOLM:

6 Q. So Chief, you said you met Jason outside, had a
7 smoke break, and -- and he told you that he killed his
8 father. And that was not recorded audio or video. Is that
9 correct?

10 A. That is correct.

11 Q. And subsequent to that, you went back into the
12 interview room where you talked to him and got a further
13 statement (inaudible)?

14 A. That is correct.

15 Q. And that's what's been provided to the solicitor's
16 office?

17 A. That is correct.

18 MR. CHISHOLM: Thank you. I have no further questions.

19 THE COURT: Anything on redirect?

20 MR. OSBORNE: None, Your Honor.

21 THE COURT: All right. You can step down.

22 THE WITNESS: Thanks, Your Honor.

23 THE COURT: Is he released from his subpoena.

24 THE COURT: Yes, Your Honor.

25 MR. CHISHOLM: Yes, Your Honor.

1 THE COURT: Call another witness or you want to break
2 for today?

3 MR. OSBORNE: Let's break for today. The next one is
4 pretty lengthy.

5 THE COURT: Okay. All right. Ladies and gentlemen, we
6 had a good stopping point for today. I'm going to remind you
7 not to discuss the case with one another. Don't do any
8 research. Don't do any homework. If -- I don't know if
9 there's any media here but if there's something in tomorrow
10 morning's paper or on the news, just look away. Again, we're
11 going to need you to keep an open mind until I instruct you
12 about the law and you begin your deliberations.

13 Are we going to need to do anything in the morning that
14 you all are aware of right now?

15 MR. OSBORNE: We do have -- I -- I would say probably
16 about 30 minutes.

17 THE COURT: Okay. All right. You all be here tomorrow
18 at 9:30 and we'll try to get all of our extra work out of the
19 way before then and we'll be ready to go. Well, have a good
20 evening. Again, don't discuss the case. All right.
21 Anything before we adjourn for the day?

22 MR. OSBORNE: Nothing from the State?

23 MR. CHISHOLM: No, Your Honor.

24 THE COURT: Okay. Well, I'll be here about 8:30, so
25 whenever you all are ready to get going.

1 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)

2

3

4

CERTIFICATE OF TRANSCRIBER

5

6

I, NATASHA BARRIENTOS, a court-approved
transcriber, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the proceedings
had and evidence introduced in the trial of the captioned
case, relative to appeal, in the South Carolina Circuit Court
1 of Dorchester County, South Carolina, on the 7th Day of
August, 2023.

13

14

15

16

17

January 19, 2024

18

19

Natasha Barrientos

20

Transcriber

21

22

23

24

25

1

2

3

4 CONTINUATION OF PROCEEDINGS - AUGUST 8, 2023

5 THE COURT: All right. All right. What are we doing
6 this morning?

7 MR. OSBORNE: We have former St. George Police Officer
8 Aaron Garcia here.

9 THE COURT: Okay.

10 MR. OSBORNE: Ready to do the pretrial motion for the
11 admissibility, I guess, again, hearing of his body-worn
12 camera footage.

13 THE COURT: Okay

14 MR. OSBORNE: All right. The State calls Aaron Garcia.

15 MR. GARCIA: Karen.

16 MR. OSBORNE: Karen. Karen -- Karen Garcia.

17 KAREN GARCIA,

18 being first duly sworn testifies as follows:

19 DIRECT EXAMINATION

20 BY MR. OSBORNE:

21 Q. All right. Mr. -- Good morning, Mr. Garcia.

22 A. Good morning.

23 Q. Thanks for coming in. Where do you currently
24 work?

25 A. I work with Resonac Graphite, which used to be

1 (inaudible).

2 Q. All right. Where did you work before that?

3 A. State George Police Department.

4 Q. Okay. I'm just going to skip ahead. Did you have
5 the occasion to assist in the investigation of the death of
6 Jim Bell?

7 A. Yes.

8 Q. And did you respond to 104 Kelly Drive?

9 A. Yes.

10 Q. On January 1, 2021?

11 A. Yes.

12 Q. Did you have the occasion to transport the
13 Defendant to the St. George Police Department?

14 A. Yes.

15 Q. While at the police department, did you offer the
16 Defendant any smoke breaks?

17 A. Yes.

18 Q. And did he accept?

19 A. Yes.

20 Q. Were you equipped with body-worn camera?

21 A. Yes, I was.

22 MR. OSBORNE: Okay. Your Honor, may I approach?

23 THE COURT: Yes, sir.

24 BY MR. OSBORNE:

25 Q. I'm showing you what has been marked as State's 18

1 and State's 19. Can you take a look at those and tell me if
2 you recognize those?

3 A. Yes, sir.

4 Q. And what is 18?

5 A. 18 is a copy of my body-worn camera.

6 Q. Okay. And 19, I guess, clipped version of that?

7 A. Yes.

8 MR. OSBORNE: Okay. Your Honor, at this time I would
9 seek to show you State's 19. This is what we would be
10 playing to the jury, the clipped version. And we can -- for
11 -- for your knowledge, we played the first clip from his
12 body-worn yesterday.

13 THE COURT: I got nothing (inaudible).

14 BY MR. OSBORNE:

15 Q. Okay. This would be clip 2.

16 A. Okay.

17 Q. What is the timestamp here, Mr. Garcia?

18 A. It says 1630, which will be 4:30 afternoon.

19 MR. OSBORNE: Your Honor, and I guess this would be a
20 good time, too. This one we do have it transcribed. If
21 you'd like, I could provide a copy to you while we're
22 watching this.

23 THE COURT: Sure.

24 MR. OSBORNE: And along the same lines, I think we have
25 a proposed jury instruction for the transcription.

1 (Video plays)

2 BY MR. OSBORNE:

3 Q. Did you catch the timestamp on it?

4 A. Yes, it was -- I believe it was during the hour --
5 1800 hour mark.

6 Q. Okay. We heard testimony yesterday that you
7 transported the Defendant from 104 Kelly to the St. George
8 Police Department around 11:30. Does that sound right?

9 A. Yes, sir.

10 Q. All right. During the whole time that you were
11 with the Defendant at the station, did he appear to be
12 intoxicated or under the influence of any drugs?

13 A. No.

14 Q. Did the Defendant appear to have any mental or
15 physical disabilities that might have impaired what he said
16 to you?

17 A. No.

18 Q. While the Defendant was with you, did you deny him
19 like breaks, drink, bathrooms, otherwise?

20 A. (Inaudible).

21 Q. I'm sorry?

22 A. No, sir.

23 Q. And did you make any threats or promises to him in
24 exchange to get him to say what it is that he said?

25 A. No, sir.

1 MR. OSBORNE: Okay. No further questions.

2 THE COURT: Mr. Chisholm?

3 MR. CHISHOLM: I have no questions, Your Honor.

4 THE COURT: All right. So we are addressing the demo
5 issue on this statement?

6 MR. OSBORNE: Yes, Your Honor.

7 THE COURT: All right. I'm happy to hear from you.

8 MR. CHISHOLM: Your Honor, I don't have anything to add
9 on this motion.

10 THE COURT: Okay. I'll find that Mr. Bell did make the
11 statement. He had been advised of his Miranda rights, I
12 believe it was around 11:30 that morning by Captain Dunaway.
13 He knowingly and intelligently waived his -- his rights by
14 speaking to Officer Garcia, and all statements were given
15 voluntarily. And I find all this by preponderance of the
16 evidence. Anything else?

17 MR. OSBORNE: No, Your Honor.

18 MR. CHISHOLM: No, Your Honor.

19 MR. OSBORNE: All right. Just some housekeeping
20 matters. So we're going to go with Brandon Berg, the crime
21 scene. Hat -- that might be a little long, probably not
22 close an hour, maybe, moving into evidence. But Mr. Chisholm
23 does have a proposed standard jury instructor charge for the
24 transcript. I've read it. I -- it's (inaudible).

25 MR. CHISHOLM: May I approach?

1 THE COURT: Yes, sir.

2 All right. I told the jury to be here at 9:30. You
3 all have anything else we need?

4 MR. OSBORNE: No, sir. The only other issue was Lynn
5 Howell, we want to proffer his testimony. He -- he's got
6 medical issues, so does his wife. And I believe the only
7 time that we could get him here while we're working around
8 this schedule was this afternoon.

9 THE COURT: Yeah.

10 MR. OSBORNE: We could proffer his testimony. It won't
11 take long.

12 THE COURT: All right. Do that around one (inaudible).

13 I would like to break if at all possible around 4:15
14 today. I'm supposed to be in Columbia at 6:00. But I mean,
15 I'm not going to mess up the continuity of a witness for
16 that. But if -- if we can sort a gear towards that. But
17 again, it's not the inner world. I'm not, but sort of.

18 MR. OSBORNE: I don't think that would ---

19 THE COURT: Like to if we can.

20 MR. OSBORNE: Yeah. I don't think it's going to be an
21 issue. I was talking to investigator this morning. We're
22 moving pretty fast.

23 THE COURT: All right. Well, I guess we'll be at ease
24 till 9:30. Jury gets here.

25 (Off the record.)

1 THE COURT: State ready?

2 MR. OSBORNE: We are, Your Honor.

3 THE COURT: Defense ready?

4 MR. CHISHOLM: Yes, Your Honor.

5 THE COURT: Bring in the jury please, ma'am.

6 (JURY ENTERS)

7 THE COURT: Good morning, ladies and gentlemen. Hope
8 everybody had a good evening. We are ready to proceed with
9 the trial. Mr. Osborne, call you next witness.

10 MR. OSBORNE: Thank you, Judge. State calls Lieutenant
11 Brandon Berg.

12 BRANDON BERG,
13 being first duly sworn testifies as follows:

14 DIRECT EXAMINATION

15 BY MR. OSBORNE:

16 Q. Good morning, Lieutenant.

17 A. Morning.

18 Q. Start off by just introducing yourself a little
19 bit to the jury. Where do you currently work?

20 A. Lieutenant Brandon Berg. Dorchester County
21 Sheriff's office.

22 Q. And how long have you been with the Dorchester
23 County Sheriff's Office?

24 A. About 13 years.

25 Q. And prior law enforcement?

1 A. I did a couple years to (inaudible) in South
2 Carolina, (inaudible) heard of that, and six months at USC
3 Public Safety.

4 Q. Okay. What have been some of your various
5 assignments while you've been employed with Georgia County?

6 A. I was on patrol, assigned patrol, for the first
7 three years and then got transferred into crime scene where
8 I've been since 213.

9 Q. All right. What is your current position and rank
10 with the crime scene unit?

11 A. I'm the lieutenant over the crime scene unit now.

12 Q. All right. What are some of your -- I guess you
13 have supervisory responsibilities?

14 A. Yes, sir. I have to perform due performance
15 evaluations for the various members of the unit, do reviews
16 of their cases so they go on call outs, make sure we have
17 full coverage scheduled to make sure we always serve somebody
18 available 24/7 to go out.

19 Q. What is some of the training that you've received
20 that's relevant to this investigation?

21 A. Let's see. Got over 500 hours of forensic
22 training, (inaudible) analysis late threat examination, a lot
23 of that, shooting incident reconstruction, crime scene
24 processing, various things.

25 Q. Okay. Let's go -- well, let's get into it. And

1 go back to January the 1st of 2021. Were you working that
2 day?

3 A. I was on -- on call status that day.

4 Q. And how is it that you became -- with Dorchester
5 -- that you became involved in this investigation?

6 A. I received a call from dispatch. I was advised
7 that St. George PD was requesting assistance for a death
8 investigation.

9 Q. And is that something, I guess, that's normal for
10 the Sheriff's office to assist local, smaller agencies?

11 A. Yes.

12 Q. Okay. Especially with major crime scenes, I
13 guess?

14 A. Yes it is.

15 Q. And did you have the occasion to respond to 104
16 Kelly Drive?

17 A. I did.

18 Q. All right. Walk the jury through what you did and
19 what you saw when you first arrived on the scene.

20 A. Okay. Well, when I first got on the scene I met
21 with Chief Camp and Captain Dunaway. I was given a brief
22 synopsis of what they had on the scene. And after that, they
23 decided they were going to try to -- I was going to meet
24 Captain Dunaway back at St. George PD.

25 Q. Okay. And -- okay. So I guess the decision at

1 that point was not to immediately begin processing the scene
2 because you needed to obtain a search warrant?

3 A. Correct.

4 Q. Okay. And that's what Captain Dunaway was going
5 to be working on?

6 A. Yes, it was.

7 Q. Okay. Now, when you went back to the St. George
8 Police Department with captain Dunaway, did you have the
9 occasion to witness him speak to the Defendant and advise him
10 of his Miranda warrants?

11 A. I did.

12 Q. Okay. Did the Defendant waive his Miranda rights?

13 A. He did.

14 Q. And did he sign the Miranda form accordingly?

15 A. Yes.

16 Q. All right. So just a couple questions. Through
17 that limited interaction that you saw between Captain Dunaway
18 and the Defendant, did the Defendant appear to be intoxicated
19 or under the influence of drugs to you?

20 A. No, he didn't.

21 Q. Did the Defendant appear to have any physical or
22 mental disability that would've impaired his ability to
23 understand what was being said down?

24 A. He did not.

25 Q. Did you observe or did you make any threats or

1 promises to him in exchange to get him to waive his rights?

2 A. Neither Captain Dunaway nor myself did that.

3 Q. Okay. All right. After that was done, what did
4 you do then?

5 A. I spoke briefly with him. Advised him --
6 requested a gunshot residue kit from him at which time he
7 replied that ---

8 MR. CHISHOLM: Your Honor, may we approach?

9 THE COURT: Yes.

10 (BENCH CONFERENCE)

11 BY MR. OSBORNE:

12 Q. The case agent in this case is Captain Dunaway.

13 A. Yes.

14 Q. Okay. So any decisions regarding evidence
15 processing along those lines is made by Captain Dunaway,
16 correct?

17 A. Yes -- yes. It's him, I guess.

18 Q. Okay. All right. So you then went back to 104
19 Kelly Drive after the search warrant was obtained and began
20 processing the scene. Is that correct?

21 A. Yes. After search warrant was obtained, yes.

22 Q. Okay. So you know, I've used that term here a
23 couple times, processing, you know, that's not something that
24 most people say, "processing," but when we're using that term
25 in reference to a crime scene, like what do you mean by that?

1 What are we talking about?

2 A. Okay. Well it can kind of be summed up into three
3 things. We're there to document the scene through
4 photography, video, trying to develop whatever evidence we
5 can. For instance, use powder, try to develop plate and
6 prints, swab items to try to collect DNA, left shoe
7 impressions, document blood spatter, and then hence all
8 that's done, collecting and preserving that evidence.

9 Q. Okay. And part of that -- part of that, does that
10 include you -- you did say photographing the scene?

11 A. Correct.

12 MR. OSBORNE: All right, Your Honor, may I approach?

13 THE COURT: Yes, sir.

14 BY MR. OSBORNE:

15 Q. I'm showing you State's 39 through 88. You take a
16 look (inaudible).

17 A. I do recognize these, yes.

18 Q. And what are they?

19 A. They're the photographs I took that day.

20 MR. OSBORNE: Okay. Your Honor, this time State seeks
21 to admit 39 through 88 into evidence.

22 THE COURT: Objection from Defense?

23 MR. CHISHOLM: Your Honor, if I could just briefly take
24 a look at them?

25 THE COURT: Sure.

1 MR. OSBORNE: Your Honor, it's actually going to --
2 it's actually going to be 39 through 87. I don't believe
3 there's any objection.

4 MR. CHISHOLM: There's not any.

5 THE COURT: All right. Photographs will be admitted as
6 State's 39 through 87 without objection.

7 (State's Exhibit 39 through 87 was admitted into
8 evidence.)

9 BY MR. OSBORNE:

10 Q. All right. Lieutenant, we're going to kind of,
11 you know, some of this is going to be obvious, but I'm still
12 going to ask it. What are we looking at in State's 39?

13 A. That's the front of the house

14 Q. And 40?

15 A. One the front doors of the house.

16 Q. 41?

17 A. That's going through that door.

18 Q. 42?

19 A. As I made it through the foyer of their entryway,
20 this is going into the living room area.

21 Q. 43?

22 A. And this is as I entered the living room area.

23 Q. 44?

24 A. And this is -- as I enter a room, it's our
25 traditional practice to take 360 degree photographs of that

1 room saw and from left to right through that room.

2 Q. 45?

3 A. Extension of that, and continue on.

4 Q. 46?

5 A. The photograph of the living room.

6 Q. And 46 ---

7 A. And then another angle of the living room behind
8 the seats.

9 Q. Okay. When you -- when you're processing a crime
10 scene do you take overall photographs first?

11 A. Yes.

12 Q. I know I'm kind of doing this a little bit out of
13 order. So you photograph the entire scene, then you come
14 back. And what are we looking at here with these numbers?

15 A. These are photo placards that we placed after we
16 take our overalls just to notate areas of interest or
17 specific pieces of evidence that we're going to collect it.

18 Q. Okay. So you can marry up and dock the
19 documentation between what we're looking at in the photograph
20 and what you actually collected?

21 A. Yes, sir.

22 Q. Okay. 48?

23 A. Okay. This is a photograph of a waste basket that
24 was behind the victim's seat. And behind that is an ammo
25 box. Photo placard number 4 is marking.

1 Q. Okay. All right. Now, in 49, what are 3 and 4?

2 A. Three is a live 38 caliber bullet. I located on
3 the -- that's chair side table there. And then that same
4 handle box, photo placard 4 on the floor.

5 Q. Okay.

6 A. (Inaudible).

7 Q. All right.

8 A. Is a closer photo.

9 Q. And 50 is a closer photo?

10 A. Yes, sir.

11 Q. Did you attempt to recover any fingerprints from
12 this bullet?

13 A. I did.

14 Q. Any luck?

15 A. No.

16 Q. And you -- you mentioned this earlier, you have
17 received training in latent print lifting and identification?

18 A. I have.

19 Q. So can you just, I guess, generally say to the
20 jury -- or explain to the jury why it is that you may not
21 have been able to recover cranks from this item?

22 A. Well, there's a lot of factors that come into play
23 here. One of the biggest things is the surface. If it's a
24 smooth clean surface, that's one of the best options we have
25 for a fingerprint -- fingerprint being recorded on that

1 surface. If it's a dirty, rough surface that plays a role
2 into it, it makes it much more difficult. Also,
3 environmental factors coming into play, heat, humidity,
4 things like that. Moisture on the person's hands when they
5 lay that fingerprints or several factors that come into play,
6 whether fingerprints can feed or not.

7 Q. And how many times throughout your work as a crime
8 scene investigator would you say that you've attempted to
9 lift fingerprints?

10 A. Thousands. Thousands of times.

11 Q. Was this uncommon to be able to lift a fingerprint
12 from such a small surface area like this bullet?

13 A. Not uncommon at all, especially for -- yeah,
14 exactly. Not uncommon at all.

15 Q. Okay. All right. 51?

16 A. That's a, like a medium. We should take three
17 pictures of any -- any piece of evidence. A long, medium,
18 short range photograph. This is about a medium range
19 photograph of the ammo box for its location.

20 Q. And what was the caliber of that ammunition box?

21 A. 38.

22 Q. Did you attempt to recover any prints from the
23 box?

24 A. I did.

25 Q. Any luck?

1 A. No luck.

2 Q. And you mentioned smooth surfaces, I guess, like a
3 TV screen or something that would be ideal for collecting
4 prints?

5 A. Yes, sir. A piece of clean glass would be about
6 the best you could come across, something like that.

7 Q. All right. 52? Just a close-up?

8 A. Yes. Yes, sir. That's another photograph? Yes,
9 sir.

10 Q. All right. What are we looking at in 54?

11 A. So once I got through the final phases of
12 processing the scene, this chair was moved and I was able to
13 locate these live rounds on the floor.

14 Q. And how many live rounds in total were there?

15 A. Twenty-six.

16 Q. And what's the ammunition of those?

17 A. Thirty-eight.

18 Q. All right. Are we still in the same room?

19 A. We are still in the same room, yes.

20 Q. And that's 55?

21 A. Yes.

22 Q. 56?

23 A. Yes, sir. So behind the chairs was a bar cabinet
24 area that you could open up and there was a countertop there.
25 This is where this live rounds was found for the placard

1 number 5.

2 Q. Okay. And 57?

3 A. That's a closer photo of the bullet.

4 Q. Did you attempt to lift prints from this bullet?

5 A. I did.

6 Q. Any luck?

7 A. No.

8 Q. All right. 58?

9 A. This is still in the same room. Across the room,
10 obviously, it's the fireplace mantle here. Photo placard
11 number 8 it's -- it's a marking a gun.

12 Q. 59?

13 A. Yeah, that's a closer photo.

14 Q. All right. 60?

15 A. A closer photo.

16 MR. OSBORNE: Okay. Your Honor, may I approach?

17 THE COURT: Yes, sir.

18 BY MR. OSBORNE:

19 Q. I'm showing you State's 25.

20 A. Yes, sir.

21 Q. Can you take a look at that and tell me if you
22 recognize that?

23 A. I do.

24 Q. And what is that?

25 A. That is the weapon in there I retrieved in this

1 photograph here.

2 MR. OSBORNE: Okay. Your Honor, at this time, State
3 seeks to admit 25 in evidence.

4 MR. CHISHOLM: No objection, Your Honor.

5 THE COURT: All right, so be admitted as State's 25
6 without objection.

7 (State's Exhibit 25 was admitted into evidence.)

8 BY MR. OSBORNE:

9 Q. Okay. State 61?

10 A. Yes, sir. That's outside of the room again. As
11 you can see, a railing for a staircase right on the side of
12 that room.

13 Q. And I -- and I should have mentioned this before
14 because you -- I meant to circle back to it. You said that
15 you take -- you're trained to take photographs from a room
16 360 degrees, you go around the whole room, correct?

17 A. Yes, sir.

18 Q. What -- what I'm showing you right now, is it fair
19 to say this is not all of the photographs that you took from
20 that scene, correct?

21 A. Correct.

22 Q. Because the deceased was still in the room when
23 you were there?

24 A. He was still there, yes.

25 Q. Okay. 62?

1 A. That is a picture of a sliding glass door set in a
2 dining room area off to the left as I'm standing in the room,
3 the living room.

4 Q. 63?

5 A. That is a picture of the back of the house showing
6 the sliding glass door set.

7 Q. All right, 64?

8 A. This is another photo of centering in on the glass
9 doors.

10 Q. Did you make any attempts to process this door for
11 evidence?

12 A. I did.

13 Q. What did you do?

14 A. I swabbed it for DNA, attempt to collect it.

15 Q. Okay. DNA, we're talking about contact DNA?

16 A. Yes, sir. (inaudible), correct.

17 MR. OSBORNE: Okay. Your Honor, may I approach?

18 THE COURT: Yes, sir.

19 BY MR. OSBORNE:

20 Q. I'm showing you what's been marked as State's 23
21 and 24.

22 A. Yes, sir.

23 Q. I know there are other items in that bag, but I'm
24 talking about 23 and 24. Do you recognize those? If so,
25 what are they?

1 A. (Inaudible).

2 Q. All right. What is 23?

3 A. 23 is a set of swabs for the -- that back door
4 interior.

5 Q. And 24?

6 A. 24 is a set of swabs from the back door exterior.

7 MR. OSBORNE: Your Honor, State seeks to admit 23 and
8 24 in evidence.

9 MR. CHISHOLM: No objection, Your Honor.

10 THE COURT: All right. They'll be admitted as State's
11 23 and 24 without objection.

12 (State's Exhibit 23 and 24 was admitted into evidence.)

13 BY MR. OSBORNE:

14 Q. Generally speaking, what -- what was the timeframe
15 from which you were processing this crime scene?

16 A. I began a search warrant, I believe at 1:00 in the
17 afternoon and I finished it up as it was getting dark. It
18 was January 1st, probably about 6:00 in the evening, 6:00,
19 7:00, something like that.

20 Q. Okay. When you are processing this crime scene --
21 well let me -- let me word it another way. Did you become
22 aware after you finished processing the crime scene that the
23 Defendant gave a statement to Captain Dunaway later that
24 night?

25 A. Yes.

1 Q. Okay. When you're processing the crime scene,
2 that statement had not been taken?

3 A. Correct.

4 Q. Okay. 65?

5 A. That is a photograph of the dining area coming
6 from the living room.

7 A. 66?

8 Q. And that's moving through the dining room. There
9 was a dining room and a kitchen area. There was a formal
10 dining room area, and then past that to the left was this
11 room here, it was towards the front of the house, a sitting
12 space.

13 Q. 67?

14 A. Another photograph of that same room.

15 Q. 68?

16 A. And that's a photograph -- it's a closet area
17 leading up -- I believe that was a closet area, I can't
18 remember. And the staircase beside it.

19 Q. 69?

20 A. And leading up into the staircase.

21 Q. 70?

22 A. And that's another photograph as I made my way up.

23 Q. 71?

24 A. And this was the room over the garage.

25 Q. 72?

1 A. And that's continuing through on -- the upstairs
2 is a little complex of this house. It was set up in a
3 different couple levels. So this is a foyer area up there in
4 the second (inaudible).

5 Q. 73?

6 A. That is a -- my entry into a spare bedroom.

7 Q. 74?

8 A. And that's continued on upper level.

9 Q. 75?

10 A. Doorway to a square bedroom.

11 Q. 76? '

12 A. And I cracked that door to take a photograph
13 before I entered.

14 Q. 77?

15 A. Entry into that bedroom. I think this was the
16 master bedroom, if I remember correctly.

17 Q. 78?

18 A. And that's another photograph of that same room.

19 Q. 79?

20 A. Another photograph manning through.

21 Q. 80?

22 A. That's before I entered a spare bedroom, a
23 different room. And that's as I approached the doorway.

24 Q. 81? Approached the doorway?

25 A. (Inaudible).

1 Q. 82?

2 A. Okay, so this is entry room and taking a
3 photograph, starting with 360 degree photos.

4 Q. Can you tell where this photo is right now?

5 A. It looks like some kind of bottle of champagne or
6 wine, something like that.

7 Q. 83?

8 A. That's just continuing on left to right. Big
9 room.

10 Q. 84?

11 A. That's some clothing on the floor of that room.

12 Q. 85?

13 A. That's the foot of the bed, a blue rag, cabinet.

14 Q. 86?

15 A. That was a bedside table in there.

16 Q. What did -- what is this substance right here?

17 A. That's -- looks like it's tobacco residue, what it
18 appears to be.

19 Q. Any rolling papers?

20 A. Yes.

21 Q. Abstract?

22 A. Yes.

23 Q. And 87?

24 A. That is the door and doorknob of that room.

25 Q. Did you attempt to process this doorknob in any

1 way?

2 A. I did.

3 MR. OSBORNE: Your Honor, may I approach?

4 THE COURT: Yes, sir.

5 BY MR. OSBORNE:

6 Q. I'm showing you what's been marked as State's 21
7 and 22.

8 A. Yes, sir.

9 Q. Take a look at that and tell if you recognize it.

10 A. Yes, sir.

11 Q. What is 21?

12 A. Okay, 21 shows (inaudible) being two swabs from
13 the bedroom door.

14 Q. All right. And 22?

15 A. 22, swabs from bedroom door above the son's room.

16 MR. OSBORNE: Okay, Your Honor, this time State seeks
17 to admit 21 and 22 in evidence.

18 THE COURT: Any objection?

19 MR. CHISHOLM: No objection.

20 THE COURT: All right. It'll be state's 21 and 22
21 without objection.

22 (State's Exhibit 21 and 22 was admitted into evidence.)

23 BY MR. CHISHOLM:

24 Q. Okay. After you finished processing -- after you
25 finished processing the home, what did you do then?

1 A. After we finished processing home, I collect all
2 evidence, secure it. Take it back to the sheriff's office.

3 Q. Sorry, I should have said something. Have more
4 photos. This is -- all right, so what evidence did you take
5 back? And you've already talked about the fingerprints,
6 right?

7 A. Yes, sir.

8 Q. That some of those bullets and stuff, you
9 fingerprinted those?

10 A. Correct.

11 Q. What about the gun? Did you do anything with
12 that?

13 A. I did. I attempted -- well, first I swabbed a gun
14 in various areas and also attempted to (inaudible)
15 fingerprints off of it as well.

16 Q. Okay.

17 A. I photographed it.

18 Q. Okay. All right. I'm showing you State's 88 --
19 well, 88 through 90, and 93 and 94.

20 A. Yes, sir.

21 Q. Well, scratch 93, sorry. I don't know that you
22 recognize that. So I'll show you 88 through 90, and 94.

23 A. Okay.

24 Q. All right.

25 A. These are the photographs that I took in the lab

1 of the gun and casings from that gun.

2 MR. OSBORNE: Okay. Your Honor, this time State seeks
3 to admit 88 through 90, and 94.

4 MR. CHISHOLM: Your Honor, if I could have one moment.

5 THE COURT: Yes, sir.

6 MR. CHISHOLM: No objection, Your Honor.

7 THE COURT: All right. They'll be admitted as State's
8 88 through 90, and State's 94 without objection.

9 (State's Exhibit 88 through 90, and 94 was admitted
10 into evidence.)

11 BY MR. OSBORNE:

12 Q. All right. What are we looking at in State's 88?

13 A. We were looking at a photograph I took. 88, of
14 the gun and the two state casings I collected from that gun.

15 Q. And 89?

16 A. That's a closer photo of the casings themselves.

17 MR. OSBORNE: Okay. Beg the Court's indulgence. Okay.
18 Your Honor, may I approach?

19 THE COURT: Yes, sir.

20 BY MR. OSBORNE:

21 Q. I'm showing you State's 30, 31 and 36. Just take
22 a look at those.

23 A. Yes, sir.

24 Q. Okay. Well, what are they?

25 A. Exhibit 30 is two swabs for casing number 1. This

1 is -- this is the same envelope I have here. Two swabs are
2 spent casing. Number two is 31. And then 36 are the actual
3 spent casing. One, two.

4 Q. And you've already said that recovered from the
5 cylinder of the gun?

6 A. Recovered from the cylinder of the gun. Yes, sir.

7 MR. OSBORNE: All right. Your Honor, State seeks to
8 admit 30, 31 and 36 in evidence.

9 MR. CHISHOLM: No objection.

10 THE COURT: All right. It'll be admitted as State's
11 30, 31 and 36 without objection.

12 (State's Exhibit 30, 31 and 36 was admitted into
13 evidence.)

14 BY MR. OSBORNE:

15 Q. Okay. Moving on. State's 90.

16 A. Yes, sir. That's another photograph (inaudible)
17 we done.

18 Q. And did you attempt to process this in any way?

19 A. I did.

20 MR. OSBORNE: Okay. All right. May I approach?

21 THE COURT: Yes, sir.

22 BY MR. OSBORNE:

23 Q. And what did you do?

24 A. I swabbed through various places in an attempt to
25 DNA and process of fingerprints as well.

1 Q. Okay. I'm showing you 26 and 27.

2 A. Yes, sir.

3 Q. Take a look at those. Tell me if you recognize
4 those?

5 A. I do.

6 Q. What are they?

7 A. It's two different sets of swabs. This says "Two
8 swabs; Colt 30 handle," and 27 says, "Chief swabs; Colt 30
9 trigger."

10 MR. OSBORNE: Okay. Can I approach, Your Honor?

11 THE COURT: Yes, sir?

12 BY MR. OSBORNE:

13 Q. 28 and 29.

14 A. Yes, sir.

15 Q. 28, two swabs for front cylinder. And 29 is two
16 swabs and a barrel.

17 MR. OSBORNE: Okay. Your Honor, this time the State
18 seeks to admit 26, 27, 28 and 29 in evidence.

19 MR. CHISHOLM: No objection, Your Honor.

20 THE COURT: All right. It be admitted as State's 26,
21 27, 28 and 29 without objection.

22 (State's Exhibit 26, 27, 28 and 29 was admitted into
23 evidence.)

24 BY MR. OSBORNE:

25 Q. And just to reiterate, you swabbed the handle?

1 A. Yes, sir.

2 Q. The cylinder?

3 A. And the trigger, yes, sir. And the barrel.

4 Q. And the barrel?

5 A. Yes, sir.

6 Q. Oh, I'm sorry. Last one. State's 94, what are we
7 looking at?

8 A. Okay. Close up of the cylinder on the firearm.
9 It's conclusive photo.

10 Q. Lastly, on January the 5th of 2021, did you meet
11 with Captain Dunaway?

12 A. I did.

13 Q. And for what purpose?

14 A. I transferred all the evidence I collected over
15 again at that time.

16 MR. OSBORNE: Okay. No further questions.

17 THE COURT: Mr. Chisholm?

18 MR. CHISHOLM: Thank you, Your Honor. Please the
19 Court?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. WEHMAN:

23 Q. Morning, Detective.

24 A. Morning, Mr. Wehman.

25 Q. Doing okay?

1 A. Good.

2 Q. Few questions. You tried to get fingerprints off
3 the fire and the unfired casings; is that correct?

4 A. Yes, sir, I did.

5 Q. And some of the stuff that you're generally in
6 charge of collection of evidence, is that fair to say?

7 A. Yes, sir.

8 Q. And that would be fingerprints, it could be DNA,
9 blood evidence, whatever's on the scene, I guess?

10 A. Correct.

11 Q. And a lot of the stuff like fingerprints for
12 example, you do that testing in-house I guess you'd say; is
13 that right?

14 A. Yes, that's correct.

15 Q. You do that yourself or someone at your
16 department? You do?

17 A. I do, yeah.

18 Q.

19 And some testing DNA, things of that nature, you
20 typically send off to SLED, State Law Enforcement Division;
21 is that right?

22 A. That's correct.

23 Q. Up in Columbia?

24 A. Yes, sir.

25 Q. And they have, I guess, probably more

1 sophisticated equipment required to do that kind of testing,
2 more analysts, that kind of thing?

3 A. Right. We don't have the equipment and testing
4 (inaudible).

5 Q. And some types of evidence like -- like Bluestar
6 for example, if you -- you're looking for blood on a crime
7 scene for example, and if you collect what you believe may be
8 blood evidence, that's a presumptive test with -- and correct
9 me if I'm wrong -- but you have to send that to SLED and
10 they're the ones that can do the confirmation test and say,
11 yes, this is actually blood as opposed to what your test
12 shows. Is that right?

13 Q. Exactly, exactly. Bluestar (inaudible) result of
14 the test, is mailed. They all take swab of that exactly the
15 same (inaudible) confirmation.

16 MR. WEHMAN: Thank you. I have no further questions?

17 THE COURT: Anything on redirect?

18 MR. OSBORNE: No, Your Honor.

19 THE COURT: (Inaudible) step down?

20 THE WITNESS: Yes, sir.

21 THE COURT: Is he released from his subpoena?

22 MR. OSBORNE: Yes, Your Honor.

23 MR. WEHMAN: Yes, Your Honor. Your Honor, may we
24 approach?

25 THE COURT: Yes, sir.

1 (BENCH CONFERENCE)

2 THE COURT: All right. Mr. Osborne, call your next
3 witness.

4 MR. OSBORNE: State calls Karen Garcia.

5 KAREN GARCIA,
6 being first duly sworn testifies as follows:

7 DIRECT EXAMINATION

8 BY MR. OSBORNE:

9 Q. Good morning, Mr. Garcia.

10 A. Good morning.

11 Q. Where are you currently employed?

12 A. Resonac Carbon (inaudible).

13 Q. Well, if you wouldn't mind, could you pull your
14 mic up just a little bit closer to you? A little bit more.
15 What do you do there?

16 A. I'm a crane operator.

17 Q. And how long have you been in that position?

18 A. I'll be two years in October.

19 Q. All right. And what was your job prior to that?

20 A. I was a patrolman in the St. George Police
21 Department.

22 Q. And how long did you work for St. George?

23 A. For five years.

24 Q. All right. On January the 1st of 2021 were you
25 working as a St. George police officer then?

1 A. Yes.

2 Q. And did you have the occasion to respond to 104
3 Kelly Drive that day?

4 A. Yes.

5 Q. Why were you called there?

6 A. I was called to assist Detective Dunaway
7 (inaudible) as to monitor the house before, to let no one in.

8 Q. Okay. And can you just tell the jury what you
9 did, I guess, and what you saw whenever you arrived on scene?

10 A. When I arrived on scene, I saw the house on 104
11 Kelly Street and at that time I was told to stand by the
12 front door. That -- that was all I had seen at that time.

13 Q. Okay. At a certain point did Chief Camp approach
14 you and ask you to do anything?

15 A. Yes, he asked me to transport the Defendant to the
16 St. George Police Department.

17 Q. Okay. And did you do that?

18 A. Yes.

19 Q. All right. We heard testimony yesterday, I guess
20 that was about 11:15, something like that. Does that sound
21 about right?

22 A. Yes.

23 MR. OSBORNE: Your Honor, may I approach?

24 THE COURT: Yes, sir.

25 BY MR. OSBORNE:

1 Q. I'm showing you State's 18 and State's 19. Can
2 you take a look at those and tell the juror if you recognize
3 those?

4 A. Yes I do.

5 Q. All right. What is 18?

6 A. That is a whole video for my body-worn camera.

7 Q. All right. And 19?

8 A. It is clips of my body-worn camera.

9 Q. Okay, so 18, that's the whole -- everything that
10 was recorded from your camera. 19 are clips?

11 A. Yes.

12 MR. OSBORNE: All right. Your Honor, at this time
13 State's seeks to admit 19 in evidence.

14 THE COURT: I believe it was already admitted, wasn't
15 it?

16 MR. OSBORNE: Oh, through Chief Cameron. That's right.

17 THE COURT: Okay.

18 MR. OSBORNE: And Your Honor, at this time --- I'm
19 sorry?

20 THE COURT: Are you moving 18 in as well?

21 MR. OSBORNE: I'm not moving 18. Your Honor, at this
22 time we'd request permission from the Court to hand out
23 transcripts for the body-worn camera.

24 THE COURT: All right. Ladies and gentlemen, Mr.
25 Osborne is going to give you some transcripts from some of

1 the audio part that has transcribed some of the audio from
2 these videos you're going to see. The State and Defense have
3 agreed provide these transcriptions to you. The transcripts
4 are not completely accurate. They're provided to aid in the
5 presentation of the video. They're only intended to assist
6 you in these videos and are not a substitute for what you
7 yourself see and hear in the videos. If you believe you hear
8 something different in the videos and what is provided in the
9 transcription, you should not substitute the transcription
10 for what you yourself believe. Okay?

11 BY MR. OSBORNE:

12 Q. Before we get into the video, I just want to ask
13 some preliminary questions. While at the station with the
14 Defendant, did the Defendant appear to be intoxicated on the
15 influence of drugs?

16 A. No.

17 Q. Did the Defendant have to have appear to have any
18 physical or mental disabilities, I guess, that would've
19 impaired what he was saying to you?

20 A. No.

21 Q. While would the Defendant -- and we -- this we're
22 going to get into this -- did you offer him any breaks,
23 drink, bathroom or otherwise?

24 A. Yes.

25 Q. And if he had asked to go to the bathroom or want

1 food or anything like that, would you deny him that?

2 A. No.

3 Q. Did you make any threats or promises to him in
4 exchange to get him to say what he said on your Bible?

5 A. No.

6 Q. Or at all, I guess?

7 A. No.

8 Q. Okay. Okay. So you kind of answered this, while
9 there, did the Defendant ask for a smoke break?

10 A. Yes.

11 Q. And did you grant that to him?

12 A. Yes.

13 MR. OSBORNE: Okay. We played clip 1 yesterday. This
14 is going to be clip 2 from your body-worn.

15 (Video plays)

16 BY MR. OSBORNE:

17 Q. What is the -- if that'll ever go away, what is
18 the timestamp here?

19 A. The timestamp here is for July 1, 2021 at 1630
20 hours.

21 Q. 4:30 p.m.?

22 A. Yes.

23 (Video plays)

24 BY MR. OSBORNE:

25 Q. All right. And what is the timestamp on clip 4?

1 A. It is January 1, 2021 at 18 -- 18:00 hours, which
2 is 6:00 p.m.

3 (Video plays)

4 BY MR. OSBORNE:

5 Q. Fair to say the Defendant is telling you that
6 since he moved back home, he's the only friend Jim had?

7 A. Yes, I did hear that.

8 Q. No one would take care of Jim but him?

9 A. Yes.

10 Q. Let's go back to when you first got to 104 Kelly
11 Drive. Did you ever have the occasion to go inside the home?

12 A. I did.

13 Q. Smell like a smoke or something?

14 A. It did.

15 MR. OSBORNE: No further questions.

16 THE COURT: Mr. Chisholm?

17 CROSS-EXAMINATION

18 BY MR. CHISHOLM:

19 Q. Mr. Garcia, solicitor asked -- you said you
20 transported Mr. Bell to the police station by 11:15; is that
21 right?

22 A. Yes.

23 Q. And it looks like that last video was 6:00 p.m. or
24 later. Is that right?

25 A. Yes.

1 Q. How long were you with him that day? Were
2 (inaudible) all day long?

3 A. I do not recall. I can remember being at the
4 police station most of the day, and being with Detective
5 Dunaway and Chief Camp, just being at the police station and
6 being there for if they needed anything.

7 Q. Got you. You can see the transition in the
8 videos. He had been there hours, basically. He goes from
9 day to night, is that fair to say?

10 A. Yes.

11 Q. Do you recall after you got him to the station
12 Captain Dunaway and -- and Detective Berg coming by?

13 A. Yes, I do.

14 Q. How long was that after you arrived at the
15 station?

16 A. Probably within 15, 20 minutes.

17 Q. Pretty close there. Did you sit in on that
18 meeting?

19 A. No, I did not.

20 MR. CHISHOLM: Thank you. No further question.

21 THE COURT: Anything on redirect?

22 MR. OSBORNE: None, Your Honor.

23 THE COURT All right. Mr. Garcia, you can step down.
24 Is he released from his subpoena?

25 MR. OSBORNE: Yes, sir.

1 MR. CHISHOLM: Yes, sir.

2 THE COURT: All right. Ladies and gentlemen, we're
3 going to take a break. We've been going around an hour. So
4 we'll take a break until let's say 11:05. Let me give
5 everybody time to refresh themselves, stretch the legs.
6 Again, please do not discuss the case and we'll be back with
7 you shortly.

8 (JURY EXITS)

9 THE COURT: All right. Mr. Chisholm, I think you had a
10 matter you needed to take up, correct?

11 MR. CHISHOLM: Yes, sir.

12 Basically, put on the record -- record Detective Berg's
13 testimony I had an objection. Basically Detective Berg
14 started testifying about a gunshot residue test and if it is
15 possible, maybe best if we can pull that portion from
16 testimony that gunshot residue test was offered to the
17 Defendant. And I think he was about to say he declined and I
18 can't remember how far he got into that statement or not, but
19 I would move for a mistrial at this point, Your Honor.

20 In the State's brief, which has been submitted -- and I
21 guess I should probably make a court's exhibit -- as well as
22 in I think discussions during pretrial, the State has said
23 that they have no (inaudible) getting into gunshot residue.
24 They're not bringing in a gunshot residue, the witness on
25 their witness list or anything like that. And then that

1 testimony is what came out while we were in court up there.
2 So I think (inaudible) prejudices compliant and (inaudible)
3 motion.

4 THE COURT: All right. I -- well -- I don't think he
5 ever said affirmatively that he declined it.

6 MR. CHISHOLM: That's what I said. We put him on the
7 spot. If we could play back, because I couldn't remember
8 exactly.

9 THE COURT: I don't think the question was answered. I
10 think you stood up just in time. We were both about to
11 tackle him.

12 MR. OSBORNE: For -- and just for the record, Your
13 Honor, I will say everything Mr. Chisholm said is correct.
14 You know, as a prosecutor, I eat that. I -- we went over it,
15 you know, if they say something, you ask them not to, that's
16 what happens. But nevertheless, I don't believe -- that was
17 just -- I don't believe it would've been improper to have
18 elicited that testimony. It was just an area I didn't want
19 to go in. But I do have a proposed remedy and I do want to
20 thank Mr. Chisholm. He could easily sandbag us right there
21 and let that testimony come out. But he caught it before I
22 did. I was thinking about something else.

23 So I was just thanking him for that. I thought it was
24 really professional. But here's how I say, I've already set
25 it up to say that Captain Dunaway was the case agent. He's

1 the one that's making all the decisions in this case. This
2 is not perpetrating a fraud to the jury, because I'll ask
3 Captain Dunaway, when you were at the station with the
4 Defendant, did you take his GSR? Now, what is GSR gunshot
5 residue? Why didn't you? His call, and he's going to eat
6 that, well, I -- I elected not to because the fact of the
7 matter is he could held in that.

8 And so this -- this isn't a consent issue and he
9 elected not to do that. So it was his decision to not take
10 the GSR. I mean, we -- we're going to build little about
11 euphemism. They're not going to say -- we're going to give
12 them some fodder, I guess, because that's his call. His
13 case; he didn't do it. But I think that more and remedy is
14 probably going above and beyond remedying that potential
15 problem that I don't think really is the problem.

16 THE COURT: Yeah, I don't -- I don't think he ever
17 answered the question. And of course there will be something
18 in the charge about his Fifth Amendment rights and they can't
19 -- and I don't know if he's going to testify or not, but they
20 can, you know, nobody can hold that against him. And if you
21 wanted me to tailor the charge to that issue, although I
22 don't know that you want to call it out any further than it
23 already has been, I can modify Fifth Amendment charge and --
24 and that's something you can decide on strategically. But at
25 this time I'm going to deny you motion, but it is noted for

1 the record.

2 MR. CHISHOLM: Yes, sir. Thank you.

3 THE COURT: All right. We'll do these till 11:05-ish.

4 (Off the record.)

5 MR. OSBORNE: All right. The State calls Captain Adam
6 Dunaway.

7 CAPTAIN ADAM DUNAWAY,
8 being first duly sworn testifies as follows:

9 DIRECT EXAMINATION

10 BY MR. OSBORNE:

11 Q. All right. Captain where are you currently
12 employed?

13 A. The St. George Police Department.

14 Q. And how long have you been there?

15 A. Roughly nine years.

16 Q. Any prior law enforcement experience?

17 A. I worked for the Department of Corrections for
18 about four years, and then out 11 years; I was in the Army as
19 a military police officer.

20 Q. Okay. What is your educational background?

21 A. I have a master's degree from Charleston Southern
22 University.

23 Q. And your current rank as captain, can you tell the
24 jury what some of your duties and responsibilities are for
25 Charleston Police Department?

1 A. I am the town only investigator. I oversee
2 patrol; I oversee the evidence room. I'm an accreditation
3 manager in kitchen sink.

4 Q. Okay. Any training that's relevant to this
5 investigation?

6 A. Yes, sir. I've been to some interviewing schools.
7 I've been to some homicides and basic investigations classes,
8 investigative courses.

9 Q. Okay. All right. Back on January 1, 2021, were
10 you with St. George Police?

11 A. Yes, sir.

12 Q. And what day of the week was that?

13 A. It was a Friday.

14 Q. Did you have the occasion to respond to the crime
15 scene at 104 Kelly Drive?

16 A. I did.

17 Q. All right. Walk the jury through what you did and
18 saw when you arrived.

19 A. I was notified by Officer Weatherford that there
20 was a undetermined death. I arrived on scene. I spoke with
21 Officer Weatherford. Kind of briefed me on the situation. I
22 walked in the living room and that's when I saw the -- the
23 victim.

24 Q. Okay.

25 A. He was sitting on a recliner. He had a -- his

1 feet was up on an ottoman. Had a red blanket kind of -- kind
2 of up towards his chest. He also had his right hand
3 underneath the blanket. Looked like his left hand was out.
4 He looks like he suffered from a -- a gunshot wound on the
5 left side of the head.

6 Q. Okay. You said gunshot wound. So was there dry
7 blood around the wound and head area?

8 A. Yes, sir.

9 Q. Okay. After your initial assessment of the
10 victim, did you interview anyone?

11 A. I did.

12 Q. And who was that?

13 A. I interviewed Rose, which is the victim's wife,
14 and I interviewed the Defendant, which is the victim's son.

15 Q. Okay. You're not going to be able to say what Ms.
16 Rose told you, but you did speak to her?

17 A. Yes, sir.

18 Q. Okay. And were you wearing body-worn camera that
19 day?

20 A. I was.

21 Q. Okay. Was your interview -- so was your interview
22 with Ms. Bell captured on video?

23 A. It was.

24 MR. OSBORNE: All right. I want to back up just a
25 second here. And I want to -- may I approach, Your Honor?

1 THE COURT: Yes, sir.

2 BY MR. OSBORNE:

3 Q. Now, I'm going to show you State's Exhibit 1 and
4 ask you if you recognize that?

5 A. I do.

6 Q. What is that?

7 A. It is the 911 call.

8 Q. Okay.

9 A. That was ---

10 Q. I'm sorry.

11 A. It was 911 call. It looks like it was placed by
12 the Ms. Rose and I know this because I listened to this.

13 Q. Okay. And those are your initials?

14 A. Yes, sir.

15 Q. All right. So you listened to this 911 call?

16 A. Yes, sir.

17 Q. And did -- you kind of already spilled my thunder
18 a little bit, but did you recognize the voice that was on
19 here?

20 A. I did.

21 Q. And whose voice was that?

22 A. Mr. Rose's voice.

23 Q. And you know that because you spoke to her?

24 A. Yes.

25 Q. Did you also notice any similarities, I guess, or

1 consistencies contained in the things that she said on here
2 that mirrored or that seemed consistent with this
3 investigation and also confirmed that that was Ms. Rose that
4 was talking?

5 A. Yes, sir.

6 MR. OSBORNE: Okay. Your Honor, this time State seeks
7 to admit 1 into evidence.

8 MR. CHISHOLM: Your Honor, I would ask the Court to
9 recognize my previous objection. May we approach?

10 THE COURT: Yes.

11 (BENCH CONFERENCE)

12 THE COURT: All right. Mr. Chisholm, any objection to
13 State's 1?

14 MR. CHISHOLM: No, Your Honor.

15 THE COURT: All right. It'll be admitted as State's 1
16 without objection.

17 (State's Exhibit 1 was admitted into evidence.)

18 (Video plays).

19 BY MR. OSBORNE:

20 Q. Okay. So you had said that you spoke to the
21 defendant, Jason Bell. Was that interview captured on video?

22 A. Yes, sir.

23 Q. You were wearing body-worn that day?

24 A. Yes, sir.

25 MR. OSBORNE: All right. Your Honor, may I approach?

1 THE COURT: Yes, sir.

2 BY MR. OSBORNE:

3 Q. All right. I'm showing you State's 5 and 6
4 (inaudible). Do you recognize them? If so, what are they?

5 A. I do. State 5 is the whole body camera footage
6 and State 6 is clips of that. I know this because I watched
7 it. My signature -- or my initials are on there.

8 MR. OSBORNE: Okay. At this time, the State seeks to
9 admit 6 into evidence.

10 MR. CHISHOLM: I ask the Court to note my previous
11 objection.

12 THE COURT: Yes, sir. It's noted. Did -- body-worn
13 camera, the clip version will be admitted as State 6 subject
14 to previous objection.

15 (State's Exhibit 1 was admitted into evidence.)

16 MR. OSBORNE: Oh, and Your Honor, may we pass out the
17 transcripts now?

18 THE COURT: Sure.

19 MR. OSBORNE: The first transcript, if you look at the
20 front page, it's labeled, "Case: State v Jason Bell." File
21 name -- file name is Dunaway clip 1.

22 (Video plays)

23 BY MR. OSBORNE:

24 Q. What is this that's sitting on the couch right
25 there?

1 A. It's a -- it's tobacco residue. Looks like a
2 ashtray magazine.

3 (Video plays)

4 BY MR. OSBORNE:

5 Q. All right. The next transcript's going to read,
6 "Dunaway clip 2." And what is the timestamp here?

7 A. It's 090 -- 09:18 in the morning.

8 Q. Okay. We heard testimony from EMS Holly Lobo, had
9 she already had the inter -- interaction with the Defendant
10 and now you spoke to him after that?

11 A. Yes, sir.

12 Q. Okay. And then we heard from Coroner Brothers.
13 Coroner then spoke to him after that?

14 A. Yes, sir.

15 (Video plays)

16 MR. OSBORNE: All right. Last short one. That way,
17 clip 3.

18 (Video plays).

19 BY MR. OSBORNE:

20 Q. Okay. All right. After speaking to the
21 Defendant, when this shuts and cuts out, what do you do next?

22 A. I meet with the coroner. During the -- the
23 interview with the Defendant, the coroner arrived on scene,
24 so I made contact with the coroner. The coroner was in the
25 room that the victim was in. At that time we moved the

1 blanket, and as we moved the blanket, the firearm fell on the
2 floor. I had gloves on. Coroner asked me to open up the --
3 the cylinder for the revolver. That's where we saw two spent
4 shell casings.

5 Q. Okay. You were in there when Lieutenant Berg
6 testified?

7 A. Yes, sir.

8 Q. Lieutenant Berg collected the pistol from the
9 mantle?

10 A. Yes, sir.

11 Q. How did it get to the mantle?

12 A. I put it on top of the mantle.

13 Q. Okay. All right. So after speaking to Ms. Rose
14 and the Defendant -- and I guess maybe prior to finding the
15 gun, what -- what was the initial thoughts of the St. George
16 Police Department?

17 A. Before we found the gun the assumption was this
18 was possibly a suicide. It was -- could be very likely it
19 was a suicide.

20 Q. But after finding that gun, did it change?

21 A. Yes, sir.

22 Q. All right. With that in mind what did you and the
23 chief elect to do?

24 A. We elected to take the Defendant and move him from
25 the premise, escort him to the St. George Police Department.

1 Q. Okay. After Defendant was transported to St.
2 George Police Department, what did you and Lieutenant Berg
3 do?

4 A. We went into the interview room and advised him of
5 his Miranda Rights.

6 Q. Okay. Can you explain to the jury like what is
7 GSR.

8 A. GSR is gunshot residue. Basically, anytime you
9 fire a -- a firearm, there's a possibility that that residue
10 you -- could be on you.

11 Q. And did you elect to take gunshot residue from the
12 Defendant in this case?

13 A. No, I did not.

14 Q. Okay. You said you advised him his Miranda
15 warnings?

16 A. Yes, sir.

17 MR. OSBORNE: Your Honor, may I approach?

18 THE COURT: Yes, sir.

19 BY MR. OSBORNE:

20 Q. I'm showing you State's Exhibit 7. Can you take a
21 look at that and tell me if you recognize that?

22 A. I do.

23 Q. What is that?

24 A. It's the St. George Police Department Miranda
25 warning form.

1 MR. OSBORNE: Okay. Your Honor, this time State's
2 seeks to admit 7 into evidence.

3 MR. CHISHOLM: No objection, Your Honor.

4 THE COURT: Okay. Exhibit 7 will be admitted without
5 objection.

6 (state's Exhibit 7 was admitted into evidence.)

7 BY MR. OSBORNE:

8 Q. So we're just going to kind of go through this
9 form. What is the heading of the form set?

10 A. St. George Police Department.

11 Q. And it's your -- your Miranda rights warnings
12 form?

13 A. Yes, sir.

14 Q. And what is the date?

15 A. 1/1/21, January 1, '21.

16 Q. And I see the time, that is left blank?

17 A. Yes, sir.

18 Q. Why is that?

19 A. Well, at the time, this is -- this is one of the
20 -- well, this is the first homicide that I have ever worked.
21 And we don't get very many homicides in the St. George Police
22 Department. We were under the impression that the interview
23 room at the time was recording. I wanted to fill out the
24 entire form while it was being recorded in front of the
25 Defendant.

1 Q. And was it being recorded?

2 A. No, sir. Later on we found out it wasn't.

3 Q. Had you utilized that recording or that camera in
4 that room before?

5 A. No, sir.

6 Q. So this is the first trip. Did you try to turn on
7 the video though?

8 A. No, sir.

9 Q. Okay.

10 Q.

11 I -- I was under the impression that the -- the -- so
12 let me back up real quick. This is a new police department.
13 We had moved in there probably about -- I'm bad with days --
14 probably around six months prior. This was one of the first
15 cases we actually got able -- we were able to utilize that
16 room. It was under our impression that the camera turns on
17 automatically when the lights turn on in the room. That was
18 not the case.

19 Q. Okay. But did you document the time in which you
20 advised him of Miranda warnings in any other way?

21 A. Yes, sir.

22 Q. And what was that?

23 A. Notes and in my incident report.

24 Q. Okay. And -- and what time did you advise him of
25 his Miranda warnings?

1 A. Roughly 11:30.

2 Q. And was there a witness to the Miranda warnings?

3 A. Yes, sir.

4 Q. And who was that?

5 A. Lieutenant Berg.

6 Q. Okay. And I know we can all, you know, read and
7 look at this, but can you just sort of read the rights and
8 explain to the jury how you went about advising these rights
9 to the Defendants?

10 A. Yes, sir. So what my common practice is, is when
11 I have a form like this and I read my -- read the rights to
12 any individual. I'll start with, one, I'll say "You have the
13 right to remain silent." If they understand that I have them
14 initial. Then I go to number two. "Anything You say can and
15 will be used against you in a court of law." If they
16 understand that, same thing. I have them initial. Three,
17 "You have the right to talk to a lawyer and have him present
18 with you while you're being questioned." He understands
19 that, again, I -- I have him initial that. "If You can't
20 afford to hire a lawyer, it will be appointed to represent
21 you for any questioning if you wish." Again, making an
22 initial (inaudible).

23 Five is a little different. I always have -- and this
24 is just my practice -- I always have the person I'm talking
25 to read five out loud. I do that for a couple reasons. One,

1 just to make sure that their education level, they understand
2 they can read, and that, you know, they're not just agreeing
3 to what I can say or what I'm saying, but you can kind of
4 read and follow along as we go. Once they agree to that, I'd
5 like to explain that, you know, I'll read it at -- "You can
6 decide at any time to exercise these rights, not answer any
7 questions or make any statements." I emphasize five a lot
8 because there's always two sides to the story. And sometimes
9 when you read people their rights, they just -- they kind of
10 claim up. But five is important. You tell me your side of
11 the story. You don't want to answer any more questions after
12 that, we don't have to talk with them.

13 After -- after they -- after they initial that same
14 thing. "Do you understand each of these rights as they were
15 explained to you?" If they agree, they initial. Having
16 these rights in mind, do you wish to talk to us now? If they
17 don't initial, we don't talk. If they initial, we can talk.
18 Then down at the bottom, the defendant's signature.

19 Q. Okay. Who's underneath the defendant's signature?

20 A. It's my name.

21 Q. Okay. Now is it fair to say this interaction with
22 him is pretty quick?

23 A. Yes, sir.

24 Q. Sometimes people kind of hesitant maybe to waive
25 their rights. Any hesitation you any problems with him

1 waiving his rights?

2 A. No, sir.

3 Q. Did you interview him later?

4 A. Later on that day, yes, sir.

5 Q. All right. While at the station, did you do

6 anything else to further the investigation along?

7 A. I typed up a search warrant.

8 Q. For the home?

9 A. Yes, sir. ..

10 Q. Okay. All right. So now, the search warrant in

11 hand, what did you end up doing?

12 A. I went to the residence, gave the search warrant

13 to Lieutenant Berge and stood by while he processed the crime

14 scene.

15 Q. All right. Let me ask you this, to your

16 observations, were there any signs of forced entry into the

17 home?

18 A. No, sir.

19 Q. Any -- any signs that you typically might see when

20 a home had been burglarized?

21 A. No sir.

22 Q. Okay. All right. After the scene was processed,

23 what did you and Chief Camp alleged?

24 A. After the scene was processed, we went back to the

25 PD. At that time asked the Defendant if he wanted a smoke

1 break, if he wanted anything to eat. He agreed he wanted
2 something to eat. He wanted Hardee's. He went to Hardee's,
3 asked him what he wanted. He wanted a Monster Burger combo.
4 Got him a Monster Burger combo from Hardee's. He ate his
5 food. Then he went on another smoke break. After he ate his
6 food, and that's when he went outside with Chief Camp.

7 Q. Okay. And what time was it that you got back to
8 the station and offered him food?

9 A. I believe it was roughly 7:00.

10 Q. Okay. All right. Chief Camp already testified he
11 went outside with the Defendant, then he said he shot his dad
12 or whatever Chief Camp said. Then they come back inside?

13 A. Yes, sir.

14 Q. Okay. And what happens then?

15 A. Essentially, the Defendant -- Chief camp tells me
16 that he made a comment outside saying that when he was saying
17 that -- that he basically he killed his dad I then went --
18 Chief Camp said we were going to interview him again. I then
19 went to make sure that just to do my Ts to make sure that
20 that video actually was recording. Went to the server room,
21 checked that the video in the system, that's when I found out
22 that it wasn't recording. Made sure it was back to par, then
23 we began to interview the Defendant.

24 Q. All right. Before we get into that, during your
25 entire interactions with the Defendant on January the 1st,

1 did he appear to be intoxicated under the influence of drugs?

2 A. No, sir.

3 Q. Did the Defendant appear to have any physical or
4 mental disabilities that would've impaired his ability to
5 understand what was being said to him?

6 A. No, sir.

7 Q. Prior to or during the interview with the
8 Defendant, did you offer him break strength, bathroom,
9 otherwise?

10 A. Yes, sir.

11 Q. Did you deny him to break at any time?

12 A. No, sir.

13 Q. And did you make -- or did you hear anyone make
14 any threats or promises to him in exchange for his statement?

15 A. No, sir.

16 MR. OSBORNE: All right. Your Honor, may I approach?

17 THE COURT: Yes.

18 BY MR. OSBORNE:

19 Q. I'm showing you State's 8 and State's 9. Can you
20 take a look at those and tell me if you recognize them?

21 A. Yes, sir. State's 8 is the whole interview. And
22 then State's 9 is the interview that's clipped. And I know
23 this because I watched this and I initialed it.

24 MR. OSBORNE: Okay. Your Honor, at this time, State
25 seeks to admit 9 into evidence.

1 MR. CHISHOLM: No objection, Your Honor.

2 THE COURT: All right. State's 9 will be admitted
3 without object.

4 (State's Exhibit 9 was introduced into evidence.)

5 THE COURT: Counsel, can you approach real quick.

6 (Bench conference)

7 THE COURT: All right. Ladies and gentlemen, you've
8 been given transcripts that we discussed earlier. One of the
9 transcripts I just noticed has an incorrect date on them.
10 (Inaudible) getting ready to see, said the interview was
11 conducted June 29, 2023, which is seven weeks ago. That
12 obviously is inaccurate. Told this -- there would be some
13 inaccuracy here. But that appears to be the date the
14 interview was transcribed. But (inaudible) testimony from
15 the witness, that's when the interview was conducted.

16 BY MR. OSBORNE:

17 Q. What is the timestamp on the interview?

18 A. 1946, sir. Be 7:46.

19 (Video plays).

20 BY MR. OSBORNE:

21 Q. I want to stop her right there for a second. What
22 did he say he drank a whole bottle of?

23 A. He said rum.

24 Q. What did he tell you earlier?

25 A. Champagne.

1 (Video plays).

2 BY MR. OSBORNE:

3 Q. Just stop right there for one second. You were in
4 the -- that's you in the interview room right there?

5 A. Yes, sir.

6 Q. Sounds like he kind of got choked up there. Did
7 -- was he -- you were there. It's kind of hard to see. Was
8 he crying?

9 A. It didn't appear he was crying.

10 Q. Did he -- did he get choked up at all throughout
11 all your interactions with him earlier in the day?

12 A. No, sir.

13 (Video plays).

14 BY MR. OSBORNE:

15 Q. Before we get to that question, does the Defendant
16 say, "I didn't try to make it look like anything, I didn't
17 try to make it look like a suicide"?

18 A. Yes, sir.

19 Q. Have you asked him earlier, what do you think
20 happened? What did the Defendant say?

21 A. He said he thought he shot himself in the head.
22 Thought he killed himself.

23 (Video plays).

24 Q. And all this screaming he's talked -- talking
25 about was on Tuesday?

1 A. Yes, sir.

2 Q. And you're talking to him on Friday?

3 A. Yes, sir.

4 Q. So that means he shot him on Thursday?

5 A. Yes, sir.

6 MR. OSBORNE: Okay.

7 (Video plays).

8 BY MR. OSBORNE:

9 Q. Okay. At the time of this interview, the
10 Defendant was what? 47, 48 years old, something like that?

11 A. Yes, sir.

12 Q. So the alleged conversation between 10-year-old
13 Defendant and his dad would've occurred nearly 40 years ago?

14 A. Yes, sir.

15 Q. Did I hear that correctly that he took his dad's
16 gun when Jim and Rose left the house and went to supper?

17 A. Yes, sir.

18 Q. And held on to it and waited?

19 A. Yes, sir. With the intent to do what he did.

20 Q. All right. At the end of that interview -- at the
21 conclusion of that interview, where is the Defendant? What
22 -- what's done with him?

23 A. He's transported to Dorchester County Jail. And
24 subsequently charged with a murder.

25 Q. With murder?

1 A. Yes, sir.

2 Q. Why didn't you charge him with assisted suicide?

3 A. There was no evidence that Jim wanted to die.

4 Q. Was there any evidence that the Defendant -- any
5 evidence at all that the Defendant asked -- the victim asked
6 the Defendant to shoot him?

7 A. No, sir.

8 Q. Now, you said earlier that you spoke to Ms. Rose;
9 is that correct?

10 A. Yes, sir.

11 Q. And you spoke -- and we heard your conversations
12 with the Defendant?

13 A. Yes, sir.

14 Q. Okay. Was there any evidence at all throughout
15 your entire investigation that Ms. Rose was downstairs when
16 the victim, her husband, was shot?

17 A. No, sir.

18 Q. Okay. Moving ahead. On January 5, 2021, did you
19 have the occasion to attend the autopsy of the victim, Jim
20 Bell?

21 A. I did.

22 Q. Did you collect any evidence from him?

23 A. Yes, sir.

24 MR. OSBORNE: Okay. Your Honor, may I approach?

25 THE COURT: Yes.

1 BY MR. OSBORNE:

2 Q. I'm showing you State -- State's 34. You take a
3 look at those and tell me if you recognize them. Oh, 34 and
4 35. Sorry.

5 A. Yes, sir.

6 Q. And -- and what are they?

7 A. They're the -- it's DNA that we got from the
8 autopsy. And I believe 34 is the -- the blood -- blood spot.

9 Q. Go ahead and open up 34 and 35.

10 A. Okay. 34 and 35 are the -- the rounds that were
11 recovered during the autopsy.

12 Q. Okay. And what is 20, again?

13 A. 20 is the blood spot.

14 Q. Okay. And you said DNA before this, this is what
15 you're taking to get (inaudible), correct?

16 A. Yes, sir.

17 MR. OSBORNE: All right. Your Honor, at this time
18 State seeks to admit 20, 34, and 35 into evidence.

19 MR. CHISHOLM: No objection, Your Honor.

20 THE COURT: All right. They'll be admitted as State's
21 20, 34, and 35 without objection.

22 (State's Exhibit 20, 34, and 35 was introduced into
23 evidence.)

24 BY MR. OSBORNE:

25 Q. All right. Just tidying that up. What did you do

1 with those items after you collected them?

2 A. I entered into our evidence system.

3 Q. Okay. All right. Changing gears again, through
4 your chain -- through your training and experience as a
5 police officer, are you aware that when inmates go to the
6 Dorchester County Detention Center that their outgoing calls
7 are recorded?

8 A. Yes, sir.

9 Q. And are you aware those calls are recorded by the
10 Dorchester County Detention Center?

11 A. Yes, sir.

12 Q. Are those calls recorded or kept at/or near the
13 time the call was made?

14 A. Yes, sir.

15 Q. All right. How do -- how do you know that?

16 A. During the course of my career, I've listened to
17 some jail calls live and -- that I listened to jail calls
18 right after the fact.

19 Q. Okay. So they are kept and maintained when it's
20 happened?

21 A. Yes, sir.

22 Q. And so how do you -- well, let me ask you this.
23 How do you go about listening to an inmate's jail calls?

24 A. Well, first I have to ask for a login with the
25 county. I do that by writing up a letter on our department

1 letterhead. Also, send them an email with that letterhead
2 through our department email. So department email is at
3 stgeorgepolice.com. Then return give me a login and a
4 password for our web-based system, on that web-based system.
5 Basically you type in the name of either the Defendant or
6 either either that or the -- the person that received the
7 call, the phone number, and you'll get the calls that that
8 particular person either made or received.

9 Q. Okay. So in order to be -- in order to get access
10 to that website, to monitor those jail calls, you have to be
11 an approved or qualified person from the Detention Center?

12 A. Yes, sir.

13 Q. And did you have the occasion to listen to a call
14 that the Defendant made while he was at the Detention Center?

15 A. Yes, sir.

16 Q. Before we get into the call, did you recognize the
17 voices that were on the call?

18 A. Yes, sir.

19 Q. And who were they?

20 A. It was Rose, the victim's wife, Defendant's
21 mother, you know.

22 Q. You know who you spoke to?

23 A. Yes, sir.

24 MR. OSBORNE: Okay. May I approach?

25 THE COURT: Yes, sir.

1 BY MR. OSBORNE:

2 Q. All right. I'm showing you State's 91 and 92.
3 91, for ID purposes, you recognize them?

4 A. Yes sir.

5 Q. And what are they?

6 A. One is the -- 91 is the whole jail call, and then
7 92 is the jail call clip.

8 MR. OSBORNE: Okay. Your Honor, at this time State
9 seek to admit 92 into evidence.

10 THE COURT: Mr. Chisholm?

11 MR. CHISHOLM: Your Honor, I would object and I believe
12 I'm not (inaudible).

13 THE COURT: Okay. How much longer you think you have?

14 MR. OSBORNE: Three more questions.

15 THE COURT:

16 Okay. All right. Ladies and gentlemen, we're going to
17 take a brief recess and I'll bring you back in to finish up
18 this witness and -- and then we'll take a lunch break. We'll
19 be right back with you. Again, please don't discuss the
20 case.

21 (JURY EXITS)

22 THE COURT: All right, Mr. Chisholm?

23 MR. CHISHOLM: Thank you, Your Honor. Please the
24 Court?

25 This relates back to our pretrial motion about this

1 recorded jail call coming in. I guess to trying to cut out
2 the chase. I had an argument that this would not be
3 relevant. That it was a call about a letter that was
4 received from a probate attorney presume about whether or
5 not, you know, Mr. Bell had anything coming to him in the
6 will. He told he is not. He said, yeah, I didn't think so.
7 Dad told me about it. And I believe the ruling was that Your
8 Honor was going to allow it in as a preliminary matter and,
9 you know, see what other evidence comes in.

10 And, you know, I think it could become relevant if --
11 if we had a witness that's going to say, yeah, Jason found
12 out that he was cut out of the will that morning or something
13 like that. And certain I think that becomes (inaudible)
14 becomes a different argument for them. But we don't have
15 that, we don't have anything showing when he became aware
16 that he wasn't in the will or anything else. I don't think
17 they tied it together. If they intend to do that, I think it
18 would be premature. Meaning that's, if they do not, then I
19 -- that one believe it's relevant.

20 THE COURT: Mr. Osborne?

21 MR. OSBORNE: We -- I mean, I could repeat what I've
22 said before, but I think it's more than relevant.

23 THE COURT: Yeah. Just let me make at my notes. Yeah,
24 I -- I'll -- I'm going to stick with my initial ruling and
25 find that it is admissible as evidence being relevant. But

1 your objection is noted.

2 MR. CHISHOLM: Thank you, Your Honor.

3 THE COURT: All right.

4 MR. OSBORNE: Okay, Your Honor, just as a -- as a
5 matter of course, in case this were to come up ,we did file
6 notice of intent to admit the jail call without the necessity
7 of insurance, evidence of the custodian to satisfy that. So
8 if that were to come up later, that's been provided to the
9 Defense (inaudible).

10 (JURY ENTERS)

11 THE COURT: Okay. Mr. Osborne, you can resume your
12 direct examination.

13 MR. OSBORNE: All right. Your Honor, this -- this
14 time, Your Honor State seeks to admit 92 into evidence.

15 THE COURT: All right. And it'll be admitted subject
16 to Defendant's objection.

17 (State's Exhibit 92 was introduced into evidence.)

18 (Video plays).

19 BY MR. OSBORNE:

20 Q. So this was three and a half months after his
21 arrest?

22 A. Yes, sir.

23 Q. Did the Defendant make any other phone calls to
24 his mother?

25 A. No, sir.

1 Q. No?

2 A. No.

3 MR. OSBORNE: Okay. No further questions.

4 THE COURT: All right. It's a good time to break for
5 lunch. Why don't we say we'll break for lunch, be back here;
6 ready to go at 2:00. Again, please don't discuss the case
7 and we'll get started back with testimony after lunch.

8 All right. We'll be in recess till 2:00. Captain
9 Dunaway, you're still under oath. And not to -- to discuss
10 your testimony with anybody during the break.

11 THE WITNESS: Yes, Your Honor.

12 THE COURT: All right.

13 (Off the record.)

14 THE COURT: Ready?

15 MR. OSBORNE: Yeah, Your Honor, just for planning
16 purposes, after Dunaway, we were planning on doing Larry
17 Bowers, and then we had that quick matter with Lynn Howell,
18 the proffer testimony.

19 THE COURT: Okay.

20 MR. OSBORNE: And then after that, if we can get to
21 Janette Mizzel, (inaudible) Robin Duke, whatever, 4:15.
22 After that, the witnesses will be kind of quick.

23 THE COURT: Okay. Defense ready?

24 MR. CHISHOLM: Yes.

25 THE COURT: Bring him in, please, sir.

1 All right. Mr. Chisholm, your witness for
2 cross-examination?

3 MR. CHISHOLM: Thank you, Your Honor. Please the
4 Court?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. CHISHOLM:

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. So you responded to the scene of the shooting
11 pretty early on that morning; is that right?

12 A. Yes, sir.

13 Q. You were second to arrive, I guess?

14 A. Yes, sir.

15 Q. And you met with Rose Bell and Jason Bell?

16 A. Yes, sir.

17 Q. Did you meet with them initially together and then
18 you separated them, and talked to them separately?

19 A. Yes, sir.

20 Q. Okay. And at some point while all this is going
21 on, you observed Jim Bell, you see the injury, and you say,
22 this looks like a shooting?

23 A. Yes, sir.

24 Q. So at that point you don't really know what you've
25 got in this case. Is that fair to say what had happened?

1 A. Yes, sir.

2 Q. Okay. And for that reason, you want to meet with
3 Rose and Jason and try to see if you can get more information
4 about, you know, what had been happening that morning or the
5 day leading up to. Is that fair to say?

6 A. Yes, sir.

7 Q. So you're asking them all, well, who all's in the
8 house that night, for example, and they said was just three
9 of; is that correct?

10 A. Yes, sir.

11 Q. Okay. And you're asking them, you know, did you
12 hear any noises; is that right?

13 A. Yes, sir.

14 Q. All right. And there are basically no indications
15 that there were any unusual noises or anything like that,
16 correct?

17 A. Yes, sir.

18 Q. And you're also asking if there are any enemies or
19 fights or arguments that morning or that day before; is that
20 correct?

21 A. Yes, sir.

22 Q. And there were no indications that there were?

23 A. Yes, sir.

24 Q. And I'm assuming that's because you want to, you
25 know, obviously, if you've got a scenario where you arrive on

1 the scene and they say, well, there was a guy over here two
2 days ago that was threatening to kill him, you're going to
3 need to steer your investigation that way, potentially. Is
4 that right?

5 A. Yes, sir.

6 Q. Okay. And you meet with Jason and obviously he
7 gives you, you know, when your first interview is a much
8 different account than it -- than it ends with?

9 A. Yes, sir.

10 Q. And in the final interview portion, that's when
11 you meet with him and he tells you that he had shot his
12 father; is that correct?

13 A. Yes, sir.

14 Q. And that's when, kind of walk through some of
15 that, see if you agree with me. But he told you that he had
16 been drinking champagne that morning; is that correct?

17 A. Yes, sir. No, not that morning he ---

18 Q. Not the morning.

19 A. --- said that. Yeah. Previous day.

20 Q. I guess that'd be New Year's Eve; is that correct?
21 Because This is new year ---

22 A. New Year's Day -- New Year's Eve Day. Yes, sir.

23 Q. Yes.

24 A. They went to lunch. He didn't want to go to lunch
25 because he had just drunken a bottle of champagne.

1 Q. Right, right. So he had a bottle of champagne on
2 New Year's Eve before he was invited to go to lunch, right?

3 A. Yes, sir.

4 Q. And he declined. And you know, we've heard a bit
5 about, you know, Mr. Bell's health, Jim Bell's health
6 conditions, he was 76; is that right?

7 A. Yes, sir.

8 Q. And you've been sitting here, you've heard some of
9 the testimony, it sounds like, I guess from all accounts he
10 wasn't in good health. Is that fair to say?

11 A. Yes, sir.

12 Q. About terminal illness, that kind of thing?

13 A. I would -- yes, sir.

14 Q. Okay. And Jason told you basically that New
15 Year's Eve, I guess, it would be that he had -- he had been
16 bothered by his father's condition, that he had thought about
17 it, prayed about it, cried about it leading up to what he
18 did. Is that correct?

19 A. Yes, sir.

20 Q. And ultimately what he told you is that he
21 couldn't bear to see his father in that state suffering
22 anymore, so he did what he did; is that correct?

23 A. Yes, sir.

24 Q. Essentially, what he told you is it was a -- I
25 guess on his part of proceed -- act of mercy on his part as

1 opposed to just a move of anger. Is that correct?

2 A. Yes, sir. That was his statement.

3 Q. Okay. And he actually told you he wasn't angry at
4 him in any way. Is that right?

5 A. During the statement, yes, sir.

6 Q. Okay. And again, no indication they'd been
7 arguing New Year's Eve or New Year's Day?

8 A. No, sir.

9 Q. Okay. And he told you that he had two bullets in
10 his gun because he wasn't sure if he was going to kill his
11 father and kill himself. Is that correct?

12 A. During his last statement, yes, sir.

13 Q. Okay. And then ultimately, obviously he told you
14 he decided not to do that. And he told you that he shot his
15 father while he was asleep; is that correct?

16 A. Yes, sir. While the victim was asleep?

17 Q. Yes, sir.

18 A. Yes, sir.

19 Q. Sorry.

20 A. Sorry.

21 Q. (Inaudible).

22 A. Me to.

23 Q. But he didn't say he did that as an act of
24 strategy to catch him off guard or anything. He said that he
25 did it so that he wouldn't suffer. Is that correct?

1 A. Yes, sir. That's -- that's safe to assume.

2 Q. Okay. And he told you he had taken him all day to
3 work up the courage to do it; is that right?

4 A. Yes, sir.

5 Q. And he told you that his father had been in pain,
6 I guess, increasing pain; is that correct?

7 A. He did, yes, sir.

8 Q. And he -- he described him, you know, screaming at
9 some point; is that correct?

10 A. Yes, sir.

11 Q. Okay. And that would've been presumably in the
12 house?

13 A. Yes, sir.

14 Q. That wasn't like lunch with people around or
15 anything like that, right?

16 A. No, it was just with him and ...

17 Q. Okay. And he talked about -- he told you that
18 bothered him because his father had a high pain tolerance; is
19 that right?

20 A. Yes, sir. During his interview.

21 Q. And I think he mentioned the story about how he
22 had pulled a barbed hook out of his arm with a multi-tool to
23 kind of illustrate. Pretty tough guy.

24 A. Yes, sir.

25 Q. Okay. And so basically, again, what he tells --

1 what he told you is that seeing his father in that reduced
2 state, being in pain when he knows it, you know, he is
3 normally pretty high pain tolerance, that -- that's what he
4 couldn't bear anymore, that's what caused him to do what he
5 did?

6 A. Yes, sir. That was his statement.

7 Q. And he tried to figure out a way to do it without
8 harming him in the process, you know, prolonging pain and --
9 and so it wouldn't involve his mind, is that correct?

10 A. He didn't -- he never mentioned his mom other than
11 he knew that she was going to find him. Never involving his
12 mom, I guess, is where I have an issue with.

13 Q. I gotcha. And then ultimately he gave you a full
14 statement, he was compliant, you thanked him for being
15 honest?

16 A. Yes, sir.

17 Q. I think you might've mentioned it helped gave
18 closure to the case possibly for the family?

19 A. Yes, sir.

20 Q. And I think you agreed with him it was pretty
21 tough situation he was describing?

22 A. Yes, sir.

23 Q. And I think you -- you mentioned that, you know,
24 we're all sons and daughters and it's a tough position to get
25 (inaudible) to me. Is that correct?

1 A. Yes, sir. I said that.

2 Q. You -- you were here earlier, I believe you've
3 been here the entire time, I think. When Sergeant Berg -- or
4 Detective Berg, I can't keep up with his titles. He's gone
5 up chain pretty good. There's a picture I believe, and I
6 believe the solicitor elicited from him that is a picture of
7 a champagne bottle in Jason's room. Do you remember that?

8 A. Yes, sir.

9 Q. And do you recall during direct examination with
10 the solicitor a few moments ago, he had asked you about a
11 portion of the transcript about him drinking instead saying
12 he drank a bottle of. Do you recall that?

13 A. Yes, sir.

14 MR. CHISHOLM: Your Honor, If I can have one moment.

15 BY MR. CHISHOLM

16 Q. Detective, do you have a copy of the transcript?
17 I think you might have earlier we were watching the video.

18 A. I had it earlier, but I don't have it up here
19 right now.

20 Q. I think what I'll do is -- it's all right, I'll
21 hand you a copy. If you could just read the stop portion
22 out, that way I don't have (inaudible) the -- the transcripts
23 back out to everyone again. If you can just read portion
24 beginning with (inaudible) line and just ending with, I
25 prayed.

1 A. Okay So I'm sorry, you said line one, line two,
2 line three ending with, I prayed? Okay.

3 THE COURT: What page are you on, Counsel?

4 MR. CHISHOLM: This is page 2, Your Honor. Apologize.

5 THE COURT: Page 2.

6 MR. CHISHOLM: Yes.

7 THE COURT: Okay.

8 BY MR. CHISHOLM:

9 Q. Ready? If you could just read that for me.

10 A. "Lunch. I had already drank the bottle. We just
11 had a whole bottle of rum. Shame on me that I literally did
12 that in the rest of the day. I prayed."

13 Q. Thank you. And I believe the solicitor asked you
14 some variation of, he says on the video right here that he
15 drank a bottle of rum, but before he told you champagne. Is
16 that correct?

17 A. Yes, sir.

18 MR. CHISHOLM: Your Honor, if I could, I'd like to play
19 an excerpt from police already in evidence from that video.

20 THE COURT: Sure.

21 (Video plays)

22 BY MR. CHISHOLM:

23 Q. So, and then I give this back to you if you'd
24 like. Solicitor asked if you heard him say, just drink --
25 basically what's in the transcript, "We just about had a

1 whole bottle of rum. Shame on me that I literally did that".
2 If you agree with me after hearing it back, that he's not
3 saying, a whole bottle of rum. Shame on me. He's saying, "a
4 whole bottle of, um, champagne that I literally did that."

5 A. I'd have to hear it again.

6 (Video plays).

7 THE WITNESS: Yeah, it -- it does sound like that.

8 BY MR. CHISHOLM:

9 Q. So you agree with me that despite what's on the
10 transcript and what the solicitor asked you about, it doesn't
11 say you drink a bottle of rum, it says champagne, which is
12 consistent. Is that correct?

13 A. Yes, sir.

14 Q. Thank you. The jail call in this case, you had
15 mentioned that you listened to these calls, you never heard
16 another call from Mr. Bell to his mother?

17 A. Yes, sir.

18 Q. And you also heard the call that everyone did from
19 the jail. Do you recall him saying he had \$4 left in his
20 account? Or the -- I think the recording might have said
21 your balance is \$4?

22 A. I -- I don't recall.

23 Q. Do you recall him saying, in -- in the call, that
24 he doesn't have money to call anybody? That was why he was
25 asking for money to be put on his canteen?

1 A. I -- I don't recall. I know he probably didn't
2 have -- the only money he had was the money that he brought
3 in there. So if he didn't have money to call anybody that --
4 that would -- that would make sense.

5 Q. So it may not be surprising if he doesn't have
6 money to make calls since you didn't hear another call after
7 this?

8 A. It's possible.

9 MR. CHISHOLM: Thank you. I have no further questions.

10 THE COURT: Anything on redirect?

11 MR. OSBORNE: Just briefly.

12 REDIRECT EXAMINATION

13 BY MR. OSBORNE:

14 Q. Rum, champagne, did you arrest him for public
15 intoxication?

16 A. No, sir.

17 Q. What's he being charged with?

18 A. He's being charged with murder.

19 Q. Have you ever -- that's going to sound stupid --
20 but have you ever interviewed a Defendant who lied to you?

21 A. All the time.

22 Q. Okay. Have you ever interviewed a Defendant who
23 told the truth about something and then lied about other
24 things?

25 A. Yes, sir.

1 Q. And is it fair to say to your experience in
2 training that they usually lie about the things that they're
3 most culpable for?

4 A. Yes, sir.

5 Q. You had mentioned earlier that you'd been to some
6 interview and interrogation classes?

7 A. Yes, sir.

8 Q. In those classes, do they teach you to try to
9 develop a rapport with the individual or be a strangler to
10 get them to say which ones?

11 A. No. You -- you catch more bees with honey. You
12 develop that rapport. If somebody's not going to tell you
13 their deepest, darkest secrets if you -- they think you're
14 mad at them or you have some type of bias against them. So,
15 yeah.

16 Q. What was that expression you told me when I asked
17 you that question before?

18 A. Sometimes you got to go to hell to catch the
19 Devil.

20 Q. Well, do you have the abilities to look at what an
21 inmate has in their canteen?

22 A. No, sir.

23 MR. OSBORNE: Your Honor, can we approach?

24 THE COURT: Sure.

25 (BENCH CONFERENCE)

1 BY MR. OSBORNE:

2 Q. Is there any reason when you're interviewing a
3 Defendant to end on a sour note?

4 A. No, I might have to talk to him again, so I want
5 to be as nice as I can.

6 Q. Regardless of what's going on in your mind?

7 A. Yes, sir.

8 MR. OSBORNE: Okay. All right. No further questions.

9 THE COURT: Anything on recross?

10 MR. CHISHOLM: No, Your Honor.

11 THE COURT: All right. Captain Dunaway, you can step
12 down. I'm assuming he's hanging around, but is he released
13 from his subpoena?

14 MR. OSBORNE: State Calls Larry Bowers.

15 LARRY BOWERS,
16 being first duly sworn testifies as follows:.

17 DIRECT EXAMINATION

18 BY MR. OSBORNE:

19 Q. Good afternoon, Mr. Bowers.

20 A. (Inaudible).

21 Q. Thanks for coming in and -- and appreciate your
22 patience. I want to start by just introducing you to the
23 jury a little bit. Okay? Where are you from?

24 A. I'm originally from North Charleston.

25 Q. All right. What neighborhood did you grow up in?

1 A. I grew up in Wayland.

2 Q. Wayland, off Dorchester Road?

3 A. Yes, sir.

4 Q. Where did you -- did you -- when did you move from
5 Charleston? Where'd you go?

6 A. I moved to Summerville and lived in Summerville
7 for 20 years and then moved up to St. George, and been here
8 about 20 years now.

9 Q. Okay. What kind of work have you done in the
10 past?

11 A. I -- all in the financial field. I -- I was an
12 accountant. I worked for Bayer. I worked for West Vaco for
13 15, 16 years as budget manager for Lexington Medical
14 Hospital. And the final 10 years I work at Boeing.

15 Q. Okay. Married?

16 A. Yes, sir.

17 Q. You have any children?

18 A. I have two boys.

19 Q. All right. Let's get into why I asked you to come
20 in today. Let's talk about the victim in this case, Jim
21 Bell. Did you know Jim?

22 A. Jim? Real well.

23 Q. And how and -- and when did you first meet Jim?

24 A. Back in the eighties.

25 Q. In the eighties. Okay. And how was it that you

1 two met each other?

2 Q. We met through his brother, originally. His
3 brother coached softball and I played softball, and met up
4 with his brother and then I started playing with his -- on
5 his brother's team and met Jim through there. And Jim loved
6 to fish and I loved to fish and we hit it off, and from there
7 it was a friendship forever.

8 Q. All right. How would you describe your family's
9 relationship with Jim and Rose? Would you all see each other
10 frequently?

11 A. Oh, yes. We saw each other probably three, four
12 times a week. My dad is still -- we'd spend weekends
13 together with them in Carolina football games. Yeah, a lot.

14 Q. All right. Throughout the years of being with Jim
15 and Rose, did you become familiar with their two boys, the
16 defendant, Jason, and Jamie Bell?

17 A. Yes, sir. I knew them both.

18 Q. And how would you describe Jim -- through your
19 observations, how would you describe Jim's parenting of Jason
20 and Jamie?

21 A. He loved his kids and he spoiled them rotten.

22 Q. Let's talk about Jamie for a second. Are you
23 aware that Jamie got -- got arrested, got in some trouble?

24 A. Yes, sir.

25 Q. And -- and what happened with Jamie?

1 A. Jamie went to prison. Stayed in prison for about
2 four years, came back home, couldn't find a job, and -- and
3 ended up hanging himself.

4 Q. Did you visit Jamie while he was in prison?

5 A. Yes, sir, I did.

6 Q. Okay. Is -- I guess, you know, based off what you
7 said, I guess when Jamie got out, you had a hard time
8 adjusting?

9 A. He did. The world had a hard time adjusting to
10 him.

11 Q. Okay. They're not trying to -- to air dirty
12 laundry, but you know, it was mentioned in the Defendant
13 statement. So what was it that Jamie was --what did he go to
14 prison for?

15 A. Child pornography.

16 Q. And when he came back out of his, is it fair to
17 say he had a hard time finding a job?

18 A. Couldn't find one. Nobody would hire him.

19 Q. Okay. All right. During the past few years of
20 Jim's life, how many times would you say that you would visit
21 Jim and Rose, on any given week?

22 A. Two to four.

23 Q. Okay. And did that change about four months prior
24 to Jim's death around September of 2020?

25 A. Yes, sir.

1 Q. Why did that change?

2 MR. CHISHOLM: Your Honor, I would ask Court to note my
3 previous objection if that's fine.

4 THE COURT: Yes, sir.

5 BY MR. OSBORNE:

6 Q. Why did that change?

7 A. Jason came back home and I didn't appreciate the
8 way he treated them.

9 Q. Treated them, being Jim and Rose?

10 A. Yes, sir.

11 Q. And to be fair, you never witnessed ---

12 A. Never.

13 Q. --- correct?

14 A. I never saw it, just the results of it.

15 Q. All right. I want to talk about a specific time
16 that you did visit Jim, and you two had a conversation about
17 a weapon.

18 A. Yes, sir.

19 Q. But before we get into that conversation, about
20 what month did it occur?

21 A. Probably October.

22 Q. And this would be what, about two months before
23 Jim?

24 A. Uh-uh.

25 Q. Okay. I'm sorry. You have to say "yes" because

1 he's writing down every word.

2 A. Yes, sir.

3 Q. Okay. All right. This conversation, did it occur
4 at Jim's home?

5 A. Yes, sir.

6 Q. And while you were talking to Jim, where was he
7 seated?

8 A. He was sitting in his recliner.

9 Q. Okay. And did you see something in that recliner
10 that -- that spurred this conversation?

11 A. Yes, I saw a pistol in between the cushion and the
12 arm of the chair.

13 Q. Okay. Had you ever seen Jim with that pistol
14 prior to that day?

15 A. No, sir.

16 Q. Okay. When you saw that gun, what did you say to
17 Jim?

18 A. I asked him to give it to me.

19 Q. And why did you ask him to give it to you?

20 A. Because I was fearful what would happen with it
21 being there.

22 Q. Okay. Did Jim give the gun to you?

23 A. No, sir.

24 Q. Now, you cannot say what Jim said, but I want you
25 to describe, like, his state of mind. When he refused to

1 give it to you, what was his state of mind?

2 A. Concerned for his wellbeing and his wife's
3 wellbeing?

4 Q. From who?

5 A. Jason.

6 Q. Okay. I'm going to show you what's already been
7 marked and admitted as State's 90. Does that -- does that
8 weapon look familiar?

9 A. Yes, sir.

10 Q. And you had never seen Jim with that weapon prior
11 (inaudible)?

12 A. No, sir.

13 Q. All right. Were you aware of any medical issues
14 that Jim had?

15 A. Yes, sir.

16 Q. And -- and to your knowledge like do you know what
17 was wrong with Jim?

18 A. It was lung issues.

19 Q. Okay. Do you know his doctor, Dr. Watson?

20 A. Very well.

21 Q. Is he your doctor too?

22 A. Yes, sir.

23 Q. Is Dr. Watson the type of doctor that is hard to
24 get ahold of?

25 A. No, sir.

1 Q. And if you need him, can you get him?

2 A. Right now.

3 Q. Okay. All right. As far as, like did -- in the
4 last, I guess weeks or months prior to Jim's death, did he
5 have a hard time -- could he get around?

6 A. Yes, his mobility was down, but he could still get
7 around.

8 Q. He was an older gentleman, so mobility wasn't what
9 it was when he was kid, but he -- he could still get around?

10 A. Yes, sir.

11 Q. Okay. Could he drive himself?

12 A. Yes, sir.

13 Q. Did he go to the store when he needed to?

14 A. Yes, sir.

15 Q. Pick up whatever he needed to?

16 A. Yes, sir.

17 Q. Had you ever been around Jim when he was screaming
18 in pain?

19 A. Never.

20 Q. Have you ever seen Jim screaming in pain?

21 A. Never.

22 Q. Had he ever even complained other than, I guess, I
23 mean, you know, getting hold overall aches and pains, but I
24 mean, did he ever like complain of being in increased pain?

25 A. No, sir.

1 MR. OSBORNE: No further questions.

2 THE COURT: Mr. Chisholm?

3 MR. CHISHOLM: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. CHISHOLM:

6 Q. This is very briefly. He had never described
7 being in pain to you, is that correct, Mr. Bowers?

8 A. Not excruciating pain.

9 Q. You visited with him in his home?

10 A. Yes, sir.

11 Q. You observed the Oxygen machine, glass recliner?

12 A. Yes, sir.

13 Q. And that was the glass he's supposed to be using,
14 is that correct?

15 A. Yes -- yes, sir.

16 Q. Did you see him using that when you did it with
17 him? Did he take his mobile unit with him or ---

18 A. I -- I saw him with both, doing both.

19 Q. He would take the mobile with -- with him while he
20 was out.

21 A. I've seen him with it, yes, sir.

22 MR. CHISHOLM: So, thank you.

23 THE COURT: Anything on redirect?

24 MR. OSBORNE: No, Your Honor.

25 THE COURT: All right, Mr. Bowers, you can step down.

1 THE WITNESS: Thank you.

2 THE COURT: Is he released from his subpoena?

3 MR. OSBORNE: Yes, sir. We handle that one matter or I
4 have another witness (inaudible).

5 THE COURT: Let's go ahead and do that other witness
6 and see where we're at.

7 MR. OSBORNE: Okay. State calls Janette Mizzel.

8 JANETTE MIZZEL,

9 being first duly sworn testifies as follows:

10 DIRECT EXAMINATION

11 BY MR. OSBORNE:

12 Q. Good afternoon, Ms. Mizzel.

13 A. How are you?

14 Q. I'm doing well. How about yourself?

15 A. Fine.

16 Q. Thanks for coming in. Just going to take a second
17 to introduce you to the jury, get them used to hearing from
18 you, and you talking to them, okay?

19 A. Yes, sir.

20 Q. Where are you originally from?

21 A. St. George.

22 Q. Okay. All right. What kind of work have you done
23 in the past?

24 A. At one time I had a place of business out by the
25 interstate and then I was a caregiver, and then I started

1 cleaning, you know, different lawyers' offices and homes.

2 Q. Okay. Are you married?

3 A. I'm widowed.

4 Q. Okay. Let's get into why I asked you to come here
5 today. Did you know the victim in this case, Jim Bell?

6 A. Yes, sir, I did.

7 Q. And how was it that you first come to meet Jim?

8 A. When I first met him ---

9 Q. Yes.

10 A. --- was right after I moved to town, which I was
11 very young. And then once I divorced and remarried, then I
12 started cleaning his office like 25 years ago. And then
13 whenever the lady at the home retired, then I started
14 cleaning the home and the Summerville office.

15 Q. Okay. And what kind of work did Jim do?

16 A. Jim was a very good lawyer.

17 Q. So we have some lawyers that aren't so good and we
18 have other lawyers.

19 A. He's good.

20 Q. What did he do, civil or criminal work?

21 A. You know, I'm not -- I guess it was not much
22 criminal, but I'm not sure.

23 Q. Okay. Throughout the years of working with Jim,
24 did you get to know his wife, Ms. Rose?

25 A. Yes, sir.

1 Q. And where -- where did you live in relation to the
2 Bell's Home?

3 A. Where I live?

4 Q. Yes.

5 A. I live at [REDACTED] Street and they lived at 104
6 Kelly Drive, which is not very far. I could walk it if I
7 wanted to. Not far.

8 Q. Did you get to know Jim and Rose's two children,
9 Jamie and the defendant, Jason ---

10 A. Yes, sir.

11 Q. --- throughout the years? What year about -- or
12 how many years ago, I guess another way of putting it, did
13 Jim close his practice and retire?

14 A. I'm not really sure, but I think it was like 2015
15 or the first part of 2016.

16 Q. Okay. And did you continue to see Jim and Rose
17 even after he retired?

18 A. Yes, sir.

19 Q. And how many times in any given week would you see
20 -- would you go by their home?

21 A. Well, I worked on Wednesdays and Fridays and then
22 along and along I got where I was going three, four times a
23 day, sometime even more.

24 Q. Okay, so quite a bit.

25 A. Yes, sir.

1 Q. At some point did the defendant, Jason Bell, move
2 back in to the Bell's home and live with his mom and dad?

3 A. Yes, sir.

4 Q. And about when that -- about -- was -- when was
5 that in -- in relation to when Jim was killed?

6 A. He moved back between September and October.

7 Q. Okay. I want to show you something, and this is
8 going to be a -- for the -- for the record -- a -- from
9 State's 4, which has been marked and admitted as Officer
10 Weatherford's body-worn cam. Can you -- well, when this
11 shift's done. Do you recognize what we're looking at there?

12 A. Yes, sir.

13 Q. Okay. And what is that?

14 A. That's Ms. Rose's car.

15 Q. Okay. And what is that -- I mean, I can kind of
16 see -- is that their garage?

17 A. It's under their garage, yes, sir.

18 Q. Okay. I want to talk to you about an incident
19 that occurred in this garage. Okay. You know what I'm not
20 talking about?

21 A. Yes, sir.

22 Q. And in -- all right, so before we get into what
23 happened, in relation to when Jim was killed, this incident
24 that we're about to talk about in the garage, how much
25 earlier did it occur?

1 A. I'm going to say two to three weeks.

2 Q. Okay. All right. On that day did you happen --
3 did you go to the Bell's home?

4 A. Yes, sir.

5 Q. And for what purpose?

6 A. I went there to go to work at 8:00.

7 Q. Okay. And when you got there, was Jim there?

8 A. Yes, sir.

9 Q. And was Rose there?

10 A. Yes, sir.

11 Q. And the Defendant, can you ---

12 A. Yes, sir.

13 Q. Okay. And did you have the occasion to -- to go
14 somewhere?

15 A. Yes, sir. I went to the Piggly Wiggly to pick up
16 some cleaning supplies and come straight on back.

17 Q. Okay. And how long did it take you from when you
18 left to when you came back with the cleaning supplies from
19 the Pig Wig?

20 A. I'm not sure. Maybe like 10 minutes. Not long.

21 Q. All right. When you -- and when -- when you came
22 home, tell the jury what you saw.

23 MR. CHISHOLM: Judge, I would object pursuant to my
24 earlier objection.

25 THE COURT: Noted.

1 BY MR. OSBORNE:

2 Q. Okay. When you came home, tell the jury what you
3 saw.

4 A. Right here beside this pole, Jim was laying down
5 on the -- as you can see on the concrete, and I said to him,
6 oh my God, what happened?

7 Q. Okay. Did you see anyone else standing in the
8 garage?

9 A. Yes, sir. The -- Jason was standing right over,
10 almost -- not quite halfway in front of Ms. Rose's car and he
11 was standing there smoking a cigarette.

12 Q. Okay. So I'm going to kind of point to a little
13 bit. So you said that Jim would've been over on this area
14 where the pole was?

15 A. No, sir. Jim was back ---

16 Q. Where the car is?

17 A. Where the car is at. Almost by that -- the door
18 of the car.

19 Q. Got you. And then the Defendant's kind of like
20 where the front of the car would be?

21 A. Yeah. So maybe about standing right here, a
22 little bit out.

23 Q. In front. Okay.

24 A. Yes, sir.

25 Q. Now, before you get into what Jim said in response

1 to your question of what happened, based on Jim's tone or the
2 manner of him of his response, did Jim seem to be excited or
3 upset when he responded to your question?

4 A. Yes, sir.

5 Q. Did his answer to your question relate to what had
6 made him excited or -- or upset?

7 A. Yes, sir.

8 Q. All right. When you said what, oh my God, what
9 happened, what did Jim say?

10 A. He said that bastard knocked me down.

11 Q. And who was the only other person in the garage?

12 A. It was just the three of us.

13 Q. Defendant, you, and Jim?

14 A. Yes, sir.

15 Q. Did Defendant speak up and deny knocking his dad
16 down?

17 A. No, sir. He didn't say anything.

18 Q. Did he offer to help to get him up?

19 A. No, sir.

20 Q. What did he do?

21 A. He just stood there smoking a cigarette, and I
22 left and I went two houses down over on the right and I got
23 Mr. Lynn hour to come and, you know, get him up because I
24 couldn't, because I have a (inaudible) and I couldn't lift
25 him.

1 Q. All right. So the Defendant was sitting there
2 smoking a cigarette and you went to get Lynn. Who -- who is
3 Lynn Howell?

4 A. He's a friend of Jim's own.

5 Q. Okay. And where does Lynn live in relation to the
6 Bell's?

7 A. About -- about two houses down on the right.

8 Q. Okay. Did Lynn come over to help his friend?

9 A. Sure. He did.

10 Q. And when you and Lynn got back to the garage, was
11 the Defendant still standing there?

12 A. Yes, sir.

13 Q. And what was he doing?

14 A. Still smoking a cigarette.

15 Q. Did he offer to help Lynn get up?

16 A. No, sir.

17 Q. Stand up?

18 A. No, sir.

19 Q. Okay. All right, let's move ahead to the day
20 before Jim was killed. So -- well, let me -- let me do it
21 like this. The police went to the Bella's house on New
22 Year's Day?

23 A. Yes.

24 Q. Did you see Jim the day before on New Year's Eve?

25 A. Yes, sir.

1 Q. Okay. And would that have been in the morning or
2 in the afternoon?

3 A. I went there that morning.

4 Q. Okay.

5 A. And I went back that evening.

6 Q. Okay. Do the morning first. Do you know if Jim
7 had a pistol that he always kept near him?

8 A. Yes, sir.

9 Q. And where did he normally keep it?

10 A. Right beside his recliner. A little table there.

11 Q. Okay. Did you tell Jim that he should do
12 something with that pistol?

13 A. Yes, sir.

14 Q. And what did you tell him?

15 A. I asked him to take the bullets out of it.

16 Q. And why was that?

17 A. Because I was getting scared for him and Rose's
18 life.

19 Q. Okay. Do you know if Jim went anywhere that day?
20 Did he leave the home?

21 A. He went shopping.

22 Q. Okay. Who did he go with?

23 A. His wife.

24 Q. Okay. Do you -- well, let me ask you, too, like
25 this, that day or the day before -- yeah, that'd be Friday,

1 so that would've been Thursday, you were there -- that day,
2 did you -- did you see Jim, was he complaining about or
3 screaming about being in pain?

4 A. Never. Sorry.

5 Q. Have you ever heard Jim screamed or complained
6 about being in pain?

7 A. No, sir.

8 Q. Okay. Do you know Dr. Watson as well?

9 A. Sure, I do.

10 Q. Did you have any problems getting in touch with
11 him if you need him?

12 A. No, sir. He's my family doctor also.

13 Q. Okay. Did Jim ever express to you that he wanted
14 to -- to end his life, Ms. ---

15 A. Oh, no, he had made plans to take two trips, him
16 and his wife the following year.

17 Q. The following year? Two different vacations?

18 A. Yes, sir.

19 MR. OSBORNE: Okay. No further questions.

20 THE COURT: Mr. Wehman?

21 MR. WEHMAN: Thank you, Judge. Please the Court?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. WEHMAN:

25 Q. Good afternoon, Ms. Mizzel.

1 A. How you doing?

2 Q. Good. How are you? So I think earlier you
3 testified that you were from St. George, but later you
4 clarified that you came when you were very young. What --
5 what age did you -- did you come to St. George?

6 A. When I was 19.

7 Q. And where were you originally from?

8 A. Walterboro.

9 Q. So born and raised in South Carolina?

10 A. Yes, sir.

11 Q. Okay. And you testified that your relationship
12 with Mr. Bell started as a professional one about 25 years
13 ago?

14 A. Yes, sir.

15 Q. And over the years it became professional and a
16 personal friendship. Would that be fair?

17 A. That's fair.

18 Q. Okay. With both he and Ms. Rose's wife?

19 A. Right.

20 Q. Okay. All right. Now, you testified to the
21 incident two to three weeks before, correct? In the garage.
22 Was Ms. Rose home that day?

23 A. Yes, sir.

24 Q. She was home during that incident?

25 A. Yes, sir.

1 Q. Did she come outside at all?

2 A. No. So she was in there -- in the -- her little
3 loveseat.

4 Q. And you said that would've been around eight
5 o'clock in the morning is when you got there and everything
6 unfolded?

7 A. Yes, sir.

8 MR. WEHMAN: Thank you, Judge, I don't have any further
9 questions.

10 THE COURT: Anything on redirect?

11 MR. OSBORNE: Just one.

12 REDIRECT EXAMINATION

13 BY MR. OSBORNE:

14 Q. Would -- and you're familiar with Rose -- would
15 she have been much help getting Jim up?

16 A. No, sir.

17 MR. OSBORNE: Okay. No further questions?

18 THE COURT: No recross?

19 MR. WEHMAN: No objection. Thank you.

20 THE COURT: Step down, ma'am. Is she released from her
21 subpoena?

22 MR. OSBORNE: Yes.

23 MR. WEHMAN: Yes, Your Honor.

24 THE COURT: All right. We need to take up that legal
25 matter right now.

1 Okay. Ladies and gentlemen, I'm going to excuse you to
2 the jury room for a minute. I have a legal matter I need to
3 take up. So you all go back there and relax. I hope it
4 doesn't take me too long, but we're going to get it done as
5 quick as we can. Please don't discuss the case.

6 (JURY EXITS)

7 THE COURT: Okay.

8 MR. OSBORNE: Your Honor, we have the state of mind
9 exception with Lynn Howell. So the State calls Kirkland
10 Howell.

11 KIRKLAND HOWELL,
12 being first duly sworn testifies as follows:

13 DIRECT EXAMINATION

14 BY MR. OSBORNE:

15 Q. Good afternoon, Ms. Howell. Appreciate your
16 patience. Thanks for coming in. So we're just going to do a
17 quick little -- I'm going to skip a lot of the introductions
18 and everything, get right into the gist of why I asked you to
19 come. So, but just for the -- the judge's knowledge, did you
20 know the victim in this case?

21 A. Yes, sir, I did.

22 Q. And how is it that you knew Jim?

23 A. Excuse me?

24 Q. How -- how is it that you knew Jim? Like what --
25 what was your relationship?

1 A. I've known Jim most all my wife. We really got to
2 be closer when he and Rose got married. My wife, his wife
3 are like sisters and Jim and I were pretty much like
4 brothers.

5 Q. All right. I want to move right into was there a
6 time in which the defendant, Jason Bell, moved back in with
7 his mom and dad?

8 A. Yes.

9 Q. And when you became aware of that -- when you
10 became aware of that, did you ask Jim whether he wanted Jason
11 moving back, living back home with him, or moving back in
12 with him?

13 A. No, I did not.

14 Q. Did the Defendant or did Jim say anything about
15 Jason moving back in?

16 A. Not directly, but he made innuendos that he wished
17 that he was not there.

18 Q. Well, can you remember anything in specifically
19 that he said in reference to Jason moving back in?

20 A. No, not really.

21 Q. Okay. Did he -- did Jim ever say anything about
22 his desire or how he felt about Jason moving back in?

23 A. He wasn't real happy about it because he had
24 problems with Jason in the past when he was there.

25 MR. OSBORNE: Okay. Your Honor, I don't have anything

1 else. We're not going to call him. We don't need to address
2 this. I'm -- I'm not going to call him.

3 THE COURT: Okay. All right. We got a -- got some
4 more witnesses?

5 MR. OSBORNE: We do. We have ---

6 THE COURT: I saw some SLED agents at lunch, I thought.
7 (Inaudible) step down, Mr. Howell.

8 MR. OSBORNE: And I'm fine with them being released
9 from -- from his subpoena.

10 THE COURT: All right.

11 MR. OSBORNE: We do have a couple. All right. So we
12 can do Robin Dukes, and I think we do have a couple SLED
13 agents.

14 THE COURT: Okay.

15 MR. OSBORNE: (inaudible).

16 THE COURT: All right. Because I -- I'd like to go
17 about 4:15 if that works.

18 MR. OSBORNE: Yeah. Can I check real quick?

19 THE COURT: Yeah, well, let's just all be at ease till
20 3:00. How about that?

21 (Off the record.)

22 THE COURT: All right. State ready? Call your next
23 witness.

24 MS. FREDERICK: State calls Hannah Jefferson.

25 HANNAH JEFFERSON,

1 being first duly sworn testifies as follows:

2 DIRECT EXAMINATION

3 BY MS. FREDERICK:

4 Q. So thank you for being here, Ms. Jefferson. Would
5 you please state your full name for the record?

6 A. Hannah Jefferson.

7 Q. And where are you employed?

8 A. South Carolina Law Enforcement Division, also
9 known as SLED.

10 Q. Okay. And how long have you been employed with
11 SLED?

12 A. Since May of 2021.

13 Q. And what is your current position at SLED?

14 A. Forensic technician.

15 Q. Okay. As it relates to your position in the --
16 you work in the evidence department?

17 A. Yes, ma'am.

18 Q. As it relates to your position in the evidence
19 department as forensic tech what do your duties entail?

20 A. I assist incoming agencies with logging in
21 evidence if they need any help. Any questions, I answer
22 them, and I also distribute the evidence to any department
23 within the lab.

24 Q. Okay. When you come into possession of evidence,
25 do you check it to ensure that it's been properly sealed in

1 package?

2 A. I do.

3 Q. The evidence in this case would be under your lab
4 number L 222699; is that correct?

5 A. Yes.

6 Q. And on November 3, 2022, did you come into
7 possession of some items documented under that case number?

8 A. I did.

9 Q. I'm showing you State's 20 for ID purposes. Can
10 you tell me what this is?

11 A. This is the item number 15. It looks to be a
12 blood spot.

13 Q. I'm showing you State's 21, 22 for ID purposes.
14 Can you tell me what those two are?

15 A. May I use my notes?

16 Q. Yes.

17 A. These are the items that I logged in for DNA.

18 Q. Now, I'm showing you what's marked State's 23, 24,
19 26, 27, 28, 29, 30, 31, 34, and 35 for ID purposes. Can you
20 tell me what these items are.

21 A. This is the evidence that I logged dealing with --
22 for firearms.

23 Q. And that was 23, 24, 26, 27, 28, 29, 30, 31, 34
24 and 35?

25 A. Yes.

1 Q. And last I have State's 25 for ID purposes. Can
2 you tell me what this item is.

3 A. This is the gun that I logged in.

4 Q. All right. Where did you get these items?

5 A. I received them from the locker room and the
6 evidence control department.

7 Q. Okay. And once you received that evidence, what
8 did you do when you -- when you came into possession of it?

9 A. The first thing I do is I make sure everything is
10 properly sealed, initial and dated. And then I logged it in
11 giving it a lab number so we can track it through chain of
12 custody.

13 Q. When you came into possession of these items, did
14 they appear to be tampered with or damaged in any way?

15 A. No.

16 Q. If they had appeared to have been tampered with or
17 not properly sealed, what would you have done?

18 A. The first thing we would do is we would notify our
19 supervisors. We would make notations within the case and
20 then we would bring it up to standards.

21 Q. Was there any documentation in this case of any of
22 the evidence being tampered with, altered, and properly
23 packaged?

24 A. No.

25 Q. Okay. While in your possession, did you alter,

1 tamper or damaged items in any way?

2 A. No.

3 Q. And it looks like you came into possession of each
4 of those items again on April 12th of '23 with the exception
5 of State's 21, 22, 25, 34 and 35 -- or I'm sorry -- 25, 34
6 and 35. Is that correct?

7 A. Yes.

8 Q. So you would've been in possession of State's 23,
9 35 with the exception of 21, 22, 25, 33, 31 35?

10 A. Correct.

11 Q. Okay. Did anyone come into possession of the
12 items in between those times?

13 A. I got the evidence from Cameron, they came into my
14 custody, and then I placed them on an intake shelf. So no
15 one else beside me and Cameron touched them.

16 Q. Okay. What did you do with the items when you
17 received them the second time?

18 A. I placed them on the intake shelf, so anyone from
19 the DNA department can request it for later testing.

20 Q. When you came into possession of the items for the
21 second time, did they appear to be tampered with or damaged
22 in any way?

23 A. No.

24 Q. If they had appeared to have been tampered with or
25 damage or not properly sealed, what would you have done?

1 A. Would've notified our supervisors, as well as made
2 documentation in the case.

3 Q. And was there any documentation on this case the
4 second time the possession came into your -- the evidence
5 came into your possession of the evidence had been tampered
6 with or altered anywhere?

7 A. No.

8 Q. And while in your possession, did you alter,
9 tamper, or damage these items in way?

10 A. No.

11 Q. (Inaudible). I do have something further.

12 A. No, it's okay.

13 Q. I have State's 32 for ID purposes. Can you tell
14 me what this is?

15 A. Yes, this is our item number one when we logged in
16 for DNA.

17 MS. FREDERICK: Thank you. Nothing further.

18 THE COURT: Anything from Defense?

19 MR. WEHMAN: No, Your Honor.

20 THE COURT: All right, ma'am, you can step down.

21 THE WITNESS: Thank you.

22 THE COURT: And is it okay to release her from her
23 subpoena?

24 MS. FREDERICK: Yes, Your Honor.

25 MR. WEHMAN: Yes, Your Honor.

1 MS. FREDERICK: State calls Bailey Haynes.

2 BAILEY HAYNES,

3 being first duly sworn testifies as follows:

4 DIRECT EXAMINATION

5 BY MS. FREDERICK:

6 Q. Thank you for being here, Ms. Hayes.

7 A. Thank you.

8 Q. Would you please state your full name for the
9 record?

10 A. Bailey Haynes, B-A-I-L-E-Y.

11 Q. And where are you employed?

12 A. I'm employed at the South Carolina Law Enforcement
13 Division, otherwise known as SLED.

14 Q. And how long have you been working with SLED?

15 A. I've been with SLED since June of 2020.

16 Q. And what is your current job at SLED?

17 A. Right now, I am a forensic scientist for the
18 firearms department.

19 Q. And when did you start your position as a forensic
20 scientist?

21 A. I started in May of this year.

22 Q. And prior to May, what was your position in?

23 A. I was an evidence technician for the evidence
24 control department.

25 Q. Okay. As it relates to your position in the

1 evidence department as a forensic tech, what did your duties
2 entail?

3 A. I was responsible for the intake of evidence from
4 agencies all across the state of South Carolina and the
5 distribution of that evidence throughout the laboratory.

6 Q. Okay. And when you come into possession of
7 evidence, do you check it to ensure that it's been properly
8 sealed and packaged correctly?

9 A. I do.

10 Q. Are you familiar with the lab number L222699?

11 A. Yes, ma'am.

12 Q. Okay. And on November 30, 2022, did you come into
13 possession of some evidence documented under that item
14 number?

15 A. Can I refer to my chain?

16 Q. Sure.

17 A. Yes, I did.

18 Q. I am showing State's 20, 21 and 22, 23, 24, 26,
19 27, 28, 29, 30, 31, and 32 for ID purposes. Can you tell me
20 what these items are.

21 A. May I open this envelope?

22 Q. (Inaudible).

23 A. Yes, these are items from SLED lab number
24 L2220699.

25 Q. And where did you receive these items?

1 A. I received them from our secured evidence transfer
2 container.

3 Q. And what did you do with the evidence once you
4 came into possession of it?

5 A. I placed it onto an intake shelf in our secured
6 evidence room.

7 Q. Okay. And when you came into possession of these
8 items, did they appear to be tampered with or damaged in any
9 way?

10 A. No, they did not.

11 Q. If these items had appeared to have been tampered
12 with or weren't properly sealed, what would she have done?

13 A. I would have documented it and brought them up to
14 laboratory standards.

15 Q. And was there any documentation in this case of
16 these pieces of evidence being tampered would've altered or
17 improperly packaged?

18 A. No, there was not.

19 Q. While in your possession, did you alter, tamper or
20 damage these items in any way?

21 A. No, I did not.

22 Q. And it looks like you came into possession of each
23 one of these same items, previously ID by you on December 2,
24 2022. Is that correct?

25 A. Yes, that is correct.

1 Q. Did anyone else come into possession of these
2 items in between those two times?

3 A. No.

4 Q. And what did you do with them when you received
5 them the second time?

6 A. I transferred them to a different intake shelf in
7 our secured evidence room.

8 Q. I'm showing you 34 and State's 35 for ID purposes.
9 Can you tell me what these items are.

10 A. This is container C from SLED lab number L
11 2220699.

12 Q. And where did you receive these items from?

13 A. May I refer to my chain?

14 Q. Yes, ma'am.

15 A. I received them from the secured evidence transfer
16 container.

17 Q. Okay. And what did you do with those two pieces
18 of evidence once you came into possession of them?

19 A. I transferred them to an intake shelf in our
20 secured evidence room.

21 Q. And when you came into possession of these items,
22 did they appeared to be tampered with or damaged in any way?

23 A. No.

24 Q. While in your possession, did you alter, tamper,
25 or damage these items in any way?

1 A. No, I did not.

2 Q. And if they had appeared to have been tampered
3 with or weren't properly sealed, what would you have done?

4 A. I would've documented it and brought them up to
5 laboratory standards.

6 Q. And was there any documentation in this case of
7 any of these pieces of evidence being tampered, altered, or
8 improperly packaged?

9 A. No, there was not.

10 Q. All right. And lastly, on March 29, 2023, did you
11 have the occasion to transfer evidence from the intake shelf
12 to DNA analyst, Cameron Wisniewski?

13 A. Yes.

14 Q. And what evidence was that?

15 A. Give me just a minute, please. If it is okay, I
16 do not have the State's exhibit numbers, so can I just list
17 the SLED -- the SLED five numbers?

18 Q. I have those marked as 23, 32. Is it SLED 1
19 through 15, excluding 2, 13, and 14?

20 A. Yes, ma'am.

21 Q. Okay. And those being the same SLED items that
22 you've already identified?

23 A. Yes, ma'am.

24 Q. And when you came into possession of these items
25 again in March and transferred them to Ms. Wisniewski, did

1 they appear to be damaged, tampered with, or altered in any
2 way?

3 A. No.

4 MR. FREDERICK: Thank you. Nothing further.

5 THE COURT: Anything on cross-examination?

6 MR. WEHMAN: Yes, sir. Thank you.

7 CROSS-EXAMINATION

8 BY MR. WEHMAN:

9 Q. Ms. Haynes, I'm sorry, what did you say your
10 current title is?

11 A. I'm a forensic scientist with the firearms
12 department.

13 Q. Okay. And when you were involved in this case,
14 you had a different position; is that correct?

15 A. That is correct.

16 Q. Okay. And you didn't actually analyze any of the
17 evidence in this case; is that right?

18 A. That is correct.

19 Q. I did have one question. They -- you were asked
20 if you notice a packet (inaudible) been tampered with or
21 there was problems with the evidence that you would bring
22 them up to laboratory standards. What does that mean?

23 A. Laboratory standards is, the evidence must be
24 signed, sealed, and labeled correctly. So if it had not been
25 initial, dated, signed, or sealed, then I would've brought

1 that up to laboratory standards.

2 Q. Okay. Did you try to find a person that had it
3 recently, I guess?

4 A. It -- I would've sealed -- I would've brought it
5 up myself and made a documentation in the case record.

6 MR. WEHMAN: Thank you. Nothing further, Your Honor.

7 THE WITNESS: Thank you.

8 THE COURT: Anything on redirect?

9 MS. FREDERICK: Nothing further.

10 THE COURT: All right, Ms. Haynes, you can step down.

11 THE WITNESS: Thank you.

12 THE COURT: Is she released from her subpoena?

13 MS. FREDERICK: Yes, sir.

14 MR. WEHMAN: Yes.

15 MR. OSBORNE: State calls Cameron Wisniewski.

16 CAMERON WISNIEWSKI,

17 being first duly sworn testifies as follows:

18 DIRECT EXAMINATION

19 BY MR. OSBORNE:

20 Q. Good afternoon, Ms. Wisniewski. It's close?

21 A. Close enough.

22 Q. Okay. What is your occupation?

23 A. I am currently an evidence processor and a DNA
24 analyst and training at the South Carolina Law Enforcement
25 Division, commonly known as SLED.

1 Q. And how long have you been with SLED?

2 A. I've been with SLED for a year and a half.

3 Q. All right, and what is your educational
4 background?

5 A. I have a Bachelor's of Science in Biological
6 Sciences from the University of South Carolina. I also have
7 a course on the fundamentals of biochemistry from the
8 University of Florida.

9 Q. All right. What is your current position or title
10 with SLED?

11 A. Currently, my title is DNA Analyst in the DNA case
12 work department. In January of 2022, I joined the DNA case
13 work department at SLED as an evidence processor. I was
14 signed off to perform those job duties and I was then
15 promoted to DNA analyst within that same department. Since
16 then October, 2022, I have been in training for that
17 position, but I have also been performing the job duties that
18 I had previously been signed off to do as an evidence
19 processor.

20 Q. All right. I guess just generally speaking, where
21 are -- what do you do as an evidence processor?

22 A. Sure. So I take items of evidence into my custody
23 and I'm making sure that I'm inventorying those items and
24 maintaining a proper chain of custody to maintain the
25 integrity of those items. I then will examine those items

1 based upon the request placed on those items by the
2 submitting agency. So I'm looking for DNA left behind
3 possibly in the forms of blood, semens, saliva, hair, or skin
4 cells. I'm recording everything that I do in real time with
5 those items of evidence, as well as with photographs and
6 diagrams. I then take any samples that need to be taken from
7 these items. From the item, I will prepare them for the DNA
8 analyst and these items will be forwarded for analysis.

9 Q. What training have you received, I guess,
10 specifically as it relates to the area processing evidence?

11 A. So after I joined SLED in January of 2022, I
12 started my training program, which span approximately seven
13 months. During that time, I observed extensive amount of
14 real evidence processing casework where I'm -- I have seen
15 numerous scenarios of evidence processing. I then moved on
16 to processing mock casework where I processed approximately
17 72 items and prepared approximately 146 samples for DNA
18 analysis. I also had the opportunity to observe expert
19 courtroom testimony given by those qualified in my department
20 as evidence processors, serologist, and DNA analyst.

21 I also then completed a series of competency testing
22 that were broken up into four parts. The first being another
23 practical examination of my completion of mock casework, and
24 then moved on to a written exam, followed by an oral exam,
25 and then a mock trial which were all successfully completed.

1 I then moved on to supervised casework, which I did under the
2 supervision of my training officer. And after I completed
3 that, I was then signed off to perform independent casework.

4 Q. And I think what -- what you're -- is it fair to
5 say what you're doing in this -- in this case while we ask
6 you to come here deals with presumptive testing?

7 A. Yes, absolutely. So I was signed off to
8 presumptively test for the presence of blood and semen during
9 my training. I have approximately completed thousands of
10 presumptive tests for blood and semen on real items of
11 evidence in casework thus far.

12 Q. And at SLED, when you take a piece of evidence and
13 then you presumptively tested, whether it be, you know,
14 whether you do presumptively find blood or semen or whatnot,
15 is -- are your results been peer reviewed?

16 A. Yes. So everything that I do, including the
17 results of any presumptive testing is reviewed by those in my
18 department who are also qualified in the same job duties that
19 I am qualified in. And then that work is then returned to me
20 so that I can make any necessary corrections.

21 Q. Okay. While employee with SLED, are you currently
22 authorized or certified to perform -- to perform evidence
23 processing specifically as it relates to presumptive testing
24 for the presence of body fluids?

25 A. Yes, I am.

1 MR. OSBORNE: All right. Your Honor, at this time the
2 state would offer Ms. Wisniewski as an expert in the field of
3 forensic serology, specifically as it relates to presumptive
4 testing for the presence of bodily fluids.

5 THE COURT: Any objection?

6 MR. WEHMAN: No, Your Honor.

7 THE COURT: All right. Ladies and gentlemen, normally
8 a person cannot give opinion testimony in a case. All the
9 stuff you've heard thus far is what a person may have seen,
10 heard, smelled something of that nature. However, there's an
11 exception when someone is qualified because of their
12 education or experience, they're permitted to give you, as
13 the fact finders, their opinion in certain areas.

14 This witness will be qualified in the area, at right
15 now, forensic serology, specifically the presence of bodily
16 fluids, to give an opinion in that area. Now, that doesn't
17 mean you must accept the opinion, but it's evidence for you
18 to use in any way you see fit and give it whatever weight and
19 credibility you believe is appropriate during your
20 deliberations.

21 Also, I find that this expert testimony is necessary to
22 assist the jury in resolving a factual question. This
23 witness is qualified in the area of forensic serology and the
24 testimony and scientific methods are reliable. You may
25 proceed.

1 MR. OSBORNE: Thank you, Your Honor. May I approach?

2 THE COURT: Yes.

3 BY MR. OSBORNE:

4 Q. All right. I'm showing you for ID purposes
5 State's 20 through 24, 26 through 32. Can you take a look at
6 these items? I'm going to go a -- a little slow with these.
7 Okay. So I think it might be easier to just kind of go
8 through them individually, but -- but off -- but for a
9 preliminary matter, do you recognize those items?

10 A. Sure. So I recognize State's Exhibit 20, SLED
11 item number 15, by the SLED Laboratory case number, which is
12 printed here on our SLED barcode, as well as the item number.
13 I also recognize my initial and dates at the bottom. And
14 SLED item 15 is the blood spot from James Bell.

15 Q. Okay.

16 A. This next heat seal pouch I also recognize with
17 the SLED barcode that has the lab number L2220699 for this
18 case. The container number A, I also see my initials and
19 date here at the bottom. And if I could refer to my chain of
20 custody. So container A, and this is State's Exhibit 21 and
21 22, contains SLED items 3, two swabs from upstairs bedroom
22 door handle, four two swabs from above upstairs bedroom
23 doorknob, as well as 13, two swabs from suspect sweatpants.

24 Q. Okay.

25 A. So here I have State's Exhibit 23, 24, 26, 27, 28,

1 29, 30, and 31. So State's Exhibit 23 has my initial and
2 date here, and the swab from back door exterior. State's
3 Exhibit 24 are recognized with my initial and date. This
4 swabs from back door exterior again, this is item 6. So item
5 6. I also see my initials and date on State's Exhibit 26
6 such as SLED item 7, swabs from Colt 38 handle. State's
7 Exhibit 27, I recognize by my initials and date. It is SLED
8 item 8, swabs from Colt 38 trigger.

9 State's Exhibit 28, I recognize from my initial and
10 date. I have also labeled it with SLED item 9 as swabs from
11 front of cylinder. State's Exhibit 29, I recognize by my
12 initials and date as well as the SLED item number 10, swabs
13 from end of barrel. State's Exhibit 30, I recognize by my
14 initials and dates, as well as the SLED item number 11, swabs
15 from spent casing. State's Exhibit 31, I recognize from my
16 initials and date, as well as the item number, SLED item
17 number 12, swabs from spent casings.

18 Q. And State's 32, I think that's on the ---

19 A. Yes, so the last one. All right. State's Exhibit
20 32, I recognized by the SLED barcode, which has the lab
21 number for this case, and the item number is 1. I also see
22 my initials and date on the back here. And that is the
23 buccal swab from Jason Bell.

24 Q. All right. And did you come in possession of
25 those items on March the 29th of 2023?

1 A. I did.

2 Q. And how is it that you acquired possession of the
3 items?

4 A. I acquired possession of the items from the
5 evidence control department via transfer of custody from
6 Bailey Haynes, an evidence technician, to my custody.

7 Q. Any evidence that any of the items have been
8 tampered with, altered or damaged in any way?

9 A. No. If anything was of notice, I would've noted
10 that in my case documentation.

11 Q. All right, so let's -- let's get into what you did
12 with each of those items. Let's start with State's 20, I
13 think that's going to be your SLED item number 5, labeled as
14 "The victim's blood spot." When you came into possession of
15 that item, what did you end up doing with it?

16 A. When I came into the possession of that item, I
17 inventoried it, and made sure that I had what I was supposed
18 to have, checking case identifiers like the SLED lab number,
19 the agency case number and that the description matched.
20 After that I then opened the item and I prepared that item
21 for DNA analysis to forward to the DNA analyst. For a blood
22 spot, our procedure is to cut a small portion of that
23 bloodstain and forward that to the DNA analyst.

24 Q. Okay. And that's Kathy Lyce (ph)?

25 A. Yes.

1 Q. All right. Moving on to stage 21, that's SLED
2 item number 3. This one I want to ask your opinion of, and
3 this is labeled as "Swabs from the upstairs bedroom door
4 handle." What testing on that swab were you requested to do?

5 A. So I was requested to test the swab for blood. So
6 I carried out our presumptive test for blood on this swab by
7 simply swabbing that swab and then testing that test swab
8 with our reagents that produce a known reaction for blood. I
9 received a negative test result for the presumptive presence
10 of blood for SLED item 3, two swabs from upstairs bedroom
11 door handle.

12 Q. And -- maybe you -- maybe you have this, maybe you
13 don't -- in the request, if there was no presence of blood,
14 did that end the testing process?

15 A. For this item, it did since that was the only
16 request that had been placed on these swabs.

17 Q. Okay. Had there been blood it would've been
18 forwarded to Kathy Lyce?

19 A. Yes, it would have.

20 Q. Okay. And let s repeat that with SLED 4, State's
21 22, again, "Swabs from the upstairs bedroom doorknob." What
22 was -- in your opinion, was there presence of blood in those
23 swabs?

24 A. So those swabs also had a blood request. So I
25 carried out that same procedure where I swabbed the swabs and

1 then tested that for blood and the result was negative for
2 the presumptive presence of blood. So those were not
3 forwarded to Catherine Lyce.

4 Q. Okay. All right. So now we're going to go into
5 some swabs that it looks like -- well, I mean, I think we can
6 just kind of sum it up. From 23 -- State's 23, 24, 26, 27,
7 28, 29, 30, 31, and 32. That would be your SLED item numbers
8 5 through 12, and 1, these were all swabs of various items?
9 And you've already identified them.

10 A. They were, yes. So SLED items 5 through 12 were
11 swabs from various items. So for those items I took a small
12 portion of the swab, prepared that for DNA analysis, and that
13 is what was forwarded to the DNA analyst Catherine Lyce for
14 analysis.

15 MR. OSBORNE: Can I -- may I approach the witness?

16 THE COURT: Yes, sir.

17 BY MR. OSBORNE:

18 Q. I'm showing you State's 33. Do you recognize
19 this?

20 A. Yes, I do recognize the SLED barcode, which has,
21 again, the same case number and the item number. I recognize
22 Catherine Lyce, the DA analyst for this case. I recognize
23 her initials and she also has the date here on the seal.
24 These are the item numbers from the samples that I forwarded
25 to her for analysis. So these are most likely her extract

1 tubes that she created whenever she did her portion of the
2 analysis.

3 Q. I see. So when -- when you create -- when you
4 create your samples or your -- your -- to be analyzed, you
5 forward that to Kathy, Ms. Lyce, she then creates these
6 extracts?

7 A. Yes.

8 MR. OSBORNE: Okay. All right. No further questions.

9 THE COURT: Anything on Cross-examination.

10 MR. WEHMAN: None, Your Honor.

11 THE COURT: (Inaudible) step down, ma'am. Is she
12 released?

13 THE WITNESS: Thank you.

14 MR. OSBORNE: Yes, Your Honor.

15 MR. WEHMAN: Yes, Your Honor.

16 MS. FREDERICK: State calls Christine Dadabo.

17 CHRISTINE DADABO,

18 being first duly sworn testifies as follows:

19 DIRECT EXAMINATION

20 BY MS. FREDERICK:

21 Q. Thank you for being here, Ms. Dadabo.

22 A. Thank you.

23 Q. Would you please state your full name for the
24 record?

25 A. Christine Dadabo.

1 Q. And where are you employed?

2 A. South Carolina Law Enforcement Division.

3 Q. And how long have you been with SLED?

4 A. Thirteen months.

5 Q. And what is your current job at SLED?

6 A. I am a forensic technician and evidence control.

7 Q. As it relates to your position in (inaudible) as
8 according to the submission, what do your duties entail?

9 A. We assist law enforcement agencies process
10 evidence and then distribute it throughout the lab.

11 Q. When you come into possession of evidence, do you
12 check it to ensure it's been properly sealed and packaged?

13 A. Yes.

14 Q. The evidence in this case as it relates to your
15 lab number L222069, did you come into possession of some of
16 these items, some items documented under that case number on
17 May 22, 2023?

18 A. Yes.

19 MS. FREDERICK: May I approach?

20 THE COURT: Yes, ma'am.

21 BY MS. FREDERICK:

22 Q. I'm showing you State's Exhibit 20, 21, 22, 23,
23 24, 26, 27, 28, and 29 (inaudible). Can you tell me what
24 these items are.

25 A. These would be normal evidence that is submitted

1 from an outside law enforcement agency.

2 Q. And are these the items you came into possession
3 of on May 27, 2023?

4 A. Yes.

5 Q. Now, I am showing you State's Exhibit (inaudible)
6 for ID purposes. Can you tell me what this item is.

7 A. This would be an additional piece of evidence that
8 was submitted to the lab.

9 Q. Where did you get these items from?

10 A. These items came from what we refer to as an
11 intake shelf. That's where I received these items from.

12 Q. And once you became in possession of these items,
13 what did you do?

14 A. They were put into my custody, and then from there
15 they were put into the custody of a forensic scientist.

16 Q. Okay. When you came into possession of these
17 items, did they appear to be tampered with or altered in any
18 way?

19 A. No.

20 Q. If these items had appeared to have been tampered
21 with or altered, not properly sealed, what would you have
22 done?

23 A. Brought them up to laboratory standards. Made a
24 notation in the case file.

25 Q. And was there any notation or documentation that

1 they had been altered or tampered with in any way?

2 A. No.

3 Q. While in your possession did you alter tamper or
4 damage items in any way?

5 A. No.

6 Q. Okay. And on December 5, 2022, did you have the
7 occasion to come into possession of additional pieces of
8 evidence under this case number?

9 A. Yes.

10 MS. FREDERICK: May I approach?

11 THE COURT: Yes, ma'am.

12 BY MS. FREDERICK:

13 Q. Now, I'm showing you State marked Exhibit 34, 35
14 and 25. Can you tell me what this items are?

15 A. Additional evidence for that case.

16 Q. And where did you receive these items from?

17 A. Those items would've also been received from an
18 intake shelf.

19 Q. When you came into possession of these items, did
20 they appear to be tampered with or damaged in any way?

21 A. No.

22 Q. And while in your possession, did you alter,
23 tamper, or damage this items in any way?

24 A. No.

25 Q. And it looks like, again, on June 16, 2023, you

1 came into possession of items already identified as State's
2 25, 34 and 35. For your reference SLED 16, 17, and 18. Is
3 that correct?

4 A. Correct.

5 Q. And where did you receive these items from?

6 A. Item 16 was received also from an intake shelf put
7 into my custody and then transferred to the custody of a
8 forensic scientist. And that was on June 16th.

9 Q. And how about 17 and 18?

10 A. So same thing.

11 Q. Okay.

12 A. On that date of June 16th, they were taken from an
13 intake shelf, put into my custody, and then transferred to
14 the custody of a forensic scientist.

15 Q. When you came into possession of these items for
16 the second time, did they appear to be tampered with, damaged
17 or altered in any way?

18 A. No.

19 Q. If they had appeared to have been tampered with,
20 not possibly sealed or -- or altered what would you have
21 done?

22 A. Brought them up to laboratory standards and made a
23 notation in the case file.

24 Q. And was there an notation the case file?

25 A. No.

1 Q. While in your possession, did you alter, tamper
2 with, or damage this items in any way?

3 A. No.

4 MS. FREDERICK: Nothing further.

5 THE COURT: Anything on cross-examination?

6 MR. CHISHOLM: No, Your Honor.

7 THE COURT: You can step down. Is she released?

8 MS. FREDERICK Yes.

9 MR. OSBORNE: There is one more witness. All right.
10 State calls Robin Dukes.

11 ROBIN DUKES,
12 being first duly sworn testifies as follows:

13 DIRECT EXAMINATION

14 BY MR. OSBORNE:

15 Q. Good afternoon, Ms. Dukes.

16 A. Good afternoon.

17 Q. Where are you from?

18 A. Right here in St. George, (inaudible).

19 Q. All right. And what kind of work do you do now?

20 A. I am a legal assistant for the Honorable Maite
21 Murphy.

22 Q. Okay. And are you married?

23 A. Yes.

24 Q. Have kids?

25 A. No kids.

1 Q. What kind of work did you do prior to becoming the
2 assistant to Judge Murphy?

3 A. I was -- worked for James A. Bell, in his law
4 firm. Started as a receptionist and then moved on into some
5 of the civil practice.

6 Q. Okay. And James Bell, the victim in this case?

7 A. Yes.

8 Q. How long have you known Mr. Bell?

9 A. 35, 40-ish years.

10 Q. And at -- I guess at the height of his law firm,
11 how many given people would work for him?

12 A. When I started it was around four. At times there
13 was six, seven, and even eight.

14 Q. Okay. What type of work did Mr. Bell do?

15 A. General practice law.

16 Q. Okay. So he'd do all -- civil, criminal ---

17 A. Yes.

18 Q. --- family, all of it?

19 A. Yes.

20 Q. Okay. And would you say that he was a
21 well-respected attorney?

22 A. Oh, yes.

23 Q. Did you ever go to Mr. Bell's home?

24 A. Yes, I did.

25 Q. Okay. Did you get to know Ms. Rose, Mr. Bell's

1 wife?

2 A. I did.

3 Q. And do you still communicate with -- with Rose?

4 A. Yeah, I'm speaking to her on a weekly basis, I do.

5 Q. Okay. And how long were Ms. Rose and Jim married?

6 A. I'd say over 50 or so years.

7 Q. Okay. And through your observations, were they
8 happily married?

9 A. Oh yes, of course.

10 Q. All right. During the time in which -- at --
11 well, about when did Mr. Bell retire?

12 A. I want to say roughly eight, 10 years ago.

13 Q. Okay.

14 A. At least eight, I would say.

15 Q. And you maintained contact with the Bells after
16 that?

17 A. I did. I did.

18 Q. And during this time, did you get to know the
19 defendant in this case, Jason Bell?

20 A. I did. Yes.

21 Q. Was there a time that -- well, scratch that.

22 In the months prior to his murder, could Mr. Bell get
23 around okay?

24 A. He did.

25 Q. Did -- if he wanted to drive somewhere, would he

1 drive himself?

2 A. He could drive, he could in and out the house. I
3 think very well, did pretty much what he wanted to do.

4 Q. Now, we've heard some testimony -- I know you were
5 in the courtroom -- we've heard some testimony about him
6 having an assisted oxygen. Would he always wear the oxygen?

7 A. I've never seen anywhere. When I would go there,
8 it was there right beside his favorite chair, but he never
9 used it. That I have seen.

10 Q. That you saw?

11 A. (Inaudible).

12 Q. When you saw him going around town or whatever,
13 driving around, would you see him using the oxygen then?

14 A. No.

15 Q. Okay. But he still got around okay?

16 A. He did pretty well, yes.

17 Q. When did you last see Mr. Bell?

18 A. Gosh. September, October of that year.

19 Q. Okay. Just prior to his death? Prior

20 A. He to, yes.

21 Q. Okay. And why was it that you went to go see him?

22 A. He would ask me to prepare certain documents and I
23 would and of course take them to him.

24 Q. Okay. And the defendant, Jason Bell, had he moved
25 back in with his parents when you went to go visit Bell?

1 A. Yes, at that time.

2 Q. Okay.

3 A. Yes.

4 Q. And when you went to go visit him, the -- to
5 return the paperwork, was -- was he -- he was there then?

6 A. Yes, he was.

7 Q. Did you talk to him?

8 A. I did.

9 Q. Did you know if he had a job?

10 A. I do not at that time.

11 Q. That was poorly worded. Did he have a gun at that
12 time?

13 A. Not that I'm aware of. I -- I do not know for
14 sure.

15 Q. Okay. Throughout all of your experience in
16 dealing with Jim Bell, has he ever made any suicidal comments
17 or have you ever heard anyone say that Mr. Bell had made
18 suicidal comments?

19 A. I have never heard that.

20 Q. Were you aware of any plans that Mr. And Ms. Bell
21 had in the upcoming year?

22 A. I did. They had plans to go at -- at least to New
23 York. And I'm not sure about any other plans, but yes, plans
24 were already made.

25 Q. Okay. I'm going to ask these questions. Since

1 Jim died have you remained in contact with Ms. Bell?

2 A. I have.

3 Q. Where does she live now?

4 A. She lives in Santee at an assisted living home.

5 Q. And do you still visit her there?

6 A. I do. I speak to her weekly and I try to visit
7 her at least once a week, yes.

8 Q. Okay. How is she doing?

9 A. She's doing pretty well, I think, considering all.
10 She has good days; she has bad days. Good weeks; bad weeks.
11 But overall I think very, very well.

12 MR. OSBORNE: Okay. All right. No further questions.

13 THE COURT: Mr. Chisholm?

14 MR. CHISHOLM: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. CHISHOLM:

17 Q. Good afternoon, Ms. Dukes.

18 A. (Inaudible).

19 Q. You've known -- you've known Jim a long time; is
20 that right?

21 A. I have.

22 Q. Since the eighties?

23 A. Yeah, I would say.

24 Q.

25 Okay. And going back to, you know, 2020, you know, at

1 that -- the time of the shooting here, he was 76 years old;
2 is that right? Is -- that sound about right?

3 A. Yes, that sounds right. Yes.

4 Q. And you had seen him, my understanding, is
5 November before the incident; is that correct?

6 A. Would've been October, November, yes.

7 Q. Month or so before?

8 A. Yes.

9 Q. Okay. And when you saw him, is it fair to say
10 obviously his -- his health was in decline?

11 A. It -- it was, in a sense, after most of due to
12 age.

13 Q. And is it fair to say that he was in some pain as
14 far as his knees and shoulder and breathing?

15 A. He's had complications, but I can't say that he
16 was in that much pain because I never saw him in that much
17 pain.

18 Q. Okay. Did you --- do you recall meeting with the
19 solicitor's office, I guess, back in June -- June 29th to
20 kind of talk about testimony court case?

21 A. I do.

22 Q. Do you recall telling him that you knew he was in
23 some pain, his knees and shoulder and breathing issues?

24 A. Yes, he has over the years had several surgeries
25 for knee, shoulders.

1 MR. CHISHOLM: Okay. Thank you. Have no further
2 questions.

3 THE COURT: Anything on redirect?

4 MR. OSBORNE: Briefly.

5 REDIRECT EXAMINATION

6 BY MR. OSBORNE:

7 Q. Have you ever seen Jim screaming in pain?

8 A. Gosh, no. Never.

9 Q. You know, the -- when you say knees and shoulders,
10 I'm getting up there now, is it kind of like, you know, the
11 -- the achy knees, shoulders, things along those lines?

12 A. That's when his office was still open and he would
13 have surgeries. But after that and once he retired, I
14 haven't never heard him really complain. And surely not
15 screaming out in pain.

16 Q. Okay.

17 A. No.

18 MR. OSBORNE: Further questions.

19 THE COURT: Anything on recross?

20 MR. CHISHOLM: No, Your Honor.

21 THE COURT: Ms. Dukes, you can step dawn.

22 THE WITNESS: Thank you.

23 THE COURT: Is she released from her subpoena?

24 MR. OSBORNE: Yes, Your Honor.

25 MR. CHISHOLM: Yes, Your Honor.

1 MR. OSBORNE: That's all we have for today.

2 THE COURT: Okay. All right. Ladies and gentlemen,
3 we're going to break for today. Witnesses move a little
4 faster than we anticipated. So that's sometimes a good
5 thing. So again, do not discuss the case. And juror number
6 203, you have a doctor's appointment tomorrow morning, don't
7 you?

8 JUROR NUMBER 203: Thursday.

9 THE COURT: Thursday. Okay. All right, see, I
10 remembered. Just the wrong day.

11 All right. So we're going to break for the day. We'll
12 start back at 9:30 tomorrow morning. Again, don't discuss
13 the case and enjoy your early day off.

14 (Jury exits)

15 THE COURT: All right. Anything else we need to take
16 up today?

17 MR. OSBORNE: No, Your Honor.

18 MR. CHISHOLM: No, Your Honor.

19 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
20 3:59 P.M.)

21

22

23

24

25

1

2

3

4

CERTIFICATE OF TRANSCRIBER

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 1 of Dorchester County, South Carolina, on the 8th Day of August, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 19, 2024

Natasha Barrientos

Transcriber

1

2

3 CONTINUATION OF PROCEEDINGS - AUGUST 9, 2023

4 THE BAILIFF: August 9, 2023. Dorchester County
5 Circuit Court. Equipment test. Witness microphone. Clerk's
6 microphone. Judge microphone.

7 THE COURT: Everybody, please be seated. Are you
8 ready?

9 MR. OSBORNE: Yes, Your Honor.

10 THE COURT: You ready?

11 MR. CHISHOLM: Yes, sir. Can you bring them in.

12 (Jury enters courtroom.)

13 THE COURT: All right. Good morning, ladies and
14 gentlemen.

15 MULTIPLE SPEAKERS: Good morning.

16 THE COURT: We are ready to proceed. Mr. Osborne.

17 MR. OSBORNE: State calls Dr. Eric Watson.

18 DR. ERIC WATSON,
19 being first duly sworn, testifies as follows:

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MR. OSBORNE:

23 Q. Good morning, Dr. Watson.

24 A. Good morning.

25 Q. Thanks for coming in this morning. We're just

1 going to take a quick second, introduce you to the jury.

2 Let's start by saying, where are you from?

3 A. Originally from Washington State.

4 Q. All right. And where do you live now?

5 A. St. George.

6 Q. All across St. George from Washington

7 A. The job opening in 1988.

8 Q. Okay, so you've been there for quite a while.

9 A. Yes.

10 Q. What do you do for a living?

11 A. I'm a primary care physician.

12 Q. All right. And your practice right here in St.

13 George Vegas?

14 A. Yes.

15 Q. How long have you been doing that?

16 A. I finished residency in July of 1988. Came
17 straight here, so I've been doing this ever since I finished
18 residency.

19 Q. Okay. And along those lines, would you mind just,
20 I guess, briefly telling the jury about your educational
21 background?

22 A. I got an undergraduate degree University of Chapel
23 -- University of North Carolina, Chapel Hill. From there I
24 attended medical school over four years at East Carolina
25 University 1980 -- '81 through '85. And then residency in

1 Charleston Medical University in internal Medicine. That was
2 from 1985 to '88, and then 1988 moved to St. George.

3 Q. Okay. All right. Let's get into why I asked you
4 to come here. Did you know the victim in this case? Jim
5 Bell?

6 A. I did.

7 Q. And when was it that you first met Jim?

8 A. I met him within a month of moving to St. George,
9 in the summer of 1988.

10 Q. Okay. Quite while.

11 A. Yeah.

12 Q. And were you his primary care physician?

13 A. Yes.

14 Q. Did you know him socially as well or was -- was he
15 a patient or both?

16 A. I met him socially.

17 Q. Okay. And so I've already asked you, if you were
18 his primary care physician since 1988?

19 A. Correct.

20 Q. Okay. And as his primary care physician, the
21 obvious question, I guess you were familiar with any of his
22 medical ailments?

23 A. That's correct.

24 Q. And -- and what was going on with Jim medically at
25 the end of his life?

1 A. A lot of things. His biggest issue was pulmonary
2 fibrosis, which had been diagnosed in early 2015, and that
3 was having the biggest impact on his -- on his health.

4 Q. Okay. Well, and I'll -- I'll get to -- I think he
5 might have had cardiac issues too. I'll get to that in a
6 second. Let's talk about the pulmonary fibrosis first. I
7 hadn't heard of that before this. What -- what is that
8 disease and what -- how does it manifest itself? What did it
9 look like from you?

10 A. It's a gradual symphony of the lung tissue. It
11 occurs over a period of years, there's no generally no known
12 cause. But over a period of years you become increasingly
13 short breath with low oxygen and worsening inability to exert
14 oneself.

15 Q. You said no known cause. It's not a -- it's not a
16 smoker's disease, is it?

17 A. No, but I mean, this was an IPF idiopathic bone
18 fibrosis, which has no known cause.

19 Q. It would be a good idea with that type of disease
20 to smoke or to be around a chronic smoker?

21 A. Definitely not.

22 Q. Would -- would this be something that Jim would be
23 experiencing pain, increased pain as a result of?

24 A. Not with lung disease. No.

25 Q. Okay. Did Jim have an oxygen tank to assist him

1 with breathing?

2 A. He did.

3 Q. Did he use it as much as he should?

4 A. I'm sure he did not. But it's, you know, it's --
5 it doesn't -- the oxygen doesn't cure your lungs, it doesn't
6 improve your lungs. It's just -- it's used for the
7 augmentation when you need drugs, oxygen level up.

8 Q. Is -- is it fair to say I mean there is no cure
9 for pulmonary fibrosis?

10 A. Well, there was -- the only cure is just lung
11 transplant.

12 Q. Was he a good candidate for that?

13 A. Not at all.

14 Q. Because of his age?

15 A. Primarily his age, yeah.

16 Q. If -- if he would not have died on January 1, 2021
17 with pulmonary fibrosis, eventually ended up being his
18 demise.

19 A. Very likely.

20 Q. Okay. Can you put a timestamp on that?

21 A. Not really.

22 Q. Might he still be alive today?

23 A. Yes.

24 Q. All right. The cardiac issues, and I -- I know I
25 might -- you're not a cardiologist I understand, but can you

1 claim anything on his cardiac issues?

2 A. He -- he had an aortic valve problem, stenosis of
3 the aortic valve which I had sent him to the cardiologist
4 for, and he -- he was being followed for that. It was judged
5 initially to be mild. After a couple years, they judged it
6 to be more severe, and there was talk about replacement at
7 that time, but that was never undertaken.

8 Q. Okay. Would that have caused -- would that
9 condition have caused him any pain?

10 A. No.

11 Q. All right. And then I think there was a -- a
12 cervical nerve compression. I mean that sounds like it's
13 painful. What's going on there?

14 A. He -- he had some degenerative disease of the
15 cervical spine and that oftentimes results in pressure on
16 nerves. He -- he certainly had one at different times to
17 experience neck pain and shoulder pain, which may have been
18 related to that. He also had problems with both shoulders
19 and had surgery on one of them. So he had a lot of reasons
20 to have some pain in his second shoulder.

21 Q. You said some pain. Did you ever offer to him
22 pain medications?

23 A. For his -- he came in one time with shoulder pain.
24 That was -- was complicated by the fact that I (inaudible)
25 because he had an inherent shoulder problem, and he has the

1 nerve cervical disc problem. He also had a fall and it was
2 really the pain from his fall that was giving him the
3 shoulder pain at the visit where I gave him some pain meds.

4 Q. And what year was that; do you know?

5 A. I may have to check my notes. That was August of
6 2019.

7 Q. 2019?

8 A. Yes.

9 Q. All right. Did you have the occasion to see Jim
10 again on July the 22nd of 2020?

11 A. That was the last visit I saw, yes.

12 Q. Okay. So you said you gave him some pain
13 medication on 2019. Was that like a script that -- that kept
14 reoccurring or was it one limited script?

15 A. No, it was one-time prescription for 20 tablets.

16 Q. When you saw him again in 2020, this being just
17 four months and some change before he died, did you offer him
18 pain medication then?

19 A. I did.

20 Q. And did he accept it?

21 A. He did fine.

22 Q. And you have all of his medical records, I guess
23 throughout all the years? Maybe not with you, but you have
24 them.

25 A. Absolutely, I have them, but -- but not with me.

1 Q. If another doctor -- well I'll just ask you like
2 this. Was he on pain medication at the time of his death?

3 A. Not to my knowledge.

4 Q. If another doctor had prescribed him pain
5 medications, is that something that would've been funneled
6 through you or you would become aware of?

7 A. I -- I would've -- I would've been aware of it.

8 Q. Okay. I'm going to show you a couple pictures.
9 Before I do, if Jim had called you even after hours, would
10 you have answered, would you have spoken to him?

11 A. Certainly.

12 Q. And if he had asked for a prescription for pain
13 medication, would you have given it to him?

14 A. Yes.

15 MR. OSBORNE: Okay. I'm going to show you State's 51.
16 It's already been marked and admitted.

17 (State's Exhibit 51 was marked for identification.)

18 BY MR. OSBORNE:

19 Q. I want to see if I can zoom in over here. Are you
20 able to see what that medication is?

21 A. Well, if rotated 90 degrees, I could.

22 MR. OSBORNE: As luck would have it. Let me show you a
23 couple other pictures. I think we're dealing with the same
24 issue here, but let's take another look. 53 now.

25 (State's Exhibit 53 was marked for identification.)

1 THE WITNESS: I believe that's the same photo I -- I
2 see the tube of cream, but I believe this is the same photo
3 you just showed me.

4 MR. OSBORNE: Well, here we go. All right. What about
5 this one, 54?

6 (State's Exhibit 54 was marked for identification.)

7 THE WITNESS: That's his lung medicine.

8 BY MR. OSBORNE:

9 Q. Lung medicine?

10 A. Yes.

11 MR. OSBORNE: Okay. And 55?

12 (State's Exhibit 55 was marked for identification.)

13 THE WITNESS: That's (inaudible) stomach acid medicine.

14 BY MR. OSBORNE:

15 Q. Okay. Let me just take a -- give me one second.
16 Let me take a quick look. Can you just -- let me see if we
17 have a 90-degree angle going the other way? No, I think
18 that's (inaudible). Okay.

19 I'll just end it with this. I guess Dr., did -- did
20 your interactions with Jim throughout the many years I guess
21 particularly there toward the end, had he ever expressed any
22 suicidal ideations to you?

23 A. Never.

24 Q. Were you ever concerned of suicide as it related
25 to Jim?

1 A. No.

2 MR. OSBORNE: Okay. No further questions.

3 THE COURT: Mr. Chisholm.

4 MR. CHISHOLM: Thank you, Your Honor. May it please
5 the court?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. CHISHOLM:

9 Q. Morning, doctor.

10 A. Good morning.

11 Q. Was Jim Bell -- was he a thin guy, was he a bigger
12 guy? Do you have a rough approximation of his size?

13 A. His weight varied over the years. When I first
14 met him, he was overweight. That became less of a problem
15 over time.

16 Q. Was he a small guy or?

17 A. Yeah, he -- I wouldn't describe him in the last
18 years of his life as -- as small, significantly overweight.

19 Q. Okay. And you had mentioned surgical spine --
20 spine compression; is that right?

21 A. Yes.

22 Q. And I think you mentioned that this leads to
23 issues with falling; is that right?

24 A. Not generally. He certainly was having a lot of
25 problem with falls. And I - I did send him to the

1 neurologist for that. And another reason I also had a
2 consult, a -- a balanced consult for him a -- a year or so
3 before he died, just to try to get a better understanding of
4 why he was falling so much.

5 Q. Okay. And I was provided a copy of your notes, it
6 looks like on this July visit, that that's what you're
7 treating for any had fall; is that correct?

8 A. Yeah, it was one of many visits where he had a
9 fall.

10 Q. Okay. And the solicitor kind of asked you this,
11 and this is more from my curiosity than anything. As far as
12 if you have a patient that's seen multiple other doctors, a
13 lot of different issues going on, they prescribe medicine to,
14 and as far as your knowledge of what medicine somebody is on
15 or isn't on, it's -- is it based on what they report to you
16 or is there like a statewide database that you can plug into?

17 A. There's a database on controlled substances.
18 There's certainly not a database on non-controlled, so -- so
19 he certainly could be prescribed non-controlled medications
20 that I wouldn't have access to.

21 Q. I got you. And do you typically, do you check the
22 database when you're treating the client to see what else is
23 prescribed? Is that how it works?

24 A. Yes. Okay. Well, for the -- if you're going to
25 prescribe a controlled substance, then you're supposed to

1 check the -- the database prior -- prior to that if it's
2 going to be prolonged.

3 Q. Okay. And that's done each time?

4 A. Well, it's -- it's not necessarily done each time.
5 It's -- it's mandated to be done if you're going to start
6 someone on long term pain medication.

7 Q. I got you. And you had mentioned -- and I'm not
8 even close to a doctor, so work with me here please.
9 Pulmonary fibrosis is the lung issue; is that correct?

10 A. Yes.

11 Q. And I think you said he had been diagnosed that
12 was in 2015?

13 A. 2015.

14 Q. And is that something that gets better as time
15 goes on or does it decline?

16 A. It -- it's generally a decline that can be slowed
17 down with some medication, but it's -- it's declined or
18 nonetheless.

19 Q. And it could be terminal in itself?

20 A. Absolutely.

21 Q. And you had mentioned was it lung replacement that
22 he was not a good candidate for lung replacement transplant?

23 A. Yeah, lung transplant.

24 Q. And -- and is that, sorry, lung transplant, is
25 that something that you'd discussed with him?

1 A. Not really. I mean I -- I think universally 65
2 and older is just not considered you know, a candidate, a
3 viable -- a viable candidate and -- and especially if there
4 are other medical issues. So I -- I certainly never ever had
5 a conversation with him about it. I don't see anything in
6 his ordinary notes where there was a conversation about it.

7 Q. You said that he had been also getting treated for
8 cardiac issues you're aware of. Were you treating him for
9 that or is that, would that be other doctor?

10 A. I -- the, I -- I referred him to cardiologist for
11 follow up of that problem several years before.

12 Q. Okay. And you had mentioned, I think you might
13 have mentioned something about cardiac replacement; is that
14 correct?

15 A. Valve replacement, aortic valve replacement had
16 been considered at one point, but the cardiologist's feeling
17 was that most of the symptoms of shortness of breath were
18 related to his lung disease and not through his valve
19 problem. So I -- I think there was a discussion but that the
20 ultimate decision was that it probably wouldn't benefit him
21 and he may -- he may not really need it at that point.

22 Q. And I'm guessing here age and all of the other
23 health conditions you have at the time goes in that decision
24 whether it's worth getting the surgery, whether it's just
25 leaving that alone and staying on.

1 A. Certainly.

2 Q. Trying to maintain quality of life, (inaudible)
3 related problems. Is that safe to say?

4 A. Yes.

5 Q. And -- and the cardiologist noted that he had
6 concerns that if they attempted to do the valve replacement,
7 if he would even be able to be weaned from the ventilator
8 because -- because of his lung disease. So it would've been
9 a high risk procedure.

10 Q. And the cardiac issues, I'm guessing their
11 terminal pain condition as well as this --

12 A. I mean, not necessarily the cardiac issue. You
13 know, it -- it -- it's, I -- I -- I've seen people go in a
14 long -- long time with this condition after they were judged
15 to really need it, but -- but weren't going to get it because
16 of age and other consideration.

17 Q. (Inaudible) one moment ago?

18 A. Yes.

19 MR. CHISHOLM: Thank you. Have no further questions?

20 THE COURT: Mr. Osborne.

21 REDIRECT EXAMINATION

22 BY MR. CHISHOLM:

23 Q. Just briefly. So I am not asking you to say what
24 Jim said. Okay? But I am asking you -- you were not there
25 during any of those falls, were you?

1 A. No.

2 Q. Okay. So you don't know he could have been pushed
3 in?

4 A. True.

5 MR. CHISHOLM: Objection, Your Honor. Speculation.

6 THE COURT: Sustained.

7 MR. OSBORNE: No further question.

8 THE COURT: Any recross?

9 MR. CHISHOLM: No, Your Honor.

10 THE COURT: All right. Doctor, you can step down and
11 is he excused from his or released from his subpoena?

12 MR. OSBORNE: Yes, Your Honor.

13 MR. CHISHOLM: Yes, Your Honor.

14 THE COURT: Thank you, doctor.

15 MR. OSBORNE: State calls Rose Bell.

16 ROSE BELL,

17 being first duly sworn, testifies as follows:

18 DIRECT EXAMINATION

19 BY MR. OSBORNE:

20 Q. Good morning, Ms. Bell. Just going to ask you a
21 couple questions. Okay? But I would like you to start for a
22 moment and just introduce yourself to the jury. Where are
23 you originally from?

24 A. I've always lived in St. George.

25 Q. All right. High school in St. George?

1 A. High School in St. George.

2 Q. And where did you go to college?

3 A. Columbia College in -- in Columbia, South
4 Carolina.

5 Q. All right. And what kind of work did you do?

6 A. I was a school teacher while I was in Columbia and
7 then a few years when I moved back to St. George, I worked as
8 an attendance supervisor, which involved follow-up when
9 children missed undue amounts of school.

10 Q. Okay. All right. Let's talk about Jim. When did
11 you first meet him?

12 A. I met him at camp meeting, the (inaudible) camp
13 meeting when he was a senior in high school and I was a
14 junior in high school.

15 Q. How long were you guys married?

16 A. We were married for 50, I think 53 years or maybe
17 55, I'm not sure. Lots of years.

18 Q. Ms. Rose, I -- I know this is really tough. Okay.
19 I'm just -- I'm not going to ask anything about Jason's
20 behavior whenever he got back home. Okay? I'm just going to
21 get right into New Year's Eve.

22 A. All right.

23 Q. And that would be the day before you found Jim
24 deceased. The day before, did you and Jim go run any errands
25 or -- or do anything that day?

1 A. Yes, we got ready for New Year's Day. We always
2 cooked Hoppin' John and black-eyed peas and all those good
3 things that you do for New Year's Day.

4 Q. And that day when you and Jim were together, did
5 he complain of any increased pain that day?

6 A. No -- no. Jim was pretty tough.

7 Q. Did he, well, the same pattern on the same lines
8 then. Did he ever scream of pain that day?

9 A. No.

10 Q. How about the day before that?

11 A. Not that I remember.

12 Q. How about the day before that?

13 A. He never screamed. He would complain or say, this
14 is not the best day I've ever had, or something like that.
15 But that was not Jim Bell.

16 Q. Okay. You all went out to dinner that night?

17 A. I don't remember going out to dinner. We may have
18 and we may not have.

19 Q. Okay. When it -- was it common there toward the
20 end that Jim would often sleep in the recliner?

21 A. Yes.

22 Q. Is that where his oxygen was?

23 A. Yes.

24 Q. And that night you slept in the upstairs bedroom?

25 A. Yes, I did.

1 Q. Were you awake or were you asleep when you got the
2 shot?

3 A. I think I was asleep.

4 Q. Okay. The next day when you woke up, can you just
5 tell the jury what happened leading up to the police being
6 called?

7 A. Well, when I went down I realized that Jim was not
8 breathing, so I called 911 and they responded immediately and
9 there was nothing. He was -- he was already deceased and
10 there was nothing they could do.

11 Q. Okay.

12 A. The paramedics.

13 Q. When you found Jim, you went upstairs and alerted
14 or at least knocked on Jason's door?

15 A. I don't remember. Probably.

16 Q. Okay. Had throughout the years, well, I guess in
17 the weeks I suppose, or maybe even years, had Jim ever told
18 you or shared with you that he was contemplating suicide?

19 A. No, he would -- he wouldn't contemplate suicide.

20 Q. Okay. Did you two have vacation plans?

21 A. Always. We always had vacation plans.

22 Q. Okay.

23 A. We traveled extensively.

24 Q. Has Jason since this incident ever told you what
25 happened?

1 A. No.

2 Q. Did he ever tell you that he had killed Jim?

3 A. No.

4 Q. About the suffering?

5 A. No.

6 Q. Nothing. You were in here yesterday when we
7 listened to that jail call where Jason called you?

8 A. Yes.

9 Q. And has Jason communicated with you since then?

10 A. I think he's probably tried to call us, but we
11 would not accept the charges for our phone call. We've had
12 no communication with him to my -- I think we refused to have
13 communication with him.

14 MR. OSBORNE: Thank you, Ms. Bell.

15 THE WITNESS: You're welcome.

16 THE COURT: Mr. Chisholm.

17 MR. CHISHOLM: I have no question, Your
18 Honor.

19 THE COURT: All right. Ms. Bell, you can step down.

20 THE WITNESS: Thank you.

21 THE COURT: Thank you. You all have her under
22 subpoena?

23 MS. FREDERICK: State calls Rachel Johnson.

24 RACHEL JOHNSON,

25 being first duly sworn, testifies as follows:

1 DIRECT EXAMINATION

2 BY MS. FREDERICK:

3 Q. Thank you for being here Ms. Johnson. You go by
4 Noelle; is that correct?

5 A. That is correct.

6 Q. Would you please state your full name for the
7 jury?

8 A. Rachel Noelle Johnson.

9 Q. Okay. And where are you employed?

10 A. I am employed at SLED, also long at South Carolina
11 Law Enforcement Division.

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

13 A. I've been there since June of 2022.

14 Q. And what is your current job?

15 A. I am a forensic technician in the evidence control
16 department.

17 Q. And how long have you been in that position?

18 A. Since June of 2022.

19 Q. Okay. As it relates to your position in the
20 evidence department of Forensic Tech, what do your duties
21 entail?

22 A. I'm responsible for the intake of evidence from
23 agencies across the state of South Carolina, and the
24 distribution of that evidence within the laboratory.

25 Q. And when you come into possession of evidence, do

1 you check it to ensure that it's been properly sealed and
2 package?

3 A. Yes, ma'am.

4 Q. Are you familiar with the lab number L222699?

5 A. Yes, ma'am.

6 Q. And on November 28th of '22, did you come into
7 possession of items in the document (inaudible)?

8 A. Let me check my (inaudible).

9 Q. Please.

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

11 MS. FREDERICK: Your Honor.

12 THE COURT: Yes, ma'am.

13 MS. FREDERICK: State would like to mark exhibits
14 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32.

15 (State's Exhibits 20 through 32 were marked for
16 identification.)

17 BY MS. FREDERICK:

18 Q. Can you identify those items?

19 A. Yes, ma'am. These are items from L22-20699. For
20 example, this is item one on this case. State's 31 would be
21 12 from L22-20699, and State's 30 is 11 from L22-20699.
22 State's 29 is item 10 from L22-20699. State's 28 is item
23 nine from L22-20699. State's 27 is item eight from
24 L22-20699. State's 26 is item seven from L22-20699. State's
25 24 is item six from L22-20699. State's 23 is item five from

1 L22-20699. State's 22 is item four from L22-20699. State's
2 21 is item three from L22-20699, and this one is item 15 from
3 20699.

4 Q. And where did these items come from?

5 A. I received both items from the DNA intake shelf 87
6 on November 28, 2022.

7 Q. And what did you do with the evidence once you
8 came into possession of it?

9 A. I placed the items into a secured evidence
10 transfer container.

11 Q. And when you came into possession of these items,
12 did they appear to be tampered with or damaged in any way?

13 A. No, ma'am.

14 Q. And if they had appeared to have been tampered
15 with or non-properly sealed, what would you have done?

16 A. I would've notified my supervisor, seal the
17 evidence of laboratory standard, and (inaudible) ended up
18 with the case file.

19 Q. Okay. And was there any documentation in this
20 case if any of these items being tampered with or in top of
21 the package?

22 A. No, ma'am.

23 Q. While in your possession, did you alter, tamper or
24 damage these items in any way?

25 A. No, ma'am.

1 Q. And it looks like you came into possession of
2 these items again on January 31, 2023; is that correct?

3 A. Yes, ma'am.

4 Q. Did anyone come into possession of the items in
5 between those times?

6 A. Yes, ma'am. Another evidence tag, Bailey Haynes
7 also touched those items in between my possession.

8 Q. Okay. And when you received them the second time,
9 what did you do with them?

10 A. I took them off the L38 shell and removed them
11 from a bulk container and placed them back onto the L38
12 shell.

13 Q. And did you have the occasion to come into
14 possession of other pieces of evidence in this case on
15 December 7th of 2022?

16 A. Yes, ma'am.

17 MS. FREDERICK: May I approach? State's showing you
18 variety of exhibits. 35, 34 and 25.

19 (State's Exhibits 35, 34 were marked for
20 identification.)

21 BY MS. FREDERICK:

22 Q. Can you identify these items?

23 A. Yes, ma'am. This is L22-20699, item 18, and this
24 will be container C from L22-20699.

25 Q. Okay. And where did you get the items from?

1 A. I received these items from the Firearms Intec
2 work show and then I placed them into a secure evidence
3 transfer container on December 7, 2022.

4 Q. And when you came into possession of these items,
5 did they appear to tampered with or damage in any way?

6 A. No.

7 Q. And while in your possession did you alter, tamper
8 or damage these items in any way?

9 A. No, ma'am.

10 Q. And if there was an indication that they had been
11 tampered with or not properly secured, what would you have
12 done?

13 A. I would've notified my supervisor, brought them up
14 to the laboratory policy and made a (inaudible) review text
15 file. And was there a (inaudible) review file?

16 A. No, ma'am.

17 MS. FREDERICK: Nothing further. Thank you.

18 THE COURT: Anything on cross-examination?

19 MR. CHISHOLM: No, Your Honor.

20 THE COURT: Thank you. All right Ms. Johnson, you can
21 step down. You've released her from subpoena.

22 MR. OSBORNE: Yes, Your Honor.

23 THE COURT: Thank you for being here ma'am.

24 MS. FREDERICK: State calls --

25 MR. OSBORNE: I beg for court's indulgence.

1 THE COURT: Yes, sir.

2 MS. FREDERICK: State calls Officer Olivia.

3 THE CLERK: Raise your right hand and state your full
4 name for the record.

5 MR. OLIVIA: Scott Anthony Olivia.

6 SCOTT ANTHONY OLIVIA,
7 being first duly sworn, testifies as follows:

8 DIRECT EXAMINATION

9 BY MS. FREDERICK:

10 Q. Good morning, Officer Olivia.

11 A. Good morning.

12 Q. Would you please say your full name for work?

13 A. Scott Anthony Oliva.

14 Q. And who are you employed?

15 A. St. George Police Department.

16 Q. How long have you been with the St. George Police
17 Department?

18 A. Three years.

19 Q. Do you have any prior law enforcement employment?

20 A. I do.

21 Q. And what would that mean?

22 A. I worked for Ville Police Department in Berkeley
23 County Sheriff's Office.

24 Q. What is your current position at the St. George
25 Police Department?

1 A. My responsibilities are evidence, custodian, and
2 crime scene investigation.

3 Q. What's your current title?

4 A. Patrol.

5 Q. And how long have you been the evidence custodian?

6 A. About a year now.

7 Q. As the evidence custodian, what are some of your
8 duties and responsibilities?

9 A. Logging evidence, securing it in our storage
10 facility after it's logged, when necessary, transporting it
11 to other agencies for testing and bringing it back and for
12 execution warrants.

13 Q. Does that include transporting evidence
14 containers?

15 A. Yes, ma'am.

16 Q. On October 21st of 2022, did you have the occasion
17 to meet with the defendant in this case?

18 A. I did.

19 Q. And what was the purpose of that meeting?

20 A. Purpose of that meeting was to retrieve his buccal
21 swabs.

22 Q. Okay. Can you tell us what buccal swabs are and
23 how you go out collecting them in person?

24 A. Yeah. basically q-tips and you take them in, you
25 kind of rub them on the inside of the cheeks and gums and

1 secure them for analysis.

2 Q. And the purpose would be to collecting it?

3 A. Yes ma'am.

4 Q. And did you collect the defendant's buccal swabs
5 on that day?

6 A. I did.

7 MS. FREDERICK: May I approach?

8 THE COURT: Yes, ma'am.

9 MS. FREDERICK: Showing you State's 32.

10 BY MS. FREDERICK:

11 Q. Can you tell me --

12 A. Yes, this is the buccal swab that I took from the
13 defendant on that day.

14 Q. And how do you know that's the buccal swab that
15 you collected that day?

16 A. Because this is my writing and I logged it in and
17 labeled it as such.

18 Q. And that would be a fair and accurate
19 representation of the buccal swab that you collected that
20 day?

21 A. Yes, it would.

22 MS. FREDERICK: State's motion to move to admission.

23 THE COURT: Any objection?

24 MR. CHISHOLM: No, Your Honor.

25 THE COURT: All right. State's 32 will be admitted

1 without objection.

2 (State's Exhibit 32 was admitted into evidence.)

3 BY MS. FREDERICK:

4 Q. What did you do with the buccal swab after you
5 collected it?

6 A. I secured it and I delivered it to SLED for
7 analysis.

8 Q. All right. And on November 3rd of 2022, did you
9 come into possession of some other evidence in this case?

10 A. I did.

11 Q. And for what purpose?

12 A. I was transporting the evidence from our facility
13 to SLED to test.

14 Q. And when you come into possession of evidence --
15 when you came into possession of evidence in this case, was
16 it properly sealed in the package?

17 A. It was.

18 MS. FREDERICK: May I approach?

19 THE COURT: Uh-huh.

20 BY MS. FREDERICK:

21 Q. I'm going to show you state's 20 through 35,
22 excluding 33, 21, 22, 23, 24, 25 --

23 A. Uh-huh.

24 Q. -- 26, 27, 28, 29, 30, 31, 34, and 35 for ID
25 purposes. Are these items you transported to SLED that day?

1 A. Yes, ma'am. They are.

2 Q. And how do you recognize them?

3 A. I recognize them because I actually signed off on
4 a lot of them labeled them, and they're all identifiable as
5 the items that I took to SLED that day.

6 Q. Okay. And while those items were in your
7 possession, did you alter, damage or tamper with any of them?

8 A. I did not.

9 Q. And who did you give the evidence to at court?

10 A. I gave it to the collections clerk there. I don't
11 recall the name of the clerk and I gave them to him.

12 Q. Do you have -- you don't have (inaudible).

13 MS. FREDERICK: May I approach?

14 THE COURT: Yes, ma'am.

15 BY MS. FREDERICK:

16 Q. Did you also transport item 32 as well?

17 A. I did.

18 Q. How do you know that that was also transported?

19 A. How do I know it was transported? Because I took
20 it there, I had to label it, and I put the date and time on
21 the envelope as well.

22 MS. FREDERICK: Okay. Nothing further.

23 THE COURT: Anything on cross-examination?

24 MR. CHISHOLM: No, Your Honor.

25 MR. OSBORNE: Your Honor, may we approach briefly?

1 THE COURT: Yes. Officer Olivia, step down. Can he be
2 released from subpoena?

3 MR. OSBORNE: Yes.

4 MR. CHISHOLM: Yes.

5 THE COURT: All right, ladies and gentlemen, we going
6 to take our morning break a little bit early. We have things
7 we need to take care of. So we will be at ease until let's
8 say 10:45. And again, do not discuss the case and we'll be
9 right back with you shortly. Okay.

10 (Jury exits courtroom.)

11 THE COURT: All right. Anything else?

12 MR. OSBORNE: No, Your Honor.

13 MR. CHISHOLM: No, Your Honor.

14 THE COURT: Okay. See you at 10:45.

15 (Recess.)

16 THE COURT: You got some witnesses available?

17 MR. OSBORNE: We got one.

18 THE COURT: Okay.

19 MR. OSBORNE: The other one's headed here.

20 THE COURT: Okay. Ready to bring in the jury. Bring
21 them in please ma'am.

22 (Jury enters courtroom.)

23 MR. OSBORNE: The state calls Chad Smith.

24 THE CLERK: Raise your right hand and state your name
25 for the record.

1 MR. SMITH: Chad Smith.

2 CHAD SMITH,

3 being first duly sworn, testifies as follows:

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MR. OSBORNE:

7 Q. Good morning Agent Smith.

8 A. Good morning.

9 Q. We're going to start by talking about your
10 background a little bit. Where are you currently employed?

11 A. I'm employed with the South Carolina Law
12 Enforcement Division, which is commonly known as SLED.
13 Specifically, I work in the firearms department at SLED'S
14 Forensic Services Laboratory in Columbia.

15 Q. All right. How long have you worked in the
16 firearms department?

17 A. This November will be 15 years.

18 Q. And your -- I guess your title would be a Firearms
19 examiner?

20 A. I'm a firearms examiner, which is a forensic
21 scientist position.

22 Q. All right. And what are your duties as a firearms
23 examiner?

24 A. My duties include the examination of firearms,
25 ammunition components such as bullets and cartridge cases. I

1 also help restore serial numbers on firearms that have had
2 their serial numbers obliterated. We also do gun
3 destructions. Agencies throughout the state bring us
4 firearms to be destroyed and we also do that.

5 Q. Okay. Have you received any specialized training
6 or education in the fields of firearms identification?

7 A. Yes, sir. When I came on board with SLED, I
8 entered the training program become Firearms Examiner. That
9 training program is an in-house style program. It is
10 supervised by court qualified examiners of the firearms
11 department. It involves extensive reading and studying.
12 There were multiple examinations and tests given during that
13 time. Also attended various classes and seminars. Toured
14 several firearm manufacturing facilities.

15 Later in my training I helped the other examiners
16 prepare their case work, and at the end of my training I
17 received a comprehensive multi-part examination, which I
18 successfully completed and then I began to receive my own
19 case work.

20 Q. All right. And I guess just generally speaking,
21 what do you do as a firearms examiner? Like what is -- is
22 the field of firearms identification mean?

23 A. Well the end goal is to try to identify a bullet
24 or a cartridge case back to a particular firearm. Sometimes
25 we don't have a firearm to compare, so if we just have

1 bullets which are the actual projectiles or if we have fire
2 cartridge cases, we can prepare those with each other to
3 potentially determine how many guns were involved. But if we
4 have a firearm we compare to, we can test fire that firearm
5 and then compare those test specimens with evidence cartridge
6 cases and bullets to see if it potentially were fired by that
7 particular firearm.

8 Q. All right. Have you ever been qualified as an
9 expert in the field of firearms identifications?

10 A. Yes, sir.

11 Q. In what courts?

12 A. General sessions court, South Carolina as well as
13 federal court, United States Federal Court in South Carolina
14 and the coroner's inquest here in South Carolina.

15 Q. So about how many times in total have you been
16 qualified as an expert?

17 A. 98 times.

18 Q. Have you ever failed to qualify as an expert?

19 A. No, sir.

20 MR. OSBORNE: Your Honor, at this time the state moves
21 to qualify agent Smith as an expert in the field of firearms
22 examination.

23 THE COURT: Any objection?

24 MR. CHISHOLM: No, Your Honor.

25 THE COURT: All right, ladies and gentlemen the rules I

1 mentioned to you yesterday about expert witnesses apply
2 equally here today. I'm going to find that agent Smith is
3 qualified in the area of forensic identification to give you
4 an expert opinion.

5 Like I mentioned yesterday, you can use that opinion
6 however you want, just like any other evidence, and give it
7 the weight and credibility you believe is appropriate. I
8 also find that this testimony is necessary to assist the jury
9 in resolving factual questions. Mr. -- or I'm sorry, agent
10 Smith is qualified in this particular area and the testimony
11 and scientific methodology is reliable. He is (crosstalk).

12 MR. OSBORNE: Thank you judge.

13 BY MR. OSBORNE:

14 Q. All right, agent. So let's start by just talking
15 about handguns in general. Can you explain to the jury the
16 difference between the operating mechanisms and -- and how a
17 semi-automatic fires versus a revolver?

18 A. Yes, sir. So two basic types of handguns that we
19 see in general are semi-automatic pistols and revolvers.
20 Semi-automatic pistols use what's called a magazine to hold
21 the cartridges. So if you imagine it, there's a little box
22 looking thing, it's called a box magazine. You put the
23 cartridges, which are the unfired rounds of ammunition into
24 the magazine. You have to load the magazine into the firearm
25 to be able to -- to fire it.

1 So you load the magazine in and usually the way it
2 works is it has a slide, which is a -- the top portion of the
3 pistol. It's under spring tension. So you pull the slide
4 back, release it, and then that loads around from the
5 magazine into the chamber, which is the rear portion of the
6 barrel. And that's -- and it's ready for firing.

7 So semi-automatic means for every pull of the trigger,
8 that firearm will fire one round. And during the operation
9 of that pistol, when it fires, the bullet goes down the
10 barrel. The cartridge case is then extracted, ejected out of
11 the firearm. The slide comes forward again because it's
12 under a spring tension and then another round is loaded into
13 the chamber and it's ready for firing. So pull the trigger
14 again. So that happens every time you pull the trigger.

15 Now a revolver is a different type of mechanism. It's
16 had -- it has what's called a cylinder, which is a round sort
17 of thing that has chambers, which are holes cut through it.
18 The cartridges are put in the chambers of the cylinder and
19 then you can either, depending on what type of revolver it is
20 or you're selling different types, you can cock the hammer
21 manually, and then pull the trigger and that fires the
22 chamber that's directly behind the barrel. And then you can
23 either cock the hammer again or you can pull the trigger
24 directly again depending on what type of revolver it is to
25 fire the -- the cartridge.

1 But what happens is that cylinder turns for every time
2 that the hammer is cocked. And so that's why it's called a
3 revolver because that cylinder revolves for every time we
4 fire it.

5 Q. Is it -- and I don't know the answer to this, do
6 certain revolvers certain cylinders to certain revolvers when
7 you pull the trigger, rotate different directions?

8 A. Yes, sir. Some, depending on the manufacturer,
9 they can either rotate clockwise or counterclockwise. It
10 just depends on -- on how they're designed.

11 Q. Okay. All right. I would like to show you, well
12 I'll ask you with regard to your lab number L22-20699. Did
13 you have the occasion to examine some evidence submitted by
14 the St. George Police Department?

15 A. Yes, sir.

16 Q. And did you come into possession of those items on
17 June the 16th of 2023?

18 A. Yes, sir.

19 Q. All right. I'm showing you stage 25, 34, 35. I'm
20 just going to go and show you 93 as well, although I know
21 it's not something you've got per se, but do you recognize
22 those items?

23 A. Yes, sir. State's Exhibit 34 and 35 are the two
24 fired projects, the two fired bullets that I received for
25 examination and comparison. The State's Exhibit 25 is the

1 revolver. It's a col brands detective special's the model,
2 the 38 special caliber revolver that I received for
3 examination and comparison. State's Exhibit 93 is a
4 photograph or two photographs. It's a printout of two
5 photographs that I took of items or my items 16 and 17
6 State's Exhibits 34 and 35. So I took a photograph of that
7 evidence.

8 MR. OSBORNE: All right. I believe 25, 34 and 35 have
9 already been marked and admitted and at this time the state
10 wouldseek to admit 93 into evidence.

11 MR. CHISHOLM: No objection, Your Honor.

12 THE COURT: All right. Admitted State's 93 without
13 objection.

14 (State's Exhibit 93 was admitted into evidence.)

15 BY MR. OSBORNE:

16 Q. And who was it that you required possession of
17 these items from?

18 A. It was a -- a forensic technician in our evidence
19 control department. Her name was Christine Dadabo (ph).

20 Q. Okay. And did you analyze these items?

21 A. Yes, sir.

22 Q. Did you test the functionality of the pistol to
23 colt resolver, make sure it was functioning?

24 A. Yes, sir.

25 Q. Okay. So explain to the jury, you said there were

1 many different kinds of revolvers. How does this revolver
2 operate?

3 A. So this is called a double action revolver. So it
4 has two modes of firing. You can either manually cock the
5 hammer with -- with your thumb, and then that -- what that
6 does is it has the hammer cock and then the -- the chamber
7 that of cylinder rotates. You'll have a -- a cartridge in a
8 chamber that's directly behind the barrel ready for firing.
9 And then, so all you have to do at that point is pull the
10 trigger which releases the hammer. So that's called single
11 action. That -- that's the first type of a double action.
12 It's got a single action type trigger because all you're
13 doing is all that triggers function is when you pull it, is
14 to release the hammer.

15 It also has what's called the double action type
16 trigger. Whereas if the hammer's at rest forward, all you
17 have to do is pull the trigger all the way to the rear, which
18 the hammer and then releases it all in one action as you pull
19 that trigger when the hammer's at rest. That's double
20 action. So it has, you can fire either by cocking it
21 manually, and then pull the trigger or just pull the trigger
22 all the way to the rear and then moves the hammer back, cocks
23 it and releases it.

24 Q. Okay. And the trigger pull on this gun, was it
25 pretty normal? Pretty -- pretty -- let's see what I think

1 of. Like average trigger?

2 A. Yes, sir. It would be what I expect for this type
3 of firearm.

4 Q. Okay. What's the capacity of the firearm?

5 A. It has -- it can hold six rounds. So it has six
6 chambers in that cylinder, it holds six cartridges.

7 Q. All right. If you were to only load two
8 cartridges into the cylinder and you were to pull the trigger
9 once, if you didn't line them up correctly, it could, I
10 suppose rotate the wrong direction and you might end up
11 firing into an empty cylinder, right?

12 A. That's correct. This particular firearm as
13 discussed earlier, the rotation of the cylinder, this pistol,
14 or excuse me, this revolver rotates clockwise, so to the
15 right. So depending on where you load those cartridges in
16 that cylinder, you would either have to again, have it lined
17 up to where when you close the cylinder and the gun ready for
18 firing, those cartridges would either have to be ready to be
19 fired or you'd have to site potentially cycle through some
20 empty chambers until you got to the -- the fired or the
21 cartridges that you're loaded into there without having the
22 -- the cylinder fully loaded, which should fire every time
23 you pull a trigger, just loading two cartridges into that
24 cylinder again, you -- you'll have some empty holes, empty
25 chambers there to where you may have to cycle through before

1 you get to the cartridges.

2 Q. Did you compare six -- your 16 and 17 to two
3 bullets to the revolver to see whether that revolver fired
4 those two bullets.

5 A. Yes, sir. So I test fired the revolver. And how
6 we do that is we have a water tank in our department, we --
7 and it fire into, and the water slows down those bullets and
8 doesn't add or take away any markings that -- that we would
9 look at to try to determine if they're fired by that
10 particular firearm. So a test firer retrieves those test
11 specimens. And then we use what's called a comparison
12 microscope.

13 So the markings that we're looking at on -- on bullets
14 and cartridge cases are microscopic marks. They're created
15 by the firearm during firing. So a comparison microscope is,
16 if you can imagine there's two microscopes that's connected
17 by optical bridge system. You look into the eye pieces and
18 you can compare two samples simultaneously. So I can look at
19 a cartridge case versus another cartridge case, or I can look
20 at a bullet versus another bullet.

21 I can't look at a bullet versus a cartridge case
22 because those are two -- two separate items. But I can look
23 at, again, items of the same type to try to match, you know,
24 the -- the markings that are on there that were created by
25 the firearm during firing to potentially see if they were

1 fired by the same firearm.

2 So I did this in this -- in this case. I tested a
3 firearm, compared those test bullets with each other,
4 compared the evidence bullets with each other. But
5 unfortunately I was able to determine that they were
6 inconclusive with that particular revolver. The evidence
7 bullets were -- were sort of damaged. They were made out of
8 solid lead material, so, which is a soft material. So they
9 were damaged and they didn't have enough markings on them for
10 me to -- to be able to -- to make identification or -- or to
11 negate that firearm as having fired that.

12 So those two bullets were inconclusive. They could
13 have been fired by the revolver that was submitted or they
14 could have been fired by another firearm that was with
15 similar characteristics.

16 Q. Okay. I'm showing you now State's 93. All right,
17 so these were the two bullets 16 and 17 that you looked at?

18 A. Yes, sir.

19 Q. And so what you're talking about, like it, you
20 know, it got damaged and whatnot. Is that sort of what we're
21 looking at here?

22 A. Yes, sir. They -- they looked relatively intact.
23 They may have been missing a -- a little bit of material, but
24 they were just, looks like they have been a braided whatever
25 they -- they hit. Again, they're made out of lead, which is

1 a soft material. So anything that this bullet's going to hit
2 that's harder than it -- it's going to, you know, potentially
3 damage it or -- or take away those markings that -- that I
4 would need.

5 Q. Do you run into that type of challenge in -- in
6 identifying positively identifying a projectile to a gun when
7 the projectile goes to the phone?

8 A. Yes, sir -- yes, sir.

9 Q. Well, what if anything can you tell us about these
10 two bullets?

11 A. So based on their characteristics, their
12 construction, their weights, their diameters, I can measure
13 the diameter of these bullets. I was able to determine that
14 they're most consistent with either being 38 special caliber
15 or 357 magnum caliber.

16 Q. And that colt was a 38 special result?

17 A. Yes, sir.

18 Q. All right. Prior or earlier we heard some
19 testimony that there were two spent shell casings recovered
20 from the colt 25 or 38, sorry. Are you able to take that
21 spent cartridge casing and marry that up and say that that
22 one of those two projectiles came from one of those spent
23 shell casing?

24 A. No, sir. As an examination or comparison, we
25 can't do, we can't again, match a specific projectile to a

1 specific cartridge case.

2 Q. Okay. But you can say those two projectiles were
3 most consistent with the 38 special revolver or a 357 mag?

4 A. Yes, sir.

5 MR. OSBORNE: All right, no further questions.

6 THE COURT: Any cross-examination.

7 CROSS-EXAMINATION

8 BY MR. CHISHOLM:

9 Q. So just clarification, 38 special and 357 magnum,
10 they are the projectiles are usually the same size; is that
11 correct?

12 A. Yes, sir. Yes. It -- it share the same diameter
13 around 357 and 358 or 300, excuse me, it'd be 0.357 inches or
14 0.358 inches. That's 357,000 of an inch or 358,000 of an
15 inch. So they both share the same diameter,

16 Q. But typically require (inaudible) on the revolver.
17 Is that accurate to say?

18 A. Correct. There are some semi-automatic pistols
19 that -- that can -- can fire those, but typically we see
20 those as -- those as revolver (inaudible).

21 Q. The solicitor was asking about, you know, kind of
22 how revolver works, but if you don't have a full, I guess,
23 chamber, I guess you would call it this loaded with six, you
24 know, cartridges in it that you could have to pull the
25 trigger a few times to get to the point where it actually

1 fires; is that right?

2 A. Right. Depending on where, because you have to
3 latch that cylinder into the -- the revolver for firing. So
4 depending on where in the rotation you latch that -- that
5 cylinder in, you may have empty chambers if you're not -- if
6 -- if that cylinder's not fully loaded.

7 Q. And probably using improper technology or
8 terminology here. But with the revolver, if you have the
9 gate, what if you have the one when the chamber is not in
10 inside the frame, what would you call that?

11 A. Well, depending on what type some, depending on
12 what type of revolver you have, there is, it's called a
13 loading gate. But this specific type of firearm, a double
14 action revolver this colt the -- the cylinder swings out it's
15 on a -- it's crane mechanism, so it swings out and then you
16 have to latch that whole mechanism back into the -- into the
17 firearm. So -- so the whole cylinder does swing out for you
18 to load it and unload it.

19 Q. Cylinder loading (inaudible), thank you. Yes.
20 Terminology is the wall. And so when you swing the cylinder
21 out, you can put cartridges in there, you can spin it if you
22 wanted to?

23 A. Correct.

24 Q. You can line it up before you close it.

25 A. Correct.

1 Q. And with the revolver, typically anyway, my
2 understanding is that you can, you have it pointed down, you
3 can kind of look in and see where the cartridges are
4 typically, is that fair to say?

5 A. Right. Because you're looking at the cylinder has
6 holes in it, there's chambers, so you'd be able to see where
7 to load -- load those cartridges.

8 Q. So essentially you can load a revolver with one
9 round, four rounds, whatever the case may be, and have it
10 basically prepared so that when the trigger is pulled, the
11 projector will come out. Is that fair to say?

12 A. Right. You -- you can manipulate that cylinder if
13 it's not, if you don't have that cylinder fully loaded, all
14 those chambers with -- with cartridges and say again, if you
15 put one or two or -- or less than -- than the -- the full
16 number of cartridges in there. You can, depending on how you
17 can manipulate that cylinder to where it could be lined up
18 and be ready to be fired fire those cartridges. But you --
19 but that takes some -- it could potentially take some effort
20 to do. Because like you were saying, that -- that cylinder
21 does spin. So it just depends on either you're going to put
22 thought into it, and have it lined up to where it's ready to
23 go. Or you may have to, if you go to fire it, you may have
24 to cycle through some empty chambers before you get to a
25 cartridge to fire.

1 Q. And your testing analysis can't say for example,
2 this revolver was fired if there was multiple trigger pulls
3 before it got to the cartridge or if it was on the first one.

4 A. Right. No sir, I can't determine that.

5 MR. CHISHOLM: Thanks. I have no further questions.

6 THE COURT: Anything on redirect?

7 MR. OSBORNE: None, Your Honor.

8 THE COURT: All right. Agent Smith, you can step down.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Can he be released from subpoena?

11 MR. OSBORNE: Yes. May we approach, Your Honor.

12 THE COURT: Yes, sir.

13 (Bench Conference.)

14 THE COURT: All right. Ladies and gentlemen, we are as
15 often happens in trials, we're having a little bit of a
16 scheduling issue with getting folks coordinated in here.
17 Nothing lawyers have done, nothing. Anybody is scheduled,
18 like we all have. And I don't -- trying to be mindful of
19 your time. I don't want you folks sitting out there wasting
20 it back there while you could be somewhere else.

21 So we think one may be here shortly, so we're going to
22 take a break for now. When we hear from her, if it's going
23 to be a while, we'll go ahead and I'll excuse you for an
24 early lunch and we'll get started back early at 2:30 or so.

25 But I apologize for that. Just we all got busy lives

1 and schedules and sometimes that happens. So I'll ask you
2 leave the jury room for now. Again, please don't discuss the
3 case. We'll be with you (inaudible).

4 (Jury exits courtroom.)

5 THE COURT: All right. You all want to just let me
6 know when you hear something from her?

7 MR. OSBORNE: Yes, sir.

8 (Recess.)

9 THE COURT: Okay, are you ready?

10 MR. OSBORNE: Yes, Your Honor.

11 THE COURT: Got all your witnesses?

12 MR. OSBORNE: Yes, Your Honor.

13 THE COURT: All right ma'am, bring them in.

14 (Jury enters court room.)

15 THE COURT: Ms. Osborne call you next witness.

16 MR. OSBORNE: State calls Dr. Virginia Richards.

17 DR. VIRGINIA RICHARDS,

18 being first duly sworn, testifies as follows:

19 DIRECT EXAMINATION

20 BY MR. OSBORNE:

21 Q. Good afternoon doctor.

22 A. Hello.

23 Q. Where are you employed?

24 A. Medical University of South Carolina.

25 Q. All right, in what capacity?

1 A. I'm a physician of the Department of Pathology in
2 the division of Forensics and Medical Autopsy.

3 Q. All right, and how long have you been there?

4 A. Three years.

5 Q. What's your educational background?

6 A. I got my bachelor's degree from the College of
7 William and Mary, my master's degree from the Virginia
8 Commonwealth University, my medical degree from Medical
9 University of South Carolina. I completed a four-year
10 pathology residency at NYU in New York City, and did a
11 forensic fellowship training at the office of the Chief
12 Medical Examiner of Virginia.

13 Q. All right. Do you possess any certifications?

14 A. Yes, through the American Board of Pathology, I'm
15 awarded in anatomic pathology, clinical pathology, and
16 forensic pathology.

17 Q. And in your position, do you have any continuing
18 educational requirements?

19 A. Yes. In order to maintain that certification I
20 have to complete 70 hours of continuing medical education
21 every two years.

22 Q. All right, and you kind of mentioned this, your
23 area of specialty or expertise is pathology. What is it --
24 what is the area of pathology consist of?

25 A. So pathology is the study of disease in living

1 patients or disease patients. Understanding and making
2 diagnoses. So for instance, if you have a biopsy while
3 you're alive, the subspecialty of forensics forensic
4 pathology is focused on examining a dead body looking at
5 natural disease as well as making determinations about
6 injuries and collecting evidence that may be relevant in
7 legal matters.

8 Q. And that's what you do?

9 A. Yes.

10 Q. Approximately how many autopsies have you
11 performed?

12 A. More than 2000.

13 Q. Have you ever been qualified as an expert in the
14 field of forensic pathology before?

15 A. Yes.

16 Q. How many times?

17 A. More than 30.

18 Q. In what courts?

19 A. In the states of Virginia, New York and South
20 Carolina.

21 Q. Have you ever failed to qualify as an expert?

22 A. No.

23 MR. OSBORNE: Your Honor, at this time the state offers
24 Dr. Richards as an expert in the field of forensic pathology.

25 THE COURT: Any objection?

1 MR. CHISHOLM: No, Your Honor.

2 THE COURT: All right. I find that this testimony is
3 necessary to assist the jury in resolving factual questions.
4 Dr. Richards is qualified in this area and the testimony and
5 scientific methodology is reliable.

6 Ladies and gentlemen, I have qualified Dr. Richards as
7 an expert. Same rules apply. You can accept her opinion
8 testimony unlike a lay witness. But she's got needs to give
9 it whatever weight you deem necessary. All right. You may
10 proceed.

11 BY MR. OSBORNE:

12 Q. All right, doctor, on January the 5th of 2021, did
13 you have the occasion to perform an autopsy on the victim in
14 this case James Bell?

15 A. Yes.

16 Q. And when you performed the autopsy on Mr. Bell,
17 did you take any notes or prepare sketches?

18 A. Yes.

19 Q. And would it help your explanation of his injuries
20 to reference those sketches for the jury?

21 A. Yes.

22 MR. OSBORNE: Your Honor, may I approach?

23 THE COURT: Yes.

24 MR. OSBORNE: Showing the State's 37 and 38. Can you
25 take a look at those and tell me if you recognize those.

1 (State's Exhibits 37 and 38 were admitted into
2 evidence.)

3 THE WITNESS: Yes.

4 BY MR. OSBORNE:

5 Q. What are they?

6 A. So 37 is the full body diagram we do in all
7 autopsies. And 38 is a head specific diagram. I choose to
8 use that when there are injuries or disease processes that
9 are on the head.

10 MR. OSBORNE: Okay. Your Honor, at this time state
11 seeks to have admit 37 and 38 into evidence.

12 THE COURT: Objection?

13 MR. CHISHOLM: No, Your Honor.

14 THE COURT: The State's 37 and 38 without objection.

15 (State's Exhibits 37 and 38 were admitted into
16 evidence.)

17 BY MR. OSBORNE:

18 Q. Okay, we'll start by showing you State's 37. I
19 guess as a preliminary, per preliminary matter, what is the
20 height and weight of Mr. Bell?

21 A. So his height was 189 pounds and I'm sorry, his
22 weight was 189 pounds and his height was 65 and a half
23 inches, which is five feet, five and a half inches.

24 Q. Okay. And can you explain, well I guess your
25 notations over here, can you tell me what you wrote over here

1 and what that means?

2 A. Okay. So in describing things that I saw on his
3 body on just the first look on his external surfaces, there
4 were what's called facial angiomas. These are kind of like
5 spiral veins.

6 Q. Is that common, I guess for older people?

7 A. Yeah it is.

8 Q. Okay. And then what do you have up here in the
9 (inaudible).

10 A. And then making a note to myself that there were
11 injuries on the head so that there is a head diagram to look
12 for in the file.

13 Q. Okay. Any other?

14 A. So that word is alopecia, which is just lots of
15 hair on the legs and then identification saying James Bells
16 on the ankle.

17 Q. Okay. So no other injuries of -- from the full
18 body.

19 A. Right.

20 Q. All right, moving on to 38. I guess I'll go down
21 to this bottom. Okay. What are we looking at here?

22 A. So there are two gunshot entrance wounds. I
23 labeled one A and the other B. Just for my purposes of
24 giving them straight. As you can see, the one that's labeled
25 A is closer to the front of his face and the one labeled B is

1 closer to his ear.

2 Q. And I know trajectories can get kind of funky, but
3 can you give us just a general idea of the path or the
4 trajectory of those bullets?

5 A. Yes, sir. So the one that's labeled A, and when I
6 say a side, I'm referring to Mr. Bell's side, not as you look
7 at him. So his left not when you would look at him, he
8 would've said it to his right side, but his left side. So it
9 entered the left side of his head crossed from left to right
10 and that one was slightly downward. And then the other one B
11 entered the left side of his head crossing left to right and
12 that one was slightly forward.

13 Q. Okay. And -- and you might've mentioned it's A
14 and B, you're not denoting sequence at all, you're just
15 labeled?

16 A. That's correct.

17 Q. Okay. During the autopsy were you able to recover
18 the two bullets?

19 A. Yes.

20 Q. These have already been marked and admitted I
21 believe, but I'm going to show you 34 and 35. Can you tell
22 what those are and tell me (inaudible)?

23 A. Yes.

24 Q. And what are they?

25 A. These are bullets that I recovered from the right

1 side of the brain.

2 Q. All right, so let's talk about some other terms
3 and whatnot in the field of pathology. What do we -- what is
4 meant by the term soot?

5 A. Okay, so soot is carbon gas that's emitted from a
6 gun on discharge of a projectile. It's kind of can be black
7 and smudgy. If it touches a surface, whether it's someone's
8 skin or clothing, it can be wiped away. It -- the
9 significance of it is that it does not travel very far from
10 the end of the gun. So if present it gives you a clue that
11 the gun, the end of the gun the muzzle was in very close
12 proximity to the surface, whether someone's skin or whatnot
13 when it was discharged.

14 Q. And did you see the presence of soot in gunshot
15 wound A or B?

16 A. I did not.

17 Q. All right. What do you -- what's meant by the
18 term stippling?

19 A. So stippling are pump tape abrasions. Abrasions
20 are little scrapes in the skin. These are caused by gunshot
21 powder particles that are also discharged from the muzzle of
22 the gun when the projectile is discharged. They travel a
23 little bit farther than the soot and if they do strike the
24 skin, that gives you an indication that the muzzle, the gun
25 was in what we call an intermediate range. And that's kind

1 of specific on the kind of weapon kind of ammunition. But in
2 general terms, we're talking about a couple inches to a few
3 feet from the body.

4 Q. Okay. So if you see soot, yeah, you can I guess
5 hypothesize that when the gun was shot it's closer to the
6 skin and if you don't see soot, well, might not mean
7 anything. But if you see stippling and you can back it away
8 a little bit from a foot shape, couple inches to a few feet?

9 A. Yes, sir.

10 Q. And did you see stippling on either one of the
11 wounds?

12 A. Yes.

13 Q. Which one?

14 A. Definitively a nice circular ring around wound
15 number A, which was the front most wound. The wound B had a
16 probable stippling pattern, but also the hair was overlying
17 that wound. So the absence of stippling there, you know,
18 around the backside of the wound doesn't indicate anything to
19 me.

20 Q. Because there's an intermediary in the hair?

21 A. Yes.

22 Q. All right. Did you have the occasion to review
23 Mr. Bell's toxicology report?

24 A. Yes.

25 Q. And can you tell us whether there was any presence

1 of --

2 MR. CHISHOLM: Your Honor, objection. May we approach?

3 (Bench Conference.)

4 BY MR. OSBORNE:

5 Q. During your career as a forensic pathologist, how
6 many times would you estimate that you have made a
7 determination in relation to manner and cause of death?

8 A. All the times.

9 Q. So would that be thousands, is it fair to say?

10 A. Yes.

11 Q. And in doing so, do you often or do you ever look
12 at the toxicology of a victim when making that determination?

13 A. Yes, it is routine on all forensic autopsy that we
14 draw specimens and send them for toxicology testing.

15 Q. And did you review the -- the results of those
16 testing to making your determination?

17 A. Yes.

18 Q. Is that a common practice amongst other forensic
19 pathologists to rely on toxicology reports when making that
20 determination findings on manner and cause of death?

21 A. I can't speak for other forensic pathologists.
22 It's a common practice. I can't say that they all do that.

23 Q. That they all knew that. But it is a common
24 practice?

25 A. It's a common practice.

1 Q. Okay. Did you have the occasion to review the
2 toxicology in this case of the victim James Bell?

3 A. Yes.

4 Q. And what can you tell the jury about any presence
5 of pain medications in his system?

6 MR. CHISHOLM: Your Honor, that is same as noted in my
7 previous objection.

8 THE COURT: Yes, it is noted and overruled.

9 THE WITNESS: There were no medications of any sort,
10 more or less the drugs present in his system at the time of
11 his death.

12 BY MR. OSBORNE:

13 Q. Zeroed out across the body?

14 A. Yes.

15 Q. All right. Dr. Richards, did you determine within
16 a reasonable degree of medical certainty the manner and cause
17 of death for Mr. Bell?

18 A. Yes.

19 Q. And what was that?

20 A. Gunshot wounds of the head.

21 Q. And -- and what was the manner then, specifically
22 speaking?

23 A. Homicide.

24 MR. OSBORNE: All right. No further questions.

25 THE COURT: Any cross-examination?

1 MR. CHISHOLM: No, Your Honor.

2 THE COURT: All right, Dr. Richards you may step down.

3 Can he be released from subpoena?

4 MR. OSBORNE: Yes, Your Honor. All right. State calls
5 agent Catherine Leisy.

6 THE CLERK: Raise your right hand and state your full
7 name for the record.

8 MS. LEISY: Catherine Leisy.

9 CATHERINE LEISY,
10 being first duly sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MR. OSBORNE:

13 Q. Good afternoon, agent Leisy.

14 A. Good afternoon.

15 Q. Where are you currently employed?

16 A. I work for the South Carolina Law Enforcement
17 Division. Commonly referred to as SLED.

18 Q. And how long have you been with the SLED?

19 A. 17 years.

20 Q. What is your position there?

21 A. I'm a forensic scientist assigned to the DNA case
22 work department.

23 Q. Okay. what -- what do you do as a forensic
24 scientist and DNA analyst?

25 A. My basic job responsibilities are to process

1 forensic cases, generate reports based on the conclusions and
2 results drawn, and then testify to those reports as
3 necessary. And essentially what we're trying to do is
4 develop a DNA profile from biological material that's been
5 left on an item of evidence or at a crime scene, compare it
6 to the DNA profile of a known individual and try and
7 determine whether or not that individual could be a
8 contributor to the evidentiary item.

9 I also have quality control responsibilities within the
10 laboratory. I assist in the training of (inaudible)
11 experience analysts and solicitors across the state. I'm
12 also the team leader responsible for triaging all homicide
13 and violent crimes that come into the laboratory to make sure
14 that they're signs and completed conflict.

15 Q. All right. What is your educational background?

16 A. I have a Bachelor of Science degree in genetic
17 engineering from Cedar Crest College in downtown
18 Pennsylvania. I also have approximately four years of
19 previous experience as a forensic DNA analyst at a private
20 testing facility that was known as Orchid Stonework. And
21 I've received in-house training by other court qualified
22 analysts at (inaudible) by, you know, all the different types
23 of tests and analyses I'm required to perform.

24 Q. Throughout your career, how many times have you
25 have you estimate that you have compared DNA samples or

1 analyze?

2 A. I know the last time I checked, I believe I had
3 issued more than 2000 reports in my career. As far as number
4 of individual samples, it would be in the multiples of
5 thousands. I couldn't tell you.

6 Q. Have you ever been qualified as an expert in the
7 field of DNA analysis before?

8 A. Yes, I have.

9 Q. How many times?

10 A. I would say approximately 100.

11 Q. Okay. And what courts?

12 A. I've been qualified and I've testified in general
13 sessions courts all across South Carolina. I've also
14 testified in family court in South Carolina. I've testified
15 in federal court in Florence as well as the United States
16 Army Court Martial in Port Jackson and Columbia. I've also
17 testified in jurisdictions in California, Massachusetts, New
18 Jersey, Florida, and the district of Ville.

19 MR. OSBORNE: All right, Your Honor, at this time the
20 state offers agent Leisy as an expert in dealing with DNA
21 analysis.

22 MR. CHISHOLM: No objection.

23 THE COURT: All right. I find that agent Leisy is --
24 the expert testimony she has prepared to present as necessary
25 to assist the jury in resolving a factual question. Agent

1 Leisy is qualified in the area of DNA analysis and the
2 testimony and methodology is reliable. Ladies, gentlemen,
3 same rules apply. She's an expert. And you give it whatever
4 weight you feel appropriate.

5 BY MR. OSBORNE:

6 Q. All right, agent Leisy let's start by just I guess
7 briefly explaining to the jury as much as possible in
8 layman's terms what we mean by DNA.

9 A. So, DNA stands for deoxyribonucleic acid. It's
10 the genetic material found in all of our body cells, with the
11 exception of our red blood cells. And DNA is packaged into
12 structures called chromosomes, which contain our genes. And
13 genes are simply strands of DNA that code for our physical
14 characteristics such as our height or our eye color.

15 We inherit one copy of DNA from our mother and one from
16 our father, and therefore have two copies of every gene. And
17 approximately 99.9% of an individual's DNA is identical to
18 everyone else's. And it's by testing the variation in that
19 remaining 0.1% that allows us to tell different people apart.

20 Q. How do you typically go about collecting DNA and
21 then developing the DNA profiles?

22 A. In terms of developing DNA profiles from items of
23 evidence, it depends on exactly what it is we're looking for.
24 Typically, we're testing for bodily fluids such as blood,
25 semen, or saliva. We can test items of clothing for

1 ownership. And what we mean by that is we'll test the inside
2 of the collar or the cuff, a part of the clothing that may
3 come in contact with the individual who has worn it.

4 We also test for touch DNA, which is DNA, that is
5 transferred through physical contact and essentially just the
6 transfer of skin cells through contact with an item. The
7 collection of that DNA is done with sterile instrumentation,
8 be it a cotton swab or taking a cutting of that particular
9 item.

10 Once the cutting is collected, we perform what's known
11 as the extraction procedure where we isolate or remove the
12 DNA from that particular item. We make copies of the
13 specific locations in DNA that we're interested in testing
14 and the results from those locations give us what we refer to
15 as the profile.

16 If we're able to develop a profile from an item of
17 evidence, we can then compare it to the profile from a known
18 standard to determine whether or not that person could be a
19 contributor.

20 Q. And so once we start talking about your results,
21 the known standard is -- is the known like we know whose DNA
22 this is, correct?

23 A. Correct.

24 Q. And you're comparing it to a unknown.

25 A. Essentially. Yes, sir.

1 Q. Okay. All right. So, and -- and this will
2 probably make more sense once we start getting into it, but I
3 guess as a preview, can you explain to the jury what you --
4 what you're going to mean when you talk about likelihood
5 ratios?

6 A. So if we are able to develop a DNA profile from an
7 item of evidence, when we do the comparison to the known
8 individual standard, we calculate what is called a likelihood
9 ratio. And a likelihood ratio is just a comparison between
10 two possible explanations for the DNA profile that was
11 developed and the likelihood ratio value or LR value that's
12 developed provides support for which of those two possible
13 explanations is more likely to develop the profile that we --
14 that we were able to receive.

15 Q. Okay. And again, I think it will make more sense
16 when we get into it. In this case, on May the 22nd of 2023,
17 did you come into possession of some items to be analyzed? I
18 think it's your item number 22-2699.

19 A. Yes, I did.

20 Q. And who did you receive those items from?

21 A. Those items were transferred to me by evidence
22 technician Christine Dadabo.

23 MR. OSBORNE: All right. May I approach, Your Honor?

24 THE COURT: Yes.

25 BY MR. OSBORNE:

1 Q. These have already been marked and then I believe
2 I'm showing you 20, 23, 24, 26 through 32. Can you take a
3 look at those and just tell me if you recognize any of those?
4 And we start with 20.

5 A. Okay. State's exhibit 20 I recognize as sled item
6 number 15. I recognize that based on the SLED item number
7 excuse me, the case number, the individual item number, as
8 well as the description of being the blood spot from James
9 Bell. I also recognize my initials on the seal along the
10 sides of the pouch.

11 Q. All right, 23. Yeah, 23 and 24.

12 A. I recognize items 23 and 24 as SLED items five and
13 six. State's Exhibit 23 was identified as swabs from the
14 interior of the back door state's. Exhibit 24 was identified
15 as SLED item six, which were swabbed from the exterior of the
16 back door.

17 Q. All right, and now 26 through 31.

18 A. SLED item, or excuse me, State's Exhibit 26
19 corresponds with SLED item number seven. And the description
20 of that particular item is swabs from the trigger, or excuse
21 me, from the handle of a colt 38. State's Exhibit 27
22 corresponds with SLED item number eight, which was identified
23 as swabs from the trigger of the colt 38. SLED item 28,
24 excuse me, State's Exhibit item 28 corresponds with SLED item
25 nine identified as swabs from the front of the cylinder of

1 the handgun. State's Exhibit 29 corresponds with SLED item
2 10 identified as swabs from the end of the barrel of the
3 handgun. State's Exhibit 30 corresponds with SLED item
4 number 11 identified as swabs from the spent shell casing,
5 and State's Exhibit 31 corresponds to SLED item 12, which was
6 identified as swabs from the spent shell casing.

7 Q. And the last one, 32.

8 A. SLED item number one corresponds to State's
9 Exhibit 32, which were buccal swabs from Jason Bell.

10 Q. All right, so I -- so is it fair to say that the
11 two known standards here that you're going to be comparing
12 are 15 blood spots from James Bell, your SLED 15, and then
13 SLED one, buccal swabs from the defendant?

14 A. That's correct.

15 Q. All right, let's start. Okay, let's start with
16 SLED item five, which is going to be States 23 of what you
17 identified as being swabbed from the back door interior.
18 We've heard testimony from Lieutenant Brian Berg that was a
19 sliding glass door. Did you analyze those swabs compared, or
20 analyze them and compare them to the two known standards in
21 this case?

22 A. Yes, I did.

23 Q. Okay. And what would -- what were your findings?

24 A. First, the first step in the interpretation
25 process is to identify how many individuals contributed to

1 the profile that was developed. And for SLED item five, the
2 swab from the interior of the back door, I determined that
3 the mixture originated from two individuals.

4 I then performed individual comparisons using both
5 Jason Bell and James Bell's profiles, and again, performed
6 what we refer to as the likelihood ratio calculation. So for
7 example, for James Bell, the first possible explanation or
8 the first hypothesis for this particular DNA profile is that
9 it is James Bell and an unidentified unrelated individual
10 contributing to this mixture. The second possible
11 explanation or hypothesis is that it is two unidentified
12 unrelated individuals contributing to the mixture.

13 So based on the calculation, it was determined that the
14 DNA profile is approximately 537 trillion times more likely
15 if James Bell and an unidentified unrelated individual
16 contributed to the mixture than if two unidentified unrelated
17 individuals contributing.

18 Q. So from the interior sliding glass door you
19 excluded the defendant, Jason Bells being a contributor?

20 A. That's correct. When I performed the calculation
21 for Jason Bell, he was excluded.

22 Q. All right, now SLED item six, which is State's 24,
23 those were squads from the back sliding glass door exterior.
24 What were the results of urinalysis of those items?

25 A. This particular DNA profile was also interpreted

1 as a mixture originating from two individuals. Again, I
2 compared the DNA profiles of both James Bell and Jason Bell
3 to this mixture. First individually, and was able to
4 determine that the DNA profile is approximately 7.1
5 quintillion times more likely if Jason Bell and an
6 unidentified unrelated individual contributed to the mixture
7 than if two unidentified unrelated individuals contributed.

8 And I was also able to determine that the DNA profile
9 is approximately 43 quadrillion times more likely if James
10 Bell and an unidentified unrelated individual contributed to
11 the mixture and if two unidentified unrelated individuals
12 contributed.

13 Q. And what about the hypothesis that it's Jason and
14 James contributing to the mixture compared to two unknown
15 people?

16 A. So anytime we develop multiple individuals who
17 have what we consider to be an inclusionary likelihood ratio
18 value, meaning that it provides more support that we could
19 see the profile if they contributed than if they didn't as we
20 have in this case, I then perform a second likelihood ratio
21 value comparison with the first possible explanation being
22 that it is both Jason and James Bell contributing to the
23 mixture. With the second possible explanation being that it
24 is two unidentified unrelated individuals contributing.

25 And I was able to determine that the DNA profile is

1 approximately three duo-decillion times more likely if Jason
2 Bell and James Bell contributed to the mixture than if two
3 unidentified unrelated individuals contributed.

4 Q. High number. Yeah.

5 A. Correct, because duo-decillion would be one with
6 39 zeros on it.

7 Q. Okay. All right, so now let's get it into the
8 pertinent evidence. SLED seven, States 26 identified as
9 swabs from the colt 38 from the handle of the colt 38. How
10 many individuals contributed to the mixture of that swab?

11 A. Based on my interpretation, the DNA profile
12 developed from the swabs from item seven, it's a mixture
13 originating from two people.

14 Q. Okay. And can you go through your life delivery
15 ratios on -- on those hypothesis?

16 A. For the comparison to Jason Bell, it was
17 determined that the DNA profile is approximately 747 trillion
18 times more likely if Jason Bell and an unidentified unrelated
19 individual contributed to the mixture than if two
20 unidentified unrelated individuals contributed. And in terms
21 of James Bell, it was determined that the DNA profile is
22 approximately 27,000 times more likely if James Bell and an
23 unidentified unrelated individual contributed than if two
24 unidentified unrelated individuals contributed.

25 Q. Okay. So what I heard there was the -- the

1 likelihood that Jason Bell contributed to that DNA mixture
2 taken from the revolver. The handle of the revolver was a
3 much higher number than the number for James Bell.

4 A. That's correct.

5 Q. Can -- can you draw in your opinion any
6 interpretation of that? Does -- does that mean that there
7 was more of a DNA sample contributed to that mixture from the
8 defendant as opposed to the victim? Or can I go there or
9 not?

10 A. Again, what it means is that the level of strength
11 of support is higher for Jason Bell than it is for James
12 because of the value. We do provide what we refer to as a
13 verbal equivalent to the values we develop. So anything that
14 is 1 million or greater in terms of LR value is very strong
15 support, and is the strongest level of support that we offer.
16 A value of 27,000 would be considered strong support. So
17 it's just a measure of how strong the support is that we
18 would see that profile if an individual contributed than if
19 they didn't.

20 Q. And what are the chances that Jason and James, the
21 defendant and the victim contributed to it?

22 A. Based on that likelihood ratio of comparison, it
23 was determined that the DNA profile is approximately 49
24 million times more likely if Jason Bell and James fell
25 contributed to the mixture, than if two unidentified

1 unrelated individuals contributed.

2 Q. Okay. All right. Now let's talk about SLED
3 eight, State's 27. Swabs from the trigger of the colt
4 revolver. How many people contributed, I think, well I
5 should say how many DNA mixtures contributed to this swab?

6 A. This profile was interpreted as a mixture
7 originating from two individuals.

8 Q. All right. And let's go through the same thing.
9 The likelihood that Jason and two unknowns and James and
10 Jason.

11 A. So the DNA profile is approximately 25 billion
12 times more likely if Jason Bell and an unidentified unrelated
13 individual contributed than if two unidentified unrelated
14 individuals contributed. And the DNA profile is
15 approximately 5,600 times more likely if James Bell and an
16 unidentified unrelated individual contributed compared to
17 unidentified unrelated individuals contributed.

18 Q. Once again, the likelihood of Jason contributed
19 was much higher than the likelihood of James.

20 A. Correct. The verbal equivalent for the support
21 for Jason Bell would be very strong, whereas the verbal
22 equivalent for James Bell would be moderate.

23 Q. So let me ask a question. Maybe some people they
24 (inaudible). If you have an object and one person touches
25 the object and then another person comes behind and touches

1 the same object, would you expect to find more of the DNA
2 from the second person to touch the object, or does it all
3 depend?

4 A. There are way too many factors that go into
5 determining how much DNA would be left. You can't
6 necessarily say the last person to touch the object would
7 leave the most DNA. It could be impacted by who touches the
8 object most often, how long they were in contact with it,
9 were they sweating, how tightly did they grab it?

10 And some individuals just shed cells much more readily
11 than others. So we can't determine the order in which
12 someone has touched it. It's just a -- a matter of whether
13 or not they're damage present when we test the item.

14 Q. All right. Well I -- I don't know that I asked
15 this. The likelihood that both of them touched it, the
16 trigger?

17 A. So the -- in terms of the trigger the DNA profile
18 is approximately 81 trillion times more likely if both Jason
19 and James Bell contributed to the mixture than if two
20 unidentified unrelated contributors contributed.

21 Q. Got you. And some factors again are that how
22 tightly you hold it.

23 A. Correct. How tightly, how long you're in contact,
24 how often you're in contact even things like when was the
25 last time you washed your hands or you used hand lotion.

1 There are a lot of different things that go into it.

2 Q. Sweating?

3 A. Absolutely.

4 Q. All right. Sled nine, State's 28. So now we're
5 talking about swabs from the front cylinder of the -- of the
6 colt 38. Before we get into your analysis right here, I just
7 going to ask you something real quick. Does heat affect the
8 ability to find DNA substances on -- on that?

9 A. It can. When subjected to extreme heat, DNA can
10 degrade or break down, and if the DNA is broken down, it can
11 make it more difficult or even impossible for us to develop a
12 DNA profile.

13 Q. Okay. All right. Can you tell us what your
14 likelihood and ratios are? Hypothesis ordinance?

15 A. In terms of the swabs from the front of the
16 cylinder of the colt 38, the DNA profile interpreted was a
17 mixture of two individuals. The DNA profile is approximately
18 40,000 times more likely if Jason Bell and an unidentified
19 unrelated individual contributed to the mixture than two
20 unidentified unrelated individuals contributed.

21 And the DNA profile is approximately 250 times more
22 likely if James Bell and an unidentified unrelated individual
23 contributed to the mixture than if two unidentified unrelated
24 individuals contributed. And I should also mention that for
25 this particular item only a partial DNA profile was

1 developed, meaning that there was not a result for all the
2 locations that we're testing, which could indicate either
3 degradation of that profile or just a very low level of DNA
4 being present.

5 Q. Okay. So we have a lot less DNA potentially being
6 present on the cylinder than we did with the trigger and the
7 (inaudible)?

8 A. Correct.

9 Q. And moving on to the barrel. SLED 10, State's 29.
10 Were you able to develop DNA, a DNA profile at all from the
11 barrel?

12 A. No. From the barrel, there was no what we refer
13 to as an STR DNA profile developed. All I was able to
14 develop were gender markers indicating the possible presence
15 of male DNA, but there was not enough of a profile there for
16 any type of comparison.

17 Q. Okay. And does that also hold true for two or
18 swabs from two spent shell casings SLED 11 and 12?

19 A. That's correct. For those items, I was not able
20 to develop any DNA information at all.

21 MR. OSBORNE: No further questions.

22 THE COURT: Mr. Chisholm, do you have any questions?

23 MR. CHISHOLM: No questions, Your Honor. Thank you.

24 THE COURT: Agent Leisy, you can step down.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Should she be released from the subpoena.

2 MR. OSBORNE: Yes, Your Honor.

3 MR. CHISHOLM: Yes, Your Honor.

4 MR. OSBORNE: All right, Your Honor. The state rest.

5 THE COURT: All right, ladies, gentlemen. I'm going to
6 excuse you to the jury room. I have some legal stuff that I
7 need to take care of with lawyers. Sit tight for a minute.
8 We may go ahead and adjourn for the day because we have a
9 good bit of legal work to do. And we can all just come back
10 fresh and start in the morning. But I'll let you know very
11 shortly.

12 (Jury exits courtroom.)

13 THE COURT: All right. I assume the defense has a
14 motion.

15 MR. CHISHOLM: Yes, Your Honor. It is time the defense
16 will make a motion for a directed verdict. The only evidence
17 (inaudible) state will to the state, our position will be
18 that the state has failed to present sufficient evidence as
19 to the element of malice with this murder charge. You of
20 course heard all the testimony in this case and we still felt
21 that the state failed to show malice as required for murder.

22 MR. OSBORNE: Your Honor, I think there's more than
23 enough malice shown here. The defendant's disregard for
24 human life. Not only did he shoot his father twice in the
25 head, but he left him there to die. Yeah, if that's not a

1 disregard for human life, I'm not sure what is.

2 THE COURT: All right. In viewing the evidence like
3 (inaudible) to the state, I will respectfully deny your
4 motion, and we will submit the matter to the jury. Anything
5 else, any other motion?

6 MR. CHISHOLM: Yes, Your Honor. I just want to place
7 on the record, when we had Dr. Virginia Richards, she
8 testified earlier, and I objected to the line of testimony
9 about she was basically about to read in the results of the
10 toxicology in the case. And I objected when we approached
11 and the Solicitor, I believe his position was that she could
12 rely on another expert report and read that in. And
13 obviously our position will be that get to various issues,
14 you know, chain confrontation, hearsay foundation. I mean,
15 there's lots of issues that come in and you have an expert
16 relying on another expert's report.

17 Obviously we can't cross cross-examine on methodology
18 or conclusions or anything like that. And you know, I think
19 it's important to note that this wasn't offered, you know, to
20 say that this wasn't an overdose. This was -- had simply
21 asked, you know, did you have any indication of overdose
22 death in this case? I think (inaudible).

23 But what they did is they listed that there was nothing
24 in the drug. The toxicology doesn't show any kind of
25 positive tests for anything. And I think it's pretty clear

1 that they're going to be offering that in closing as they
2 have throughout the case, to say that he wasn't on pain
3 medicine. That -- that was something that the defendant said
4 that wasn't true. It's been kind of an issue throughout the
5 trial. So I do believe that our testimony wasn't wrong.

6 THE COURT: Okay. I'll note your objection and you
7 did, just for the purpose of the record, you did make a
8 contemporaneous objection with regard to that. And it was
9 noted. I permitted him to lay a foundation. And based on
10 that I find that she was simply, she was relying on reports
11 of other experts, which experts are entitled to do. Anything
12 else?

13 MR. OSBORNE: And the rule was seven of three. I
14 didn't have that on the top of my head, but.

15 MR. CHISHOLM: No, Your Honor.

16 THE COURT: Okay. All right. I guess I need to have
17 the discussion with Mr. Bell. Madam Clerk, can you please
18 swear in Mr. Bell?

19 MR. CHISHOLM: Your Honor, can I just, one moment?

20 THE COURT: Yeah.

21 MR. CHISHOLM: Thank you, Your Honor.

22 THE COURT: All right.

23 THE CLERK: Mr. Bell, please raise your right hand and
24 state your full name for the record.

25 MR. BELL: Jason Barry Bell.

1 JASON BELL,

2 being first duly sworn, testifies as follows:

3 THE CLERK: Thank you.

4 THE COURT: All right, Mr. Bell, at this time I need to
5 explain some rights that you have. If you don't understand
6 anything, please let me know. If you want me to explain
7 anything in more detail, please let me know. Now, you have
8 two very good lawyers there with you, and I'm sure they've
9 been over this already, but I'm required to do this as well.

10 We've reached the stage of the trial where you may
11 present the defense. Now you have the right to claim the
12 protections given to you by the Fifth Amendment to the United
13 States Constitution, which states no person may be compelled
14 in any criminal case to testify against themselves. That
15 means you can't be required to testify in this case. You
16 have the right to testify on your own behalf. However, no
17 one can make you. This is a personal right that nobody can
18 waive except for you.

19 If you decide to testify, you'll be subject to the same
20 rules that govern other witnesses and you may be examined and
21 cross-examined on any relevant issue in the case. In
22 addition, if you have any prior criminal convictions
23 involving dishonesty or a false statement, or for a crime
24 punishable by more than one year, and this court determines
25 that the probative value of admitting the evidence outweighs

1 the prejudicial effect, the solicitor will be able to
2 introduce your record to attack your credibility.

3 If you decide to testify, this decision on your part
4 must be freely, voluntarily, and intelligently made with
5 knowledge of the protections given to you by the Fifth
6 Amendment, as well as the consequences of your decision to
7 testify.

8 If you decide not to testify, I will instruct the
9 jurors. They cannot give the fact that you do not testify
10 any consideration whatsoever, and that there is to be
11 absolutely no prejudice to you because you did not testify.
12 It's left entirely up to you whether or not you testify. You
13 may talk with your lawyers more, or any family members,
14 friends, or anyone else, but the final decision is left
15 entirely up to you. Do you understand what I -- what I have
16 explained to you?

17 MR. BELL: Yes, Your Honor.

18 THE COURT: Do you have any questions?

19 MR. BELL: No, Your Honor.

20 THE COURT: Have you discussed that with your lawyers
21 whether or not you should or should not testify?

22 MR. BELL: Yes, I have.

23 THE COURT: Do you need any more time to speak to them?

24 MR. BELL: No, sir.

25 THE COURT: Do you wish to testify?

1 MR. BELL: Based upon my confidence and Mr. Ash, Mr.
2 Chisholm, I do not.

3 THE COURT: Do not wish to testify. Okay. Very good.
4 All right. Are you all going to be putting up a -- is the
5 defense going to be putting up a case?

6 MR. CHISHOLM: No, Your Honor.

7 THE COURT: Okay. So I guess then we need to get a
8 full charge done for you all to review. I think I may go
9 ahead and dismiss the jury and we'll just argue charge in the
10 morning. Because by the time we go over that, give you all
11 the opportunity, you know, to review it. If we have any
12 revisions, you'd probably both need 30 minutes closing.
13 That'd, yeah, they'd be getting the case probably pushing
14 four o'clock. And I -- I don't know that I want give this
15 type of case to the jury at four o'clock. So we'll just
16 start in the morning.

17 All right. Can you let the jurors know that they are
18 excused for the day. Please be back here tomorrow morning.
19 Ready to go at 9:30. And --

20 THE BAILIFF: Want me to go to the (inaudible)?

21 THE COURT: Right. I got a note. It's -- it was at
22 eight o'clock I think. Okay. So she should be here -- just
23 tell her if it looks like she's running behind or please call
24 the clerk's office from there. We'll accommodate her.

25 THE BAILIFF: Yes, sir.

1 THE COURT: Thank you.

2 THE BAILIFF: You are welcome.

3 THE COURT: All right, before we go work on the charge,
4 what's the state's position on a manslaughter charge?

5 MR. OSBORNE: There -- there has been no evidence on
6 the record. The discipline was in the heat of passion even
7 by his own admission. He said that he thought about it, he
8 reflected on it. There's nothing that says that it was in
9 the heat of passion. Voluntary manslaughter doesn't fit by
10 any standard. Well I have a couple other charges I want to
11 ask, but for that.

12 THE COURT: Okay. All right. Mr. Chisholm.

13 MR. CHISHOLM: Thank you, Your Honor. It's kind of an
14 unusual thing, manslaughter because it's defined in Section
15 16-350. It, well, it says the person convicted of
16 manslaughter for the unlawful killing of another without
17 malice expressed or implied must be in prison not more than
18 30 years or less than two years. So that's what's in the
19 statute.

20 Of course, I understand there's the case law out there
21 that -- that expands on that, but our position would be that
22 that's exactly what we've got here today. Because otherwise
23 it leaves kind of a -- a hole in the wall where if you have
24 an unlawful felony without malice, that it an -- if voluntary
25 manslaughter doesn't fit, it just means it's not a crime at

1 all, which I don't think makes any sense.

2 Our position as to sudden heat passion would basically
3 be that, you know, obviously you've heard the testimony about
4 Jim Bell screaming in pain that that was a couple days prior.
5 But there's also statements from -- from Jason saying that
6 there was increasing pain as this went out.

7 So I don't think we can say that, you know, this is
8 from an incident days before. I think it was an ongoing
9 situation and became progressively worse. I think he -- he
10 said, you know, he did say that it was something he'd been
11 thinking and praying about, but I think that you know, it's a
12 pretty, it is a pretty close call. I think if we have a
13 closed call, you know, I -- I believe that I think the charge
14 is required, it would be the facts in the life most favorable
15 to the defendant. So I -- I think it would be an issue for
16 the jury to determine.

17 THE COURT: I -- and I did some research at lunch on it
18 and I read it was a, I guess a scholarly publication that
19 basically said the same thing you said that there is a hole.
20 And it came to the conclusion that manslaughter did not fit.
21 So let me go. I'll go look at what you cited in the statute
22 and what else did you all want in it.

23 MR. OSBORNE: And this may be in your scan of charges,
24 but voluntary intoxication?

25 THE COURT: In there already.

1 MR. OSBORNE: Approximate cause.

2 THE COURT: I don't know, like approximate cause of
3 like a --

4 MR. OSBORNE: Of death. There -- there's been some
5 testimony that has elicited that he had an enlarged heart.
6 We've heard evidence of pulmonary fibrosis. I haven't looked
7 at approximate call cause charge in a while, but I think that
8 addresses that with any intervening action that's unnatural.
9 The shooting here and if that's at all a approximate cause of
10 it then.

11 THE COURT: All right. Okay. You all just give me a
12 minute and I'll be back out with the draft of the charge and
13 we can look over it and have it all ready to go in the
14 morning. All right.

15 (Recess.)

16 THE COURT: All right. There is a charge in there on
17 voluntary intoxication. I did not include a charge on
18 voluntary manslaughter,

19 MR. OSBORNE: Your Honor.

20 THE COURT: Yes.

21 MR. OSBORNE: I'm sorry. (Inaudible).

22 THE COURT: Oh, sorry -- sorry. I knew that and I've
23 started talking anyway.

24 THE COURT: All right, we're back on the record.

25 (Inaudible) is back with us. I noted before he was here, I

1 included the approximate cause charge. I included a charge
2 on voluntary intoxication. I did not include a charge on
3 voluntary manslaughter. And I'll just give you all my
4 reasoning on the record.

5 I'm quoting State versus Smith here and says, when the
6 record contains no evidence to support it, a voluntary
7 manslaughter charge should not be given. It defines
8 voluntary manslaughter as an unlawful killing in a sudden
9 heat of passion upon sufficient legal provocation. Both heat
10 of passion and legal provocation must be present.
11 Provocation must be such as to render the mind of an ordinary
12 person incapable of cool reflection and produce an
13 uncontrollable impulse to do violence.

14 Had gone on to say if the time of the killing the
15 passions had cooled, or if sufficient reasonable time had
16 elapsed so that the passions of an ordinary, reasonable
17 person would've cooled the killing of be murder and not
18 manslaughter.

19 I -- I just don't see anything in the record that's --
20 and I understand your argument, Mr. Chisholm, about passion,
21 his emotion for his father and the pain and all that. But
22 his, the statement was that basically he came and got the gun
23 while they were at lunch I think. And this occurs sometime
24 in the middle of the night. I mean, I -- I don't think that
25 falls into that. If there was a sufficient legal

1 provocation, there was certainly a cooling off period.

2 The elements also in, you know, contain things such as
3 uncontrollable impulse, which that doesn't appear to be the
4 -- the at least was supported by the facts. There was a
5 significant period of time where he -- he admitted that he
6 thought about it and cried about it, prayed about it, all
7 that stuff. You know, they -- they're careful to use the
8 word sudden as with heat of passage. And I -- I don't, I
9 just don't find that the evidence in the record supports
10 that.

11 If you all going to, you want me to give you all 10,
12 you know, 10 or 15 minutes to look over it so we know it's
13 all good to go? And we'll get that other change made. And
14 if you want anything added, I'm -- I'm here so I'll be in
15 chambers. You all just let me know after you've had
16 opportunity over.

17 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
18 2:36 P.M.)

19

20

21

22

23

24

25

1

2

CERTIFICATE OF TRANSCRIBER

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 1 of Dorchester County, South Carolina, on the 9th Day of August, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 19, 2024

Natasha Barrientos

Transcriber

1 CONTINUATION OF PROCEEDINGS - AUGUST 10, 2023

2 THE BAILIFF: August 10, 2023. Dorchester County
3 Circuit Court. Equipment test. Witness microphone.
4 Plaintiff microphone one. Plaintiff microphone two.
5 Exhibit podium. Clerk microphone. That's microphone one.
6 Microphone two. Judge's microphone.

7 THE COURT: I understand we may have some members of
8 the media here who all -- and I've signed the form for media
9 members to take photographs. But I'm going to -- I'm not
10 going to ask, I'm going to require that they not take any
11 pictures or photographs, video of the jurors. They were
12 drafted to be here. They're not here voluntarily. And so
13 we're going to respect their privacy.

14 In the matters of law we need to take up foreclosing --

15 MR. CHISHOLM: Your Honor. I believe we rested
16 yesterday.

17 THE COURT: How about that this morning? So the
18 defense --

19 MR. CHISHOLM: Previous (inaudible).

20 THE COURT: -- formally rest and renewing your motion
21 at the closing of the state's case. All right. Respectfully
22 deny. Anything from the state.

23 MR. OSBORNE: Do you mind if I just check this one more
24 time? (Inaudible).

25 THE COURT: Sure, go ahead. Nothing worse than

1 fumbling in front of the jury.

2 MR. OSBORNE: Well, I do it every time.

3 THE COURT: The wonders of technology.

4 MR. OSBORNE: (Inaudible).

5 THE COURT: Good?

6 MR. OSBORNE: Yeah.

7 THE COURT: Am I ready for the jury?

8 MR. OSBORNE: Yes.

9 THE COURT: All right. Please ma'am, bring them in.

10 (Jury enters courtroom.)

11 THE COURT: Good morning ladies and gentlemen.

12 MULTIPLE SPEAKERS: Good morning.

13 THE COURT: Everybody had a good evening? Both -- all
14 the parties have now presented all the evidence you're going
15 to hear in the case. Now it's time for lawyers to make their
16 closing arguments. Much like the opening statements we
17 discussed at beginning of the trial, closing arguments are
18 not evidence in the case. These are arguments that help you
19 understand their statement positions, and apply the law if
20 I'm going to give it to you. You should disregard any
21 (inaudible), statement, or argument that is not supported by
22 the evidence presented during the trial or the law that I'm
23 going to explain to you.

24 May you turn your attention to the lawyers and they'll
25 give their closing arguments.

1 MR. OSBORNE: Judge, I'm not sure Mr. Chisholm actually
2 needs to rest on the record.

3 THE COURT: He -- he did. We -- we were on the record,
4 weren't we?

5 MR. OSBORNE: Oh, okay. Thank you, Your Honor. May I
6 please the court.

7 THE COURT: Yes, sir.

8 MR. OSBORNE: Good morning.

9 MULTIPLE SPEAKERS: Good morning.

10 MR. OSBORNE: When you're used to getting everything
11 you believe you can get away with anything. Even murder.
12 After shooting Jim twice in the head, this defendant put on a
13 performance. Jim committed suicide. And when that didn't
14 work, he rewrote the script. I shot him out of love, out of
15 mercy. Jim's death was no mercy killing. It was murder.
16 Before I get into the evidence in this case we've been
17 looking at this for a long time. You guys, we've got a lot
18 of information in front of you in a short period of time. So
19 I'm just going to highlight some of the points that I think
20 make it obvious that this is murder. But before I get into
21 that, I want to talk about something that is for you to
22 decide. And this is all yours. And you'll hear the judge
23 tell you credibility. It's all yours as jurors.
24 You can believe some, none or all of what a witness
25 tells you. And in this case, what the defendant told the

1 police. Look at what fits and look at what doesn't fit.
2 Corroboration. Corroborate what the defendant says, his
3 statement, with other witnesses. And if there's a
4 difference, ask yourself why.

5 And lastly, you have to use the most powerful skill
6 that you brought with you as jurors. That's your common
7 sense. You are not required to check your common sense at
8 the deliberation door. Bring it with you back then when you
9 deliberate. And that's especially important in this case.
10 Jim and Rose Bell, they were married for 50 plus years. They
11 were childhood sweethearts. No one will say otherwise. They
12 were the love of each other's life. By all accounts, Jim was
13 a successful prominent attorney, right here in St. George.
14 They lived here in retirement. They were enjoying each
15 other, enjoying retirement. That's a big home right down the
16 road from this courthouse right here in St. George. On
17 January the 1st, 2021 New Year's Eve, just before 8:00 a.m.,
18 Ms. Rose would walk downstairs and see this. The love of her
19 life, unresponsive blood everywhere. She then knocked on the
20 defendant's door for help.

21 And I just want to stop for a second and ask you to
22 think about this. You know now that this defendant murdered
23 his dad. But take yourself back to that initial knot when he
24 was inside of his bedroom. And imagine, just imagine what he
25 was about to prepare himself to do. He was about to get

1 ready and prepare himself for a performance of a lifetime.

2 And it started with his mind. Action.

3 After hearing that knock on the door, the defendant

4 hears the worst possible news any son can hear from his mom.

5 I think your dad is dead. He hurries downstairs. What could

6 have happened to dad? Checks his pulse. Barry's mom.

7 (Videos plays)

8 MS. ROSE: (Inaudible) South Carolina. It's on the

9 corner of Kelly driving west the street. But he's completely

10 unresponsive. I thought he was sleeping, but we don't see

11 any pulse. And he's cold."

12 (Video stops)

13 MR. OSBORNE: We don't see any pulse. Concerned son

14 checking the pulse of his dad. Gosh, mom, what could have

15 possibly happened to dad? And remember what Ms. Rose said

16 next. There was blood everywhere.

17 Ms. Rose has been anticipating that the disease of

18 pulmonary fibrosis would take the love of her life, but that

19 blood everywhere, that just didn't make any sense. He

20 claimed to have mercy for his dad, but he showed no mercy for

21 his mom. He shot Jim twice in the head and left him for

22 death in that recliner. And he let Ms. Rose find her the

23 love of her life. This was a no mercy killing.

24 But the defendant's performance didn't end with Ms.

25 Rose. This is just the opening act. Concerned son. What

1 happened to my dad? EMS paramedic lobo. She wants to get
2 some background information on Jim. He's got an idea. Well,
3 you know, he was complaining about pain and been complaining
4 about increased pain for the past couple days. And now he's
5 outside working on his mom.

6 Officer Weatherford told you Ms. Rose isn't talking.
7 She's confused. This isn't making any sense. Defendant's
8 the one doing all the talking, and he's got a lot to say.
9 For the next 15 minutes, he's telling Ms. Rose things like we
10 were supposed to be watching that Clemson football game
11 together today. Just don't understand it. We were going to
12 be eating Hoppin John's. This is all just so unexpected.
13 And then Captain Dunaway arrives. Start from beginning.

14 (Video plays)

15 MR. DUNAWAY: Start from beginning. Can you tell me
16 anything? What you did yesterday that you, your father did
17 or anything like that?

18 MR. JASON BELL: He goes, gets newspaper. We talked a
19 little bit about (inaudible). We talked about what watching
20 the football game. Watching football. (Inaudible). So she
21 invited me to eat lunch with him. And I had the plan. I
22 heard a bottle of champagne. (Inaudible). I don't
23 (inaudible). I love going out because I can't be a, I call
24 myself. I, so I pretty much stayed in all day. (Inaudible).

25 (Video stops)

1 MR. OSBORNE: Yesterday Jim went and got the newspaper.
2 We sat around and talked about watching football. The good
3 son. The defendant did drink a bottle of champagne before
4 noon. Pretty much stayed in the room all day. Pretty much.

5 (Video plays)

6 MR. DUNAWAY: Do you know if -- if your father had not
7 been suicidal or anything like that?

8 MR. JASON BELL: I don't.

9 MR. DUNAWAY : You don't?

10 MR. JASON BELL: I -- I do know he (inaudible).

11 MR. DUNAWAY : Uh-huh.

12 MR. JASON BELL: He was screaming about his in pain.
13 (Inaudible) -- was either or he was screaming because he was
14 -- he was loud. (Inaudible).

15 (Video stops)

16 MR. OSBORNE: Ramping up that performance a little bit
17 when he told EMS Lobo that his dad had increased pain that
18 didn't seem to do the trick. So now it's Jim was screaming
19 in pain and you got to give it to him. This is pretty slick.
20 You don't come right out and tell the police that this is a
21 suicide. Right? But if he happens to ask.

22 (Video plays)

23 MR. DUNAWAY: What do you think happened, Jason?

24 MR. JASON BELL: I didn't show what we did.

25 (Video stops)

1 MR. OSBORNE: Now let's stop this performance for just a
2 second here and imagine, if he had shot his dad out of mercy
3 just hours before and he truly did love him, the emotions
4 that you'd be seeing right now, you'd be seeing crying. You
5 don't see any of that. You don't see him uncomfortable.

6 The only crime that you see from him are those
7 alligator tears that he tried to display to Captain Dunaway
8 in that interview room. He's not crying right here because
9 crying wouldn't fit the performance of his confusion that
10 he's trying to sell.

11 Ask yourself, does this sound like someone who's
12 grieving, who's having a tough time for killing his dad? Or
13 does this sound like someone who's trying to cover their
14 tracks and get away with murder? You get to judge his
15 credibility. It's all yours. Look at what fits. Look at
16 what doesn't.

17 All right, let's get back to his performance. The
18 defendant said it's suicide, right? Small town agency,
19 they're going to buy it, right? Case closed.

20 (Video plays)

21 MR. DUNAWAY: Do you know if your dad's (inaudible) is
22 located?

23 MR. JASON BELL: He's right there. Definitely is.
24 (Inaudible).

25 (Video stops)

1 MR. OSBORNE: Stuttering and stammering. Whoops. That
2 he caught that and he's been thinking it through too. I bet
3 if he wishes in his drunken stupid that he could go back to
4 that night that he'd shot Jim on the right side of his head,
5 that would've made more sense than the left side.

6 But Captain Dunaway didn't arrest him right then. So
7 maybe he still got a shot. The show will go on. Dorchester
8 County Coroner Paul Brothers arrived on scene, took a closer
9 look at Jim and when he pulled back that blanket, a colt 38
10 special revolver fell to the ground.

11 Coroner Brothers asked detective Dunaway, who already
12 had his gloves on, take a look at it, open up the cylinder,
13 and when he did, he saw not one fired shell casing, but two.
14 That changes everything. And remember what Coroner Brothers
15 did then he said he went in there and spoke to Ms. Rose
16 trying to get an idea about what happened and who's trying to
17 butt in the Coroner Brothers. He already knows what's up.
18 He doesn't want to hear it.

19 And you know who else didn't want to hear it? Remember
20 Officer Weatherford when he said that 10 or so family members
21 came to the scene when they heard what happened to Jim. Who
22 were they comforting? Who were they talking to? They were
23 talking to Ms. Rose. They didn't have a word to say to him.
24 They knew how -- who -- they knew how Jim died. And so do
25 you.

1 About three hours after the police arrived on scene,
2 the defendant had some pretty bad news.

3 (Video plays)

4 MR. DUNAWAY: (Inaudible). I'm going ahead and tell
5 you I'm treating this as a homicide, so. (Inaudible), okay?

6 MR. JASON BELL: Yes, sir.

7 (Video stops)

8 MR. OSBORNE: You know, in criminal cases what you see
9 and what you hear is evidence. But what you don't hear and
10 what you don't see is also evidence too. You sure don't see
11 this defendant say, all right, wait a second, chief, you're
12 treating this like a homicide. Are you trying to say
13 somebody killed my dad? Who killed my dad? Why are you
14 saying that? He didn't say any of that.

15 You know what he says? Do I need to be in handcuffs?
16 He's an actor and a liar. I didn't say he was good at
17 either. And this defendant's hope that the St. George Police
18 Department would treat Jim's death as a suicide just fell
19 through. But he's not in handcuffs.

20 Did the St. George Police Department treat him with kid
21 love to some extent, I'm sure. That's a prominent family.
22 And this defendant in particular is used to getting his way.
23 You heard Larry Bower say it, he was spoiled rotten. So the
24 defendant probably thinks, well, hey, I still got a chance.
25 I just need to change that story a little bit. There's a

1 second act, just hold on.

2 But let's take a little intermission from the show.

3 While the defendant is at the station, the investigation

4 still goes on. Dorchester County Sheriff's Office Crime

5 Scene Lieutenant Brandon Berg arrived, processed the scene.

6 There were three people in the Bell's home at the start of

7 New Year's Eve night. Only two would make it to the morning.

8 There were no signs of forced entry, and no signs of this was

9 a burglary. At least two suspects. Ms. Rose and him.

10 The murder weapon. Colt 38 special revolver SLED

11 examiner, firearms examiner Chad Smith tested that gun and

12 found it to be in working order. It's a double action

13 revolver. You got to pull that trigger all the way. Well,

14 one way to do it, to pull the trigger all the way back.

15 Hammer comes back, cylinder moves, hammer falls forward.

16 Otherwise, cock it, pull it.

17 When the bullets pass through hard objects, Chad Smith

18 told you they get the form, they lose their shape. They're

19 hard to test then. It's not uncommon. These two bullets

20 were recovered from Jim's skull. Make no mistake. The well

21 the bullets are most consistent with a 357 or a 38 special

22 revolver. That's the 38 special revolver. That's the murder

23 weapon.

24 Lieutenant Berg then swabbed the barrel, cylinder,

25 handle, and trigger looking for contact DNA. Those swabs

1 along with the defendant's DNA, along with Jim's DNA, was
2 sent up to SLED. SLED agent Cathy Leisy -- Catherine Leisy
3 testified. She told you barrel no DNA, that's not uncommon.
4 Barrel's going to get hot when you shoot it, especially
5 twice. The cylinder, not a lot to work with there. Again,
6 not uncommon. You got the fire shell casings right there in
7 the cylinder. It gets hot, burned away.

8 Handle, different story. Two people contributed to
9 that DNA mixture. There is a very high probability, more
10 people that's on this planet multiple times. That Jim's DNA
11 is on that handle. But also his. The trigger. Same thing.
12 Only two people contributed to that DNA mixture. Very --
13 very high probability that it is both Jim and the defendant.
14 The presence of Jim's DNA on that gun is expected. He always
15 kept that gun by his side. And you now know why. The
16 presence of the defendant's DNA on that gun is also no
17 surprise. He's the last one to use it.

18 Now, I think that everyone would agree that this is not
19 who done it case. All right? We're not talking about some
20 third party or anything. There are no signs of forced entry.
21 No sign that it's a burglary. There's only two suspects,
22 Rose, and the defendant. Rose testified. She laughed when I
23 said, you know, she doesn't -- she's never used a gun before.

24 So now you're down to -- to him. His DNA's on the
25 trigger. His DNA's on the gun. You've heard enough evidence

1 right there to convict him. The defendant's not through.
2 Give him a chance now. He's got a second act still coming.
3 So back to his performance. He's at the station working on
4 Officer Garcia. Now, there's some sort of weird leg
5 stretches and stuff talking about tobacco and everything.
6 But then he's got something that's on his mind that he wanted
7 to get off -- get off his chest.

8 (Video plays)

9 Defendant later says, I mean I was helping him a lot.
10 I am not going to lie. I was helping him. If he needed it
11 and he asked it, I'd do it. Just think about that for a
12 second. The defendant just said almost 40 years ago, maybe
13 40 plus years ago. His dad said if he needed a gun to blow
14 his brains out to give it to him, and this 10-year-old Jason
15 made a promise he would. Act two is more absurd than act
16 one.

17 (Video plays)

18 MR. JASON BELL: (Inaudible). The only time I can
19 blame of her and actually helped me a little bit, stood up at
20 the chair at the table in the kitchen and set up. I was
21 sitting, I went and I got right and I hit the table, slept
22 the keys back. The only time she hit, she took that
23 actually. (Inaudible).

24 (Video stops)

25 MR. OSBORNE: Act two ended with what we call character

1 development. He's the loving son. He helped his dad
2 because, you know, it's just sad that no one else would. No
3 one visited his dad. No one cared for him. Heck, even Ms.
4 Bell wouldn't help him when he fell down. But Jason did.
5 And both acts Jim committed suicide. But there's still
6 something wrong.

7 Now it's 7:30 at night. He's still in the station.
8 That's Jason Bell. He should be in a hotel room or
9 something. That's what he said. They must know he shot you.
10 So now it's time for act three. It's time to change gears.
11 And for 22 minutes we got another show.

12 (Video plays)

13 MR. OSBORNE: That's exactly what he's trying to do.
14 He's trying to get away with murder. There is a lot to break
15 down in that little small clip. I'm just going to point out
16 a couple things. He drank a bottle of rum or champagne
17 before lunch. What difference does it make? The whole point
18 to that is he could have been drunk. He probably was drunk
19 as a skunk when he shot his dad. The judge is going to tell
20 you voluntary intoxication is no defense to murder. He is
21 guilty of murder.

22 Now, it's kind of hard to make out exactly what he says
23 there, but one thing that comes through loud and clear, he
24 couldn't do it himself. Later in the interview, the
25 defendant even says, but I have no doubt. If he could do it

1 himself. That's what he was going to do. But he couldn't do
2 it himself. And look, he paints this picture of a helpless
3 man, an individual, and looking at Jim deceased covered in
4 blood on that recliner with that oxygen tank sitting right
5 next to him. You might believe that a person could believe
6 that.

7 He can lie to investigators. They didn't know Jim.
8 But he can't get away with that with you. You know better.
9 You have heard from Robin Dukes, Jeanette Mizzell, Ms. Bell,
10 Dr. Watson, Rose Bell, Larry Bowers. And I'm quite certain
11 you all know that if we wanted to call more witnesses that
12 would say that Jim was loved, that Jim did not want to die,
13 that we could have. The only man that you're going to hear
14 say that Jim couldn't provide for himself and wanted to die
15 is the coward who shot him while he was asleep.

16 Jim wanted to live. He was planning a New Year's Eve
17 meal. He was planning to watch Clemson football. He was
18 planning two big -- two big vacations with his wife the
19 following year. He wanted to go fishing, he wanted to live.
20 People who are planning to live aren't planning suicide. Now
21 look, would Jim have eventually died as a result of the
22 disease pulmonary fibrosis? Yes.

23 You know, and that kind of, it made me think of
24 something. My mother-in-law says, she's 82 years old. My
25 mother-in-law jokes. And she'll say, you know, David, I

1 might be in the checkout lane, but I'm not ready to check
2 out. And that's really the way Jim felt about life. When
3 Jim's time on this earth was over, that was for God to
4 decide. Not that spoiled brut.

5 So let's just play that game. Okay, let's go there.
6 Let's say that Jim did want to die. Jim was a prominent
7 lawyer and a darn good one. He would've known that Jason
8 would've been charged with murder. He would've done all that
9 he could to make sure that everyone knew that this is not a
10 murder. He would've left a suicide note. He would've left a
11 suicide video. He would've left him on his will. The
12 defendant did none of that, or Jim did none of that. Because
13 he didn't want to die.

14 He -- he put two rounds in the gun, made sure to use
15 both of them. Now, he wasn't exactly clear on when he put
16 those bullets in the gun, but he sure was clear on when he
17 got the gun.

18 (Video plays)

19 MR. OSBORNE: And the chief later clarifies, that was
20 yesterday. And defendant said, yeah. So that would be New
21 Year's Eve. Remember when Jeanette Mizzell testified? She
22 said that she saw Jim that morning, New Year's Eve morning,
23 and, she saw that revolver. Jeanette was afraid. She was
24 afraid that the defendant would use that gun against Jim. So
25 she told him, take the bullets out of the gun Jim.

1 Well, it looks like Jim heeded her warning because when
2 defendant put the bullets, put those two bullets in that gun
3 was in. You don't take bullets out of a gun when you're
4 planning suicide. You take bullets out of the gun when
5 you're afraid someone's going to use it against you. Jim
6 didn't want to die and certainly didn't want to be murdered
7 by the defendant.

8 He waited for the fireworks. I didn't think anybody
9 would notice the bang, bang. If this was a planned suicide,
10 why hide it? Why mask it? Why mask the sound? He waited
11 for the fireworks to go off hoping that no one would hear him
12 commit the murder. Then the next morning he would make it
13 look like suicide that Jim killed himself. And that's
14 exactly what he did.

15 And then he cried and prayed, cried and prayed, cried
16 and prayed, cried and prayed. Took a shower. It wasn't just
17 to get rid of the evidence. And like I said, I wasn't trying
18 to make a thing about it. I wasn't trying to get away with
19 anything.

20 (Video plays)

21 MR. OSBORNE: Captain Dunaway even clarified later, "He
22 didn't ask you to do it that night?" "No." It was more like
23 when I was 10 years old. Nearly 40 years ago, if Jim ever
24 said that, which you know, he didn't. I mean, who asked your
25 10-year-old boy to kill you later in life? It's absurd.

1 Let's go ahead and say maybe that did happen. If this
2 defendant loved his dad so much like he claimed, do you think
3 that he might just double check with his dad before killing
4 him? No. He double checked that Jim was asleep. He started
5 screaming on Tuesday. Law enforcement responded on Friday.
6 Ms. Jeanette was there on Thursday. Jim wasn't screaming in
7 pain then. None of Jim's friends said that Jim ever screamed
8 in pain. Ms. Rose even said that Jim was a tough guy. He
9 didn't scream in pain. And maybe as tough as Jim was, this
10 defendant needed to make sure he was sleeping.

11 Bottom line is the only person that you will ever hear
12 say that Jim screamed in pain is the man who took his life.
13 He was out of pain meds. Got that one wrong. Dr. Watson
14 told you these are not pain medications. If Jim had been on
15 pain medications at the time of his death, the doctor
16 would've known it. Dr. Watson has even offered Jim pain
17 medications and he's declined. He was on pain for a couple
18 days, I mean for a short script. But after that he offered
19 it to him again. The year that he was killed, he turned it
20 down. If Jim was on pain medications, that toxicology
21 would've showed it. He was zeroed across the board.
22 Defendant just saw these medications and assumed that he must
23 have been on pain medications. It was wrong. He was wrong.
24 If this wasn't so horrific, this defendant's excuse for
25 killing his dad would be a comedy. This is no mercy killing.

1 It's a murder.

2 All right, I think the judge told you this. So this is
3 my closing argument and he's going to share in a minute. Mr.
4 Chisholm will then give his closing argument, and then the
5 judge is going to instruct you on the law. So this is going
6 to be the last time that I have an opportunity to speak to
7 you. So I just want to maybe address some points that I
8 think Mr. Chisholm might make, and maybe kind of think of
9 some things that you might have, some questions that you
10 might have to address this now.

11 Mr. Chisholm may argue if the defendant wanted to make
12 it look like a suicide, then why shoot him twice? Well, the
13 defendant himself said he doesn't handle his alcohol well.
14 Just because he made a mistake in the planning of the
15 execution of Jim doesn't mean it's not murder. We see
16 terribly planned murders all the time. They're still
17 murders.

18 Chain of custody. Look, I -- I know that's not fun
19 listening to all the chain of custody witnesses coming up
20 here. Evidence tampered altered damage in any way. But I
21 tell you this, if Ms. Frederick hadn't lined all that up and
22 done all that and make sure all the i's were dotted and t's
23 were crossed, Mr. Chisholm would've said something about it
24 and he should. That's his job. You got to do that.

25 Evidence. I want to talk to you about evidence.

1 Evidence is what comes out of that witness stand. That's
2 evidence. We have the burden of proof. It's a high burden,
3 but it's one that we welcome. It should be a high burden.
4 The only evidence that you've heard in this case came from
5 the state. If you hear me or Mr. Chisholm say anything that
6 you did not hear come out of that witness stand, that's not
7 evidence. That's conjecture. You can ignore conjecture.
8 Conjecture is not evidence.

9 Okay. Now I want to talk to you a second about the
10 law. I'm going to go over, and I'm sure Mr. Chisholm will as
11 well. We're going to talk about the law a little bit. But
12 it's the judge's job to instruct you on the law. If you hear
13 me or Mr. Chisholm say something that you don't hear, come
14 out of the judge's mouth, you ignore us. It -- it -- the
15 judge is going to instruct you on the law.

16 All right. The defendant has been charged with murder.
17 What's -- what does murder say? What's the elements? We
18 have to prove that he killed another person with malice of
19 forethought. That's it. Don't see anything about motive.
20 Killed another person with malice of forethought.

21 Malice of forethought. That's an old English term.
22 You're not going to hear anybody walking down the road saying
23 malice a forethought. I've never heard it outside of this
24 courtroom, but it basically works into breaks down into two
25 separate ideas.

1 The first is malice. And I would submit to you, this
2 is where the rubber meets the road in this case. Have -- is
3 not a who done it. Have we proven malice. So what is it?
4 Malice. It's a hatred. It's an ill will. It's a hostility
5 toward another person. It's an intentional doing with the
6 intent to inflict harm. Two shots. I can't say that's a
7 mistake. Without just cause or excuse, this is simply
8 another senseless murder. We see this all the time. It's
9 all too common. That's exactly what it is.

10 So how does a person show or display malice toward
11 another person? Well, you'll hear the judge tell you
12 something like there's two ways. Express or infer. Express
13 and infer does not mean like different kinds of malice. It
14 just merely means the manner in which one person can -- can
15 show malice to another individual. Ways that you know the
16 two exist.

17 So, you know, when you think about express malice, one
18 example, just some example might be that you have a witness
19 that said, you know, I was there. I saw the defendant say, I
20 want to murder you. I'm going to kill you. And then shot
21 him. Well, the defendant, there's only two people that were
22 there, Jim and the -- and the victim. And he sure made -- he
23 made sure that the victim's not going to tell you anything.

24 But there's another way. Malice may be inferred from
25 conduct showing a total disregard for human life -- malice

1 may be inferred from conduct showing a total disregard for
2 human life. And if you think about it, this kind of makes
3 sense. You know, if you've got a serial killer out there
4 that's killing people, detective might interview him and he
5 might say, I didn't even know these people. I don't have any
6 ill will toward him. He's -- he's still guilty of murder.
7 He's a disregard for human life. In fact, in this case, the
8 defendant did say he loved Jim. He had no malice toward Jim.
9 But that is not what the evidence has shown.

10 Let's look at what -- what you heard. About two to
11 three weeks before this defendant took Jim's life, he
12 assaulted him. That morning Ms. Mizzell came by, saw Jim.
13 He was fine. When she left to go pick up some cleaning
14 supplies from Pickleweed, he came back. 10 to 15 minutes
15 later, Jim's on the ground.

16 This defendant's standing over and smoking. Jeanette
17 says, "Oh my God, what happened?" Jim said, that son of a
18 knocked me down. Jeanette then went and got a friend who
19 lived around the corner. Defendant stands over his dad the
20 whole time smoking that cigarette. Friend comes and then
21 helps Jim back up.

22 The only behavior that is more filled with malice for
23 another individual than knocking your own dad down is letting
24 him sit there on the ground helplessly while standing there
25 smoking a cigarette. The only thing that I can think that's

1 worse than that is putting two bullets in his head. Just
2 because he said he loves his dad, that doesn't mean you have
3 to believe. That's for you to decide.

4 Larry Bowers, another of Jim's friends said that he saw
5 Jim pretty frequently three to four times a week. But he
6 stopped going over there after the defendant moved in because
7 he didn't like the way the defendant treated Jim. Sometime
8 around October after the defendant moved back in, Larry sees
9 his friend and he sees something that he has never seen Jim
10 in possession of before. And that's a revolver. That gun
11 Jim didn't need prior to the defendant moving in. But just a
12 few weeks after this defendant moved back home, he never let
13 his -- Jim never let it leave his side.

14 When Larry saw that gun, he said, give me the gun, Jim.
15 Why? Because Larry was afraid that the defendant would take
16 the gun and use it against you. Exactly what happened. But
17 what did Jim say? "No, Larry." And why? Because he was
18 afraid of Jason for him and Rose's sake.

19 Malice can be shown by direct evidence or inference.
20 You got them both. You'll hear the judge say something like,
21 it can be shown from direct evidence or inference from the
22 facts of the circumstances proven. And we've certainly
23 proven it. All the evidence in this case shows that this
24 defendant had nothing but malice toward Jim. How much more
25 of a disregard for human life can there be than shooting your

1 dad in the head and leaving them there to die for your mom to
2 find the next morning? That's not love. That's a callous
3 disregard for human life. That's malice, that's murder.
4 Second part's a little easier in this case. There it's a
5 forethought. There is no time requirement to form intent.
6 Malice of forethought does not require malice exists for any
7 particular time. Before the act is committed. The intent to
8 kill can be formed in an instant. But in this case, the
9 defendant tell you -- told you he had the intent to kill from
10 the moment that he waited for his parents to leave and went
11 downstairs and got that gun. After he got that gun, he
12 didn't pray. He plotted.

13 Now, do we know exactly what the straw was that broke
14 the camel's back that made this defendant murder his dad?
15 No. But we do know he had malice of forethought and that's
16 murder.

17 (Video plays)

18 MR. JASON BELL: I -- I got a I got a letter from --
19 from Frank about you you getting appointed to be personal
20 representative of the -- of the estate. And I honestly, I --
21 I don't -- I've never seen the -- the will before. I don't
22 know if I'm actually, I was left anything in or if I'm not in
23 it at all. So I did want know, hey, am I in it at all?

24 UNIDENTIFIED SPEAKER: No, it's (inaudible).

25 MR. JASON BELL: That's what I thought. That's why I

1 just didn't know part of the legal leave that (inaudible).

2 Okay.

3 (Video stops)

4 MR. OSBORNE: Me and him talked about it -- me and him
5 talked about it. Maybe the spoiled son who's used to getting
6 everything he asked for took it well, when Jim said, "Jason,
7 you're not in the will." Maybe. But listen to how the
8 defendant took it when Rose simply refused to send him money,
9 refused to send money to the man who took the life of the man
10 that he loved or that she loved.

11 (Video plays)

12 MR. JASON BELL: Three weeks -- three weeks. You've
13 been telling me, you know, I hate to (crosstalk). You told
14 me you're going to put money on it three weeks ago, and you
15 told me last week and -- and I'm just --

16 MS. BELL: I didn't told you anything because I'm not
17 giving you anything.

18 MR. JASON BELL: Well then I tell you right now, I
19 promise you this will be the last time I talk..

20 MR. JASON BELL: Goodbye.

21 (Video stops)

22 MR. OSBORNE: He never told Rose why he killed Jim. He
23 told Rose what he wanted, and he wanted 50 bucks or a hundred
24 bucks and when she refused, he did the only thing he could to
25 her, he cut her off. If Jim didn't give him this defendant

1 what he wanted, this defendant had the ability to do much,
2 much worse. And he did. It's not mercy, that's murder.
3 Talked to you about reasonable doubt real quick. Sometimes I
4 hear defense attorneys will come up here and they'll use, you
5 know, clever metaphors and analogies about reasonable doubt,
6 Jing blocks, (inaudible), and stuff and it is clever and it
7 is cute, but that's not the law. And you all took a note
8 that you were going to apply the law to the facts in this
9 case when rendering a verdict.

10 I will bet that you will hear Judge Taylor tell you
11 something like this. Proof beyond a reasonable doubt. It is
12 proof that leaves you firmly convinced of the defendant's
13 guilt. The law does not require proof that overcomes every
14 possible doubt. There are few things in life that we know to
15 an absolute certainty. It's not all doubt, it's simply
16 reasonable doubt.

17 The judge is going to tell you about a hesitation,
18 okay? It's the type of doubt that will cause someone to
19 hesitate to act. Sometimes I hear defense attorney say, if
20 you get back in that deliberation room and you don't
21 immediately say he is guilty, then that's hesitation. Oh,
22 that's called deliberation. You should deliberate, should
23 talk about it. But I would submit to you this, at the end of
24 the day, this truly is one of the easier decisions a jury
25 will ever have to make.

1 I'll end it with this. The final act in this horror is
2 for you to decide. The defendant's asking you to buy his
3 performance and let him get away with murder. I'm asking you
4 to see through his lies and for once in his life, hold him
5 accountable for his actions and find him guilty of murder.

6 THE COURT: Mr. Chisholm.

7 MR. CHISHOLM: Thank you, Your Honor. May I please the
8 court?

9 THE COURT: Yes, sir.

10 MR. CHISHOLM: Good morning.

11 MULTIPLE SPEAKERS: Good morning.

12 MR. CHISHOLM: I am decidedly lower tech than Mr.
13 Osborne. So we're not going to using slides or anything like
14 that in my presentation. And he's a skilled prosecutor.
15 That's pretty slick presentation that he had. It's very
16 thorough. It's got the clips, it's got everything timed out,
17 which is great. It's -- I noticed it took him, I think it
18 went about 45 minutes and it took probably about 40 minutes
19 to address the elephant in the room. The whole point of why
20 we're here, it took him about 40 minutes to acknowledge what
21 he refers to as the straw that broke the camel's back, is
22 what we refer to as it took him 40 minutes to address that
23 they have no proof of malice in this case at the time of the
24 shooting, which is the whole reason we're here.

25 All the other stuff is gray. But then to shove aside,

1 basically the only element that's in doubt in this case is a
2 little ridiculous. I'd like to start by talking about some
3 of the things that I or we are not arguing today. Red
4 herrings, things that, you know, just trying to clear up some
5 confusion. If you think I'm arguing a particular point or if
6 the solicitor's kind of implied that I am, I want to clear
7 some things up.

8 The cause of death in this case. Jim died from these
9 gunshots. I asked the man some questions to get his medical
10 history, things like that. Not to say that he died from
11 natural causes, he died from his gunshots. There's no doubt
12 about that. I'm asking about his health conditions because
13 it's important for you as the jury to know what the situation
14 was and because it ties into what Jason said about why he did
15 what he did. I'm not arguing there's a different cause of
16 death.

17 The solicitor said, you know, and there's going to be
18 an instructional, voluntary intoxication is not a defense.
19 In other words, you can't get drunk and go commit a crime and
20 say that doesn't count that I was drunk. We are not arguing
21 that the testimony that what you see in these videos, rather
22 what he says is he drank a bottle of champagne before lunch.
23 And then you know, during the questioning, you may remember
24 we had a little talk about what is it he actually said and he
25 clearly doesn't say he drank a bottle of rum, he drank a

1 bottle of champagne, and then the solicitor said, well, we're
2 not here for a, you know like an alcohol charge.

3 Which is true, but the reason they wanted to be saying
4 it's a bottle of rum's because they're saying that he drank a
5 bottle of rum, which is entirely different than drinking a
6 bottle of champagne before lunchtime and therefore at
7 midnight, 12 hours later he was still intoxicated, and that's
8 what happened here. But that's not even part of our
9 argument.

10 He says in his statement, which you can see any of
11 these again if you'd like to by the way, that he waited and
12 made sure that he was not drunk at the time of this incident.
13 Which jumps into the next part, which is a pretty big one and
14 you guys will probably pick up on this.

15 Jason shot his father. We are not arguing anything
16 otherwise. You may have noticed. It's highly unusual for
17 me, but for 90% of the witnesses in this case, I asked very
18 little or a lot of them, nothing at all because almost the
19 entirety of the trial, what you heard this week isn't in
20 dispute, hasn't been in dispute. He killed his father.
21 That's not what this is about. We're here for the other
22 part, the mouse, which I'll be touching on some more as we go
23 through.

24 You know, they've made I tried to take some notes.
25 It's a big performance. He's a spoiled child. What was it?

1 He's used to getting everything and you know, get away with
2 anything. The loving son, he said he was a perfect son and
3 care. I'm not going to sit here and tell you he's a perfect
4 son. I mean (inaudible) says this, but I'm not here to tell
5 you that he acted great, that he wasn't a jerk at times. He
6 might've done things that you know would be bad behavior, but
7 I would tell you that even if that's true, that alone does
8 not make him guilty of murder, which is what we're here for.

9 Jason didn't tell the truth, and that's what a lot of
10 his presentation was. Obviously you guys have the videos. I
11 don't think I really need to explain it to you. I don't
12 think he did either. You know that from watching the videos.

13 What he said initially is not what he said in the end and
14 why he said it exactly. And it seems like his ultimate plan
15 was one bullet for him, one for his father. That's obviously
16 not the way it went. I -- doesn't seem like he was probably
17 planning on being around the following day. Obviously what
18 he did is pretty probably changed his mental state I guess
19 you could say the following day. And you know, he said what
20 he said.

21 This obviously wasn't a well-planned event, and I know
22 what he said. I know he said it. He looks like he shot
23 himself in the head and everything they pointed out, but
24 obviously he's the one that did this. He knows you don't
25 shoot yourself twice in the head and you put the gun under

1 the blanket. So to say that he's actually trying to get away
2 with this, I mean that was never going to happen. I mean
3 that's pretty clear.

4 But we're here for what I told you in the very
5 beginning, we're here to see if they can prove this charge
6 beyond a reasonable doubt and not half of it, but all of, not
7 just that he killed his father but that he did so with malice
8 forethought. Solicitor said that's where the rubber hits the
9 road in this case. And I agree with you completely on that.

10 Let's talk about murder. And you guys probably know
11 what murder is. Generally, if you watch TV, if you watch the
12 news, if you watch movies, you know what murder is, and
13 there's lots of different ways you can get there, but I'll
14 give you two kind of examples that illustrate my point.

15 Let's say you have a guy that's out in the parking lot,
16 at a convenience store. He wants to rob somebody. He goes
17 up to rob him. When he approaches, the guy resists and he
18 shoots him (inaudible). That's a murder. Let's say a man
19 comes home from work, he's been arguing with his wife, he
20 finds a note on the table, it says and it's so long, honey,
21 I'm going to live with my boyfriend. He then gets his gun,
22 goes over to the boyfriend's house and shoots them up.
23 That's murder.

24 What those cases, and most all murder cases I can think
25 of have that we don't have in this case is the cause and

1 effect. Most of these cases you have some degree of motive
2 that spells out whether there was malice or not. For
3 example, the guy shot the man that he was going to rob in the
4 parking lot because he resisted and he wouldn't give him --
5 he wouldn't give him money.

6 He was acting out of ill will. Hatred, hostility. The
7 other man killed the wife and the boyfriend because she had
8 left and she moved in with her boyfriend. This was his
9 motivation for killing them. And this is what can show you
10 that there was malice at the time that he did it. There are
11 dots that you can connect and say cause effect essentially.

12 We don't have any of that in this case. The state is
13 asking you to connect dots that simply aren't there. You
14 know, they want to say Jim was, you know, scared of Jason,
15 but, and -- and you heard some testimony about that some of
16 the friends believe that to be the case. But you know, Mrs.
17 Bell took the stand. She didn't say that. In this house,
18 there were three people, Jim, Rose, and Jason. There was an
19 old country song, I think it was by Charlie Rich that said,
20 nobody knows what goes on behind closed doors, I think was
21 the gist of the song.

22 Mrs. Bell would be one of the three that wouldn't have.
23 She wasn't saying that, which I'll touch on again here in a
24 minute. And -- and obviously I understand why they want to
25 bring up some of the witnesses to make them a pain, to be a

1 jerk. And again, it's true, not great behavior, but it
2 doesn't get us -- get us to murder. The judge will charge
3 you on the law in this case. And part of that he's going to
4 charge you on malice and what that means. And I'll read out
5 and I think it might have been one of the slides, the most
6 important -- the most important part of the entire thing.
7 It's quoted, "Malice is hatred ill will or hostility towards
8 another person." That's what they can't show in this case.

9 And this has been a tough case. They always are.
10 Murder charges are always tough. This one's particularly
11 tragic, especially when you hear the back history of the
12 family. And I told you in the beginning this wasn't going to
13 be an easy case or a fun case to be sitting on this -- this
14 case is bad for everyone involved and there's no way around
15 that. But at the end of the day, again, this case isn't
16 about what Jason did, but why he did it. And why he did it?
17 It's what he eventually said in these videos.

18 You've heard these health conditions. You've heard Mr.
19 Bell, where he was at this station of life. 76 years old,
20 and from what I can recall, spinal compression issues, I
21 think it was, he had heart issues, he had lung issues, knees,
22 shoulders, lots of things going wrong. And I think it
23 sounded like he probably needed replacement for possibly the
24 lungs or the heart. But due to his age and his other health
25 conditions, he wasn't able to get that.

1 That's not to say that Jason should have done what he
2 did, but it is to say when Jason says his health was bad and
3 getting worse quickly, that seems to be obviously true. And
4 we've got a lot of questions about how much pain he was in
5 and what medicines he was on or what medicines he wasn't on.
6 But I think it -- it's kind of a stretch to suggest that
7 someone with all of these conditions going on wouldn't be
8 experiencing some kind of discomfort.

9 And again, this trial, it, it's not about what I would
10 do in this situation or what you would do, because I would
11 venture to say most of us wouldn't do what Jason did. The
12 trial is about whether they can prove him guilty of murder.
13 Murder has that one important element that we're going to
14 keep talking about, which is malice that they can't show that
15 they haven't shown, which they dodged until the very end of
16 their closing a minute ago.

17 But at the end of the day, if they show that he killed
18 his father but they cannot show malice, then they, you have
19 to return a verdict of not guilty on murder, because that's
20 the charge that they've gone forward with. And the state,
21 you know, they've gone to great lengths to try to show I
22 guess bad blood between Jim and Jason. And you know, some
23 of this stuff's uncomfortable to hear. You've got weird
24 family dynamics at play and pretty much every family, some
25 people fight, reconcile, you know, all that kind of stuff.

1 But what we do not have in this case was never presented is
2 that even in the week leading up to this, there were any
3 arguments that there were any threats, that there was
4 anything that happened that you could point to and say, huh,
5 this makes sense because of what happened here, he went and
6 killed his father.

7 There is actually, there's evidence there -- there was
8 no financial motivation for Jason to do this. He knew he
9 wasn't in the will. This isn't a case where well maybe if I
10 can do this and get away with it, I'm going to get some
11 money. He knew there was no money coming.

12 So in the absence of any evidence showing that there's
13 a cause that leads to this, something that shows okay,
14 because this happened, he acted with malice and we know that.
15 And with the absence of any financial motivation, the only
16 thing left that makes any sense is what he actually said is
17 that he didn't act out of malice but he acted out of what I
18 would say is probably a misguided sense of mercy.

19 Now that's not me saying that that's his call he should
20 be able to make or that anyone else should do that, but
21 that's what is in his mind at the time of the shooting. Not
22 malice. And the state called a couple witnesses, they called
23 Ms. Mizzell, and Mr. Bowers. The solicitor talked about that
24 briefly. And I mean look, let me just preface this by saying
25 look, I get this, these are lifelong friends of the Bells.

1 Some of them 20 years, 30, 50 years it seems like. I don't
2 begrudge them for coming up here and saying what they're
3 saying.

4 Jim was a prominent attorney in town, I get that. And
5 what they believe their impressions were of the situation,
6 you know, they have the right to come out and say it. But I
7 will point out that Jim Bell was a longtime attorney, an
8 excellent attorney. Practiced right here for a very long
9 time. If there was an issue about Jason being in the house
10 and him being scared of him, beyond simply saying move out,
11 he knew what the remedies were. He could have him evicted,
12 he would know how to do that for certain. He could call the
13 law if there's actual concerns about your safety, something's
14 going on.

15 And we have no evidence that in the time leading up to
16 this that either one of those was done, which I think is
17 pretty telling in itself. One of the witnesses, Mr. Bowers
18 said that Jim only had this gun recently by -- by his side in
19 the recliner. But -- and you can listen to the testimony
20 again if you need to, but I believe Ms. Mizzell said he
21 always had the gun by the chair. And they bring up the stuff
22 in the garage about, you know, he knocked me down and we
23 don't really have much, you know, testimony beyond that. But
24 the testimony we do have is what the doctor said is that he
25 had a recurring issue of falling down. So I don't know what

1 all that entails.

2 The state brought out another incident in July and it
3 seemed like they're kind of suggesting that Jason might have
4 been responsible for that, but you know, I think you've heard
5 that he wasn't even there in July. I think he got there in
6 October.

7 There's one witness that the state could have used to
8 fill these gaps that I'm talking about. To help you get
9 from, okay, here's what happened, here's why he did what he
10 did. All these gaps are asking to fill, there's one witness
11 that could do that, but it didn't happen. And that is Mrs.
12 Bell.

13 Let me just say this, I do not mean any of this to
14 speak poorly of her. God bless her, nobody should have to go
15 through what she's going through and what her family's going
16 through. But I have to point out that all of this stuff
17 you're hearing about -- about how scared the Jim was of
18 Jason, about that's why he had the gun. He was afraid Jason
19 was going to kill him. You didn't hear that from Mrs. Bell
20 and 911 call, that's not what she's telling Detective Dunaway
21 on the scene, and it's also not what she's saying on the
22 witness stand.

23 If there were any threats or issues between the two,
24 anything that would lead to something like this, the other
25 person in the house, Mrs. Bell would be the one that would

1 know about it. But you didn't hear anything about that. If
2 there was more information about the whole thing in the
3 garage and what happened there, I would imagine Ms. Bell
4 would know about it. We didn't hear anything else.

5 And her testimony I would point out it wasn't about,
6 she didn't say that he was without pain. She just said as,
7 let's see, he's a pretty tough guy. I think when she asked
8 about him complaining about pain, I'm assuming probably
9 around other people especially that wasn't Jim. But they
10 want to say that what is it? This is all a performance and I
11 guess kind of Shakespearean, and acts and all this kind of
12 stuff and you know, these are all lies. Jason's making all
13 this up that he's a good son, that he was helping his father
14 and getting him Christmas presents and all this kind of, all
15 this stuff they're saying these are all just part of his
16 lies.

17 One person could easily refute all of that and that
18 would be Mrs. Bell. And she didn't and she hasn't. Going
19 back to the 911 call. She doesn't say this is weird, my
20 husband seems to be dead and he's bleeding and I think I know
21 what happened. She says, this is weird. When Detective
22 Dunaway comes out and says, you know, I think he testified
23 that he asked Jason as well as Rose, kind of the same
24 questions, you know, do you know what happened here? Did you
25 hear any noises? Does he have any enemies? Anything

1 unusual? I mean basic investigation. She's not saying, well
2 you might want to check on my son because my husband was
3 keeping a gun by his side in case he stalked him at night.
4 She doesn't say anything along those lines at any point, and
5 she didn't say anything along those lines here in trial
6 either.

7 This is a weird case in that the only thing that's been
8 offered as to his motivation at the time of the shooting,
9 which is what we have to look at, is what's been offered by
10 Jason, which is that he was not acting malice that you know,
11 it was because of the state of his fault.

12 The state has the burden of proving each element of
13 this crime, including -- including malice beyond a reasonable
14 doubt. So how do they prove malice beyond a reasonable
15 doubt? It means the state has to provide sufficient evidence
16 that convinces you that Jason's actions were done solely out
17 of malice. Not what he said that he was acting out of a
18 misguided sense of mercy or anything else, but it was ill
19 will hatred and hostility period. And you have to be so
20 convinced that he acted out of malice that you don't have a
21 single reasonable doubt about.

22 If you think of guilt on the spectrum, this is one of
23 the acute metaphors or examples I guess you want to call it.
24 Beyond a proof, beyond a reasonable doubt, what it means,
25 it's easier to explain sometimes what it doesn't mean.

1 Obviously if you think of absolute innocence down here on
2 this end of the bar and absolute guilt on the other, for
3 example, if after hearing all the testimony in this case you
4 agreed with everything I said, that there is no proof of
5 malice whatsoever at the time of this shooting, which is what
6 we're looking at not three weeks before or five years before,
7 but at the time of the shooting there's no proof of malice.

8 If you agree with everything I've said, obviously
9 you're going to be down here, absolutely not guilty that they
10 haven't proven their case. It gets more complicated
11 sometimes when you get to the middle of the bar where you're
12 50/50 where you're saying, well yeah, they -- they haven't
13 shown anything that shows why he would kill his father other
14 than what he said.

15 They had some evidence that he was mean in the past.
16 Sure. And that's not a good look for him no doubt. But they
17 can't show that he acted with malice. They just go at it.
18 If you're somewhere in the middle, you have to return a
19 verdict of not guilty. That means they hadn't proven their
20 case.

21 Even if you find yourself down there almost on the end
22 where you're saying I agree with almost everything the
23 prosecutor said that he was mean and he shouldn't have been
24 doing the things he was doing. He shouldn't have been
25 smoking around his father or standing over him and everything

1 that they just presented. If you agree with everything he
2 said, but at the end of the day just anything that even
3 causes you to hesitate back and you say, but, I don't
4 understand how that leads to, okay, I'm going to shoot.
5 They never presented that. They never filled those gaps.

6 If that's where you find yourself agreeing with almost
7 everything that they said you'd have to return a verdict of
8 not guilty. This has been a tough case. I don't mind
9 telling you that Jason has been in jail for over two and a
10 half years waiting for this -- this thing. And I fully
11 recognize that I'm asking you to do a difficult thing here
12 today. This is not a comfortable thing that I'm asking you
13 to do. What I'm asking you to do is to render a verdict not
14 based on a motion, not based on sympathy for either side, but
15 render a verdict based on the oath that you took when you
16 were sworn in as jurors and render a verdict based on the
17 law, which says in order to convict of murder you have to
18 have malice, and if you don't you have to return a verdict of
19 not guilty.

20 I will finish by answering one question some of you may
21 have especially if you haven't been in courts before. If you
22 don't keep up with legal proceedings, some people say, well
23 now shooting, if you've got a case where somebody admitted to
24 killing somebody, then isn't that automatically murder? No,
25 it's not.

1 Depending on the facts and circumstances could be
2 another charge, but for murder you have to have malice of
3 forethought and if you don't you have to return a verdict not
4 guilty, which is what I'd ask today. Thank you.

5 THE COURT: Before we move forward, ladies and
6 gentlemen of the jury, you heard the evidence and the
7 argument in court. Now I'm going to explain the law that
8 you're going to apply in this case. Sometime it feels like
9 I'm reading things to you. It is because I am. What I'm
10 going to tell you now is very important. (Inaudible) the law
11 that you're going to apply to the evidence you received from
12 the witness. As I told you up front you I have specific
13 duty to perform. As a trial judge, it's my responsibility
14 (inaudible) this trial. I also have the duty to rule on the
15 admissibility of the evidence that the parties ready to call.
16 You consider only the evidence before you. If there was any
17 evidence that were stricken from the record during this
18 trial, you must disregard that testimony. You'll consider
19 only the testimony presented from this witness stand and any
20 exhibits that have been made of part of the record in this
21 case as well as any stipulations the counsel may have made.

22 I have the duty to charge -- to charge the law
23 applicable in this case. As a presiding judge, I'm the sole
24 judge of the law and it's your duty as your jurors to accept
25 and apply the law and I will now state it to you. If you

1 already have any idea as to what the law is or what law ought
2 to be, you'll have to agree with what I now tell you.

3 The law is you must abandon your idea because you are
4 sworn to accept the law, and apply the law exactly as I state
5 it to you. Your duty is determined -- to determine the
6 facts. In every case there is the sole and exclusive judge
7 of the facts. Trial judge cannot suggest; they comment on or
8 make any statement to a trial jury about the facts in the
9 case. Since you, the jury are the sole judge of the facts,
10 you are not to be (inaudible) of what I have said during the
11 progress of this trial and ruling upon the admissibility of
12 evidence or otherwise or anything that I say now.

13 During the course of this instruction case, you both
14 understand that I, even if I have an opinion about the facts
15 of the case, I'm not entitled to share with you. The law
16 does not allow me to have an opinion about the facts. This
17 is a matter solely for you to determine as jurors, and it's
18 also your duty to determine the effect, value, and weight of
19 the evidence present during this trial.

20 The indictment charges the defendant with murder. In
21 fact, the defendant's arrested, charged and indicted is not
22 evidence, and cannot be considered by you as evidence of
23 guilt nor does it create any presumption or inference of
24 guilt. The indictment is simply the formal written
25 instrument containing the charge made against the defendant.

1 It is the formal document by which this case is brought in
2 the court.

3 The defendant has pled not guilty to the indictment and
4 that puts the burden on the State of South Carolina to prove
5 the defendant's guilty beyond a reasonable doubt. A person
6 charged with committing a criminal offense in South Carolina
7 is never required to prove himself innocent.

8 A charge to him, that is a guiding rule of law that
9 defendant in a criminal trial no matter how serious the
10 charge, is always presumed innocent of the crime for which
11 indictment was issued, unless guilt is proven by evidence
12 satisfying you jury that the guilt is beyond a reasonable
13 doubt.

14 The presumption of guilt, sorry, the presumption of
15 innocence does not begin or end when you begin your
16 deliberation. It come from the defendant throughout the
17 trial until you read your verdict of guilt based on evidence
18 satisfying you that that guilty (inaudible). Presumption of
19 innocence is like a (inaudible) about the shoulders of each
20 defendant, which remains with the defendant until it's been
21 stripped from the defendant by evidence satisfying you that
22 the defendants guilty beyond a reasonable doubt.

23 Presumption of innocence is not a mere legal theory.
24 It is not just a legal phrase. It's a real and substantial
25 right to which every defendant is entitled unless you the

1 jury are satisfied from the evidence that the defendant is
2 guilty beyond a reasonable doubt.

3 I instruct you and emphasize to you that the fact that
4 defendant do not testify is not a factor to be considered by
5 you in any way during your deliberation. And your
6 consideration and question of the guilt or innocence of the
7 defendant must not be considered by you in any manner
8 whatsoever. The defendant has the constitutional right to
9 remaining silent and the assertion of this right must not be
10 considered by you in your deliberation.

11 I'll repeat, under your oath you were to draw no
12 conclusion whatsoever from the facts that the defendant did
13 not testify. The fact that the defendant did not testify
14 should not even be discussed in the jury room. The burden of
15 proof as I have been reviewing is on the State of South
16 Carolina. The defendant is not required to prove his
17 innocence. Proof remains with the state, prove guilty beyond
18 a reasonable doubt after the charge against the defendant.

19 Both lawyers talked about reasonable doubt. What is
20 reasonable doubt in the law? A reasonable doubt is the kind
21 of doubt that the call of a reasonable person to hesitate to
22 act. The state has the -- has the burden of establishing
23 every fact necessary to prove the defendant guilty beyond a
24 reasonable doubt. The law presents every person charged of
25 the crime to be innocent, and the burden of establishing

1 guilty is placed solely in the State of South Carolina.

2 Some of you may have served as jurors in civil cases
3 where you were told that is plain necessary prove that a fact
4 more likely true than not true such as by a greater rate or
5 preponderance of the evidence. Other civil cases use a clear
6 and convincing evidence standard. In those cases, it's
7 necessary to prove that the fact is entirely probable. But
8 this is a criminal case, and state's proof must be more
9 powerful in those burdens of proof.

10 In a criminal case the state's proof must be beyond a
11 reasonable doubt, proof beyond reasonable doubt. To prove
12 this means you firmly convinced of the defendant's guilt.
13 There are very few things in this world that we know with
14 absolute certainty, and in criminal cases the law does not
15 require proof that overcomes every possible doubt. If based
16 on your consideration of the evidence you affirm against the
17 defendant is guilty of the crime charge, you must find the
18 defendant guilty.

19 The defendant is not required to prove he's innocent.
20 If on the other hand you think there's a real possibility the
21 defendant is not guilty, you must give the defendant the
22 benefit of every reasonable doubt and find him not guilty.
23 Necessarily, you must determine the credibility of the
24 witnesses who have testified. Credibility simply means
25 believability. It is your duty as jurors to analyze and

1 evaluate the evidence and determine which evidence convinces
2 you of this as truth, and determine the believability of a
3 witness who -- who has testified.

4 You may believe one witness over several witnesses or
5 witness over one witness. You may believe part of the
6 testimony of a witness and reject the remaining part of the
7 testimony in that same witness. You may believe the
8 testimony of a witness in his entirety or reject your
9 testimony of witness in the entirety. You may consider
10 whether any witness has presented to you any interest, bias,
11 prejudice or other motive in the case. You may also consider
12 the appearance and manner of a witness following the witness'
13 names.

14 As we discussed during the trial the rules of evidence
15 ordinarily do not permit a witness to testify to opinions or
16 conclusion. An exception of this rules is witnesses who we
17 called expert witnesses. A witness who by education and
18 experience has become an expert in some art, science,
19 profession or calling may say an opinion about a relevant and
20 material matter in which witness claims to be an expert, and
21 also state the reasons for the opinion.

22 You should consider any expert opinion received in
23 evidence like any other evidence, and give it the weight you
24 think it deserves. If you decide that the opinion of an
25 expert witness is not based on (inaudible) education and

1 experience, or if you conclude that the reason given in
2 support of the opinion are not sound or that the opinion is
3 outweighed by other evidence, you may disregard the opinion
4 entirely. An expert witness's testimony is to be given no
5 greater weight than that of other witnesses simply because
6 the witness is an expert. Further, you are not required to
7 accept an expert opinion even though it is not contradicted.

8 In order to establish criminal liability, criminal
9 intent is required. For example, a mental state required to
10 be proven by the state for a particular crime might be
11 purposed intent, knowledge, recklessness or criminal
12 negligence.

13 Criminal intent must be proven by the state beyond a
14 reasonable doubt. Criminal intent is always a matter that
15 must be determined by the jury from the circumstances
16 surrounding the situations at that time. There is no way to
17 prove intent to an mathematical circuit. There is no way
18 medical science can dissect a personal frame and determine
19 that the person or what the person had in mind. The law says
20 that criminal intent may be inferred from the circumstances
21 shown to have existed at the time.

22 This is how we make a determination of whether or not
23 the element requiring criminal intent was present. It is not
24 necessary to establish intent by direct and positive
25 evidence, but intent may be established by inference in the

1 same way any other facts by taking into consideration the
2 facts of the parties all facts and circumstances of intent.
3 Criminal intent is a mental state of conscious wrong duty.
4 It can arise from action or a failure to act. You must
5 determine what the defendant intended to do based on the
6 circumstances existing at that time.

7 There are two types of evidence which are generally
8 presented during a trial, direct evidence and circumstantial
9 evidence. Direct evidence directly accrues the existence of
10 a fact, and does not require a deduction. Circumstantial
11 evidence is proof of a chain of facts in circumstances
12 indicating the existence of facts. Crimes may be proven by
13 circumstantial evidence. The law makes no distinction
14 between the weight or value to be given to either direct or
15 circumstantial evidence.

16 However, to the extent the state relies on
17 circumstantial evidence, the circumstances must be consistent
18 with each other and taken together conclusively to the guilt
19 of the accused beyond a reasonable doubt. These
20 circumstances merely portray the defendant's behavior as
21 suspicious proven by state.

22 The state has the burden of proving the defendant's
23 guilty beyond a reasonable doubt. This burden rests with the
24 state regardless of whether the state lies on direct
25 evidence, circumstantial evidence, or some combination of the

1 two. You must never speculate on any insinuation suggested
2 by a question asked by a witness. Question without evidence
3 may be considered only as it applied meaning to the answer.

4 Defendant in this case is charged with murder. The
5 state must prove the beyond reasonable doubt that defendant
6 killed another person with malice of forethought. Malice is
7 hatred, ill will or hostility towards another person. It is
8 the intentional doing of a wrongful act without just cause or
9 excuse and with an intent to cause an injury or under
10 circumstances that the law would infer evil intent. Malice
11 of forethought does not require that malice exists for any
12 particular time before the act is committed. Malice must
13 exist in the mind of the defendant just before and at the
14 time thereafter. Therefore, there must be a combination of
15 the previous evil intent and the actions.

16 Now the forethought may be expressed or inferred.
17 These terms expressed and inferred do not mean different
18 kinds of malice, but merely the manner in which malice may be
19 shown to exist. That is either by direct evidence, or by
20 inference from the facts and circumstances which are crude
21 during the case.

22 Expressed malice is shown when a person speaks words
23 which express hatred, or ill will for another. Or when the
24 person prepared beforehand the (inaudible) act, which was
25 later accomplished. For example, lying away for a person or

1 any other acts of preparation, going to show that he was
2 within the defendant's mind with the expressed malice. Now
3 (inaudible) conduct showing a total disregard for human life.

4 If facts are proving beyond a reasonable doubt
5 (inaudible) raise an inference of malice to your
6 satisfaction. This inference would simply be evidentiary
7 facts to be considered by you along the -- the other evidence
8 in the case. You may give the weight you decide it should
9 get.

10 Where a person inflicts a fatal injury on another
11 person, you must have a chance to prove beyond a reasonable
12 doubt that the infliction of the injury was approximate cause
13 of the victim's death. Approximate cause is the directional,
14 is the immediate cause, is the efficient cause, is that cause
15 without which the death of the victim would not have
16 occurred. It's the chain of causation from the time of the
17 injury inflicted by the defendant until the time of the
18 victim's death.

19 Approximate cause does not necessarily mean that it
20 occurred preferably prior to death. Defendant's act may be
21 regarded as approximate cause if it's a contributing cause to
22 the death of defendant. The fact that other causes will also
23 contribute to the death of the victim. It's not released to
24 defendant and responsibility. Defendants act may not be the
25 sole cause of the death but must be (inaudible) the death.

1 Voluntary intoxication is not excused against or an
2 attempt to a crime regardless of whether the crime is going
3 involve in or specific intent. There's rule will also extend
4 to voluntary (inaudible) drugs. A person who voluntarily
5 ingest alcohol or drugs in here by becoming intoxicated, is
6 more or less responsible for his act on such conditions.

7 One voluntarily drinks intoxicated liquor, or beer, or
8 ingests drugs intoxicated to whatever degree and if while in
9 that condition commits an act which will be a crime its been
10 permitted by so the person, the fact of intoxication would
11 not believe the intoxicated person from responsibility.

12 I have declared the law to you through these
13 instructions to help guide you into your verdict.
14 Throughout, some of these instructions applied depends on
15 what you find to be the facts. The fact that I instructed
16 you on various subject in this case should not be taken as
17 communication of an opinion of this court as to what you
18 should tie the facts are or as to what your verdict should
19 be.

20 Your verdict must represent consider judgment of each
21 juror and return a verdict which is necessary that each juror
22 agree. The verdict must be unanimous. All 12 of you must
23 agree on the verdict. Verdict cannot be based on sympathy,
24 passes prejudice motion for any other consideration, not in
25 evidence in the case. Remember at all times we are not

1 partisan in this faith in one party over another.

2 You are the judges of the facts. Your sole interest is
3 to determine whether the state, by proving this individual
4 (inaudible) the defendant's individual guilt as to each -- as
5 to the charge rather beyond a reasonable doubt the evidence
6 presented to you in this case. Thus the only verdict must be
7 a unanimous as I stated earlier.

8 And before the ladies and gentlemen of jury agrees on
9 the verdict, I have a verdict form here for you, and you'll
10 circle the verdict form and sign your name as foreperson.
11 Then knock on the jury room door and inform the bailiff that
12 you had reached the verdict. At that time, we'll receive you
13 back into the courtroom for the verdict.

14 I ask it that you now return to your jury room but do
15 not begin deliberations until you are told by the bailiff to
16 do so. There are a few more legal matters that we have to
17 take care of. And then be kind where you all get to work,
18 you know, won't take very long. Then don't discuss the case
19 or begin deliberating and we'll tell you to do so. All
20 right, I'm going to need all alternates to stay with us.

21 (Jury exits courtroom.)

22 THE COURT: All right. Do you all have any objection?
23 I accepted the charge first.

24 MR. CHISHOLM: Your Honor, unless we dismiss it, I
25 don't think you charged on request to be delayed.

1 THE COURT: I did.

2 MR. CHISHOLM: Or did you?

3 THE COURT: I did, yeah. Right after circumstance that

4 --

5 MR. CHISHOLM: We're all up.

6 THE COURT: You need to (inaudible). Any other

7 exceptions to the charge.

8 MR. CHISHOLM: No, Your Honor.

9 THE COURT: All right. You all have any objection to
10 any dismissing the alternates at this point?

11 MR. OSBORNE: No, Your Honor.

12 THE COURT: All right, ladies and gentlemen you are
13 dismissed at this point. We are going to need you for
14 deliberation. We appreciate your service here as alternate
15 in case someone got sick and had an emergency and do not
16 facilitate their duties to jury duty. I appreciate you being
17 here. You are free to discuss the case with anybody at this
18 point but you don't have to do that. Sometimes the lawyers
19 like to talk to you and see what they did good, what they did
20 bad or in between, but you are -- you -- no pressure to do
21 that. You don't have to. Stay around if you want to see
22 what happens. You can get in your car and go back with your
23 life.

24 Again, on behalf of the court, I thank you all for
25 being here. It is not pleasant. You sitting in judgment of

1 your fellow citizens, but you all put your (inaudible)
2 seriously and as I stated, again, we can't function on our
3 own. Our -- our justice system cannot function without
4 public (inaudible). Showing up, being here, and taking the
5 job seriously. I -- I like to tell you it's amazing how
6 anything you work out, but you don't even know you worked
7 out. But a lot of folks in some cases can't be worked out,
8 but a lot of times lawyers work on cases for years and all of
9 a sudden when they know folks like you were showing up they
10 aren't -- they suddenly resolve their differences instead of
11 having 12 people they don't know resolve for them. So,
12 again, we appreciate. You can talk (inaudible). Thank you.

13 All right. We need to get exhibits together.

14 MR. OSBORNE: Judge, I have -- I have no doubt that you
15 charged that. Mr. Chisholm is just not exactly sure. So
16 could we just double check real quick?

17 THE COURT: Yeah -- yeah. It's fine.

18 MR. CHISHOLM: It's not exactly (inaudible).

19 THE COURT: Yeah, I did it right at -- at the end of
20 direct and circumstantial before I charged on murder.

21 (Jury deliberations begin)

22 THE COURT: All right. We're back on the record. The
23 jury has a question. They would like a copy of the
24 definition of malice and a forethought. I typically do not
25 send them written copies back, but recharge them, bring them

1 out and read it to them again. Some judges send the whole
2 charge back. I typically don't. I just, I'm afraid that
3 sometimes non-lawyer seize on certain things instead of
4 looking at the -- understanding the definition as a whole.
5 That's sort of been my practice. I -- do you all have any
6 preference?

7 MR. OSBORNE: I would prefer as recharging them.

8 MR. CHISHOLM: No objection.

9 THE COURT: You okay with that? All right, so let's
10 make this, and I, so we're all on the same page. I will
11 charge them the entire murder charge again because it's all
12 in there and then we'll make this question according this.

13 All right, you want to bring the jury in for me?

14 (Jury enters courtroom)

15 THE COURT: Okay. Ma'am, missing one?

16 FORELADY: No.

17 THE COURT: Okay. Then I'll go ahead. Understand we
18 had a question. Someone would like a copy of the definition
19 of malice of forethought. I typically do not give the
20 charge; it's in the copy, but just to avoid confusion. So
21 what I'm going to do if parties agree, I'm going to read --
22 read the definition of everything with regard to murder to
23 you again and let you back to continue deliberating.

24 The defendant is charged with murder. The state must
25 prove beyond a reasonable doubt that the defendant killed

1 another person with malice forethought. Malice is hatred,
2 ill will or hostility towards another person. It is the
3 intentional doing of a wrongful act without just cause or
4 excuse and with an intent to inflict an injury or under
5 circumstances that the law will confer an equal intent.
6 Malice of forethought does not require that malice exists for
7 any particular time before the act is committed.
8 But malice of forethought exists in the line of the defendant
9 just before and at the time the act is committed. Therefore,
10 there must be a combination of evil intent and the act.

11 Now, if the forethought may be expressed or inferred,
12 these terms expressed and inferred do not mean different
13 kinds of malice but merely the manner in which malice may be
14 shown to exist and that is either by direct evidence or by
15 inference from the facts and circumstances which are proven.

16 Expressed malice is shown when a person speaks words
17 which express hatred or ill will for another or the person
18 prepared beforehand to act which (inaudible) or murder
19 accomplished for a person or any other acts of preparation on
20 to show that the deed was within the defendant's mind would
21 be expressed malice.

22 Malice may be inferred from conduct shown a total
23 disregard for human life. If facts are proven beyond a
24 reasonable doubt sufficient to raise an inference of malice
25 to your satisfaction, this inference would simply be an

1 evidentiary fact to be considered by you along with the other
2 evidence in the case, and you may give it the weight you
3 decide it should perceive. All right? Okay. I'll let you
4 all get back in.

5 (Jury exits courtroom)

6 THE COURT: Any exception that from the state?

7 MR. OSBORNE: No, Your Honor.

8 THE COURT: Defense?

9 MR. CHISHOLM: No, Your Honor.

10 THE COURT: Okay. We'll be at ease again.

11 (Recess)

12 THE COURT: All right. I understand we have a verdict.
13 Bring them in.

14 (Jury enters courtroom)

15 THE COURT: Ma'am, before we (inaudible), I understand
16 that we have a verdict?

17 FORELADY: Yes.

18 THE COURT: Can you hand it to the bailiff, please,
19 ma'am. Please call the charge.

20 THE CLERK: State of South Carolina, county of
21 Dorchester versus Jason Bell. On indictment 2021-GS-18-0121.
22 We the jury unanimously find the defendant, Jason Bell as to
23 the charge of murder guilty. Signed and dated this 10th day
24 of August, 2023. Jury foreperson.

25 THE COURT: Thank you Madam Clerk. Anything from the

1 state before we discharge the jury?

2 MR. OSBORNE: No, Your Honor.

3 MR. CHISHOLM: Your Honor, I would ask to poll the
4 jury.

5 THE COURT: All right, Madam Clerk.

6 THE CLERK: I'm going to ask the juror to stand. Juror
7 number 49, was this your verdict in the jury room?

8 JUROR NUMBER 49: Yes.

9 THE CLERK: Is this still your verdict?

10 JUROR NUMBER 49: Yes.

11 THE CLERK: Thank you. 236. Was this your verdict in
12 the jury room?

13 JUROR NUMBER 236: Yes.

14 THE CLERK: Is this still your verdict?

15 JUROR NUMBER 236: Yes.

16 THE CLERK: Thank you. 142. Was this your verdict
17 from the jury?

18 JUROR NUMBER 142: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR NUMBER 142: Yes.

21 THE CLERK: Thank you. 203. Was this your verdict
22 from the jury ROOM?

23 JUROR NUMBER 203: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NUMBER 203: Yes.

1 THE CLERK: 61. Was this your verdict in the jury
2 room?

3 JUROR NUMBER 61: Yes.

4 THE CLERK: Is the still your verdict?

5 JUROR NUMBER 61: Yes.

6 THE CLERK: 151. Was this your verdict in the jury
7 room?

8 JUROR NUMBER 151: Yes.

9 THE CLERK: Is this still your verdict?

10 JUROR NUMBER 151: Yes.

11 THE CLERK: Thank you. 66. Was this your verdict in
12 the jury room?

13 JUROR NUMBER 66: Yes.

14 THE CLERK: Is this still your verdict?

15 JUROR NUMBER 66: Yes.

16 THE CLERK: Thank you. 209. Was this your verdict in
17 the jury room?

18 JUROR NUMBER 209: Yes.

19 THE CLERK: This is still your verdict?

20 JUROR NUMBER 209: Yes.

21 THE CLERK: Thank you. 109. Was this your verdict in
22 the jury room?

23 JUROR NUMBER 109: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR NUMBER 109: Yes.

1 THE CLERK: 179. Was this your verdict in the jury
2 room?

3 JUROR NUMBER 179: Yes it was.

4 THE CLERK: Is this still your verdict?

5 JUROR NUMBER 179: Yes it is.

6 THE CLERK: Thank you. 187. Was this your verdict in
7 the jury room?

8 JUROR NUMBER 187: Yes.

9 THE CLERK: Is this still your verdict?

10 JUROR NUMBER 187: Yes.

11 THE CLERK: Thank you. And 30, (inaudible). 77, was
12 this your verdict in the jury room?

13 JUROR NUMBER 77: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR NUMBER 77: Yes.

16 THE COURT: Anything else before I dismiss the jury?

17 MR. OSBORNE: No, I would just like to thank them for
18 jury service.

19 MR. CHISHOLM: No, Your Honor.

20 THE COURT: All right, ladies and gentlemen, jury
21 service has been concluded. You have the right now to
22 discuss this case with anyone you'd like or absolutely no
23 one. Nobody can make you do that. Sometimes lawyers like to
24 talk to you to see what's good and what's bad, but you don't
25 have to give any pressure to do any of that. This is a

1 difficult case to sit on.

2 And I, on behalf of everyone here, appreciate your
3 service. We can't do our jobs without the folks like you
4 willing to show up. And these jurors, as I told the
5 alternates before, I excuse them you don't know how many
6 cases resolved for us just by showing up. Lots of folks
7 probably fight about things for two or three years, and then
8 when they -- they're getting ready to have 12 faces that they
9 don't know, decide their faith, things appears to work out.

10 But again, we can't do our jobs and our justice system
11 can't work out. Come in here and doing a difficult job. You
12 did this, so thank, on behalf of everybody in the court
13 system, I appreciate your hard work and taking your duty
14 seriously. So you are dismissed. Thank you.

15 MR. OSBORNE: Your Honor, may I approach?

16 THE COURT: Yes, sir. All right. I guess we need to,
17 or do you all want need a break to?

18 MR. CHISHOLM: We just need a couple minutes, Your
19 Honor.

20 THE COURT: Okay. Why don't we give you, I'll give you
21 10 minutes?

22 MR. CHISHOLM: Yes.

23 THE COURT: We'll come back at (inaudible) till 1:55.

24 (Recess)

25 THE COURT: All right. Before we get started with

1 sentencing, I want to make sure everybody understands this is
2 a serious proceeding still, and I don't want any outbursts,
3 cheering, whatever happens. Same rules of decorum applying
4 here. I know this been a very emotional situation for
5 family, but again, I -- I don't need any outbursts or
6 anything like that. Mr. Osborne.

7 MR. OSBORNE: Your Honor, I'd start by well one, I just
8 want to start by thinking the St. George Police Department,
9 you know, they're -- they're a smaller agency. They
10 certainly don't deal with murders very often. They handle
11 themselves professionally with the investigation, but also
12 during pretrial meetings with me and putting up with me. So
13 I -- I do appreciate that.

14 The defendant's record, Your Honor, the of note, and I
15 think you already know this, in 2019, he was arrested for
16 assaulting Jim. I believe Jim ultimately ended up dropping
17 the charges, but that wasn't a (inaudible). It's not a
18 conviction. In 2018, he has a burglary first. He's an
19 assault pointing of a gun. It's a North Carolina conviction.
20 And just briefly, I thought the facts were kind of telling on
21 that it seems like the defendant while armed with a pistol,
22 tried to break into a stranger's home.

23 This individual, the victim ended up calling 911 saying
24 that I got a person outside trying to break into my home.
25 He's got a pistol, luckily for the victim, he too had a

1 firearm and then ended up shooting the victim, I believe, in
2 the stomach as he was trying to break into the home of the
3 victim. I don't know if he's still on probation for that or
4 not. Because that did carry over from North Carolina
5 believe.

6 I just want to thing I wanted to say, but in the
7 meantime, I do have three victims I would like to address you
8 (inaudible).

9 THE COURT: Is that -- that's all of the record though.

10 MR. OSBORNE: That's it.

11 THE COURT: All right. Yeah, I'm happy to hear.

12 MR. OSBORNE: Okay.

13 MR. RODNEY BELL: My name is Rodney Bell and Jim Bell
14 was my uncle. Judge, I'm asking you to -- to give Jason the
15 maximum sentence with no chance of parole. Jason's a small,
16 selfish little man. Uncle Jim and Aunt Rose gave him
17 everything he wanted for almost 50 years, and when that
18 wasn't enough, he took Uncle Jim's life.

19 Jason was already convicted felon that served four
20 years in the North Carolina prison system for breaking into a
21 stranger's house with a gun. The man shot Jason twice
22 defending his family. After his sentence was up, he
23 supposedly left to go for a trip to California, but ended up
24 in the state of Maine where he got into a fight and ended up
25 in the hospital.

1 Jason then came back home and started the abuse of
2 Uncle Jim and Aunt Rose. Our worst fear came to reality on
3 January 1, 2021. Jason's past has shown that it is not just
4 our family that he hurts, but families in other states.
5 Jason only cares for himself. The lies lack of remorse and
6 emotion that we saw this week was very hard to sit through.
7 If Jason was any kind of man, he would've taken
8 responsibility for his actions and spared our family this
9 trial. I'm asking you to ease my Aunt rose's mind, our
10 family, and our community's mind, and keep this spoiled,
11 selfish little man locked up with the maximum sentence with
12 no chance of parole.

13 THE COURT: Thank you Mr. Bell.

14 MS. BELL-REAVES: I am Renee Bell-Reaves, first cousin
15 to Jason Barry Bell. I stand before you to say that I will
16 always love him. We had many great memories growing up. We
17 spent every Sunday evening together at our grandparents' farm
18 in the bend of four holes swamp outside of Harleysville until
19 their deaths. We share a love for the Carolina Gamecock and
20 Edisto Beach.

21 He spent a lot of time with me and my children as they
22 were growing up, but Jason unfortunately chose a rocky road
23 for himself. He played with the fire of illegal substances
24 and risky activities, which interfered with his destiny.
25 Despite being provided every possible privilege by his