

RECEIVED
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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NASIREA BREWNOPLIS JEROME GRATE,

APPELLANT

APPELLATE CASE NO. 2024-001460

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT 5 (ENLARGED MAP OF VEHICLE), STATE’S EXHIBIT 6 (ENLARGED MAP OF SCENE), STATE’S EXHIBIT 7 (ENLARGED MAP OF GPS (SMALLER)), STATE’S EXHIBIT 40 (VIDEO), STATE’S EXHIBIT 42 (SUNHOUSE STILL PHOTOGRAPH), STATE’S EXHIBIT 43 (SUNHOUSE STILL PHOTOGRAPH), STATE’S EXHIBIT 44 (SUNHOUSE STILL PHOTOGRAPH), STATE’S EXHIBIT 45 (SUNHOUSE STILL PHOTOGRAPH), STATE’S EXHIBIT 46 (N. GRATE PHOTO), STATE’S EXHIBIT 48 (TODD FRY PHOTO), STATE’S EXHIBIT 50 (D. GRATE PHOTO), STATE’S EXHIBIT 62 (BODY CAM VIDEO), STATE’S EXHIBIT 63 (PHOTO STILL FROM BODY CAM), STATE’S EXHIBIT 87-184 (SCENE PHOTOGRAPHS), STATE’S EXHIBIT 190 (CRIME SCENE PHOTOGRAPH), STATE’S EXHIBIT 191 (CRIME SCENE PHOTOGRAPH), STATE’S EXHIBIT 199A (REDACTED CELL PHONE PRESENTATION), STATE’S EXHIBIT 226 (ENLARGED DIAGRAM OF BODY).]

1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 *
 2 COUNTY OF HORRY * TRANSCRIPT OF RECORD

3 -----X
 4 STATE OF SOUTH CAROLINA, *
 *
 5 State, *
 *
 6 vs. * Case No. 2023-GS-26-00422
 * 2023-GS-26-00423
 * 2023-GS-26-00453
 7 DAJON MALIK LAVERN GRATE, *
 *
 8 Defendant. *

9 -----X
 10 STATE OF SOUTH CAROLINA, *
 *
 11 State, *
 *
 12 vs. * Case No. 2023-GS-26-00424
 * 2023-GS-26-00425
 * 2023-GS-26-00452
 13 NASIREA BREWNOPLIS JEROME *
 14 GRATE, *
 *
 15 Defendant. *

August 19-28, 2024

TRIAL - VOLUME 1
Monday, August 19, 2024

B E F O R E:

The Honorable Benjamin Culbertson, Presiding Judge;
and a jury.

Court Stenographer: Bobbi Fisher, RPR
SC Official Court Reporter III

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

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Ralph Wilson, Sr., Esq.
Attorney for Defendant Nasirea Grate

Tuesday, August 20, 2024

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

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1	ID ONLY- Email re: Phone Cert	60	---
2	Black T-Shirt	66	663
3	Denim Shorts	66	495
4	Black Facemask	66	909
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1	85	Cadillac Rear Seat Photo	649	649
2	86	ID ONLY-Crime Scene (Disc)	504	---
3	87	Scene Photograph	504	561
4	88	Scene Photograph	504	561
5	89	Scene Photograph	504	561
6	90	Scene Photograph	504	561
7	91	Scene Photograph	504	561
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19	178	Scene Photograph	504	561
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21	180	Scene Photograph	504	561
22	181	Scene Photograph	504	561
23	182	Scene Photograph	504	561
24	183	Scene Photograph	504	561
25	184	Scene Photograph	504	561

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1	185	ID ONLY - Acura Disc	504	--
2	186	Crime Scene Photograph	504	638
3	187	Crime Scene Photograph	504	638
4	188	Crime Scene Photograph	504	638
5	189	Crime Scene Photograph	504	638
6	190	Crime Scene Photograph	504	628
7	191	Crime Scene Photograph	504	638
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3	207	Photograph from Trailer	858	908
4	208	Photograph from Trailer	858	908
5	209	Photograph from Trailer	858	908
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7	211	Photograph from Trailer	858	908
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11	215	ID ONLY - Swabs	858	---
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19	223	SLED Items of Evidence	872	883
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21	225	Ring Video from Neighbor	1143	1144
22	226	Enlarged Diagram of Body	1164	1165
23	227	9-14-24 SLED Document	1233	1243
24	228	6-10-24 SLED Document	1233	1243
25				

1 Defendant's Exhibit

2 No.	Description	ID.	REC'D
3 1	ID ONLY - Letter from Det. Kelly	1189	--

4

5 Court's Exhibit

6 No.	Description	ID.	REC'D
7 1	Jury Note re: Foreperson	260	260
8 2	Jury Question	1456	1456

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P R O C E E D I N G S

1
2 (12:46 p.m.)

3 (General jury qualifications were conducted by Judge
4 Culbertson.)

5 THE COURT: All right. What do we got? Oh, I guess
6 we'll need to get the defendants in here. Are they here?

7 MR. WILSON: Yes, sir.

8 (Pause in the proceedings.)

9 THE COURT: Where is this alleged to have occurred?
10 The indictments just say Horry County. What area are we
11 talking about?

12 MS. MARTIN: The Loris/Red Hill area -- Red Bluff
13 area.

14 THE COURT: Red Bluff area of Loris?

15 MS. MARTIN: Yes, sir. Red Hill's in Conway. Oops.

16 THE COURT: Are we waiting on Mr. Galmore's client?

17 MR. GALMORE: They're bringing him up now, Your
18 Honor.

19 THE COURT: Okay.

20 (Pause in the proceedings.)

21 THE COURT: Mr. Galmore, do you have a witness list?

22 MR. GALMORE: No, sir.

23 THE COURT: Okay.

24 (Pause in the proceedings.)

25 THE COURT: All right. This is the case of State of

1 South Carolina ---

2 I apologize, Mr. Galmore, your client pronounces his
3 name "Day-zhon"?

4 MR. WILSON: "Day-zhon."

5 THE COURT: "Day-zhon." Dajon Gate; correct?

6 MR. GALMORE: Yes, sir.

7 THE COURT: All right. And Mr. Wilson, your client?

8 MR. WILSON: Yes, sir. "Na-seer-ee" Gate.

9 THE COURT: "Na-seer-ree." Okay.

10 All right. This is the State of South Carolina
11 versus Dajon Gate and Nasirea Gate. Pretrial matters?

12 MOTION/MATTER OF LAW

13 MS. LIVESAY: The first matter we probably need to
14 address, Your Honor, is the matter that Mr. Wilson filed
15 Friday afternoon, and that's going to be severance.

16 THE COURT: That's a motion to sever the trial; is
17 that correct?

18 MR. WILSON: Yes, sir. Some of it, though, I think
19 is going to be based on whether or not statements of the
20 co-defendant is admissible or not admissible, whether or
21 not there should be a severance. And I don't know what
22 the State's position is on that, so I don't know that I
23 need to make the motion until they make a determination as
24 to whether or not they're going to admit any statement
25 that he has previously made.

1 MS. LIVESAY: Yes, I understand that, yeah.

2 THE COURT: Okay.

3 (The jury entered the courtroom at 2:36 p.m.)

4 THE COURT: All right, ladies and gentlemen.

5 Welcome back. I hope everybody had a good evening. I
6 want to thank you for your promptness and I want to
7 apologize for keeping you in the jury room for so long.
8 However that's not uncommon when we get into trials such
9 as these. But I do appreciate your patience and I
10 appreciate you being here.

11 I understand, Ms. Gore, you have been selected as
12 the foreperson; is that correct?

13 JUROR NO. 112: Yes, Your Honor.

14 THE COURT: Thank you for serving in that capacity.
15 If you would always occupy the seat where you now sit.

16 I ask that the alternates occupy your seats.

17 And as I said earlier yesterday, the rest of you are
18 at liberty to sit in whatever seats you like, whether it
19 be the same seat during the trial of the case or
20 alternating seats or whatever makes you feel more
21 comfortable.

22 OPENING REMARKS

23 THE COURT: Now, we are about to begin the trial of
24 the case of the State of South Carolina versus Dajon Malik
25 Lavern Grate and Nasirea Brewnoplis Jerome Grate. Before

1 we start the trial, I do have some preliminary
2 instructions that I need to give you. I know from
3 watching movies, reading books, watching TV shows, trials
4 are often full of a lot of suspense, a lot of action. And
5 while that might be the case in this trial, it probably
6 won't be. I think what you'll find is that, more often
7 than not, in reality, trials are slow, deliberate, and
8 repetitive proceedings, the exact opposite of what you
9 might be accustomed to when you watch a trial for
10 entertainment purposes or read about a trial for
11 entertainment purposes. But I do hope you find the trial
12 educational, I hope you find it entertaining, and I want
13 to thank you at the outset for being here and for serving
14 as jurors in this case.

15 The attorneys appearing before you are advocates for
16 the parties they represent, but first and foremost, they
17 are officers of the court. They're sworn to uphold the
18 integrity and the fairness of our judicial system and to
19 help you in the search for the truth in this case. You
20 should expect them to be professional, competent, and
21 ethical in the representation of their client's interest.

22 Now, what I now say is intended to serve as an
23 introduction to the trial of this case. These remarks are
24 not a charge on the law in this case. I will instruct you
25 on the law applicable to this case at the end of the trial

1 before you retire to consider your verdict.

2 This is merely an explanation of the proceeding that
3 we will follow in the trial of this case so that you can
4 better understand what is happening.

5 Now, both defendants or each defendants in this case
6 is charged by indictments, and they are charged with two
7 counts of murder and one count of armed robbery. Now, the
8 elements of those crimes I'll explain to you at a later
9 time.

10 These indictments charging these defendants with
11 these crimes are simply the charges by which the case is
12 brought into the court. These indictments are not in any
13 sense evidence of any of the allegations contained in
14 them. The defendants have pled not guilty to these
15 indictments, and the State; therefore, has the burden of
16 proving each of the elements of each indictment beyond a
17 reasonable doubt.

18 It will be your duty, ladies and gentlemen, to
19 decide whether or not the State has met that burden of
20 proof. Your purpose as jurors is to find and determine
21 the facts of this case. You are the sole judge of the
22 facts of this case. If, at any time, I make a comment
23 regarding the facts of this case, you must disregard my
24 comments. You are to determine the facts from the
25 testimony you hear and any other evidence that is

1 introduced during the trial of this case. It is up to you
2 to determine the inferences which you feel may properly be
3 drawn from that evidence.

4 It is especially important that you perform your
5 duty of determining the facts diligently and
6 conscientiously because, ordinarily, there's no way to
7 correct an erroneous determination of the facts by a jury.

8 Now, on the other hand and with equal emphasis, the
9 same law that makes you the judge of the facts makes me
10 the judge of the law. The law as given to you by the
11 Court is the only law that you may consider. You must
12 accept and follow the law as I give it to you even though
13 you may disagree with it. Just as I cannot tell you what
14 the facts of this case are, you cannot disagree with me
15 about the law to be applied in this case. Your job is
16 take the law as I give it to you and apply it to the facts
17 as you find those facts to be from the testimony of the
18 witnesses and any other evidence that is introduced.

19 After doing that, you can then render your
20 verdict -- a true and just verdict under the solemn oath
21 that you are about to take as jurors in this case.

22 Now, until I advise you to begin your deliberations,
23 you must not discuss this case with anyone, including your
24 fellow jurors. You cannot discuss it with any friends,
25 family members, or anyone involved in the case.

1 After the case is submitted to you, you must then
2 discuss the case but only in the jury room with your
3 fellow jurors. The attorneys and parties in this case
4 have been advised that they're not to talk to you at all.
5 So, they're not being rude. If they're involved in this
6 case, they cannot speak to you, just like you cannot speak
7 to them.

8 Now, during the trial of this case, you are not to
9 read or listen to or watch any news reports about the
10 case. This includes anything that may be in the
11 newspapers or on the internet, radio, or television. You
12 must not consider anything you may have read or heard
13 about the case outside of the courtroom, whether that be
14 before or during the trial of this case. It is important
15 that you keep an open mind and not decide any issue in the
16 case until all of the evidence has been presented, the
17 parties have made their closing arguments, and I have
18 instructed you on the law to be applied in this case.

19 It is your solemn responsibility to determine the
20 guilt or innocence of the defendants, and your verdict
21 must be based solely on the evidence as it is presented to
22 you in this trial and on the law as I instruct you during
23 and at the close of the trial.

24 Now, in a moment, the solicitor will make what's
25 called an opening statement in which the solicitor will

1 explain to you the issues in this case or at least what
2 the solicitor thinks the issue in this case is or what the
3 issues are. The attorneys for the defendant may also make
4 opening statements although they are not required to do
5 so. What the attorneys tell you during their opening
6 statements are not evidence in this case. It is only the
7 attorneys' contention as to what they think the issues in
8 this case are.

9 The evidence in this case will be presented to you
10 by testimony of sworn witnesses from the witness stand and
11 by any other exhibits that may be introduced into
12 evidence.

13 Now, in determining what the true facts are in this
14 case, you must decide whether or not the testimony of a
15 witness is believable. It is my responsibility to rule as
16 a matter of law as to whether or not certain testimony is
17 admissible at all or not. However, once testimony is
18 admitted into evidence, whether or not you believe it is
19 solely for you to determine.

20 In deciding whether to believe a witness, you have
21 the right to consider the interest of any witness, the
22 bias of any witness, the prejudice of any witness, the
23 opportunity for the witness to have seen the matters and
24 things about which the witness may testify and the way the
25 witness acts on the witness stand. You have the right to

1 consider anything that is in the record that will help you
2 evaluate the testimony of the witnesses. That means that
3 it is your duty to pay close attention to these witnesses,
4 to observe the witnesses, to listen to the witnesses, and
5 to pay close attention to the attorneys and to the Court.
6 Don't let your thoughts wander but give strict attention
7 to the testimony in this case, so, at the end of all of
8 the testimony, after the arguments of counsel and a charge
9 on the law by the Court, you will then be in a position to
10 determine what the true facts are and apply the law to
11 those facts and thus render a true and just verdict.

12 Now, are there any additional charges or challenges
13 to the open charges?

14 By the State?

15 MS. MARTIN: Nothing from the State.

16 MR. WILSON: No, Your Honor.

17 MR. GALMORE: No, sir.

18 THE COURT: Before we begin with opening statements,
19 as I told you during jury qualifications and voir dire,
20 jurors are constantly taking oaths. So, I'll need you to
21 stand and raise your right hand while the clerk of course
22 administers the oath for you to serve as jurors on this
23 specific case.

24 (The jury was duly sworn.)

25 THE CLERK: You may be seated. Thank you.

1 THE COURT: Is there any member of the jury that did
2 not respond to the oath by saying "I do"? If so, please
3 stand.

4 All right. Ladies and gentlemen, we're going to
5 begin the trial of the State's opening statement. And as
6 I told you, these opening statements are not evidence. It
7 is simply the attorney's contentions as to what they think
8 the issues in this case are.

9 The State may go forward.

10 MS MARTIN: May it please the Court?

11 THE COURT: Yes, ma'am.

12 OPENING STATEMENT ON BEHALF OF THE STATE

13 MS. MARTIN: It was four against one. The one,
14 Kalik Conn, in the front driver's seat of his car,
15 surrounded. The four? Well, beside him? Jeremiah
16 Dicker. In the backseat right behind him? The defendant,
17 Dajon Grate. On the side of him outside his car? Nasirea
18 Grate. And in the car right near them? Todd Fry.

19 It was four against one, in their territory, on
20 their terms and their turf.

21 And when the shooting started, because it did,
22 everybody had guns, and the one never left his car alive
23 again. Shot multiple times.

24 Jeremiah Dicker? Shot in the head, shot in the
25 back. Made it about 45 yards before he fell dead. Two

1 murders.

2 In the backseat? Dajon Grate, he was also shot in
3 the arm and in the left leg.

4 So, how do we get here? How did we get to this --
5 these two murders, this shoot-out? Well, it all starts on
6 May the 31st of 2022 in the Loris section of -- the Red
7 Bluff section of Loris. Okay? Right off of [REDACTED]
8 Road. These two defendants, they live off of [REDACTED]
9 there off of [REDACTED].

10 Now, the other two of those four were staying with
11 them: Todd Fry and Jeremiah Dicker. They got up that
12 afternoon that day and they decided, well, we're hungry,
13 we're going to go get something to eat. So, they pile
14 into Todd Fry's gold Cadillac and they drive to the
15 Sunhouse gas station right off of Red Bluff Road.

16 They pull in about 1:24 p.m. And you're going to
17 see them on camera getting out of the vehicle. You're
18 going to see Todd Fry, bushy hair, white tank top. You're
19 going to see his jean shorts. He walks in.

20 You'll see the defendant, Dajon Grate. No shirt,
21 dark shorts, pink flip-flops, pink slides, talking on the
22 cell phone the entire time.

23 Nasirea Grate walks in, the other defendant. He's
24 got on a hat, a mask pulled up, a black shirt with a red
25 logo on the back, and white shorts.

1 They go inside the store. They walk around. They
2 get themselves something to drink, something to eat. Then
3 Nasirea Grate walks out. When he walks out of the store,
4 he's approached by one of the victims, Kalik Conn. They
5 talk for a second. Nasirea walks back to Todd Fry's car.
6 He gets in. Everybody else goes and gets in the car. And
7 you see Jeremiah Dicker, the other victim in this case,
8 get out the car. Distinguishable hair. Pants sagging.
9 He's got green boxer shorts on, lime green. He walks over
10 to Kalik Conn's car, his white Acura. And, at that
11 moment, Kalik offers to sell him an ounce of weed for
12 \$100.

13 So, absolutely, yeah, they exchange numbers.
14 Jeremiah Dicker calls Kalik Conn. They'll be in touch.
15 He goes back, gets in Todd Fry's car.

16 And then we track them. You're going to see them go
17 up, go back up [REDACTED] Road, pass by [REDACTED] Road,
18 turn left onto Sandpiper. Because they go to their spot,
19 the spot that they know. Peanut's old house.

20 Now, these are apartment complex and apartment
21 building, single story. Just four apartments right there.
22 And they go and they get there at approximately 1:41 and
23 1:47 p.m.

24 They get there. They get their plan together.
25 They're going to rob Kalik Conn. And so, at 1:52,

1 Jeremiah Dicker texts Kalik Conn the location. Their
2 terms, their territory, their turf.

3 You're going to watch Kalik Conn come down, go
4 around past the Sunhouse again, and go up Red Bluff Road
5 and turn on Highway [REDACTED] to the incident location, [REDACTED]
6 Highway [REDACTED], right there in Loris.

7 When Kalik gets there, he backs his car into the
8 first spot in the first apartment. Jeremiah Dicker sits
9 in the front passenger seat of his car. The defendant,
10 Dajon, sits in the back. Nasirea is on the outside of the
11 vehicle. Todd Fry is waiting in the car, ready to go.

12 Every single one of them have guns. They're all
13 ready. What happens in that car? Can't exactly tell you,
14 but what I do know is that the shooting starts. Kalik
15 Conn is shot multiple times from the back, from the
16 outside of the car, from the inside of the car. He's left
17 for dead.

18 Jeremiah Dicker runs. And you're going to see the
19 blood trail of where he ran before he falls dead.

20 Dajon Grate gets out the car and he runs. Jumps in
21 Todd Fry's car. You're going to see that blood trail.

22 Nasirea goes to check on Dicker. It's too late.
23 There's nothing he can do. So, in his distinctive mask
24 and his distinctive shirt, he runs and gets in Todd Fry's
25 car as they're rolling away.

1 They go back to home base, to their [REDACTED] Road
2 house, where they're seen there by the defendant's own
3 grandfather, grandmother's boyfriend.

4 So, y'all are here because of an armed robbery and
5 two murders: the murder of Kalik Conn and the murder of
6 Jeremiah Dicker. So, how are we going to prove this to
7 you? Because the State of South Carolina, as the
8 prosecutors, we have the burden of proof. Okay? We must
9 prove to you that these defendants committed this crime
10 beyond a reasonable doubt.

11 So, what does that mean? What does "beyond a
12 reasonable doubt" mean? Well, it does not mean beyond all
13 doubt. At the end of this trial, you must be firmly
14 convinced of the defendants' guilt.

15 Now, this isn't going to be a who-done-it because
16 there are two things for sure that we can depend on: DNA,
17 cell phone records. And y'all remember the pink slides
18 that I was telling you Dajon was wearing? Well, those are
19 found in the victim's car, along with blood and along with
20 his cell phone. DNA.

21 The mask is collected at Nasirea Grate's house.
22 Okay? Cell phone records show Nasirea Grate at the scene
23 at the time.

24 We're going to have eyewitnesss for you. They're
25 going to tell you what they saw. You're going to see --

1 like I said, y'all are going to see the Sunhouse video,
2 them going in. You're going to track their locations.
3 You're going to track Kalik's location coming up to his
4 death.

5 You're going to hear testimony about the guns, about
6 the bullets, about the kill shot that killed Kalik Conn
7 from the outside of that vehicle.

8 At the end of this trial -- we're not going to get
9 the opportunity to talk to you again until the end, and
10 Ms. Livesay is going to come up and she's going to talk to
11 you, and she's going to piece everything together because
12 this is going to be a piecemeal, like Judge Culbertson did
13 say. You're going to hear one thing at a time, and then
14 we're going to have to put it all together. Because it's
15 not a straight line as what you see on TV. Okay?

16 But, at the end of this trial, when you hear all the
17 evidence, when you see everything, I know that you're
18 going to be firmly convinced of the defendants' guilt.
19 When you go back to the jury room and you start your
20 deliberations, we are asking that you find a verdict of
21 guilty on all charges for both defendants. Thank you.

22 THE COURT: Mr. Wilson, does the defendant, Nasirea
23 Grate, wish to make an opening statement?

24 MR. WILSON: Yes, sir. Thank you, Your Honor.

25 THE COURT: All right.

1 OPENING STATEMENT ON BEHALF OF DEFENDANT NASIREA GRATE

2 MR. WILSON: Madam Forelady and ladies and
3 gentlemen, first, let me say thank you for being here.
4 And I guess you're saying, "Well, you're thanking me but I
5 didn't have any choice." And you didn't. You had a
6 subpoena so you had to be here.

7 But let me also say that, in this case, there is no
8 more an important place for you to be than here. You see,
9 the system only works if you're here. You're the only
10 thing that stands between the State of South Carolina and
11 these defendants on this day. And that's true in every
12 criminal case that comes into this courtroom. The jury is
13 the only thing that stands between them. You are it. You
14 are the backbone. You are the system. Justice only
15 exists if it exists in your hearts and minds. That's it.
16 It's that simple.

17 And I tell this story, and it's honestly a true
18 story. When I was a little boy, my mom used to clean up
19 an insurance agency, which was right there on the corner
20 of Main Street. I think there's a place called Vanite
21 there now. It was upstairs, and I used to come with her
22 sometimes to take the trash down to the dump.

23 And every time I would pass this courthouse, and I'd
24 see the flag flying, and I'd see those brick columns
25 standing all majestically. I would just always get this

1 chill, right, that, man, this is where you go to get
2 justice. This is where people get fair treatment.

3 As I got older, went to law school, I realized that
4 that's not true. That's not true at all. Justice only
5 exists in the hearts and the minds of jurors, of those 12
6 people -- 14 of you now -- who sit in judgment. Because
7 if you're not interested in the truth, if you're not
8 interested in making the State meet its burden, then
9 there's no justice. It doesn't exist beyond you.

10 I represent Nasirea Grate.

11 Stand up, Mr. Grate. You can sit down.

12 He is not guilty. He is not guilty as he stands
13 here today. And he's just not not guilty because Ralph
14 Wilson says he's not guilty. He's not guilty because the
15 law of this state says he is not guilty. He's only guilty
16 if -- if the State of South Carolina, by and through its
17 prosecutors, can bring you evidence, not hearsay, not some
18 speech that they want to make, not some interpretation
19 that they might have or some theory that they might have
20 about what they said went on. That is not the law. The
21 evidence is going to come from this witness stand and from
22 those exhibits that might be introduced into evidence.
23 Those are the things that you consider.

24 I have a theory. It ain't worth much. They got a
25 theory. It ain't worth much. Listen to the evidence in

1 this case. Listen.

2 I often tell jurors this: When it says the State
3 has the burden of proof, what does that mean? That means
4 that the State is on trial because the defendant has no
5 burden of proof. Doesn't have to prove one word. Don't
6 have to say nothing. Ever. The State has the burden of
7 proof.

8 So, what does that mean? That means that they must
9 bring you evidence, not their theory, like Ms. Martin
10 presented to you, and say, "Oh, we got this theory, we
11 think this is what happened and that's what happened."
12 Well, I think I'm going to be a millionaire next week and
13 win the lottery, but they ain't necessarily going to
14 happen. Theories don't matter. What matters is proof.

15 I simply ask you to do this: Hold them to their
16 burden. That's all. Nothing more. Nothing less. Don't
17 ask anything more of you than that.

18 The burden of proof says that they must prove to
19 your satisfaction beyond a reasonable doubt. Now, in
20 civil court we have what we call a preponderance of the
21 evidence, and that's just where one side wins -- if they
22 can just tilt the scale ever-so-slightly, they win. Like
23 in a wreck case or whatever. Not so here. Beyond a
24 reasonable doubt.

25 They're going to present to you some witnesses who,

1 I submit to you, have some credibility issues.
2 Credibility is just a big word that means believability.
3 That's all it is. They have got some issues.

4 I ask you -- sometimes it's not so much as a witness
5 says, it's what he doesn't say or it's how he says it.
6 Listen. Pay attention. You have no friends to reward in
7 this case. You have no enemies to punish. You took an
8 oath that you would truly try the issues between the State
9 of South Carolina and these defendants. No one -- not the
10 State, not me, not these defendants -- can ask any more of
11 you than that.

12 One last thing and then I'm going to be through. I
13 tell you now the State cannot prove these charges. They
14 can't. So, it's important that you listen. And if you
15 pay attention, I promise you, at the end of this case, at
16 the end of this trial, you're going to be in a place where
17 you can render a verdict that speaks the truth, and the
18 truth, as to Nasirea Grate, is not guilty. That simple.

19 I challenge them to produce any witness who says, "I
20 saw Nasirea Grate" do anything. Thank you.

21 THE COURT: Mr. Galmore?

22 MR. GALMORE: May it please the Court?

23 THE COURT: Yes, sir.

24 OPENING STATEMENT ON BEHALF OF DEFENDANT DAJON GRATE

25 MR. GALMORE: Ladies and gentlemen, today, I'd like

1 to talk to you about roles and responsibilities because,
2 each and every one of us -- each and every one of you has
3 a role to play in this case, has a responsibility to fill.

4 My responsibility is to represent Dajon Grate. I
5 tell you that he has pled not guilty to these charges, and
6 with that said, it is now incumbent upon the solicitors --
7 these ladies here -- to prove to each and every one of you
8 beyond a reasonable doubt that he is guilty of the
9 charges. I submit to you now that they cannot.

10 Madam Court Reporter has a very important
11 responsibility. Her job is to write down everything that
12 is said in this courtroom throughout the course of this
13 trial and to keep a record of all the evidence introduced
14 in this case. And I submit to you that she will be able
15 to perform her job adequately -- well, sufficiently. She
16 knows what she's doing.

17 Your Honor has a role and a responsibility as well.
18 He is what we call the judge of the law. That means he
19 will tell you what the law of the State of South Carolina
20 is, and you will have to apply the facts of the case as
21 presented to you from the witness stand to the law or,
22 said another way, what facts are not presented to you.
23 And that's important.

24 This case, I describe it as a dog-and-pony show.
25 You're going to get a lot of fancy lights and pretty

1 colors. You're going to get a lot of evidence, a lot of
2 testimony, a lot of witnesses, but when it comes down to
3 it, they're not going to be able to tell you anything
4 about this case.

5 Mr. Wilson said it, and I will repeat it. I submit
6 to you that the State will not produce not one single
7 person who says, "I saw Dajon Grate shoot Malik Conn --
8 Kalik Conn." You will not have not one single witness
9 that says, "I saw Dajon Grate shoot Jeremiah Dicker." You
10 will not have not one single witness that says "I saw
11 Dajon Grate" do anything. And that actually applies to
12 Nasirea as well.

13 What the State's going to do is give you a whole
14 bunch of this, a whole bunch of that and they're going to
15 ask you to draw a conclusion, and that conclusion is that
16 these guys are guilty of this crime. Well, you're going
17 to hear all of the evidence for yourself, and like I said,
18 please pay attention to the lack of evidence as well. And
19 in the conclusion, at the end of this case, when you put
20 it all together, I'm confident that you will find Dajon
21 Grate not guilty of these charges.

22 Thank you for your time and attention.

23 THE COURT: Are we ready?

24 MS. LIVESAY: Yes, sir, Your Honor.

25 THE COURT: All right, ladies and gentlemen. We'll

1 begin the evidentiary portion of the trial with the
2 State's case.

3 The State can call your first witness.

4 MS. LIVESAY: Thank you, Your Honor. At this time,
5 the State calls Sabrina Bryant.

6 COURT STENOGRAPHER: State's 40 through 45 marked.

7 (State's Exhibit No. 40 and 41, Videos, were marked
8 for identification.)

9 (State's Exhibit No. 42 through 45, Sunhouse Still
10 Photos, were marked for identification.)

11 SABRINA BRYANT,

12 after having been duly sworn, was examined and
13 testified to as follows:

14 THE CLERK: Please state your name and spell your
15 last for the Court.

16 THE WITNESS: Sabrina Bryant. B-r-y-a-n-t.

17 DIRECT EXAMINATION

18 BY MS. LIVESAY:

19 Q And, Ms. Bryant, are you -- where are you from?

20 A Like originally?

21 Q Yes.

22 A From New Hampshire.

23 Q And where do you currently live? What county?

24 A Horry County.

25 Q How long have you lived in Horry County?

1 A Since I was, like, 12. So, 20-something years.

2 Q Okay. So, most of your life?

3 A Yes.

4 Q And where do you currently work?

5 A Currently?

6 Q Yes.

7 A At the Hot Spot.

8 Q And what is the Hot Spot?

9 A It's a convenience store.

10 Q And where did you work in May of 2022?

11 A At the Sunhouse.

12 Q And where was the Sunhouse that you worked located?

13 A In Red Bluff.

14 Q I'm sorry?

15 A In Red Bluff.

16 Q Okay. And tell these folks, how long did you work
17 at that Sunhouse?

18 A I worked there about seven or eight years.

19 Q Okay. So, that's a long time.

20 And what was your position at the Sunhouse?

21 A When I left it, I was the manager.

22 Q Okay. And tell these folks a little bit about the
23 Sunhouse. Does the Sunhouse have video surveillance?

24 A They have a lot of cameras. A whole lot of cameras.

25 Q Okay. And do they have video surveillance inside

1 and outside?

2 A Yes, ma'am.

3 Q And does that video surveillance show customers
4 coming in and customers going out?

5 A Yes, ma'am.

6 Q Just what goes on in the store?

7 A Yes, ma'am. They even have audio.

8 Q Okay. Video and audio?

9 A Yes, ma'am.

10 Q So, if me and Ms. Martin walk into the Sunhouse, the
11 camera is probably going to catch us?

12 A Yes, ma'am.

13 Q Okay. And if we drive my car up to the Sunhouse to
14 the gas tank, camera is probably going to catch us, ain't
15 it?

16 A Yes, ma'am.

17 Q Okay. And tell these folks, does the camera show
18 what the people are wearing?

19 A Yes, ma'am.

20 Q Okay. They're pretty clear?

21 A Yes, ma'am.

22 Q Okay. Now, let me ask you something: Are they
23 clear enough where you can look at the camera and identify
24 people in the store?

25 A Yes, ma'am.

1 Q Okay. And at the time this murder happened, you
2 were the manager of the Sunhouse?

3 A Yes, ma'am.

4 Q Okay. And out of that responsibility, did you
5 provide video surveillance footage to the police?

6 A Yes, ma'am. I had no choice.

7 Q I understand. And do you live in that area?

8 A I do.

9 Q Okay. So, go ahead and tell these folks, do you
10 want to testify?

11 A No.

12 Q Okay. And go ahead and tell them, do you know these
13 two defendants?

14 A I mean, I have seen them in the store.

15 Q Okay.

16 A I was there for many years.

17 Q Okay. And what do you call them? Do you know their
18 names?

19 A I don't know their real names. No, I don't.

20 Q What do you call them?

21 A I just -- everybody has nicknames around there.
22 That's all.

23 Q I'm sorry?

24 A Everybody has nicknames.

25 Q What are their nicknames?

1 A I called them Knock and Day-Day. That was it. Just
2 nicknames.

3 Q Okay. And which one of these fellows is Knock?

4 A The one with the blue shirt.

5 Q Okay. And what was the other young man's nickname?

6 A Day-Day.

7 Q And which one is Day-Day?

8 A He's sitting over there in the white.

9 Q What color shirt is he wearing?

10 A The white one.

11 MS. LIVESAY: Okay. Let the record reflect, Your
12 Honor, that Knock-Knock is Nasirea Grate, and she's
13 pointed out Day-Day as Dajon Grate.

14 THE COURT: Well, she did, but it's up to the jury
15 to determine whether that's established.

16 BY MS. LIVESAY:

17 Q Now, Ms. Bryant, I'm going to show you State's
18 Exhibit 40 and 41. Are your initials on both of these?

19 A Yes, ma'am.

20 Q And is one of them just every hour, every camera
21 view of the store?

22 A Yes, ma'am.

23 Q And you initialed it, and you said that's the
24 surveillance from the Sunhouse?

25 A Yes, ma'am.

1 Q Okay. And I showed you another one, and that was
2 the surveillance that contained Nasirea Grate and Dajon
3 Grate; correct?

4 A Yes, ma'am.

5 Q Okay. And there was some other boys with them;
6 right?

7 A Yes, ma'am.

8 Q Okay. And did you know their names or nicknames?

9 A I only knew the one.

10 Q Okay. And what was his nickname?

11 A His name is Jay. That's all I knew.

12 Q Okay. Okay. And --

13 A That's the only other one I knew. I mean, I seen
14 the other boy, but I never -- I don't really know the
15 other boy.

16 Q I understand. And I don't -- just tell what it is.
17 And did you see these boys on a regular basis?

18 A Yeah, I was the corner store of where we lived,
19 so...

20 Q So, you saw them regular enough to say that's
21 Nasirea, that's Dajon, and that's the boy named Jay?

22 A Well, not actually by their real names.

23 Q I understand.

24 A I just don't know their names like that.

25 Q I understand. Knock-Knock, Day-Day, and Jay?

1 A Yes, ma'am.

2 Q And there was a fourth boy. Do you remember what he
3 looked like?

4 A I remember what he looked like, but I -- like, I
5 said, I don't really know him. Like, I have seen him a
6 few times.

7 Q I understand. If you don't mind, tell these folks
8 what he looked like.

9 A Tall, light-skinned, bushy hair.

10 Q Okay. Is he on the video?

11 A Yes, ma'am.

12 Q And you worked there eight years?

13 A About eight years. Seven, eight years, yes.

14 Q And did you see these guys on a regular basis?

15 A I mean, they were in and out the convenience store,
16 yes, ma'am.

17 Q And were they normally together when they were in
18 the store?

19 A A lot of the times, yes.

20 Q Okay. So, they hung close together?

21 A Mm-hmm. Yes, ma'am. Sorry.

22 Q That's okay. You have got to say it for this lady.

23 A Yes, ma'am.

24 Q And Dajon Grate and Nasirea Grate, the two people
25 you know as Knock-Knock and Day-Day, tell these folks, are

1 they related?

2 A Yeah.

3 Q How are they related?

4 A They're brothers.

5 Q And these two vidoes with your initials, are these
6 accurate Sunhouse video footage?

7 A Yes, ma'am.

8 MS. LIVESAY: Your Honor, at this time, the State
9 wishes to put into evidence 40 and 41 and publish at the
10 appropriate time.

11 THE COURT: All right. Any objection?

12 MR. WILSON: I don't have any objection.

13 THE COURT: Mr. Galmore?

14 MR. GALMORE: No objection, sir.

15 THE COURT: All right. State's Exhibit 40 and 41
16 are admitted into evidence without objection.

17 MS. LIVESAY: Thank you, Judge.

18 (State's Exhibit Nos. 40 and 41 were received into
19 evidence.)

20 MR. WILSON: (Reviewing the photographs.) I have no
21 objection, Your Honor.

22 THE COURT: What is that?

23 MR. WILSON: Some photographs.

24 THE COURT: I mean, are they marked for
25 identification?

1 MR. GALMORE: Your Honor, 42, 43, 44, and 45. I
2 have no objection to the State's documents.

3 MS. LIVESAY: Thank you.

4 THE COURT: I mean, are you putting those into
5 evidence now?

6 MS. LIVESAY: I'm sorry?

7 THE COURT: They said no objection. Are you putting
8 those into evidence now?

9 MS. LIVESAY: Yes, Your Honor. And I'm going to ask
10 her a few foundational questions.

11 THE COURT: Well, let me go ahead and -- what are
12 they? 42, 43, 44 --

13 MS. LIVESAY: 42, 43, 44, and 45, Judge.

14 THE COURT: All right. State's Exhibits 42, 43, 44,
15 and 45 are admitted into evidence without objection.

16 MS. LIVESAY: Thank you, Judge.

17 (State's Exhibit Nos. 42, 43, 44, and 45 were
18 received into evidence.)

19 BY MS. LIVESAY:

20 Q Ms. Bryant, if you don't mind, look through these --
21 they're already in evidence -- and tell me if you
22 recognize the folks in those pictures.

23 A Yes, ma'am.

24 Q And are those photographs from the Sunhouse
25 surveillance footage?

1 A Yes, ma'am.

2 Q And are these photographs of the four boys that you
3 would see come in on a regular basis?

4 A I think it was the three boys.

5 Q Three boys.

6 A Yes. I was going to say...

7 Q Keep me straight now.

8 A Yes, ma'am.

9 Q Okay.

10 A Like I said, it was just -- they'll come into the
11 store, so...

12 Q Okay. And does it include Knock-Knock or Nasirea
13 Grate and Day-Day, Dajon Grate?

14 A That's -- yeah. These are the pictures, yes, ma'am.

15 Q And if you don't mind, step down, Ms. Bryant.

16 MS. LIVESAY: If you don't have a problem with it,
17 Judge?

18 THE COURT: No, that's fine. As long as she's near
19 a microphone where the court reporter can pick up her
20 testimony.

21 MS. LIVESAY: So, just try to point your voice
22 towards there so everybody can hear you.

23 BY MS. LIVESAY:

24 Q State's Exhibit 42. Where is this picture from?

25 A The Sunhouse.

1 Q And if you don't mind, just move back just a hair so
2 these folks here can see. Tell them who this guy is.

3 A Like I said, I only know them as their nicknames.

4 Q And what is the nickname?

5 A And that's Day-Day.

6 Q Okay. And Day-Day is in the courtroom with the
7 white shirt?

8 A Yes, ma'am.

9 Q Okay. This is State's Evidence 43. Do you
10 recognize that fellow?

11 A Yes, ma'am.

12 Q And if you don't mind, step back one hair.

13 Is this at the Sunhouse?

14 A Yes, ma'am.

15 Q Okay. And is this date and time on the footage
16 correct, to your knowledge?

17 A I guess, yeah. I mean, when the footage come up on
18 the system, it was always right.

19 Q Okay. So, when you pulled this, you pulled it for
20 the police; right?

21 A They actually came in and pulled it.

22 Q Okay.

23 A I just let them. I didn't really have anything to
24 do with it. I just let them sit at the computer and pull
25 it.

1 Q Okay. Did you look at it that day when you sat at
2 the computer?

3 A At that time, no, ma'am, I did not. They just
4 pulled it and put it on there. I didn't -- they just said
5 that they needed the evidence, like, they needed the
6 pictures.

7 Q Okay. But, to your knowledge, every time you saw
8 it, the date and time was correct?

9 A Yes, ma'am, mm-hmm.

10 Q And can you tell who this is from the back?

11 A I mean, from the front picture to the back, yes,
12 ma'am. It's the same person.

13 Q And who is that?

14 A That's Knock.

15 Q And that's the guy in the blue shirt, Nasirea Grate?

16 A Yes, ma'am.

17 Q Same guy, if I put it right beside it. Do you
18 recognize this guy?

19 A Mm-hmm. I mean, I have seen him in and out the
20 store, yes, ma'am.

21 Q Okay. But you don't know his name?

22 A No.

23 Q Did he normally come in with --

24 A I mean, he came in occasionally.

25 Q And when he came in, who was he with?

1 A He was with the boys.

2 Q What boys?

3 A Knock and Day-Day.

4 Q Okay. So, the two defendants?

5 A Yes, ma'am.

6 Q Okay. So, when he came in, they were always
7 together?

8 A Yes, ma'am.

9 Q Okay.

10 A Most of the time, yes, ma'am.

11 Q Okay.

12 A This was years ago, so it's kind of hard to...

13 Q Okay. So, these are the two defendants; correct?

14 A Yes, ma'am.

15 Q And at the Sunhouse; correct?

16 A Yes, ma'am.

17 Q And this fellow here, you don't know his name, but
18 when he came in, he was with these two brothers?

19 A Most of the time, yes, ma'am.

20 Q Okay. And when these two guys came in, they always
21 came in together?

22 A Most of the time. And they came in separate. It
23 was a convenience store on the corner, so...

24 Q But normally they came in together?

25 A Yes, ma'am.

1 Q Okay. If you don't mind, have a seat, Ms. Bryant.

2 Now, I'm going to publish this surveillance footage.
3 If you don't mind, I'd like for you to take a look at it
4 when we're all looking at it together, and then I may have
5 some questions for you. It's going to come up right here
6 for you, and I think it's going to come up right here for
7 these folks.

8 (Video plays.)

9 BY MS. LIVESAY:

10 Q Ms. Bryant, did you see the two defendants on the
11 video?

12 A Yes, ma'am.

13 Q And would you be able to point them out to the jury?

14 A Yes, ma'am.

15 Q If you don't mind, just start from the beginning.

16 (Video plays.)

17 MS. LIVESAY: Do you mind stopping, Lacey? And back
18 me up. Perfect. Right there is good.

19 BY MS. LIVESAY:

20 Q Who is this guy in the pink flip-flops?

21 A That's Day-Day.

22 Q And is that the defendant with the white-collared
23 shirt on?

24 A Yes, ma'am.

25 Q And the guy with the rolled up toboggan-looking

1 thing, in the white shorts, who is that?

2 A As I know him, Knock.

3 Q Okay. And is that the defendant sitting with the
4 blue shirt?

5 A Yes, ma'am.

6 Q And you said you knew Jay. Did you see him on the
7 video?

8 A Yes, ma'am.

9 Q Would you be able to point him out?

10 A Yes, ma'am.

11 MS. LIVESAY: Okay. If you don't mind, Lacey, can
12 you take us to that point? It's towards the end, if you
13 don't mind. I should have wrote down the time for you; I
14 apologize.

15 BY MS. LIVESAY:

16 Q Do you recognize that guy?

17 A Yes, ma'am.

18 Q Standing at the white car?

19 A (Witness nodding.)

20 Q Tell them who that is.

21 A That's Jay.

22 Q Okay. That's Jay. He's the one that comes with
23 them all the time?

24 A A lot of the times, yes, ma'am. Mm-hmm.

25 Q Okay. And the guy in the white car, who is he?

1 A He was just there all day.

2 Q Okay. Every day?

3 A No. I never seen that man before.

4 Q And if you don't mind, can you go back -- I did
5 write this down -- 13:30:33.

6 MS. LIVESAY: Hit it from there.

7 (Video plays.)

8 MS. LIVESAY: Here. Go ahead and hit play.

9 (Video plays.)

10 MS. LIVESAY: If you don't mind, stop. Pause it for
11 me.

12 BY MS. LIVESAY:

13 Q Who was that that Nasirea Grate is talking to?

14 A I have never seen that boy.

15 Q Never seen him before?

16 A That day -- he had got there earlier that day and
17 just was hanging out all day. I have never seen that boy
18 before.

19 Q Okay. So, you were working that day?

20 A I worked earlier in the day, yes, ma'am.

21 Q And so, you remember seeing all these folks? You
22 were actually in there --

23 A I did not see the boys that day. I only seen the
24 gentleman right there in the black. He had showed up
25 earlier in the day and was just sitting there all day.

1 Q Okay. So --

2 A That was past my time.

3 Q Okay. The guy with the white Acura?

4 A Yes, ma'am.

5 Q And you had been working there seven, eight years?

6 A About seven years, yes, ma'am. And I had never seen
7 that boy in that store. Ever.

8 Q Okay. And that white Acura, had you ever seen that
9 white Acura?

10 A No, ma'am.

11 Q Okay. And you lived in the area for how long?

12 A I lived in the area for, like, 12 years now, so...

13 Q Okay. And did you ever see him in the area?

14 A No, ma'am. That was the first time.

15 Q I'm sorry?

16 A That was the first time that I had ever seen that
17 boy.

18 Q And that was May 31st around 1:30?

19 A I think he was there earlier. Yeah, around 1:30ish.
20 Somewhere around there, mm-hmm. Because he was --

21 Q And he definitely -- go ahead.

22 A He was just hanging out. He kept staying there.

23 Q Okay. Did you ever see him hanging out with the
24 Grate brothers?

25 A No, ma'am.

1 Q Okay. Never seen him before?

2 A Never.

3 Q Not living in the area or at the Sunhouse?

4 A No, ma'am. I have never seen him.

5 Q Okay. And Jay was the boy that walked up to the
6 Acura; is that right?

7 A Yes, ma'am.

8 Q And the boy that he's talking to now is who you know
9 as Knock-Knock, Nasirea Grate?

10 A Yes, ma'am.

11 Q Okay. You got any problems with these fellows?

12 A No, ma'am.

13 Q You get along with them?

14 A They were a bunch of kids when they went in there.

15 Q Right.

16 A I mean, I have seen them for years. I never had no
17 problems.

18 Q Okay. And tell these folks, did you want to come
19 today?

20 A No, ma'am.

21 Q You were working at the Sunhouse that day; correct?

22 A Yes, ma'am.

23 Q Do you remember -- first of all, do you remember
24 what they were wearing and everything on the tape?

25 A I seen what they were wearing on the tape, yes.

1 Q Okay. So -- and these pictures are from that day;
2 correct?

3 A Yes, ma'am.

4 Q Okay. So, same day May 31st? We're all on the same
5 page?

6 A Yes, ma'am.

7 Q Okay. And did you hear about the murder that day?

8 A Yes, ma'am. I had to give --

9 MR. WILSON: Your Honor, I object. Whatever she
10 heard -- I don't know how what she heard is relevant to
11 anything.

12 MS. LIVESAY: I'm not going to get into the details.

13 THE COURT: She can't get into any hearsay, but she
14 can state whether or not she heard about it. I'll allow
15 it.

16 A Yes, ma'am.

17 BY MS. LIVESAY:

18 Q So, do you did hear a murder took place on May 31st?

19 A Yes, ma'am.

20 Q Okay. And is May 31st when the police came and got
21 the footage?

22 A It was either later that day or the next day.

23 Q Okay. So, it was, without a doubt, close in time?

24 A Yes, ma'am. I can't swear it was that day because
25 it's been a few years now. I remember I had to go and let

1 them get the footage, yes.

2 Q But it was definitely close in time?

3 A Yes, ma'am.

4 Q And did you know who was killed?

5 A I heard.

6 Q Okay. Okay. So, you knew why they were there to
7 get that footage?

8 A Yes, ma'am. I knew why they were there to get the
9 footage.

10 MS. LIVESAY: No further questions, Your Honor.

11 THE COURT: All right. Mr. Wilson?

12 MR. WILSON: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. WILSON:

15 Q Ma'am, as I understand it, you worked for Sunhouse,
16 and you had been there for several years; right?

17 A Yes, sir.

18 Q And was this day any different than any other day at
19 work?

20 A No, sir.

21 Q Did Nasirea Grate do anything to you or to anybody
22 else in your presence that day or any other day?

23 A No, sir.

24 Q Of all the times that he's been in and out of the
25 Sunhouse, has he disrespected you? Has he tried to hurt

1 you? Has he said anything wrong to you or been violent
2 towards you in any way whatsoever ever?

3 A Never.

4 Q And he lives close in proximity to that store; does
5 he not?

6 A Yes, sir.

7 Q In fact, you would call it kind of the corner store?

8 A Yes, sir.

9 Q So, they're in and out of that store three, four,
10 five times a week; right?

11 A Probably more than that.

12 Q Yeah. And so, this day was no different than any
13 other day when he and these other fellows came into the
14 store, bought stuff, and left?

15 A Yes, sir.

16 Q All right. Now, let me ask you, do you know some
17 individual by the name of Trey?

18 A Yes, sir.

19 Q All right. Did you see him in this video?

20 A I did.

21 MR. WILSON: Solicitor, if you would replay this
22 video for me, because I want her to point him out.

23 MS. MARTIN: Mr. Wilson, would you mind grabbing
24 the...

25 MR. WILSON: I'm sorry. Where is it? Thank you.

1 It's not very far in. It's only about maybe a
2 minute or two after they leave to come out to the gas
3 station. Inside the store.

4 (Video plays.)

5 MR. WILSON: Stop.

6 BY MR. WILSON:

7 Q Do you know who that is?

8 A Yes, sir.

9 Q Who is that?

10 A The one in the black tank top is Trey.

11 Q Trey? And --

12 MS. LIVESAY: Your Honor, I have an objection, and I
13 think it may need to be handled up at the bench.

14 THE COURT: All right. Do we need to excuse the
15 jury or you can do it up here?

16 BENCH CONFERENCE

17 (The following bench conference was held outside the
18 hearing of the jury and others.)

19 MS. LIVESAY: So, Mr. Wilson has clearly tried to
20 use third-party guilt and say this guy was really the
21 killer. To have third-party guilt, you have to have a
22 series of circumstances that points to that person and the
23 exclusion of the defendant. There is no series of
24 circumstances that points to that guy.

25 THE COURT: Well, I mean, this early, I don't know

1 if there is or there isn't. So, I'm overruling it and I'm
2 allowing the questioning.

3 (Open court resumes as follows:)

4 THE COURT: All right, Mr. Wilson. Go ahead.

5 MR. WILSON: Thank you.

6 BY MR. WILSON:

7 Q This individual is named Trey. Now, had he been in
8 your store before?

9 A Yes, sir.

10 Q On multiple occasions?

11 A Yes, sir.

12 Q All right. Is he a regular, pretty much, in the
13 store?

14 A Yes, sir.

15 Q Okay. And when you see him, you recognize him, just
16 like you recognize all these other individuals; right?

17 A Yes, sir.

18 Q Okay. Now --

19 MR. WILSON: Thank you, Solicitor, I appreciate it.

20 I don't need anything else.

21 BY MR. WILSON:

22 Q Now, you don't know anything about any shooting, do
23 you?

24 A No, sir.

25 Q You weren't there?

1 A No, sir.

2 Q You didn't see anything?

3 A No, sir.

4 Q All right. Do you even know where the address where
5 this allegedly happened? Do you know where that is?

6 A I know where the property is. I do not know the
7 address. I live down the same road.

8 Q You live down in that area?

9 A Yes, sir. That's the only reason why.

10 Q All right. And on this particular day, as I
11 understand it, you were not at work when they were in the
12 store; that is, when Mr. Grate and Mr. Grate were in the
13 store?

14 A No, sir, I was not.

15 Q You had already left for the day?

16 A Yes, sir.

17 Q So, you never saw them.

18 But you did see -- you did see the white car; right?

19 A Yes, sir.

20 Q All right. And that car, according to you, had been
21 there all day; right?

22 A Yes, sir.

23 Q All right. And what time did you get off that day,
24 if you recall?

25 A It was probably around 3:30, 4ish maybe. I'm not

1 even exactly sure.

2 Q Do you know whether or not that individual in that
3 white car had been stopping other people trying to talk to
4 them?

5 A I'm not exactly sure because it's been years now,
6 but I do believe somebody else had told me they had
7 stopped them, yes.

8 Q So, he's out there in that white car and he's
9 stopping different individuals for whatever his purposes
10 are; right? As best you know?

11 A Yes, sir.

12 Q All right. At any point in time -- well, let me
13 back up.

14 In regards to the timing on this video, on this
15 particular day, did you check to see if the timing was
16 correct on the bottom of the video machine?

17 A Normally, the timing was right.

18 Q But my question was --

19 A Did I check it?

20 Q Yes, ma'am.

21 A No, sir.

22 Q And you didn't actually retrieve it from the
23 computer?

24 A No, sir.

25 Q The police retrieved it?

1 A Yes, sir.

2 Q All right. And you don't know what, if anything,
3 happened after they retrieved it, do you?

4 A No, sir.

5 Q Did they show you a copy of what they retrieved
6 before they took it off of the computer?

7 A They kind of showed me a little bit. Not much.

8 Q All right. So, they took it off. They took it.
9 And is that the last time you saw it was when they were
10 retrieving it?

11 A Yes, sir.

12 Q All right. Now, looking at the videos, they were in
13 the store for what? Three, four minutes maybe total?
14 Five if you --

15 A Yes, sir.

16 Q All right. Now, there was another lady, a black
17 young lady behind the counter on that day; right?

18 A Yes, sir.

19 Q Now, who is she?

20 A Well, her nickname is Block.

21 Q Her nickname is what?

22 A Is Block.

23 Q Block?

24 A Yes, sir.

25 Q So, pretty much everybody who comes in and out of

1 there got some nicknames; right?

2 A Yes, sir.

3 Q Okay. And they're not -- that's not unusual in that
4 community; right?

5 A Correct.

6 Q And you said that you lived there for 12 years. And
7 you also said, I think, that you knew Mr. Dickers?
8 Jeremiah Dicker? Jay, I think you called him?

9 A Yes, sir.

10 Q All right. And he had been in the store multiple
11 times as well; right?

12 A Yes, sir.

13 Q All right. And so, it wasn't unusual for him to
14 come in the store?

15 A No, sir.

16 Q All right. Would you say that all of these
17 individuals -- Jay -- I think you said -- what did you
18 say? Knock-Knock?

19 A Yeah.

20 Q And what was the other one?

21 A Day-Day.

22 Q Day-Day. Were they all friendly and talkative?

23 A Yes, sir.

24 Q All right. So, it wouldn't be unusual if they were
25 in the store to a talk to somebody who's in the store or

1 stand by the door and talk to somebody who's near the
2 door? That wouldn't be unusual, would it?

3 A No, sir.

4 Q And, lastly, in regards to anything that happened
5 after they left the store, you have no clue about it, do
6 you?

7 A No, sir.

8 Q All right. Did anybody have on any masks when they
9 were in your store? Did you see anybody with a mask on,
10 on their face?

11 A No.

12 Q All right. See anybody with a gun?

13 A No, sir.

14 Q I don't have any other questions. Thank you, ma'am.

15 THE COURT: Mr. Galmore, cross-examination?

16 CROSS-EXAMINATION

17 BY MR. GALMORE:

18 Q Ms. Bryant, let me ask you about this video. You're
19 the store manager; correct?

20 A Yes, sir.

21 Q Would you be responsible for maintaining the videos
22 in the store?

23 A At that time, yes, sir.

24 Q Yes, ma'am.

25 Now, we saw a series of videos and it was switched

1 from camera to different camera. Is that something that
2 occurred naturally with your video surveillance system?

3 A No.

4 Q Is that something where somebody has spliced
5 different videos and put them together?

6 A Yes, sir.

7 Q To try to, like, make a movie or something?

8 A Yes, sir.

9 Q Okay. So, when your store has these videos, they're
10 not in the sequence that we have seen today?

11 A No.

12 Q No. Okay.

13 Now, I think you stated on direct examination that
14 you-all told -- can record people talking?

15 A Yes.

16 Q Would that be for all of the cameras or just some of
17 them?

18 A Just some of them.

19 Q Okay. Which ones? Like, the one at the cash
20 register?

21 A The one at the cash register, yes, sir.

22 Q Okay. Well, we didn't hear any people talking on
23 these videos. Do you have any idea why?

24 A I mean, it could have.

25 Q Okay. So, the store had the ability to record

1 audio?

2 A Yes, sir. I mean, it usually was on there, mm-hmm.

3 Q Right. But it wasn't presented here today?

4 A No.

5 Q Okay. Now, I noticed that I didn't see you on the
6 videos.

7 A It was past my time.

8 Q Okay. So, when all of that was occurring, you were
9 not at the store?

10 A No, sir.

11 Q You were done for the day.

12 A Yes, sir.

13 Q Okay. Now, was there a shooting at the Sunhouse on
14 May 31st of 2022?

15 A No, sir.

16 Q Okay. Was there a robbery at the Sunhouse on
17 May 31st of 2022?

18 A No, sir.

19 Q Okay. On this -- on these tapes, did you have an
20 opportunity to look at that prior to court just now?

21 A Yes, sir.

22 Q Okay. Did you have an opportunity to listen to the
23 audio prior to today in court?

24 A No, sir.

25 Q No. Okay.

1 Do you know if there's any recorded audio of any
2 discussion of a robbery?

3 A Not that I'm aware of, sir.

4 Q Do you know if there's any recorded audio about
5 discussion of a shooting?

6 A Not that I'm aware of, no, sir.

7 Q All right. Now, you identified my client as Day-Day
8 in Item No. 42; is that correct?

9 A Yes, sir.

10 Q Okay. He's the guy with no shirt on?

11 A Yes, sir. All the time.

12 Q Oh, so, that was normal.

13 Now, was Day-Day armed while he was in your store?

14 A No, sir.

15 Q Okay. Did Day-Day attempt to rob your store?

16 A No, sir.

17 Q Did he pay for the items that he had?

18 A Yes, sir.

19 Q All right. All right, Ms. Bryant. Thank you. I
20 don't have any further questions.

21 THE COURT: All right. Redirect?

22 MS. LIVESAY: Just a few, Judge.

23 REDIRECT EXAMINATION

24 BY MS. LIVESAY:

25 Q Let me put this back the way Mr. Galmore found it.

1 Now, Ms. Bryant, I'm going to ask you just a few
2 more questions, and you look so tickled. So, I do have a
3 few more questions so bear with me. Okay?

4 A Yes, ma'am.

5 Q Mr. Wilson came up here and said, look, there was
6 nothing different about that day. Do you remember that
7 question?

8 A Yes, ma'am.

9 Q Just like any other day?

10 A Yes, sir -- yes, ma'am. Good lord.

11 Q It's okay.

12 Had you ever seen the boy in the white Acura, had
13 you ever seen him any other day up there?

14 A No, ma'am.

15 Q So, something was different.

16 A Well, yeah, but it was a convenience store.

17 Q I understand. But was that different?

18 A It was different. Yes, yes, he was different, yes.

19 Q Okay. And you live in the area and you worked there
20 seven years. You had never seen that young man before?

21 A Never seen that man before.

22 Q Okay. So, that was different?

23 A Yes, ma'am.

24 Q Had you ever seen him talking to Nasirea Grate or
25 Jay before that day?

1 A No, ma'am.

2 Q Okay. So, that's different; right? That's
3 something a little different?

4 A Yes, ma'am.

5 Q Yeah, that might be a important; right? That's a
6 bit different?

7 MR. WILSON: Your Honor...

8 THE COURT: Hold for a second.

9 MR. WILSON: I'm not sure where we're going with
10 this, but she's already -- she's asked these very
11 questions when she was on direct. And now, she's just
12 recovering them is all she's doing because she's not --
13 this is not new matter. She's just recovering what she's
14 already covered on direct.

15 THE COURT: Overruled. I'm going to allow it.

16 BY MS. LIVESAY:

17 Q Just know Mr. Wilson is different. So, now we can
18 agree that Mr. Wilson asked you if anything was different,
19 but now we kind of clarified that something was a little
20 different?

21 A Yes, ma'am.

22 Q Okay. We can all agree on that.

23 Now, he also asked you about this random guy at
24 13:25:52. Do you remember that? He put it up on the
25 screen. You said he was a regular? Tall guy?

1 A Yes.

2 MS. LIVESAY: Can we put it back up there? That
3 way, we're on the same page. There we go.

4 BY MS. LIVESAY:

5 Q Do you remember that?

6 A It wasn't the bald guy he was asking about.

7 Q The bald guy?

8 A He wasn't asking about the bald guy. He was asking
9 about the other gentleman.

10 Q Okay. The guy with the pink shorts?

11 A Yes, ma'am.

12 Q And the blank tank top?

13 A Yes, ma'am.

14 Q And the flip-flops?

15 A Yes, ma'am.

16 Q Okay. He's a regular?

17 A Yes, ma'am.

18 Q Okay. And the other guy with the black T-shirt, is
19 he a regular, the bald guy?

20 A I'm not sure from that angle. Honestly, I'm not
21 sure from that angle.

22 Q Okay. But you can't look right off the bat and say,
23 hey, that's whoever?

24 A Right.

25 Q Okay. Let me ask you this: From seeing the video,

1 did you ever see this guy get out of the Cadillac with the
2 two defendants?

3 A The guy right there in the --

4 Q Either one of them.

5 A No, ma'am.

6 Q Okay. Did you see them get back in the Cadillac?

7 A No, ma'am.

8 Q Okay. Did you see on this video, or while you were
9 there, them have any contact with the victim?

10 A I didn't see it, no, ma'am.

11 Q Okay. Okay. Now, let me ask you this: Are any of
12 them wearing a toboggan on their head? Anything on their
13 hair? Any kind of hat, rolled up?

14 A These gentlemen right here?

15 Q Yes.

16 A No, ma'am.

17 Q These two right here.

18 A No, ma'am.

19 MS. LIVESAY: Okay. Can you go to 13:30:20, please.

20 Thank you.

21 Hold on. Woah, woah, woah. If you can, just pause
22 that one little bit. I apologize.

23 BY MR. LIVESAY:

24 Q Do you see anybody in there with a toboggan on their
25 head? Any kind of head covering rolled up?

1 MS. LIVESAY: Play it just a little more, Liz.
2 She's trying to look around.

3 BY MS. LIVESAY:

4 Q Does this guy have anything on his head?

5 A No, ma'am.

6 MS. LIVESAY: If you don't mind, you can hit it at
7 13 -- I don't want to waste these people's time --
8 13:30:20, if you would be so kind. Okay. Stop there.

9 BY MS. LIVESAY:

10 Q This guy behind him, the white guy -- got two or
11 three people in here. Do you see anything on their heads?

12 A No, ma'am.

13 Q Okay.

14 (Video continues to play.)

15 MS. LIVESAY: Hit me right there, Liz.

16 BY MS. LIVESAY:

17 Q How about this guy?

18 A Yes, ma'am.

19 Q Do you see a little something on his head?

20 A Yes, ma'am.

21 Q Now, Mr. Wilson asked you about a mask; do you
22 remember that?

23 A Yes, ma'am.

24 Q Do you remember Mr. Wilson --

25 A Yes, ma'am.

1 Q Do you know whether or not that rolls down into a
2 mask?

3 A I can't say for certain, but I think it would just
4 cover his head. But I don't know for certain. You know?

5 Q I didn't hear what you said.

6 A I don't know for sure. I mean, it just -- to me, I
7 just see where it covers his head. I don't know if it
8 would roll down. Do you see what I'm saying?

9 Q Okay. So, you don't know if it could turn into a
10 mask; correct?

11 A It could.

12 Q Okay.

13 A I don't know for sure.

14 Q Right. And do you see anything -- anybody else wear
15 anything on their head that looks like it could turn into
16 a mask?

17 A No, ma'am.

18 Q Okay. And what is the date?

19 A 5/31/22.

20 Q May 31st?

21 A Yes, ma'am.

22 Q You have lived here most of your life?

23 A Yes, ma'am.

24 Q Tell this Court, what's the weather like on May
25 31st? Is it cold? Chilly?

1 A Pretty hot.

2 Q You have watched these people walk around, correct,
3 in the video?

4 A Yes, ma'am.

5 Q And there's only one on May 31st wearing something
6 rolled up on his head; is that right?

7 A Yes, ma'am.

8 Q And you're uncertain it might be a mask; right?

9 A I can't say for sure.

10 Q Can't say for sure.

11 Now, he asked you is there anything different about
12 that day. Do you remember that?

13 A Yes, ma'am.

14 Q And we kind of clarified there was something a
15 little bit.

16 A Yes, ma'am.

17 Q Okay. This thing on this boy's head, is that what
18 he normally wore?

19 A A lot of the boys do.

20 Q I'm sorry?

21 A A lot of the boys do.

22 Q Okay. But does he?

23 A A lot of -- yeah, he'd wear it a lot.

24 Q Okay. And we can agree a lot of boys do, but nobody
25 else in this in this video but him is wearing it; right?

1 A Correct.

2 Q All right. Now, Mr. Galmore asked you a lot of
3 questions about the video. Do you remember that?

4 A Yes, ma'am.

5 Q Okay. And you've watched this video a couple of
6 times; correct?

7 A Yes, ma'am. We have watched it, yes, ma'am.

8 Q Okay. And I asked you to watched it, and I asked
9 you is it accurate. Is this the video from the Sunhouse?
10 Do you remember that?

11 A Yes, ma'am.

12 Q And I said, Look, if it is, would you initial it?
13 And did you initial it?

14 A Yes, ma'am.

15 Q Okay. So, what those folks here are watching is an
16 accurate footage of the Sunhouse; correct?

17 A Yes, ma'am.

18 Q And Mr. Wilson asked you about the date and times.
19 Do you remember that?

20 A Yes, ma'am.

21 Q Okay. And when you looked at it, was it always
22 accurate?

23 A When I looked at the times, because I worked with
24 the camera system, they were always accurate.

25 Q Okay. And you worked there seven years?

1 A Yes, ma'am.

2 Q And the seven years you worked there, every time you
3 looked at it, it was the right date and time?

4 A Yes, ma'am.

5 Q Okay. Now, if you don't mind, can we play one more
6 little part? Because a little bit about the time was
7 brought up, and I think that's important.

8 MS. LIVESAY: Can you bring up to when the Cadillac
9 leaves?

10 BY MS. LIVESAY:

11 Q How long had that white Acura been there? Most of
12 the morning?

13 A It came early that day.

14 Q When you say "early," what's early to you?

15 A It was probably -- I mean, like I said, it was seven
16 years ago, but I would imagine back then it was probably,
17 like, 9:30 or 10-ish.

18 Q 9:30 in the morning?

19 A 10:00. Somewhere in that -- because it was there
20 all day.

21 Q Okay. Okay.

22 A It was something -- I can't say exactly, like I
23 said, because I don't remember it. That was years ago.

24 Q Okay. But --

25 A But it was earlier in the day.

1 Q Your recollection is around 9:00 or 9:30?

2 A Somewhere in that area. I just remembered it was
3 early, yes.

4 Q Okay.

5 A He had been out there almost all day.

6 Q And the time on this video was showing Tuesday,
7 13:33, which is 1:33?

8 A Mm-hmm.

9 Q And you have no reason to believe that time is not
10 accurate; am I correct?

11 A Mm-hmm.

12 (Video continues to play.)

13 BY MS. LIVESAY:

14 Q So, that Cadillac, that's the Cadillac the
15 defendants got in, leaving at 13:33?

16 A Yes, ma'am.

17 Q And this white car is the car that's been there all
18 day?

19 A All day.

20 Q Okay.

21 (Video continues to play.)

22 BY MS. LIVESAY:

23 Q And so, you have no reason to believe that, when the
24 Cadillac leaves at 1:37, a couple of minutes later, that
25 the time is anything but correct?

1 **A** Correct.

2 **MS. LIVESAY:** No further questions for this witness,
3 Your Honor.

4 **THE COURT:** All right. You may step down.

5 Ladies and gentlemen, we're going to take a short
6 break. I'm going to excuse you back to the jury room, let
7 you stretch your legs, use the restroom, whatever the case
8 may be.

9 Do not discuss the case, even among yourselves.
10 Don't conduct any independent investigation. We'll take a
11 short break, and we'll bring you back out in just a
12 minute. Thank you very much.

13 (The jury exited the courtroom at 4:12 p.m.)

14 **THE COURT:** All right. I received this note. I
15 don't know -- did this come from y'all about the jurors
16 wanting to take notes?

17 **THE BAILIFF:** Yes.

18 **THE COURT:** Okay. I got a note saying the jurors
19 want to know if they can take notes. In a case like this,
20 I'm going to allow them to take notes, but I've got to
21 give them some instructions. So, we need to take a break
22 to get the pads, the writing utensils, and get everything
23 ready so we can hand it out before we call our next
24 witness. Okay?

25 **MR. GALMORE:** Your Honor, I would object to the

1 jurors taking notes.

2 THE COURT: On what grounds?

3 MR. GALMORE: The problem is that, you know, some
4 jurors take notes of some things, some take notes of
5 others. We don't know the educational levels of the
6 various jurors. Some people might take some notes that
7 are given weight or credibility than other notes given by
8 other jurors. When all of the jurors are simply sitting
9 here listening to the evidence and looking at the
10 evidence, they're all on equal footing, and I don't want
11 to have a situation where somebody's in the back saying,
12 well, I wrote this down, therefore, that makes it more
13 truthful than any other piece of evidence.

14 THE COURT: And I have some curative instructions on
15 that that I'll give them. If they want to take notes, I
16 generally allow them to, unless everybody says no.

17 What is the State's position?

18 MS. MARTIN: The State has no problem with them
19 taking notes.

20 THE COURT: Mr. Wilson?

21 MR. WILSON: I don't really have any objections.

22 THE COURT: All right. Then I'll allow it, but I
23 will give the instructions. We'll get all that stuff
24 together before we call our next witness.

25 How long do you think your next -- are you ready for

1 your next witness?

2 MS. LIVESAY: I'm ready.

3 THE COURT: How long will that witness take?

4 MS. LIVESAY: Just a few minutes. We're going to
5 call Sandy Lowe. And all Sandy is going to do is make it
6 official that this picture is, indeed, Dajon Grate, since
7 that lady was kind of...

8 THE COURT: All right. That will be fine.

9 All right. Let's take a short break. Let me know
10 when you get all that stuff together.

11 MR. GALMORE: Is Sandy Lowe the last one for the
12 day?

13 MS. LIVESAY: What now?

14 THE COURT: Well, we're going to see what time it
15 is. I mean, it's 4:15 now. So, we'll wait until after
16 the testimony and see what time it is as to whether or
17 not --

18 MS. LIVESAY: We have got one lady from Tabor City,
19 but we'll address it when we get to it.

20 MS. MARTIN: We can roll as far and as long as you
21 want us to, Judge.

22 THE COURT: Well, and I can understand that, but we
23 also have jurors who have been here all day.

24 MS. MARTIN: I just wanted you to know the State is
25 ready and we're willing to do whatever you want us to do.

1 THE COURT: All right. Let's take a short break.

2 (A recess was taken from 4:18 p.m. to 4:23 p.m.)

3 (State's Exhibit No. 46, N. Grate Photo, was marked
4 for identification.)

5 (State's Exhibit No. 47, N. Grate Booking Report,
6 was marked for identification.)

7 (State's Exhibit No. 48, Todd Fry Photo, was marked
8 for identification.)

9 (State's Exhibit No. 49, Todd Fry Booking Report,
10 was marked for identification.)

11 (State's Exhibit No. 50, D. Grate Photo, was marked
12 for identification.)

13 (State's Exhibit No. 51, D. Grate Booking Report,
14 was marked for identification.)

15 THE COURT: Anything from the State before we bring
16 the jury in?

17 MS. LIVESAY: Yes, I think we probably need to go
18 ahead and handle it now, Judge, before they come in. The
19 State is going to call Sandy Lowe to ask 46 -- I'm sorry;
20 46, 47 -- 46 through 50 to come in, to identify the --
21 this is Dajon Grate -- to identify officially who these
22 people are and their home address.

23 And my understanding is -- I have spoken with James
24 and Ralph. I asked them if there was anything on the
25 booking report that needed to be redacted because, in my

1 opinion, there is, and they're objecting to the picture
2 and the document.

3 THE COURT: I mean, what are those exhibits?
4 They're pictures and what else?

5 MS. LIVESAY: The document is a booking document.
6 All I want to get in is the fact that Nasirea Grate's
7 nickname is Knock-Knock and his home address is [REDACTED]
8 Road.

9 MR. WILSON: It's already in the record. She
10 testified that this is Knock-Knock -- the lady who was up
11 there. This is cumulative. And not only that, that
12 booking report, you know, is prejudicial.

13 THE COURT: So, you're objecting to the booking
14 report?

15 MR. WILSON: I'm objecting to both. The picture is
16 cumulative. He's already been identified as Nasirea
17 Grate. In fact, she turned to you and asked the Court to
18 make note of the fact that she has -- the witness had
19 identified this person, who is sitting next to me in the
20 blue shirt, as being Knock-Knock, who is Mr. Grate.

21 The same thing is true with Mr. Dajon.

22 The witness has already put it in. The only reason
23 for those pictures is prejudicial, because they're booking
24 reports which show them in that kind of light. There is
25 no other reason for it.

1 THE COURT: Mr. Galmore?

2 MR. GALMORE: Your Honor, again, yeah, they're
3 booking photos from J. Reuben Long. And in addition,
4 there's a page of a report. The report regarding Dajon
5 Grate does not have an alias listed. So, the stated
6 purpose for the solicitor, you know, can't be achieved
7 with that report anyway. So, I would object to both the
8 booking photo and to the booking report being admitted.

9 THE COURT: All right. And who is the witness?

10 MS. LIVESAY: Sandy Lowe.

11 THE COURT: And who is Sandy Lowe?

12 MS. LIVESAY: She works for the sheriff's
13 department.

14 THE COURT: And she can authenticate the pictures?
15 Who produced the booking report?

16 MS. LIVESAY: She does. She's the records
17 custodian.

18 THE COURT: Okay.

19 MS. LIVESAY: And these are not the pictures with
20 the orange suit on. These are the pictures that they
21 take --

22 THE COURT: Well, I understand that. Let me take a
23 look.

24 MS. LIVESAY: And we're glad to redact out
25 everything on the booking report. The only thing we're

1 trying to get in is the home address because there was a
2 search at [REDACTED] [REDACTED] Road, and also to show both lived at
3 [REDACTED] [REDACTED] Road and the fact that Todd Fry lives at [REDACTED]
4 [REDACTED] Road because we received or we have a Ring camera
5 showing what was going on at [REDACTED] Road with the
6 Cadillac.

7 THE COURT: Well, I mean, that information was
8 obtained by this witness from these defendants?

9 MS. LIVESAY: The booking report, yes, sir. They
10 give them that information. The address, all that. The
11 phone number.

12 THE COURT: Okay. So, they give them the address
13 and they give them the aliases?

14 MS. LIVESAY: I don't know about the aliases. I'll
15 ask Sandy.

16 THE COURT: Well, where did that information come
17 from?

18 MS. LIVESAY: I mean, it could come from off of
19 NCIC.

20 Ms. Sandy, can you step up here just real quick
21 during this -- make sure he gets accurate information.

22 So, am I correct that the inmate provides the
23 address and the phone number?

24 MS. LOWE: Yes.

25 MS. LIVESAY: And where do you get the alias from?

1 Tell me that.

2 MS. LOWE: It could be from the inmate or possibly a
3 criminal history.

4 THE COURT: Well, where did they come from on these
5 reports?

6 MS. LOWE: I have no way of knowing that, Your
7 Honor.

8 THE COURT: Okay. Well, if she doesn't know it then
9 the aliases --

10 MS. LIVESAY: Then cancel out the Knock-Knock thing?

11 THE COURT: Yeah.

12 MS. LIVESAY: Okay. That's fine.

13 THE COURT: I'm going to allow -- she can
14 authenticate what she took down and what she knows in her
15 personal knowledge: these photographs, the addresses
16 provided by the defendants. But if she doesn't know where
17 this alias thing on the booking reports came from, we're
18 going to have to redact that.

19 MS. LIVESAY: That's fine. And, look, a lot of that
20 other stuff needs to be redacted before it goes back
21 because it includes their FBI number, that kind of
22 identification, so that needs to be redacted as well.

23 THE COURT: Yeah, FBI ID?

24 MS. LIVESAY: Yeah.

25 THE COURT: What is the ID? Is that --

1 MS. LIVESAY: The FBI ID?

2 THE COURT: No, above FBI ID.

3 MS. LIVESAY: What is that? I'm sorry.

4 THE COURT: It just says "ID" and a string of
5 numbers and then underneath that, FBI ID.

6 MS. LIVESAY: I'll redact all that. I think I
7 always do that, to be honest. I want everything redacted
8 other than the address.

9 THE COURT: Okay. All right. Then I will allow
10 that.

11 MS. LIVESAY: Thank you, Judge.

12 THE COURT: All right.

13 MS. LIVESAY: Now, let me ask you a quick question:
14 We have got another witness here -- we've got two or three
15 that are relatively short. One young lady is from North
16 Carolina. One young lady has to be in Charleston for a
17 medical appointment at 7 a.m. And the man, I think, would
18 be available first thing in the morning. So, just two
19 other ones.

20 THE COURT: We'll see what time it is when we get
21 there.

22 MS. LIVESAY: Okay. Thank you, Judge.

23 THE COURT: All right. Anything from the State
24 before we bring the jury in?

25 MS. LIVESAY: Nothing further. And we'll make sure

1 this is redacted at the end of today. It's not going to
2 go back to them until it's redacted.

3 THE COURT: All right.

4 Mr. Wilson, anything before we bring the jury in?

5 MR. WILSON: No, sir, other than, Your Honor, as I
6 said, I object to the pictures. I think they're
7 testimonial in nature, because what she's saying is this
8 is information they got from the defendant, which would
9 make it testimonial in nature.

10 So, I would ask the Court to not allow these
11 photographs. And it's duplicative because it's already in
12 the record that this is who he is, and his nickname is
13 also in the record. So, it is cumulative in that sense as
14 well.

15 THE COURT: All right. Well, we're redacting the
16 alias.

17 All right. Mr. Galmore, anything further?

18 MR. GALMORE: I do object to the introduction of the
19 photos, but I understand the Court's ruling.

20 THE COURT: All right. Let's go ahead and bring the
21 jury in. I understand they have notepads and writing
22 utensils.

23 All right. Let's go ahead and bring the jury in.

24 (The jury entered the courtroom at 4:38 p.m.)

25 THE COURT: All right, ladies and gentlemen.

1 Welcome back.

2 Now, I understand that some of you have requested to
3 be allowed to take notes. Now, I will allow you to take
4 notes during the trial of this case; however, I must give
5 you some instructions on note-taking.

6 No. 1: You are not required to take notes. You are
7 permitted to take notes if you choose to, but do not feel
8 that you're obligated and have to take notes. Number one.

9 No. 2: I'll give you some instructions on
10 note-taking before you begin your deliberations on a
11 verdict in this case.

12 No. 3: Your notes are personal to you and cannot be
13 shared with anyone. So, you have been given writing
14 utensils. You've been given notepads. I need you to
15 write your name on the first page of that notepad and make
16 sure that you get your notepad and your notepad only and
17 do not get anyone else's notepad.

18 When you leave the courtroom, you will be required
19 to leave your notepads in the jury box. You cannot take
20 them with you. So, you'll need to leave them in the jury
21 box when you leave the courtroom, and when you come back
22 in, you need to make sure that you have your own notepad.

23 The purpose of note-taking is to jot down
24 information that you think is information -- I mean, take
25 down information that you think is important to remind you

1 at a later time when you begin your deliberations.

2 Do not try to write down everything a witness says
3 because you're going to miss some testimony if you do
4 that. Also, you'll miss observing the witness and how the
5 witness acts on the witness stand. So, the purpose of
6 note-taking is not to jot down everything a witness says,
7 but if there is something mentioned during testimony or
8 something comes up in an exhibit and you think that it is
9 important that you want to be reminded of that at a later
10 time, you just jot down a quick note to remind you of that
11 matter at a later time. And that is the purpose of
12 note-taking.

13 Some people are better note-takers than others.
14 Some people can gather more information by listening than
15 writing it down. So, you're not required to take notes.
16 Your notes are personal to you. Your notes cannot be
17 taken with you when you leave the courtroom during a break
18 or a recess. And please do not try to write down
19 everything a person says but just jot down important
20 information to refresh your memory at a later time.

21 All right. State can call your next witness.

22 MS. LIVESAY: Thank you, Your Honor. At this time,
23 the State calls Sandy Lowe.

24 THE COURT: All right.

25 SANDY LOWE,

1 after having been duly sworn, was examined and
2 testified to as follows:

3 THE CLERK: Please state your name and spell your
4 last name for the Court.

5 THE WITNESS: Sandy Lowe. Last name: L-o-w-e.

6 MS. LIVESAY: Sorry; she walked off with those. I
7 didn't know if she gave them out or not.

8 DIRECT EXAMINATION

9 BY MS. LIVESAY:

10 Q Ms. Lowe, are you currently employed with the Horry
11 County Sheriff's Department?

12 A Yes, I am.

13 Q And how long have you been employed there?

14 A 32 years.

15 Q When do you finally get to retire?

16 A When I get tired of it.

17 Q And with the Sheriff's Department, if you have been
18 there that long, what is kind of your position? Like most
19 people have a rank.

20 A I'm the sergeant over the Classification Department.

21 Q Okay. And, in that position, are you in control of
22 all the records at J. Reuben Long regarding people that
23 are checked in, checked out, charged with crimes, that
24 kind of thing?

25 A Yes.

1 Q Okay. So, anybody that's charged is going to have a
2 record for some period of time with the Sheriff's
3 Department?

4 A Yes.

5 Q And does that record contain a photograph of the
6 person, a name, and an address?

7 A Yes.

8 Q Now, is that record kept in the normal course of
9 business at the Sheriff's Department?

10 A Yes.

11 Q Now, is that record kept in a way so not just
12 anybody can tamper with it?

13 A Yes.

14 Q Okay. And how many people can go in there and look
15 at it?

16 A Oh, just the people who work in my office.

17 Q Okay. So, just a small group of people?

18 A Yes.

19 Q Okay. And you're the supervisory person over that
20 position?

21 A Yes.

22 Q Okay. And do you keep in place rules, regulations,
23 that kind of thing to ensure that those records are not
24 tampered with?

25 A Yes.

1 Q And to make sure, if they are, something is
2 immediately taken care of?

3 A Yes.

4 Q Okay. Now, I'm going to show you a photograph and
5 some records which have been marked State's Exhibit 46
6 through 51. I want you to look at them all and just tell
7 this Court if you recognize them. Okay?

8 A Yes.

9 Q Okay. And are those photographs and documentation
10 kept in the ordinary course of business with the Sheriff's
11 Department?

12 A Yes.

13 Q And you're over that department; correct?

14 A Yes.

15 Q And can you tell this Court that that photograph and
16 information is accurate?

17 A Yes.

18 Q And, in fact, you provided us with that information;
19 is that correct?

20 A Yes.

21 Q And has it been tampered with in any form or
22 fashion?

23 A No.

24 MS. LIVESAY: Your Honor, at this time, the State
25 wishes to admit 48 -- I'm sorry, 46 through 51.

1 THE COURT: All right.

2 MS. LIVESAY: And publish to the jury at the
3 appropriate time.

4 THE COURT: All right. State's Exhibits 46, 47, 48,
5 49, 50, and 51 are admitted into evidence over defendants'
6 objection.

7 (State's Exhibit Nos. 46 through 51 were received
8 into evidence.)

9 MS. LIVESAY: Can she step down, Judge?

10 THE COURT: All right. Now, there are certain
11 things that we discussed that can't --

12 MS. LIVESAY: I understand.

13 And you'll need to speak up.

14 BY MS. LIVESAY:

15 Q I'm going to give you everything to look at first.
16 With that documentation, can you identify who this
17 individual is?

18 A Yes.

19 Q And you're looking at 46 and 47?

20 A Yes.

21 Q And tell me who this individual is.

22 A Nasireia Grate.

23 Q Now, does that documentation give you the address
24 for Nasireia Grate?

25 A Yes.

1 Q And is that information obtained from Nasirea Grate?

2 A Yes.

3 Q And, if you will, just tell me what the address is
4 for Nasirea Grate. Hold on.

5 MS. LIVESAY: First of all, can you write his name
6 up there?

7 BY MS. LIVESAY:

8 Q Give her just one second, Ms. Sandy.

9 Okay. Thank you.

10 And if you can, give her the address that was
11 provided.

12 A [REDACTED] Road, Longs, South Carolina.

13 Q Thank you, Ms. Sandy.

14 Again, I'd like you to look at 50 and 51. Tell me
15 if that documentation identifies who that is a picture of.

16 A Yes.

17 Q And who is that a picture of?

18 A Dajon Grate.

19 Q And is Dajon Grate -- hold on. I'm sorry; one
20 second.

21 And did Dajon Grate provide a home address?

22 A Yes.

23 Q And can you give us that?

24 A [REDACTED] Road, Longs, South Carolina.

25 Q Thank you.

1 I'll show you 48 and 49. Take a look at it and tell
2 me whether or not that documentation identifies who that's
3 a picture of.

4 A Yes.

5 Q And who is it?

6 A Todd Fry.

7 Q And did Todd Fry provide an address?

8 A Yes.

9 Q What is that address? Hold on. I'm sorry.

10 A [REDACTED] [REDACTED], Conway, South Carolina.

11 Q Thank you, Ms. Lowe.

12 So, this is going to be Dajon Grate?

13 A Yes.

14 Q And this is the address he provided: [REDACTED] [REDACTED]
15 Road?

16 A Yes.

17 Q This is Nasirea Grate?

18 A Yes.

19 Q This is the address he provided?

20 A Yes.

21 Q And this is Todd Fry?

22 A Yes.

23 Q And he provided this [REDACTED] Road, Conway, South
24 Carolina?

25 A Yes.

1 Q Have a seat, Ms. Sandy.

2 MS. LIVESAY: No further questions, Your Honor.

3 THE COURT: All right. Mr. Wilson,
4 cross-examination?

5 MR. WILSON: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. WILSON:

8 Q I have a couple of questions. Now, ma'am, did you
9 take these photographs yourself?

10 A No, sir.

11 Q All right. So, who took them?

12 A It would have been whoever was working in Booking in
13 the photo ID when someone is brought in.

14 Q And you don't know these individuals yourself?

15 A No, sir.

16 Q And you're not saying that -- anything other than
17 somebody gave you these pictures in your department and
18 said that they took them and that was the information;
19 right?

20 A Yes.

21 Q All right. And in regards to the information, have
22 you-all ever had a situation where somebody gave you an
23 incorrect address? Has that ever happened?

24 A Possibly.

25 Q Yeah. And when people get charged -- and that's

1 what these come from; right? From the arrest records;
2 right?

3 A Yes.

4 Q All right. And so, when someone gets charged,
5 you're depending on the person that's being charged to
6 tell to you where they live?

7 A Yes.

8 Q And if they tell you the wrong address, how would
9 you know differently?

10 A We wouldn't.

11 Q No further questions.

12 THE COURT: Mr. Galmore?

13 CROSS-EXAMINATION

14 BY MR. GALMORE:

15 Q Sergeant Lowe, you did not investigate this alleged
16 murder and armed robbery, did you?

17 A No.

18 Q Okay. So, you weren't, like, on the scene?

19 A No.

20 Q Did you collect any evidence?

21 A No.

22 Q Did you interview any witnesses?

23 A No.

24 Q No. Okay. Were you the arresting officer?

25 A No.

1 Q No. Okay. So, just to be clear, you're the person
2 that's in charge of the booking records once they get
3 taken to the jail?

4 A Yes.

5 Q Okay. So, these photos here, these are all booking
6 photos?

7 A Right.

8 Q 50, 46, and 48?

9 A Yes.

10 Q So, that means they're already at the detention
11 center, charged with a crime?

12 A Right.

13 Q Okay. Did you have anything to do with 42, 44, and
14 45?

15 A No.

16 Q No. Okay. So, these were from the gas station
17 before, and these are photos of afterwards?

18 A Right.

19 Q Do you have any evidence that goes to the actual
20 commission of the criminal offenses?

21 A No.

22 Q Okay. Now, when information is put into the
23 computer at the jail, I guess the address information, can
24 that information be changed by another officer?

25 A No.

1 Q No. Okay. So, whoever puts in the home address,
2 that home address is locked into the J. Reuben Long system
3 permanently?

4 A Well, a supervisor could go in and change it but not
5 an average just booking officer.

6 Q Okay. And your department is Classification?

7 A Right.

8 Q So, that's different than Booking?

9 A Right.

10 Q So, a booking officer cannot go in and change this
11 information?

12 A Right.

13 Q But a supervisor could?

14 A Right.

15 Q Did a supervisor go change any information in this
16 case?

17 A No.

18 Q Okay. No further questions, Sergeant Lowe. Thank
19 you.

20 THE COURT: Redirect?

21 MS. LIVESAY: Just a couple, Judge.

22 REDIRECT EXAMINATION

23 BY MS. LIVESAY:

24 Q Ms. Lowe, they asked you a little bit about the
25 accuracy of the address; correct?

1 A Yes.

2 Q Okay. Who gives these addresses?

3 A The inmate, the person who is being booked in.

4 Q Okay. So, if somehow both Dajon Grate and Nasirea
5 Grate, these two defendants, both came up with [REDACTED] [REDACTED]
6 Road, Longs?

7 A Yes.

8 MS. LIVESAY: No further questions, Your Honor.

9 THE COURT: All right. You may step down.

10 State, you may call your next witness.

11 MS. LIVESAY: At this time, the State calls Berenice
12 Lopez.

13 BERENIECE URESTI MELLADO,

14 after having been duly sworn, was examined and
15 testified to as follows:

16 THE CLERK: Please state your name and spell it for
17 the Court.

18 THE WITNESS: Berenice Uresti Mellado.

19 I have to spell the whole name?

20 B-e-r-e-n-i-c-e U-r-e-s-t-i M-e-l-l-a-d-o.

21 MS. LIVESAY: Do you need that again, Judge?

22 THE COURT: Yes. Spell it again.

23 THE WITNESS: B-e-r-e-n-i-c-e. And my last name is
24 U-r-e-s-t-i space M-e-l-l-a-d-o.

25 COURT STENOGRAPHER: State's 52 through 60 marked.

1 (State's Exhibit No. 52 through 60, Photographs,
2 were marked for identification.)

3 DIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q Is it okay if I call you Ms. Berenice?

6 A Yes, ma'am.

7 Q Okay. Thank you.

8 Ms. Berenice, about how old are you?

9 A I'm 37.

10 Q Okay. And where are you from?

11 A I was born in Mexico, but I live in...

12 Q Okay. How long have you been living here?

13 A In the United States?

14 Q Yes, ma'am.

15 A 25 years.

16 Q Okay. So, really forever. I mean, that's a long
17 time.

18 A Yes, ma'am.

19 Q And have you lived in South Carolina the entirety of
20 that 25 years?

21 A I lived in South Carolina for 2-1/2 years.

22 Q Okay. And what years were those that you lived in
23 South Carolina?

24 A It was 20 -- I'm trying to remember. It's been a
25 year since I moved from South Carolina.

1 Q Okay.

2 A So, it's been '21 and '22, at the end of 2019.

3 Q And when you lived in South Carolina, did you live
4 in Horry County?

5 A Yes, ma'am.

6 Q Okay. And that was in 2021 and 2022; is that
7 correct?

8 A Yes, ma'am.

9 Q Okay. And, if you don't mind, tell this crowd where
10 you lived when you lived in Horry County.

11 A I lived at [REDACTED] State Highway [REDACTED]. Apartment [REDACTED].

12 Q Okay. And would you recognize it on a map?

13 A Yes, ma'am.

14 Q Okay. I'll show you first State's Exhibit 7. I
15 feel like it's smaller. Need to get your bearings. Take
16 a look at this and tell me if you recognize it.

17 A Right there.

18 Q Okay. And that's where you lived for two years?

19 A Yes. 2-1/2 years.

20 Q Okay. And is this area -- is this map accurate?

21 A Yes, ma'am.

22 Q Okay. And are you familiar with some of these
23 locations on the map?

24 A Yes, ma'am.

25 MS. LIVESAY: Okay. At this time, the State wishes

1 to place 7 into evidence and publish it to the jury.

2 THE COURT: Any objection?

3 MR. WILSON: No objections, Your Honor.

4 THE COURT: Mr. Galmore?

5 MR. GALMORE: No, sir.

6 THE COURT: State's Exhibit 7 admitted into evidence
7 without objection.

8 MS. LIVESAY: Thank you, Judge.

9 (State's Exhibit No. 7 was received into evidence.)

10 BY MS. LIVESAY:

11 Q And I'm going to show you State's Exhibit No. 8.
12 It's a kind of a larger version. Can you find your house
13 where you live on this one?

14 A Let's see. Right there.

15 Q Okay. And are you familiar with the locations
16 around in this map?

17 A Yes, ma'am.

18 Q Okay. And is it accurate?

19 A It seems accurate.

20 MS. LIVESAY: Your Honor, at this time, the State
21 wishes to place State's Evidence No. 8 into evidence.

22 MR. WILSON: No objections.

23 MR. GALMORE: No objection.

24 THE COURT: State's Exhibit 8 admitted into evidence
25 without objection.

1 (State's Exhibit No. 8 was received into evidence.)

2 BY MS. LIVESAY:

3 Q So, let's go ahead, if you can, Ms. Berenice, can
4 you step down right quick?

5 MS. LIVESAY: Do you mind, Judge?

6 THE COURT: As long as she's by a microphone.

7 BY MS. LIVESAY:

8 Q This is State's Evidence No. 7. I want you to show
9 them on this map where you were living in 2022.

10 A Right here.

11 Q And you're familiar with the area and lived there
12 two years?

13 A Yes, ma'am.

14 Q And is there a Sunhouse nearby where you lived?

15 A Yes, ma'am.

16 Q And can you point to them where the Sunhouse is?

17 A Right here.

18 Q Okay. And about how long would it take you to get
19 from your house to the Sunhouse?

20 A About five minutes or less.

21 Q Okay. So, right up the road?

22 A Yes, ma'am.

23 Q Okay. And is that the local kind of gas station you
24 would use?

25 A It is.

1 Q Okay. If you don't mind, have a seat, Ms. Berenice.

2 Now, when you lived at that apartment, describe a
3 little bit to these folks so they can get an idea, what
4 did it look like? Was it an apartment complex? Were
5 there, like, 20 buildings out there? What did it look
6 like?

7 A It's only four apartments.

8 Q Okay.

9 A You walk into a dirt road when you come on Red
10 Bluff. You turn right. It's only four small apartments
11 and there's a trailer on the left side.

12 Q Okay. And are they --

13 A They're small. Two -- two-bedroom apartments. It's
14 been there for years.

15 Q Perfect. And are they kind of just aligned, four
16 apartments?

17 A Yes, ma'am. It starts from Apartment 1, 2, 3, 4.

18 Q Okay. And tell me about the area where the
19 apartments are. Are there a lot of houses out there? Is
20 it kind of in the middle of nowhere?

21 A There's a house next to it. You can barely see it
22 because of the woods. There's, like, a ditch and woods.
23 And there's a house all the way on the other side, on the
24 right-hand side. And there's woods in front of the
25 apartments. There's no neighborhood in the front of the

1 apartments.

2 Q Okay. And how about behind you? Are there any
3 houses?

4 A There's no houses behind. It used to be one all the
5 way down, like, a mobile home, like a -- but not anymore
6 at that time.

7 Q Okay. So, there was not a big housing complex
8 nearby?

9 A No, ma'am.

10 Q Not a big apartment complex nearby?

11 A No.

12 Q So, kind of in the middle of, I'd say, country?

13 A Yes, ma'am. Calling it middle of nowhere.

14 Q Okay. Right, right.

15 And who, if anybody, lived in the apartment with
16 you?

17 A My ex-boyfriend.

18 Q Okay. And about how long had y'all lived together
19 in that apartment?

20 A 2-1/2 years.

21 Q Okay. And during the time that you and him were
22 living there, did anything ever happen to require you to
23 call the police?

24 A No, ma'am. Before -- not until this time.

25 Q Okay. So, not before this time?

1 **A** No, ma'am.

2 **Q** So, tell me what happened this time.

3 **A** We heard gunshots.

4 **Q** Okay. You heard gunshots?

5 **A** Mm-hmm.

6 **Q** And then what happened?

7 **A** And my ex-boyfriend heard the gunshots first, and he
8 told me to get down. And I thought he was kidding because
9 he --

10 **MR. WILSON:** Your Honor, I'm going to object to
11 whatever it is her boyfriend told her or whatever he said
12 to her. I object to it.

13 **THE COURT:** All right. Overruled. I don't see any
14 hearsay. Go ahead.

15 **A** He told me that and then I -- he says, "Stay quiet.
16 I heard gunshots." And he heard the first ones. And then
17 I heard the other ones that came after. And he said, "Get
18 down." And that's when I -- I thought he was joking, but
19 then, when I heard the gunshots, that's when I realized it
20 wasn't a joke.

21 And he got down. And he got his, for own
22 protections, you know, guns. And we walk -- he walked
23 over to the door. We locked the door because it was
24 unlocked.

25 **BY MS. LIVESAY:**

1 Q Okay.

2 A And that's when I went -- we went back to the room
3 and I peek out the window to see.

4 Q You peeked out the window to see?

5 A Yes.

6 Q And tell these folks what you saw when you peeked
7 out the window?

8 A When I peek out the window, I saw a guy from the
9 back. I don't know if he was coming from behind or where
10 he was coming from, but where my apartment is is at the
11 end. And through the window -- like, I was here, and I
12 saw a guy, like, right there through the window. He had
13 black shirt, kind of like a triangle logo on the back.
14 And dreads.

15 Q Like a red triangle logo on the back?

16 A Yes, ma'am. Like a red triangle logo on the back.
17 And dreads, like, up. And, like, a mask -- like a pull-up
18 mask.

19 Q What color was the mask?

20 A Black.

21 Q And could you see his hair?

22 A From the back, yes, ma'am.

23 Q Okay.

24 A Only saw the back.

25 Q Okay. And was it a Black guy or a white guy?

1 A It was a Black guy.

2 Q And how many people -- different people did you see?
3 You saw that guy. Did you see anybody else?

4 A After that, when I saw the guy left, got into the
5 car.

6 Q What did this car look like?

7 A It was a beige-looking Cadillac.

8 Q Okay. And tell me, when did you see this car?

9 A When I was looking at the window when I saw the guy
10 walking towards the dirt road coming outside. Like
11 there's a dirt road at the -- next to the Apartment ■,
12 there's a dirt road, like, how you get in the apartments.

13 So, when I look, he walked that way kind of -- I
14 wouldn't say running, not, you know, jogging, running. It
15 was so fast that he got -- I saw him get in another car,
16 and that's when I saw him.

17 Q Okay. And was the car moving? Was it parked? What
18 was the car doing when you saw it?

19 A It was so fast, I don't remember if it was moving or
20 something. I just saw him getting in and saw the car
21 leaving and going -- turn right.

22 Q Okay. And where did he get in the car?

23 A On the passenger seat.

24 Q On the passenger seat?

25 A I mean, on the back.

1 Q So, he wasn't driving the car?

2 A No, ma'am.

3 Q Okay. And did you see who was driving the car?

4 A I did not.

5 Q Okay. At some point, did you come out of the
6 apartment?

7 A Yes, ma'am. After I saw they left -- the car left.

8 Q And when it left, which way did it go; do you
9 remember?

10 A To the right.

11 Q Okay. So, it comes out of your apartment. And you
12 say it's a dirt road?

13 A Yeah. The car was kind of -- I don't know if it was
14 there parked or where it was, but I saw -- when he got in,
15 the car went to the right.

16 Q Okay. And was it like an SUV or like a four-door
17 sedan?

18 A It was a Cadillac. It was a beige Cadillac.

19 Q Two or four doors?

20 A Four doors.

21 Q And could you see in the windows of the Cadillac or
22 was it tinted?

23 A I couldn't -- I don't recall. I just saw the color.

24 Q Okay. And you just recall a four-door Cadillac?

25 A Mm-hmm.

1 Q And what was the color?

2 A Beige, tan-looking.

3 Q Okay. And then what do you see? The car drives
4 off. What do you see next?

5 A The car drives to the right. And that's when I tell
6 my ex-boyfriend that they're probably gone or something.
7 And that's when he -- we decide to go to the room, and he
8 said to go outside to see what happened. And I don't --
9 I'm already on the -- at this point --

10 Q You're already what?

11 A 911 call.

12 Q Okay. You already called the police?

13 A Uh-huh. He went outside. He came back, and then --
14 and he went outside again, and that's when he said, "Don't
15 come outside." He told me not to come outside. I was
16 already on the 911 call when he said, "Do not come
17 outside." And I said, "Why? Why?" And then I came
18 outside. That's when I saw the guy on the -- right
19 outside of the step of my apartment, laying down.

20 Q Do you remember if he was face up? Face down?

21 A Face down.

22 Q And can you give these folks a description of that
23 man?

24 A He didn't have a shirt on. He have -- I don't
25 recall -- he have pant -- I just remember he had like his

1 boxers were showing off. It was green.

2 Q What was green?

3 A His boxers were green and he had shorts.

4 Q Okay. And what else did you see out there?

5 A And he also had some slippers or some sandals laying
6 there. I saw blood around.

7 Q And was he moving or talking?

8 A He wasn't. He wasn't moving or talking. I was on
9 the 911 call. I told my ex-boyfriend to check. And
10 that's when he was like, "Hey, are you okay, Buddy? Are
11 you okay?" And he didn't responded.

12 And that's when I went out, and I told the nine -- I
13 told the 911 operator if he wanted me to check the pulse
14 on the guy. And he said, if you feel comfortable with it.
15 And when I got really close to him, I knew he was gone
16 because his eyes were looking back. And I didn't see his
17 chest rising or anything.

18 Q So, how many people did you see out there that were
19 deceased?

20 A Only one -- at that point that I'm telling you, one
21 person.

22 And then I turned to my right, and I saw a kind of
23 white, you can say, small SUV parked in Apartment ■, and I
24 know the car was not -- is not none of our neighbors
25 because I know the neighbors at that time that live there.

1 And I walked down there, and I saw another guy --

2 Q What did you --

3 A -- on the car. He was -- he was a Black -- Black
4 guy, with his head like this on the truck -- on the SUV.

5 Q Where was he in the SUV?

6 A He was on the driver's side.

7 Q Okay. And did he -- did you touch him?

8 A No.

9 Q And was he --

10 A I thought he was dead because there was bullet holes
11 on the window.

12 Q And did you hear him say anything or make any
13 movements?

14 A Not at all, no, ma'am.

15 Q Okay. So, it didn't look like any use to try to do
16 any kind of life-saving?

17 A No.

18 Q And tell me about the white SUV. Tell me how that
19 appeared. Was there any damage to it?

20 A On the window, it's like -- it was kind of crack. I
21 don't know because it was bullet holes or what. And the
22 door was -- the passenger side door was open and was kind
23 of a little small blood trail from around there to my
24 apartment on the sidewalk. And there was a gun on the
25 floor.

1 Q When you say "the floor," do you mean --

2 A Like, on the sidewalk. On the cement. Concrete.

3 Q Okay. And where was the gun in relation to the
4 white Acura?

5 A On the -- I believe it was on the right-hand
6 side ---

7 Q Okay.

8 A --- of the -- like, on the passenger.

9 Q So, it was on the passenger side?

10 A On the floor. On the concrete.

11 Q Okay. So, it was outside the Acura on the ground?

12 A Yes, ma'am.

13 Q And is that the only gun you saw out there?

14 A Yes, ma'am.

15 Q Okay. And you said you saw some blood going from
16 there to your apartment?

17 A Yes.

18 Q And when you say to your apartment, do you mean
19 where the deceased guy was?

20 A Yes, ma'am.

21 Q Okay. And did you see anything -- see any other
22 guns laying out?

23 A No, ma'am, I did not.

24 Q Okay. And did you see any -- did you notice any
25 shell casings or anything like that out there?

1 A Yes, ma'am.

2 Q Okay. Tell them what you saw.

3 A I saw a couple shell casings close to the car on the
4 right side, because I wasn't -- I didn't go to the other
5 side of the car, and I didn't -- I got close enough to see
6 but not to touch anything.

7 Q I understand. So, you saw the shell casings on the
8 outside right side of the white Acura?

9 A Yes, ma'am.

10 Q Now, you called the police?

11 A Yes, ma'am.

12 Q Okay. And --

13 A I was on the 911 operator at that time.

14 Q And did the police come?

15 A Yes. The police came, like, 30 minutes later.

16 Q Okay. Did that upset you?

17 A Yes, ma'am.

18 Q Okay. That's okay. That's okay.

19 And you live in kind of a rural area. Let me ask
20 you this: When the police came, how long did you sit out
21 there with the police? How long were you out there?

22 A When the police came -- it's hard to tell. It was
23 dark. More than five hours.

24 Q How long?

25 A More than five hours, I would say.

1 Q More than five hours. Okay.

2 Could you go back into your apartment?

3 A Not at all. I couldn't go back to my apartment. I
4 have to stay outside.

5 Q Okay. And is that kind of why you remember it was
6 five hours?

7 A Yes, ma'am. I had my phone, look at the time since
8 the incident happened until the time were we -- we were
9 probably -- around 8:00, 8:30, because I was -- I know the
10 time because I was worried about my sister's dog that I
11 was supposed to walk outside before everything happened.
12 So, I was worried about the dog ---

13 Q Okay.

14 A --- destructing stuff inside the apartment.

15 Q I understand.

16 And let me ask you something: I think you may have
17 told me earlier. The white Acura out there, had you ever
18 seen it out there before?

19 A No, I have not.

20 Q Okay. And you lived out there two years?

21 A Yes. Longer than two years.

22 Q And is that a type of an apartment where it's kind
23 of the same cars coming and going?

24 A Yes, ma'am.

25 Q Same folks coming and going?

1 A Yes, ma'am.

2 Q Okay. And the Cadillac, you say you saw the
3 Cadillac take off. Had you seen that car out there
4 before?

5 A No, I have not.

6 Q Okay. And the guy laying out there deceased on the
7 ground, had you ever seen him before?

8 A No, I have not.

9 Q Ever seen any of these folks before?

10 A No, I have not.

11 Q Okay. Ms. Berenice, I'm going to show you 52
12 through 60. Tell me if you recognize these photographs.

13 A Yes, I do, so far.

14 Q Look through all of them. Yes, ma'am.

15 A (Reviewing photographs.)

16 Q Do you recognize them?

17 A Yes, ma'am.

18 Q And are they accurate as to what you saw the day of
19 the shooting?

20 A Yes, they are.

21 Q And have you seen them before?

22 A The pictures?

23 Q Yes, ma'am.

24 A (Witness nodding.)

25 Q No?

1 A No, I have not.

2 Q But you can look at them today and say that that's
3 exactly what you saw that day?

4 A Yes, ma'am.

5 Q And is that the white Acura that you described?

6 A Yes, ma'am.

7 Q And one of those pictures or a couple of them shows
8 the deceased guy, correct, in the yard?

9 A Yes, ma'am.

10 Q And is that how you saw him?

11 A Yes, ma'am.

12 Q And the guy in the Acura, is that how you saw him?

13 A Yes, ma'am.

14 Q And the gun outside the Acura, that's how you saw
15 that?

16 A Yes, ma'am.

17 Q So, nothing had been moved or touched when these
18 photographs were taken?

19 A No, they have not.

20 Q Thank you.

21 MS. LIVESAY: Your Honor, at this time, the State
22 wishes to move these photographs into evidence and publish
23 them to the jury.

24 MR. WILSON: I have no objection.

25 THE COURT: Mr. Galmore?

1 MR. GALMORE: No objection.

2 THE COURT: All right. State's Exhibits 52, 53, 54,
3 55, 56, 57, 58, 59, 60, 61, and 62 are admitted into
4 evidence without objection.

5 (State's Exhibit Nos. 52 through 60 was received
6 into evidence.)

7 MS. LIVESAY: And do you mind if Ms. Berenice steps
8 down, Judge?

9 THE COURT: No, that will be fine.

10 COURT STENOGRAPHER: And, Your Honor, it only goes
11 through 60.

12 THE COURT: Oh, it only goes through 60?

13 MS. LIVESAY: Yes, sir.

14 THE COURT: Okay. Scratch that on 61 and 62 then.

15 State's Exhibits 52 through 60 are admitted into
16 evidence without objection.

17 MR. WILSON: Thank you, Judge.

18 BY MS. LIVESAY:

19 Q I'm showing you State's Evidence 52. What is this a
20 picture of?

21 A The apartments. The outside of the apartment.

22 Q I'm going to show you State's 53. There's a dirt
23 road in this photograph. Is that the dirt road you saw
24 the Cadillac on?

25 A Yes, ma'am. That's the road where you get in and

1 get out of the apartments.

2 Q Okay. And at the end of the dirt road, it took a
3 right; is that right?

4 A As you're coming out, yes.

5 Q Okay. And is the white Acura in this picture?

6 A Yes. (Indicating.)

7 Q If you don't mind, I'm going to show this to these
8 folks. If you can, Ms. Berenice, step around to my right.
9 I'd appreciate it.

10 Now, point out the road you saw the Acura on.

11 A The Acura is at the apartment.

12 Q Okay. The Acura is still sitting there?

13 A Yes.

14 Q Tell me the road the Cadillac was on.

15 A This right here (indicating).

16 Q Okay. And can you show them where your apartment
17 is?

18 A My apartment is -- it's right there where the red
19 car is.

20 Q Okay.

21 A It's right there.

22 Q Okay. Showing you now State's 56. Do you recognize
23 it?

24 A Yes, ma'am.

25 Q And I'm going to go ahead and show you State's 55.

1 Do you recognize these?

2 A Yes, ma'am.

3 Q And what are these?

4 A The pictures of the white SUV.

5 Q Did you see somebody in the white Acura?

6 A Yes.

7 Q Were those holes in the Acura when you saw it?

8 A Yes, ma'am.

9 Q Now, do you recognize what I'm showing you now,
10 State's Evidence 57?

11 A Yes, ma'am.

12 Q And what is that?

13 A The person that I saw in the car.

14 Q Is that when you saw him?

15 A Yes, ma'am.

16 Q State's Evidence 57. Now, he wasn't the only person
17 that was out there, deceased; correct?

18 A I'm sorry?

19 Q Do you recognize 59 and 60?

20 A Yes, ma'am.

21 Q Is that the man you saw outside your apartment?

22 A Yes, it is.

23 Q And this apartment before yours?

24 A Yes, it is.

25 Q And this is the guy you were describing with the

1 lime green boxers?

2 A Yes, ma'am.

3 Q Now, got two pictures left, 54 and 58. Do you
4 recognize these?

5 A Yes, ma'am.

6 Q And do you see the gun in the picture on 58?

7 A Yes, I do.

8 Q Is that the gun that you saw?

9 A Yes, it is.

10 Q And is that where you saw it?

11 A Yes.

12 Q Okay. And was the passenger door open like that?

13 A Yes, ma'am.

14 Q So, I'm going to show the jury now 54 and 58. If
15 you don't mind, Berenice, point out up here where the gun
16 is.

17 A (Indicating.)

18 Q And in Picture No. 60, I see a green flip-flop. Do
19 you see that?

20 A Yes.

21 Q And that green flip-flop was out there when you saw
22 him?

23 A Yes, it was.

24 Q But just one flip-flop?

25 A Yes, ma'am.

1 Q And this picture on 57, that may or may not be a
2 green flip-flop; right?

3 A It's hard to see.

4 COURT STENOGRAPHER: I'm sorry?

5 A It's hard to see.

6 Q Okay. Hard to see.

7 But we know there's only one out there with the
8 body?

9 A Yes, ma'am.

10 Q So, there's probably one somewhere else?

11 A Yes, ma'am.

12 THE COURT: She's going to need to speak into the
13 microphone because the court reporter has to take down
14 everything that's said. All right?

15 MS. LIVESAY: Yes, sir. One second, Ms. Berenice.
16 You can have a seat, if you'd like.

17 Just one second, Judge.

18 THE COURT: All right.

19 BY MS. LIVESAY:

20 Q Ms. Berenice, you said you were out there waiting at
21 least five hours; correct?

22 A Yes, ma'am.

23 Q And the police were there?

24 A Yes, ma'am.

25 Q And you were outside your apartment?

1 A Yes, ma'am.

2 Q Okay. And two people were killed?

3 A Yes, ma'am.

4 Q Okay. Did you see the tan Cadillac come back?

5 A No, I did not.

6 Q Okay. So, nobody ever came back to check on these
7 people?

8 A No, ma'am.

9 Q And the guy in the black shirt with the red logo on
10 the back, do you remember seeing him out there when the
11 shooting was going on?

12 A I remember seeing him walking towards the dirt road.

13 Q Okay. And did he get in the Cadillac?

14 A Yes, ma'am.

15 Q Okay. Did you see him come back?

16 A No, I did not.

17 Q What color was that man?

18 A Black.

19 Q And was he fat? Skinny?

20 A Skinny.

21 Q Skinny. Okay.

22 How quick did all this happen?

23 A Matter of two minutes.

24 Q And how long were you looking out the window?

25 A I don't recall. Everything happened so fast when I

1 peek out the window and was, like, flying straight when he
2 was walk -- walk by and got in the car and left.

3 Q And how quick did that happen? Seconds? Minutes?

4 A Probably a minute.

5 Q Okay.

6 A Or two.

7 Q Now, did you see him from the front or the back?

8 A From the back.

9 Q And you glanced out the window. Have the shots, are
10 they still going on at that point?

11 A No, they were not.

12 Q Okay. So, at this point, you didn't hear any shots?

13 A No, I did not.

14 Q Okay. That guy --

15 MS. LIVESAY: Thank you. I appreciate it. Thank
16 you.

17 (State's Exhibit No. 61, Photograph, was marked for
18 identification.)

19 MR. WILSON: I have no objection to it, 61, Your
20 Honor.

21 BY MS. LIVESAY:

22 Q So, you look out. You only see the one guy, right,
23 in the black shirt with the red logo on the back, kind of
24 looked like a triangle?

25 A Yes, ma'am.

1 Q And he had some sort of black face covering?

2 A Yes, ma'am.

3 Q Okay. And couldn't see his face; is that correct?

4 A That's correct.

5 Q Okay. Couldn't see his face.

6 And how far did he walk when you saw him, like, from
7 me to the jury panel? Or how much did you see as far as
8 how far he walked before he was in the Cadillac? Do you
9 remember?

10 A Yes. Like, from here a little over to that bench.

11 Q I'm sorry?

12 A Like, how far did I see him from the window when he
13 walk?

14 Q Yes.

15 A From the window where I was at, peeking, like, all
16 the way to the first bench.

17 Q The first bench?

18 A Yeah.

19 Q That's where he was in relationship to where you
20 were looking out the window?

21 A No. The first time I saw him, it was from here
22 where you're at.

23 Q And so, he was right outside your window?

24 A Yes. You pass a little, like, grass and, then
25 there's the sidewalk.

1 Q So, I'm showing 60. Can you show me and these folks
2 where that guy was standing?

3 A Like, right here. And my window is right here.

4 Q Okay. So, step down. I'm sorry.

5 MS. LIVESAY: If that's okay with you, Judge.

6 THE COURT: That's all right. As long as she's near
7 a microphone.

8 BY MS. LIVESAY:

9 Q And speak up, Ms. Berenice.

10 A Yes, ma'am.

11 Q This is State's Evidence 59. Show these folks what
12 window you were looking out.

13 A This one.

14 Q And this is State's 60. Where was that guy standing
15 when you first saw him?

16 A Like, he wasn't standing. He was, like, walking.

17 Q Towards the Cadillac?

18 A Yes. Like, on this side.

19 Q So, he was along on this sidewalk, walking away from
20 it?

21 A Yes.

22 Q Now, did you ever see this victim, this guy,
23 Jeremiah Dicker? Did you ever see him upright? Did you
24 ever see him walking? Running? Anything?

25 A No, I did not.

1 Q Okay. So, by the time you looked out the window,
2 when he had already fell?

3 A I did not see that.

4 Q You don't know but you know you didn't see him?

5 A No.

6 Q Okay. At any point, you never saw that guy until
7 you got out and he was --

8 A Until I got outside and looked at him.

9 Q And the guy with the black shirt and the triangle
10 logo on the back was somewhere along in here walking away
11 from the body?

12 A Yes, ma'am.

13 Q Okay. And so, when you saw him from your window,
14 show me -- he was about where?

15 A About here. Right here.

16 Q And walking away?

17 A Yes. Towards that way. And from my window, you can
18 see.

19 Q Okay. Now, you saw this picture earlier looking
20 into the white Acura. Do you remember that? There was a
21 picture looking inside the white Acura, and you saw the
22 black guy leaned over, deceased, in the white Acura. Do
23 you remember that? State's Evidence 57?

24 A Yes, ma'am.

25 Q I'm going to show you now State's Evidence 61. Do

1 you recognize this?

2 A The picture with the gun. Yes, ma'am, I do.

3 Q Okay. And that's the car and the guy you saw that
4 day of the shooting?

5 A Yes, ma'am.

6 MR. WILSON: Your Honor, at this time, the State
7 wishes to put 61 into evidence and publish it.

8 THE COURT: All right. Mr. Galmore, any objections?

9 MR. GALMORE: No, sir.

10 THE COURT: All right. Mr. Wilson, you said you had
11 no objection?

12 MR. WILSON: No objection.

13 THE COURT: All right. State's Exhibit 61 admitted
14 into evidence without objection.

15 (State's Exhibit No. 61 was received into evidence.)

16 BY MS. LIVESAY:

17 Q So, I'm going to publish 60 and 61, the picture I
18 had the other day -- earlier. Do you see the green
19 flip-flop there now?

20 A Yes, I do.

21 Q Now, do you mind having a seat, Ms. Berenice? Thank
22 you. I appreciate it.

23 Did your -- did you see your ex-boyfriend look out
24 the window?

25 A I did.

- 1 Q You did. You saw him look out the window?
- 2 A I did, but I don't -- from a different...
- 3 Q Okay. So, what window was he looking out?
- 4 A I believe it was the living room window.
- 5 Q Okay. And is that like --
- 6 A It's not really a window. It's, like, a little
7 square.
- 8 Q Beside the door?
- 9 A Beside the door. It's, like, a square thing.
- 10 Q Okay. And it's kind of like, when somebody knocks
11 on your door, you look out there at who it is?
- 12 A Yes, ma'am.
- 13 Q Now, is that the window, one that goes all the way
14 to the ground?
- 15 A No, it's not.
- 16 Q Okay. About how big is that window?
- 17 A Like this big -- this long (indicating). It's a
18 rectangular, like, two parts.
- 19 Q So, he was looking out a different window?
- 20 A Yes, ma'am.
- 21 Q Okay. So, he was looking from a different angle?
- 22 A Yes, ma'am.
- 23 Q Okay. So, he may have seen more or less than you
24 saw?
- 25 A Could be.

1 Q Okay. But you only saw one person that was alive?

2 A Yes, ma'am.

3 Q Okay. And that one person is the guy with the black
4 T-shirt and the red logo on the back?

5 A Yes, ma'am.

6 Q And some sort of mask?

7 A Yes, ma'am. A pull-up.

8 Q And you never saw the deceased guy with the green
9 lime pants, Jeremiah Dicker, you never saw him upright?
10 Walking around? Running? Nothing?

11 A No, I did not.

12 Q Okay. Now, two people, without a doubt, were out
13 there, deceased; correct?

14 A Yes, ma'am.

15 Q And you didn't see either one of them until you
16 walked out the door?

17 A Yes, ma'am.

18 Q Okay. So, you didn't see them running around?
19 Walking? Nothing?

20 A I did not.

21 Q Okay. The boy that had the black T-shirt and the
22 red logo on the back, did that young man have any blood on
23 him? Did you see that he was shot? Was he leaning over?
24 Was he hollering out? Did you see anything like that?

25 A No, I did not.

1 Q Okay. So, you didn't see anything that indicated
2 that he was injured?

3 A No, I did not.

4 Q Okay. And did you see anybody upright that had been
5 shot, running around?

6 A I did not.

7 Q Okay. So, the only guy you saw walking to the
8 Cadillac had not been shot; is that correct?

9 A I didn't -- I didn't recall if he was being shot or
10 not. I did not see that.

11 Q Okay. So, you didn't see any blood on him?

12 A No, I did not.

13 Q Did you see him hollering out in pain?

14 A No, I did not.

15 Q When he was walking, was he limping?

16 A I do not recall that.

17 Q Okay. And he was walking, was he over like this
18 (indicating,) trying to get in the door?

19 A I don't recall that.

20 Q Okay. So, you don't recall him being injured at
21 all?

22 A No, I did not.

23 Q Okay. When you -- when the guy walked to the
24 Cadillac, did he ever fall down?

25 A No, I don't recall that.

1 Q Okay. But you did see him walk and get into the
2 Cadillac?

3 A Yes, I did.

4 Q Okay. And you don't remember him falling down or
5 anything like that?

6 A I did not. It's been two years.

7 Q I understand. I understand.

8 Did you give a statement to the police?

9 A Yes, I did.

10 Q Okay. And have you heard that statement?

11 A Yes, I have.

12 Q Okay. And did you tell the police that that guy
13 with the black T-shirt and the red logo on the back, did
14 you ever tell them that he was injured?

15 A Whatever I told the police the day is what I
16 remember. It's been --

17 Q I'm sorry?

18 A Whatever I told the police, that's what I remember.
19 The day. It's been too long.

20 Q Okay. So, if you never told the police that guy was
21 injured, then, at that time, you don't remember him being
22 injured?

23 A No, I do not.

24 Q Okay. So, when you saw the Black male, was he
25 walking to the Cadillac or running to the Cadillac? Do

1 you remember?

2 A Kind of joggling [sic], running.

3 Q Okay. You saw him running to the Cadillac?

4 A Yes, ma'am.

5 Q And do you remember if the Cadillac was already
6 moving or not?

7 A I don't recall that, if it was moving or not.

8 Q Okay. You just remember him running to the
9 Cadillac?

10 A Yes, ma'am.

11 Q And do you remember what door he got into the
12 Cadillac?

13 A On the -- the first door.

14 Q Okay. Was it the driver's side or passenger side?

15 A Pass -- passenger.

16 Q And the guy with the mask and the black T-shirt with
17 the red logo, is this a description all of the same guy?

18 A Yes, ma'am.

19 Q Okay. So, this is one Black male with mask, a black
20 T-shirt, and the red logo?

21 A Yes, ma'am.

22 Q And that's the one male that was running to the
23 Cadillac?

24 A Yes, ma'am.

25 MS. LIVESAY: No further questions, Your Honor.

1 THE COURT: All right. Mr. Wilson?

2 MR. WILSON: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. WILSON:

5 Q Ms. Lopez, let's go back and talk about what you say
6 you saw. Now, as I understand it, you and your boyfriend,
7 husband, whatever, were in your apartment; right? Is that
8 correct?

9 A Yes.

10 Q All right. And you never saw anybody shoot a gun,
11 did you?

12 A I did not recall that.

13 Q That wasn't my question. My question was: Did you
14 see anybody fire a gun, period?

15 A I did not.

16 Q You did not. All right.

17 And the man that you say had the logo on his shirt,
18 did you tell the police that the man had dreads and had
19 them plaited up? Did you tell the police that?

20 A I do not recall that. Whatever I told the police
21 that day, that's what it was.

22 Q All right. So, if you told the police back on May
23 31st that the man had dreads -- and when we say "dreads,"
24 do you know what we're talking about?

25 A A little bit.

1 Q Well, what's your description of dreads?

2 A Kind of hair twisted or...

3 Q Okay.

4 A It's hard to describe.

5 Q Well, all right. So, if you used that term

6 "dreads," what were you referring to?

7 A Like, hair up.

8 Q Hair up? What do you mean, "up"? Like "up" meaning
9 what? Braids up or -- I don't understand.

10 A Kind of -- I don't know how to explain things but
11 kind of braids. I would say, like, hair twisted. Maybe
12 not braids but, like, hair twisted.

13 Q Okay. All right. So, what you were referring to
14 then was twisted hair? Is that what you're saying? And
15 not braids? You just used the wrong word?

16 A I'm not sure, because I don't recall. Like I said,
17 it's been 2-1/2 -- it's been two years. Whatever I told
18 them, that's what I remember.

19 Q But you talked to the police the very day that this
20 happened; right?

21 A Yes, I did.

22 Q Yeah. And you gave them what you say is a truthful
23 statement at that time about what you say you saw;
24 correct?

25 A Yes, sir.

1 Q All right. And you hadn't been drinking or
2 anything; right?

3 A No, I have not.

4 Q And did you get a chance to look at your statement
5 that you had given to the police before you came in here
6 today?

7 A Can you repeat that? What kind of statement?

8 Q The statement. When you talk to the police, that's
9 called giving a statement; right? When you explain to
10 them what you say you saw or what you say you did or what
11 you say you heard or whatever it is, that's called a
12 statement.

13 And what I'm asking you is: Do you recall the
14 statement that you gave to the police, or did they show it
15 to you before you came in here today to testify?

16 A Yes, they did.

17 Q I'm sorry?

18 A Yes, they did.

19 Q They did show it to you?

20 A Yes, they did.

21 Q All right. And when was that?

22 A The statement that they showed me, it was today.

23 Q Okay. So, they just showed it to you today.

24 So, is this the first time that you have seen that
25 statement in two-plus years?

1 A No, it is not.

2 Q All right. When did you see it before today?

3 A I don't recall exactly what date.

4 Q Okay. All right. Now, let me ask you: The day
5 that this incident occurred -- because it's in the middle
6 of the day; right? You weren't working that day?

7 A No, I was not. I was on vacation.

8 Q Okay. And now, you recall calling 911? Do you
9 recall that?

10 A Yes, I do.

11 Q Okay. Did you tell them that the car that you saw
12 leaving was brown?

13 A I don't recall that.

14 Q You don't recall that.

15 Would you deny that you did that, that you called
16 911 and, on the tape, tell them initially that the car is
17 brown?

18 A I don't recall that.

19 Q Okay. All right. Do you recall, in your
20 conversations with 911, talking to them about what you say
21 actually your boyfriend saw, not you?

22 A When I was with the 911 call, I said what he -- what
23 he was telling me and what I saw.

24 Q And he is the one who told you about the man running
25 past the house with the dreads?

1 A He did not. I saw the man running.

2 Q Did you tell 911 that -- in fact, you got him on the
3 phone for 911, did you not, while you were talking to
4 them? You forgot that?

5 A I did not got -- I was the one on the phone.

6 Q Did you not, while you're on the 911 call, call
7 him -- and, actually, you had to interpret for him because
8 he couldn't speak clear enough English to give his version
9 of what he said happened, and you was expressing it to the
10 911 operator?

11 A That was -- that is not -- that is not what I
12 recall.

13 Q What do you recall?

14 A I was on the phone the whole time, and I was just
15 asking him to check on the guy, if he was okay.

16 Q You don't recall, in the 911 call, asking him what
17 he saw and explaining it to the 911 operator?

18 A That was when the police interviewed me, when they
19 came. That's when I was translating for him.

20 Q All right. So, you translated for him to the
21 police, but you don't recall translating for him on the
22 911 call?

23 A He did not say anything on the 911 call.

24 Q I'm not saying he said anything. What I'm saying
25 is, you were talking to him, getting information to give

1 to the 911 operator?

2 A Yes. I asked him if he saw anything. He said no.

3 Q Well, that's not true either, is it now, ma'am? He
4 actually told you that he saw somebody; right?

5 A At that point, I didn't know because everything
6 happened so fast.

7 Q And I understand. And, listen, I'm just -- I'm not
8 trying to trick you. I'm just trying to get to the truth.

9 What you're testifying to here today is based on
10 what he told you happened?

11 A It is not true.

12 Q But you don't deny that you translated what he said
13 happened to the police and on the 911 call? You don't
14 deny that, do you?

15 A I do deny that. I translated for him when he was
16 on -- when the police came after. When they came and
17 talked to us, that's when I translated for him.

18 When I was on the 911 call, it was different. I was
19 on the 911 call, and then I asked him to check on the guy,
20 because they were asking me questions. And I was telling
21 him to check on the guy and do this, but I never
22 translated with him with the 911 call.

23 Q How many live individuals did you see that day at
24 the car; that is, the white Acura car, or in front of your
25 apartment or at this location? How many live individuals

1 -- when you came out of your apartment, how many live
2 individuals did you see?

3 A None.

4 Q None.

5 How many live individuals did you see before coming
6 out of your apartment?

7 A One.

8 Q Did you tell law enforcement that the guy who was
9 later on the ground was actually walking towards your
10 apartment before he fell and was on the ground?

11 A I did not.

12 Q Okay. So, you're saying that you never saw that
13 individual who is right laying next to your apartment door
14 prior to coming outside and finding him laying there?

15 A I did not.

16 Q Let me ask you: Do you recall on the 911 tape where
17 you were talking to the operator and he asked you to go to
18 -- or he asked you if you would touch the body to see if
19 one of them was alive? Do you recall that?

20 A Yes, I do.

21 Q All right. And did you go and do that?

22 A I got close to the person and saw that his eyes were
23 up, and at that point, I thought he was gone. And they
24 told me, if I didn't feel comfortable touching him, I
25 didn't have to.

1 Q Let me ask you: At any point in time -- let me
2 rephrase that and ask you this way: Describe to us the
3 man that you say had the dreads and the logo that was
4 running -- because you only saw his back, I think is what
5 you told the solicitor; right?

6 A Yes, sir.

7 Q All right. And you also told the police that he had
8 a COVID-style black mask. Do you recall that?

9 A Yes, I do.

10 Q Okay. That he had a COVID-style black mask?

11 A It was one of the masks that you pull up like a
12 cloth mask.

13 Q Like a cloth mask?

14 Now, when did you decide that it was a cloth mask?
15 Because the only thing you ever told the police is it was
16 a COVID-style mask. You didn't say anything about cloth;
17 right?

18 A They didn't ask me that.

19 Q They didn't ask you that.

20 Well, ma'am, you were a witness to a homicide --
21 homicides, and the police are talking to you, trying to
22 get information about what happened; right? So, you don't
23 think it's important to tell them exactly what it is that
24 you say you saw or what it is you say happened?

25 A My version of a COVID mask could be different from

1 other people's version. And, for me, that was like a
2 COVID mask.

3 Q Okay.

4 A And that's why I told them that.

5 Q And you said, too, that the perpetrator, at least
6 one of the guys you saw that you say had a triangle logo,
7 that that guy was -- and I think you said as close to you
8 as the solicitor was; right? That you saw him this close
9 up; right?

10 A A little bit farther but going that way.

11 Q This way? This far?

12 A About that far.

13 Q Okay. And you saw his back; right?

14 A Yes.

15 Q And so, he is walking or running or moving fastly
16 away from you; correct?

17 A Not completely, like, side of his back.

18 Q Which side: left or right?

19 A The other side.

20 Q Which is the other side?

21 A To the right.

22 Q To the right?

23 A Like that.

24 Q Like this. So, you saw him from this angle; right?

25 A Yes, sir.

1 Q All right. And so, he's going to your right or to
2 your left?

3 A He's going towards the road.

4 Q To your right or to your left or forward?

5 A I don't understand that question.

6 Q You're saying you saw him from an angle, from the
7 right side, and I'm simply trying to find out -- you're
8 saying that he's going towards a car. Is the car to your
9 right or to your left or straight ahead of you when you're
10 looking out the window?

11 A The car is to the right.

12 Q Okay. So, he's going to the right?

13 A Yes, sir.

14 Q All right. Now, tell us what kind of pants the man
15 had on.

16 A What kind of what?

17 Q Pants. Did he have pants on?

18 A I believe so, sir. I don't recall. Everything
19 happened so fast that...

20 Q You have described in detail a shirt that you say
21 the man was wearing, and you noticed that because you said
22 that there was a triangle on the back of his shirt; right?
23 Has that changed or is that still your story?

24 A That is my story, sir.

25 Q And he had -- and the shirt was black with a

1 triangle on the back of the shirt; right?

2 A Yes, sir.

3 Q So, now what I'm asking you, if a person is wearing
4 black pants, what kind of -- I'm sorry; black shirt --
5 what kind of pants did the person have on? Because you
6 saw him -- and not only did you see him, you saw him
7 running or walking fast or moving away from you, so you
8 would have had a really good look at him as he went to the
9 vehicle; right? His back. I'm sorry.

10 A I believe he had shorts, but I don't recall anything
11 else.

12 Q You don't know. All right.

13 And now, the police never asked you that; right?

14 A I don't recall that.

15 Q And you never said that until today, to anybody in
16 law enforcement; right?

17 A I don't recall that. Whatever I told them, that's
18 what I remember.

19 Q Well, I'm asking you: Did you ever tell anybody in
20 law enforcement that you thought the guy had on shorts?

21 A I don't recall that.

22 Q All right. You don't recall doing it or you didn't
23 do it?

24 A I don't recall doing it or they asking me.

25 Q Okay. All right. Now, let me ask you if -- well,

1 let me back up. Where is your husband or the man who was
2 your partner at the time that this happened? Where is he
3 now?

4 A At the time that I was --

5 Q At the time of this incident.

6 A He was with me.

7 Q Where is he now?

8 A What do you mean? Right now?

9 Q Yeah, today.

10 A Today? I do not know that.

11 Q So, y'all have separated?

12 A Yes, we are.

13 Q How long have you been separated?

14 A About a year.

15 Q Okay. All right. Now, just so I'm clear, how many
16 shots did you say you heard personally? Not how many your
17 boyfriend -- but how many shots did you hear?

18 A I don't recall that, how many shots I heard.

19 Q All right. Did you and your boyfriend discuss how
20 many shots were fired?

21 A Not that I recall.

22 Q You said, at some point, that he heard the shots and
23 then he told you to get down or to kind of hide yourself
24 so that you didn't get shot; right?

25 A Yes, I do recall that.

1 Q All right. And where did you hide or where did you
2 get down?

3 A On the side of the bedroom, on the floor.

4 Q All right. So, you hide in the bedroom on the
5 floor. How long were you there? How long were you there?
6 Are you there until all the shots stopped?

7 A I was -- I was there -- I don't remember. I don't
8 recall the time how long I was down because everything
9 happened so fast. It could be minutes. I don't -- I
10 don't recall.

11 Q Okay. All right. Whatever the situation, you and
12 he -- was he also with you when y'all were in the bedroom
13 trying to conceal yourself from these gunshots?

14 A He was -- he was not. He went to the living room to
15 lock the door.

16 Q Okay. And you stayed in the bedroom at that point?

17 A Yes, I do.

18 Q Did he come back into the bedroom with you?

19 A After, he did.

20 Q Okay. So, after he locked the door to make sure you
21 guys were safe, then he came back into the bedroom with
22 you; is that fair?

23 A Yes.

24 Q All right. And is that when he is looking out the
25 bedroom window?

1 A He -- he never look out the bedroom window.

2 Q He never looked out the bedroom window. Which
3 window did he look out of?

4 A I believe it was the living room.

5 Q All right. So, he's looking out the living room
6 window. You're looking out the middle of the door? Is
7 that what you're saying?

8 A I look out of the window from our room -- from the
9 room where I was staying.

10 Q So, you are in the bedroom looking out the window,
11 and he is looking out the living room window?

12 A I believe that's why he -- that's what he said when
13 he told the detectives that. Because, at that point, I
14 didn't know until I translated for him.

15 Q So, you don't know which window he was looking out?

16 A At that point, I did not know.

17 Q Let me show you what's marked as State's Exhibit
18 No. 59. Is this your apartment?

19 A Yes, it was.

20 Q All right. And show us which window you were
21 looking out when you saw the man you say with the --

22 A That one.

23 Q Okay. So, you're looking out this window here.
24 This window right here?

25 A Yes.

1 Q All right. And where is the man when you see him
2 from this window right here? Where is he?

3 A About this right here.

4 Q Okay. All right. And so, he's standing by the dead
5 guy?

6 A I don't know if he was standing by. I just saw him,
7 like, walking or jogging -- I guess like jogging, like
8 running towards that.

9 Q So, you're here. He is here. Is that what you're
10 saying?

11 A Yes.

12 Q I just want to be clear as to where you're saying
13 you are and where you say he was at the time you observed
14 him. And you're saying you were at this window inside,
15 looking out of this window; correct?

16 A Yes.

17 Q And he is --

18 A Around this. He wasn't standing. He was just, like
19 running by.

20 Q So, where was he coming from?

21 A I did not --

22 Q Is he coming from this direction?

23 A I couldn't tell at that point he was coming from
24 that direction, because when I looked out, I just saw him
25 walking down.

1 Q So, when you saw him, he's between this rail and the
2 body?

3 A I believe so, yes, sir.

4 Q Okay. And he is going across the sidewalk in that
5 direction to the right; is that correct?

6 A He's going across that way.

7 Q Yes. And the other apartments down here; right?

8 A Yes.

9 Q And that's where the white car is parked?

10 A The car was parked in Apartment █.

11 Q And that's all the way down on this end?

12 A Yes.

13 Q So, if you're running here, you'd be going towards
14 the car -- the white car; fair? The white car is at
15 Apartment █?

16 A Yes, sir.

17 Q You're at Apartment █?

18 A Yes, sir.

19 Q So, in order to get to Apartment █, you've got to go
20 down this sidewalk or at least walk down the grass to get
21 to the other end, because it's all the way down on this
22 end?

23 A There's a sidewalk all the way down or you can go
24 either way.

25 Q So, if you want to walk, you've got to walk -- the

1 natural way would be to walk down the sidewalk and go to
2 Apartment No. 1. The white car is parked at Apartment
3 No. 1; right?

4 A I believe so.

5 Q Well --

6 A Yes, sir, it was parked.

7 Q And I'm not trying to get -- I'm just trying to find
8 out where things were.

9 And so, you would have had a line of sight for him
10 for only a very short period of time if you were at this
11 window and he's going to the right; right?

12 A If you -- when you're over here, you can see
13 everything, not from this side all the way. You can see
14 like...

15 Q So, can you see Apartment █ -- could you see
16 Apartment █ from this window?

17 A Not from that window.

18 Q Can you see the white car from this window?

19 A Not from that window.

20 MR. WILSON: Court's indulgence one second, please.

21 THE COURT: All right.

22 BY MR. WILSON:

23 Q As I understand it -- and you correct me if I'm
24 wrong -- because when I was standing here, you told the
25 solicitor that the man had his back to you so -- but

1 you're telling me that it was actually your side; right?

2 A It was the back, sir.

3 Q It was the back?

4 A When you look from that window -- when you look at
5 that window it's -- you see the back.

6 Q Okay. So, all you ever saw of the man was his back?

7 A That's what I recall.

8 Q Okay. That's fair. That's fair.

9 The man that you saw, did he have a gun in his hand?

10 A I did not recall -- I did not see a gun.

11 Q You didn't see him with a gun?

12 A No, I did not.

13 Q And you didn't see him shoot anybody?

14 A I did not.

15 Q And you didn't get a look at his face?

16 A I did not.

17 Q Other than, you say, he had a mask. And you told
18 the police COVID-style mask, but you're saying today that
19 you're saying that it was a cloth mask?

20 A I didn't say it was different. I said that's my
21 version of me recognizing a COVID mask.

22 Q Thank you, ma'am.

23 THE COURT: Mr. Galmore?

24 CROSS-EXAMINATION

25

1 BY MR. GALMORE:

2 Q Okay. Ms. Lopez, I'm just trying to understand.
3 How many people in total you saw out there on May 31st?
4 We have got one person that's dead in the Acura; is that
5 correct?

6 A Yes, sir.

7 Q And then we have one person that's dead laying on
8 the ground?

9 A Yes, sir.

10 Q Did you see anybody else?

11 A Yes, sir.

12 Q Okay. How many other people did you see?

13 A One more.

14 Q One more.

15 And how would you describe that one person?

16 A What I recall, the person had a black T-shirt with,
17 like, a triangle logo on the back and --

18 Q Okay. Well, what was that person doing?

19 A He was, like, running towards the dirt road.

20 Q Okay. Is this the person with the COVID-style mask?

21 A Yes, sir.

22 Q Okay. So, did he get into a car?

23 A Yes, sir.

24 Q And which car did he get into?

25 A It was, like, kind of beige Cadillac.

1 Q All right.

2 A That's what I...

3 Q Was he driving the Cadillac or did he get in on the
4 passenger side?

5 A He got in on the passenger side.

6 Q Okay. Were you able to identify that person for the
7 police?

8 A What do you mean?

9 Q The person with the COVID-style mask that got into
10 the Cadillac, did the police ever bring you any
11 photographs and say, "Can you identify him?"

12 A No, they did not.

13 Q Did the police ever bring any person to you and say,
14 "Is this the man you saw with the COVID-style mask?"

15 A No, they did not.

16 Q No. Did you ever go to the police station and try
17 to pick him out of a lineup or mug shots?

18 A No, they did not.

19 Q Can you today identify the person in the COVID-style
20 mask?

21 A No, I cannot.

22 Q No. Okay.

23 Did you see anybody shooting?

24 A I did not.

25 Q Can you tell this jury who was shooting?

1 A I cannot.

2 Q Okay. Did you overhear any conversations that any
3 of these people were having outside?

4 A No, I did not.

5 Q And you said your boyfriend at the time, he had a
6 gun also?

7 A I did say that earlier. I believe he did.

8 Q Okay.

9 A But I don't think it was, like, a real gun. It was
10 like -- I don't know what it is called. You know?

11 Q Okay. So, he had a gun that might or might not have
12 been real?

13 A Yes, sir.

14 Q All right. Now, you said that you saw a gun on the
15 concrete; is that correct?

16 A Yes, I did.

17 Q Okay. And did you see a gun in the Acura?

18 A I did not.

19 Q Okay. On the dead person's lap, did you see a gun
20 on his lap?

21 A I did not recall it.

22 Q Okay. Did any cars other than the Cadillac leave
23 the area?

24 A No, it did not.

25 Q Okay. Thank you, ma'am. No further questions.

1 THE COURT: All right. Redirect?

2 MS. LIVESAY: Yes, just a few, Judge.

3 REDIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q Ms. Berenice, defense counsel was asking you about
6 what you told the police compared to what you're saying
7 today. Do you remember that?

8 A Can you ask me the question again?

9 Q Yeah. Do you remember the defense attorney asking
10 you, "Hey, is that what you told the police?" Do you
11 remember that? Asking you, "Hey, did you tell the police
12 it was a cloth mask? Did you tell the police he was
13 wearing shorts?" Do you remember that?

14 A Yes.

15 Q And he was kind of asking, "Hey, is that what you're
16 saying today?" Do you remember all those conversations
17 with the defense attorney right then?

18 A No, I don't remember those conversations.

19 Q Okay. But do you remember the defense attorney
20 asking you about what you told the police and what you
21 told the 911 caller?

22 A Yes, I do.

23 Q Now, let me ask you this first of all: Do you speak
24 fluent Spanish?

25 A Yes, I do.

1 Q And is that your first language?

2 A Yes, it is.

3 Q So, English is your second language?

4 A It is.

5 Q Okay. So, sometimes it's hard to figure out what
6 word to use in English to describe what you're trying to
7 say?

8 A Most of the time.

9 Q Okay. I understand.

10 A Even though I have been here a lot of years, it's
11 hard.

12 Q No, I understand.

13 And your boyfriend at the time, did he speak
14 Spanish?

15 A He did.

16 Q Okay. And did he speak mostly Spanish?

17 A He did.

18 Q In fact, you had to interpret when the police showed
19 up?

20 A Yes, I did.

21 Q So, when you're sitting around the house, you're
22 talking in Spanish?

23 A Yes.

24 Q I understand. And then you get out and have to
25 communicate with me or other folks that speak English,

1 that's then a second language?

2 A Yes, it is.

3 Q But at home, you're speaking Spanish?

4 A Yes, I am.

5 Q Okay. I understand. And when Mr. Wilson was
6 talking to you and he was saying, "Hey, is this what you
7 told the police?" did you tell the police the car you saw
8 leaving was a Cadillac?

9 A Yes, I did.

10 Q And have you said anything --

11 A I -- what I told him, I believe, yeah, it was a
12 Cadillac. If I see the car, I would recognize the car.
13 And then I show them a look -- I went into Google, and I
14 showed them, like, a similar car that I saw that day.

15 Q Okay. And describe the picture you showed them. Do
16 you remember?

17 A It was kind of, like, long car, beige style. And I
18 know that it was a Cadillac. So, that's when I Google it,
19 what I saw, and I look for the most similar pictures, and
20 I told them this is what I saw.

21 Q Okay. And it was a long, beige Cadillac?

22 A Yes, ma'am. I don't know how -- what type of car it
23 is, but it was a long.

24 Q And you told 911 it was a Cadillac?

25 A I don't recall -- I don't recall that.

1 Q Okay. But have you told anybody anything other than
2 it was the Cadillac?

3 A The detective.

4 Q You told him it was a Cadillac?

5 A Yes, I did.

6 Q So, everybody you've talked to, it's been it was a
7 Cadillac?

8 A Yes, ma'am.

9 Q Okay. So, when he was asking you what you told the
10 police, you told the police it was a Cadillac?

11 A I told the police. I don't remember the 911 call
12 because I was very nervous that day.

13 Q I understand. But you do know you told the police
14 it was a Cadillac?

15 A Yes, I did.

16 Q And, in fact, you Googled Cadillac and showed them
17 what you saw?

18 A Yes. And I remember telling something like this and
19 I showed them.

20 Q Okay. And did you tell the police that the guy was
21 wearing a mask?

22 A I did -- I did -- I did told them that, and at the
23 same time, I was translating for my ex-boyfriend.

24 Q Okay. And so, you were trying to give your
25 information and the ex-boyfriend?

1 A At the same time.

2 Q Okay. At the same time.

3 So, you were interpreting for him and relaying your
4 information?

5 A Yes, I was.

6 Q Okay. So, tell these folks, did you see a guy
7 wearing a mask?

8 A Yes, I did.

9 Q Okay. So, that wasn't you telling what the
10 boyfriend saw. You saw him wearing a mask?

11 A I saw him.

12 Q Okay. And what color was the mask?

13 A Black.

14 Q Okay. And you told Mr. Wilson it was a cloth mask;
15 is that correct?

16 A Yes, I did.

17 Q Okay. And you told him it's one you pull over your
18 face with; correct?

19 A Yes, I did.

20 Q Okay. And when the police -- when you were talking
21 to the police and you said COVID-style mask, did they ask
22 follow-up, more particular questions or they just wrote
23 that down and kept rolling?

24 A I don't exactly recall -- recall that because they
25 were asking my ex-boyfriend some questions, and he was

1 saying -- when I was translating, he was saying something.

2 Q Okay. So, you don't recall if there was follow-up
3 questions or not?

4 A No, I do not.

5 Q Okay. But are you 100 percent certain that you saw
6 the guy wearing a black cloth mask?

7 A Yes.

8 Q And you told the police he was wearing a mask?

9 A Yes, I did.

10 Q And there might be some discrepancy as to how you
11 were trying to describe it, but there was no doubt you
12 said mask; is that correct?

13 A That's correct. I did say mask.

14 Q There's no doubt you said Cadillac and there's no
15 doubt you said guy with a mask?

16 A Yes, ma'am.

17 Q Okay. And did you tell the police it was a Black
18 guy?

19 A Yes, I did.

20 Q Okay. And that's the same thing you told today; is
21 that correct?

22 A Yes, ma'am.

23 Q Okay. And you told the police that he had a black
24 T-shirt with a red logo-style triangle on the back; is
25 that correct?

1 A Yes, I did.

2 Q And that's what you told the police on May 31st;
3 correct?

4 A Yes, I did.

5 Q And that's what you're telling today? That's all
6 the same; correct?

7 A Yes, it is, ma'am.

8 Q Okay. And when Mr. Wilson was asking you about the
9 hair styles -- right?

10 A Yes, ma'am.

11 Q And there was some discrepancy about what a dread
12 is; is that right?

13 A Yes, ma'am.

14 Q Okay. And really, to you, it could be different.
15 He was asking you, when you said dread, did you mean braid
16 or did you mean twist?

17 A For me, that part is kind of confusing.

18 Q I understand. Okay.

19 So, when you were describing the dreads, you were
20 just trying to describe, as accurate as you could, the
21 hair style?

22 A Yes, ma'am.

23 Q And was the hair style consistent with a Black male?

24 A Can you repeat that question?

25 Q Did the person have hair like a Black person, like a

1 Black male?

2 A Yes, it did.

3 Q Okay. And is that what you were trying to convey to
4 the police?

5 A That's what I was trying to say. I can't -- like I
6 said earlier, everything happened so fast that I didn't --
7 I didn't pay attention at the --

8 Q To the specific?

9 A To the specific. I just -- when I saw, I just saw
10 the -- like, the black shirt and the logo and just, like,
11 the mask. And I don't recall if it was like...

12 Q Okay. But you're 100, you recall that description?

13 A Yes, ma'am.

14 Q Beyond any doubt, you remember a Black male wearing
15 a black cloth mask with a black T-shirt with a red logo
16 style on the back?

17 A Yes, ma'am.

18 Q And are you beyond any doubt positive that you saw a
19 Cadillac?

20 A I'm pretty sure that's what I saw, ma'am.

21 Q Okay. And there was some questions about the window
22 and what you could see from the window. Now, when you
23 looked out the window, could you see to the right down to
24 the Apartment █?

25 A I was in Apartment █.

1 Q I'm sorry. Apartment ■.

2 A When I -- some part, not all the way.

3 Q Okay. So, where was the Cadillac when you saw it?

4 A On the dirt road. Like from my side of the window,
5 you can see farther down more towards the road than the
6 apartment.

7 Q Okay. So, when you looking out your bedroom window,
8 you can see a car going down the dirt road and turning
9 onto the main road?

10 A Yes, ma'am.

11 Q But you don't -- that's just straight out the
12 window; correct?

13 A Yes.

14 Q Okay. And so, when you looked out the window, did
15 you see a Cadillac go down that dirt road and take a
16 right?

17 A Yes, I did.

18 Q Okay. And are you sure about that?

19 A I'm pretty sure.

20 Q Okay. Now, he was asking you, "Did you see anybody
21 with a gun in their hand?" Do you remember that?

22 A I did not see anybody with a gun in their hands.

23 Q Okay. And when you looked out the window, were
24 there shots still being fired?

25 A No, there were not.

1 Q Okay. So, the shooting was over at that point?

2 A Yes, it was.

3 Q Okay. Is that why you felt safe to look out the
4 window?

5 A That's how I felt safe look out the window, and
6 that's when I saw that really fast.

7 Q Okay. So, it wasn't like you look out the window
8 and you're still hearing gunshots and people are firing?

9 A No, it was not like that.

10 Q Okay. So, when you look out the window, the
11 gunshots had been fired and that's over?

12 A Yes, it is.

13 Q And there's no gunshots going on when you see the
14 guy walking to the Cadillac?

15 A No, there were not.

16 MS. LIVESAY: No further questions for Ms. Berenice.

17 THE COURT: All right. You may step down.

18 Ladies and gentlemen, we're going to go ahead and
19 break for the day. You need to leave your notepads there
20 in the jury box. Do not take them with you.

21 I hope everybody has a good evening. Do not discuss
22 the case, even among yourselves. Don't conduct any
23 independent investigations.

24 I hope you have a good evening. I'm going to ask
25 that you please be back at 9:15 tomorrow morning. We're

1 going to get started a little bit earlier tomorrow.
2 Please be back at 9:15. I hope you have a good evening
3 and we'll see you then. Thank you very much.

4 (The jury exited the courtroom at 6:24 p.m.)

5 THE COURT: All right. Anything from the State
6 before we recess?

7 MS. LIVESAY: No, sir.

8 THE COURT: Mr. Wilson?

9 MR. WILSON: Nothing, Your Honor.

10 THE COURT: Mr. Galmore?

11 MR. GALMORE: No, sir.

12 THE COURT: We'll be in recess. I'll try to take
13 the bench at 9:30. Let's make sure we have got all the
14 exhibits to the court reporter. And we'll be in recess
15 until 9:30 tomorrow morning.

16 (The trial adjourned for the day at 6:25 p.m.)

17 * * * * *

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CERTIFICATE OF COURT REPORTER

CASE NAME/NUMBER: State v. Grate and Grate

DATE OF HEARING: August 20, 2024 (Trial Day 2)

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings to the best of my ability, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

_/s/ Bobbi Fisher_____

Bobbi Fisher, RPR, Court Reporter III

Date Submitted: 12/16/24

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1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 *
 2 COUNTY OF HORRY * TRANSCRIPT OF RECORD
 *
 3 -----X
 STATE OF SOUTH CAROLINA, *
 4 *
 State, *
 5 *
 vs. * Case No. 2023-GS-26-00422
 6 * 2023-GS-26-00423
 * 2023-GS-26-00453
 7 DAJON MALIK LAVERN GRATE, *
 *
 8 Defendant. *
 -----X

9
 10 STATE OF SOUTH CAROLINA, *
 *
 State, *
 11 *
 vs. * Case No. 2023-GS-26-00424
 12 * 2023-GS-26-00425
 * 2023-GS-26-00452
 13 NASIREA BREWNOPLIS JEROME *
 GRATE, *
 14 *
 Defendant. *
 15 -----X

August 19-28, 2024

TRIAL - VOLUME 3
Wednesday, August 21, 2024

B E F O R E:

The Honorable Benjamin Culbertson, Presiding Judge;
and a jury.

Court Stenographer: Bobbi Fisher, RPR
SC Official Court Reporter III

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

Nancy Livesay, Esq.
Liz Martin, Esq.
Assistant Solicitors for the State

James Galmore, Esq.
Attorney for Defendant Dajon Grate

Ralph Wilson, Sr., Esq.
Attorney for Defendant Nasirea Grate

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25E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID.	REC'D
2	Black T-Shirt		664
3	Denim Shorts		495
5	Enlarged Map of Vehicle		603
6	Enlarged Map of Vehicle		603
12	Swabs-Interior of Car		669
19	Casings in Envelope		618
	19A-19S - Projectiles (contained inside Exhibit 19 envelope)	659	659
20	Latent Prints (2 Envelopes)		667
21	Handgun - Canik 9mm		624
22	Handgun - GLOCK 9mm		624
23	Live Round		662
25	Apple iPhone		628
26	Cell Phone from Vehicle		629
27	Cell Phone from Jeans Pocket		630
30	GLOCK Gun Case		657
31	Green Slide/Shoe (right)		625
32	Green Slide/Shoe (left)		625
33	Black and White Nike Shoe (left)		495
34	Black and White Nike Shoe (right)		495
35	Pair of Pink Slides/Shoes		626

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1	39	DNA Swabs from Cadillac Seatbelt	668
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3	63	Photo Still from Body Cam	422 429
4	64	Photo Still from Body Cam	422 429
5	65	Photo Still from Body Cam	422 429
6	66	Ring Doorbell Video	422 475
7	67	Cadillac Bill of Sale	422 455
8	68	Photo of Todd Fry's Home	422 496
9	69	Photo of Todd Fry's Home	422 466
10	70	Photo of Todd Fry's Home	422 466
11	71	Photo of Todd Fry's Home	422 466
12	72	Photo of Todd Fry's Home	422 496
13	73	Photo of Todd Fry's Home	422 496
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17	77	Photo of Todd Fry's Home	422 496
18	78	Photo of Todd Fry's Home	422 496
19	79	Photo of Todd Fry's Home	422 496
20	80	Crime Scene Body Cam Video	422 538
21	81	ID ONLY - Interior Car Disc	504 ---
22	82	Cadillac Rear Seat Photo	504 649
23	83	Cadillac Rear Seat Photo	504 649
24	84	Cadillac Rear Seat Photo	504 649
25	85	Cadillac Rear Seat Photo	504 649

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2	87	Scene Photograph	504	561
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P R O C E E D I N G S

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(9:35 a.m.)

(State's Exhibit No. 62, Body Cam Video, was marked for identification.)

(State's Exhibit Nos. 63 through 65, Photo Stills from Body Cam, was marked for identification.)

(State's Exhibit No. 66, Ring Doorbell Camera, was marked for identification.)

(State's Exhibit No. 67, Cadillac Bill of Sale, was marked for identification.)

(State's Exhibit Nos. 68 through 79, Photos from Todd Fry's Home, was marked for identification.)

(State's Exhibit No. 80, Crime Scene Body Cam, was marked for identification.)

THE COURT: All right. Anything from the State before we bring the jury in?

MS. LIVESAY: No, sir.

THE COURT: Mr. Wilson?

MR. WILSON: No, sir.

THE COURT: Mr. Galmore?

MR. GALMORE: No, sir.

THE COURT: All right. Let's go ahead and bring the jury in.

(The jury entered the courtroom at 9:39 a.m.)

THE COURT: All right, ladies and gentlemen.

1 Welcome back. I hope everyone had a good evening. I want
2 to thank you again for being so prompt this morning and
3 returning on time. That's of great assistance to the
4 Court and I thank you for that.

5 Please make sure you have your own notepads and no
6 one else's notepads. We're ready to resume with the trial
7 of this case. We're still in the State's case-in-chief.

8 The State can call your next witness.

9 MS. MARTIN: The State calls Alicia Miller.

10 ALICIA MILLER,

11 after having been duly sworn, was examined and
12 testified to as follows:

13 THE CLERK: Please state your name and spell it for
14 the Court.

15 THE WITNESS: Alicia Miller. A-l-i-c-i-a
16 M-i-l-l-e-r.

17 DIRECT EXAMINATION

18 BY MS. MARTIN:

19 Q Hey, Ms. Miller. How are you?

20 A Good morning.

21 Q Are you a retired Horry County police officer?

22 A Yes, ma'am.

23 Q And how long did you work for Horry County Police?

24 A From 2016 to June of 2022.

25 Q Do you have any other law enforcement experience?

1 A I do.

2 Q Can you tell me about it?

3 A I was with Loris Police Department from 2006 to
4 2016. I went to the County -- or, excuse me, '15 -- and
5 then went to the County and then back to Loris. And then
6 back to the County.

7 Q And what about on -- in 2022? Do you recall what
8 you were doing for the Horry County Police Department
9 during that time?

10 A I was in Patrol Division for the West Precinct for
11 the Horry County Police.

12 Q So, what did that entail? What did Patrol do?

13 A Patrol, we answered calls. Report taking.
14 Responding to any emergency calls.

15 Q And what type of calls did y'all respond to?

16 A Burglaries, larcenies, stolen vehicles, gunshots,
17 individuals that were injured.

18 Q So, just about anything?

19 A Just about everything, yes.

20 Q Were you working on May the 31st of 2022?

21 A Yes, ma'am.

22 Q Okay. And did you respond out on the case that
23 we're here about today?

24 A Yes, ma'am.

25 Q And were multiple places -- two places being called

1 over dispatch to respond to?

2 A Yes, ma'am.

3 Q And where did you respond?

4 A I responded to the fire station on Highway 905 at
5 the -- close to the intersection of Red Bluff.

6 Q What was the other place being called over dispatch?

7 A To a residence on [REDACTED].

8 Q And would that have been the incident location?

9 A Correct.

10 Q So, of the two locations, you responded to the fire
11 station?

12 A Correct.

13 Q Okay. Why did you go to that fire station?

14 A I was rerouted to go to that location in reference
15 to a subject, a person that had suffered gunshot wounds.

16 Q Okay. And when you got there, what did you first
17 see?

18 A I saw a bunch of Fire/EMS people there, a female
19 with a vehicle there, and a gentleman in the passenger
20 seat, a young male, that had injuries to what appeared to
21 be his left-hand side of his body.

22 Q And do you know who that individual was with the
23 gunshot wounds?

24 A After getting his identification and running him, it
25 was Dajon Grate.

1 Q Dajon Grate?

2 A Mm-hmm.

3 Q Okay. And can you describe to the jury his
4 condition?

5 A He was alert but not responding to any questionings.
6 Like I said, he was -- EMS was in there trying to treat
7 him for his injuries.

8 Q Was he awake?

9 A He was awake but was not responding to any
10 questions. After I asked him, you know, what had happened
11 or...

12 Q Was he not responding to your questions or not
13 responding to any questions at all?

14 A Not responding to any questions at all, so...

15 Q Okay. Now, when you go to a scene -- any type of
16 scene, do you have a body-worn camera on?

17 A I do.

18 Q And did you have a body-worn camera on that day?

19 A I did.

20 MS. MARTIN: For the record, I'm showing defense
21 counsel what's premarked as State's Exhibit 62. Just the
22 DVD. I'm also showing him 63 through 65, marked for ID
23 purposes only.

24 BY MS. MARTIN:

25 Q Ms. Miller, what am I showing you?

1 A The -- my initials from the body camera that I
2 viewed with you.

3 Q And so, you did review this tape?

4 A I did.

5 Q Okay. Has it been altered, manipulated, or damaged
6 or destroyed in any way?

7 A No, ma'am.

8 Q Is that how you remember it happening that day?

9 A Correct.

10 Q Okay. So, this is an accurate representation of
11 what you saw and what your body cam saw that day?

12 A It is.

13 MS. MARTIN: Your Honor, at this point in time, the
14 State seeks to admit State's Exhibit 62 into evidence.

15 THE COURT: Mr. Wilson?

16 MR. WILSON: I have no objections, Your Honor.

17 THE COURT: Mr. Galmore?

18 MR. GALMORE: No objection, sir.

19 THE COURT: All right. State's Exhibit 62 admitted
20 into evidence without objection.

21 MS. MARTIN: Permission to publish?

22 THE COURT: Yes.

23 (State's Exhibit No. 62 was received into evidence.)

24 MS. MARTIN: I'm going to take a seat if that's
25 okay, Your Honor.

1 THE COURT: That's fine.

2 (Video plays.)

3 BY MS. MARTIN:

4 Q While we're looking at that, what's the date and
5 time?

6 A May 31st, 2022.

7 Q Will you repeat that since the camera was rolling?

8 A Yes. May 31st, 2022. And it looks like 1:00 --
9 1:18 in the afternoon.

10 Q Is that 1:18 or --

11 A Or 2:18. Excuse me.

12 MS. MARTIN: Okay. Let the record reflect 2:18.

13 (Video plays.)

14 MS. MARTIN: Your Honor, I am showing the witness
15 State's 63, 64, and 65.

16 BY MS. MARTIN:

17 Q Ms. Miller, do you recognize those?

18 A Yes, ma'am.

19 Q And is that a true and accurate copy?

20 A It is.

21 Q And it accurately reflects what we're seeing?

22 A Correct.

23 MS. MARTIN: Your Honor, the State seeks to admit
24 State's Exhibits 63, 64, and 65.

25 THE COURT: Mr. Wilson?

1 MR. WILSON: I have no objections, Your Honor.

2 THE COURT: Mr. Galmore?

3 MR. GALMORE: No, objection, sir.

4 THE COURT: State's Exhibit 63, 64, and 65 are
5 admitted into evidence without objection.

6 (State's Exhibit Nos. 63, 64, and 65 were received
7 into evidence.)

8 BY MS. MARTIN:

9 Q All right. So, when you got there, Mr. Grate --
10 Dajon Grate was there?

11 A Correct.

12 Q Okay. And Tatyana Bellamy; is that right?

13 A Mm-hmm.

14 Q All right. And did you see the other defendant
15 Nasirea Grate there?

16 A I did not.

17 Q Okay. Did you see a guy by the name of Todd Fry
18 there?

19 A No.

20 Q What about a Cadillac? Did you see a Cadillac
21 there?

22 A No.

23 Q Okay. Because where are you?

24 A I was at the fire station.

25 MS. MARTIN: Let's put this one up, Lacey.

1 I'm publishing 63 to the jury.

2 THE COURT: All right.

3 MS. MARTIN: I guess I'll show it to them real close
4 first. That will probably be the best. And we'll pass
5 these around in just a minute, guys.

6 BY MS. MARTIN:

7 Q Handing you 64 and 65. Now, can you please tell the
8 jury what side of the defendant's body is bandaged?

9 A The left-hand side of his body.

10 Q It's the left-hand side?

11 A Correct.

12 Q And in those pictures and in your video, what was he
13 wearing? Did he have a shirt on?

14 A I think the shirt was being cut off and he had
15 shorts on.

16 Q He had shorts?

17 A (Witness nodding.)

18 MS. MARTIN: Lacey, if you'll go to -- let's talk
19 about those shorts. So, we'll stop at 14:31. Okay.

20 BY MS. MARTIN:

21 Q And we see some clothing on the ground on the bottom
22 left -- for the record, bottom left corner. Can you tell
23 me -- do you know what those are?

24 A I do not.

25 Q Okay. Do you know if those are black shorts?

1 A They appear to be black-in-color of some sort of
2 clothing, yes.

3 Q Okay. And what about shoes? In those pictures, do
4 you see any shoes?

5 A I do not.

6 Q Any pink flip-flops?

7 A I did not see any.

8 Q No pink flip-flops?

9 A No.

10 Q Give me one second. Now, the identification card
11 that we saw up there, why did you take a picture of it?
12 Did you take it into evidence?

13 A I have taken pictures of everybody's driver's
14 license for many years. Just when I go back to do my
15 reports and everything, I have their information there to
16 fill out the report.

17 Q Okay. And so, whose identification card was that?

18 A Dajon Grate's.

19 Q And did you give that card back after you took a
20 picture?

21 A I gave it to the cousin. And I'm sorry; I don't
22 remember her name. It started with a T.

23 Q That's totally fine.

24 All right. After you were done -- and let me go
25 ahead and show you --

1 MS. MARTIN: I'm going to pass out -- publishing 64
2 and 65 to the jury.

3 THE COURT: All right.

4 BY MS. MARTIN:

5 Q Ms. Miller, if you'll step down real quick. Showing
6 you what's already been introduced as State's Exhibit 8.
7 And I can hold it up.

8 Are you familiar with this area?

9 A I am.

10 Q Okay. And you responded to two locations; right?

11 A I did. Once I left the location at the fire
12 department then I responded over to the incident location
13 at ■■■ -- Highway ■■■.

14 Q Okay. And can you show the jury where the -- where
15 you responded first, where the fire station is? Will you
16 point out on the map where you responded first?

17 A I responded here.

18 MS. MARTIN: She's notating the fire station.

19 A And then responded to this location afterwards.

20 MS. MARTIN: And let the record just reflect 53 --
21 now she's pointing to ■■■ Highway ■■■, which is notated
22 on the map.

23 BY MS. MARTIN:

24 Q So, when you got to the incident location, what was
25 going on there?

1 **A** So, that was already roped off. Other officers were
2 on-scene. Some other co-workers were there, too, and I
3 was redirected to set up a perimeter, which I was at the
4 stop sign right at the intersection of Highway ■■■ -- and
5 I can't remember the name of the other street. And that's
6 where I sat for the remainder of that.

7 **Q** And at any point -- I mean, you got there at
8 approximately what time?

9 **A** Approximately maybe 2:45, 2:50.

10 **Q** Okay. And so, was the shooting over at that point?

11 **A** It was.

12 **Q** Okay. Did you see a Cadillac at that point?

13 **A** I don't remember seeing any -- I wasn't paying
14 attention to the vehicles at that point. I was paying
15 attention to the direction -- being redirected to set up a
16 perimeter.

17 **Q** So, you didn't see any of the victims or defendants
18 at this point?

19 **A** Correct.

20 **Q** Because everything was over?

21 **A** Correct.

22 **MS. MARTIN:** You can go ahead and put that down real
23 quick. If you want to go ahead and take a seat.

24 **BY MS. MARTIN:**

25 **Q** After you set up a perimeter, did you do anything

1 else involving this matter?

2 A I did not.

3 MS. MARTIN: If you'll give me one second. Beg the
4 Court's indulgence.

5 THE COURT: All right.

6 BY MS. MARTIN:

7 Q Showing the witness what's been premarked, what's in
8 evidence as 55 and 56. Now, can you tell me again what
9 side of the body the defendant was injured on?

10 A Injuries all looked to be sustained on the left-hand
11 side of the body.

12 Q On the left-hand side of the body?

13 A Correct.

14 MS. MARTIN: Your Honor, I have no further questions
15 for this witness.

16 BY MS. MARTIN:

17 Q Ms. Miller, if you'll answer any questions that
18 Mr. Wilson and Mr. Galmore may have for you.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MR. WILSON:

22 Q The solicitor asked you if Mr. Grate was shot on the
23 left side, and you indicated that he was; right?

24 A I indicated, what I could see, his injuries appeared
25 to be on the left-hand side of his body.

1 Q Okay. And so, the shooter, whoever shot him, would
2 have been shooting from where to shoot him in the left
3 side?

4 A I don't know. I wasn't there.

5 Q Okay. Fair enough.

6 Well, bullets don't turn curves; right?

7 A They do not.

8 Q Okay. So, the shooter would necessarily have to be
9 shooting him from his left side; right? That just makes
10 sense.

11 A It makes sense, but I'm not a weapons specialist.

12 Q I understand.

13 Now, let's be clear. You're not telling us that you
14 know anything about what went on at that location; that
15 is, where the white car that the solicitor showed you --
16 and I think that was 52 and 53?

17 A Correct. Today is the first day I have seen that
18 vehicle.

19 Q Okay. And when you got to the fire station -- you
20 got the call, I think you said, at 2:18; right?

21 A Mm-hmm.

22 Q Took you seven, eight minutes to get to the fire
23 station; right?

24 A Correct.

25 Q And when you got to the fire station, Mr. Grate was

1 in the care of the emergency medical people --

2 A Correct.

3 Q -- who were trying to take care of him.

4 And did I understand you to tell the solicitor that
5 he was wearing a shirt and that they cut it off? Am I
6 mistaken or did you say that?

7 A I did say that.

8 Q Okay. What kind of shirt did he have on?

9 A I don't remember at this point in time without
10 looking at my video again.

11 Q Did you collect the shirt?

12 A I did not.

13 Q Why not?

14 A At that time, I -- I assumed that he was a victim of
15 a gunshot wound, and it was more important for me for him
16 to be treated for his injuries by EMS.

17 Q Well, they were doing that; right? EMS was actually
18 treating him?

19 A Correct.

20 Q And actually were treating him before you got there?

21 A That is correct.

22 Q So, your collecting his shirt, which was already
23 removed, had nothing to do with them treating him or not
24 treating him, because they were already treating him when
25 you arrived?

1 A Correct.

2 Q But you didn't collect it; right?

3 A I did not collect it.

4 Q All right. While you were there, while you were at
5 the fire station, did you attempt to have any kind of
6 conversation with Mr. Dajon Grate?

7 A I attempted. I asked him what his name was or asked
8 him what had happened. He said he did not remember
9 anything. And, again, did not know the extent of his
10 injuries, but to me, it was more important that he was
11 getting treated for his injuries.

12 Q Okay. And you also attempted to have a conversation
13 with Ms. Bellamy -- Ms. Tatyana Bellamy; correct?

14 A Correct.

15 Q All right. And, in fact, that was who you got the
16 information from about his driver's license; right?

17 A Correct.

18 Q Okay. And as I understand it, you then leave
19 because there's nothing really more for you to do at this
20 point at the fire station; right?

21 A Correct.

22 Q So, you leave now and you go to where the white car
23 is that the solicitor showed you?

24 A Where I pulled up, the house was already roped off.
25 The crime scene tape us up and everything. I had a

1 supervisor redirect me to keep going further down the road
2 to set up the intersection to shut down the intersection
3 to allow traffic to come in.

4 Q Okay. All right. At any time, did you see Nasirea
5 Grate either when you were at the fire station or when you
6 got back to -- was it [REDACTED] -- what's the highway?

7 A Highway [REDACTED].

8 Q Highway [REDACTED].

9 A No.

10 Q All right. Other than -- I think you said that what
11 you did, once you got back to Highway [REDACTED] -- once you went
12 to Highway [REDACTED], not go back. But once you got to Highway
13 [REDACTED], your supervisor instructed you to help set up a
14 perimeter?

15 A Correct.

16 Q All right. And that means that you were putting
17 up -- were you putting up tape or were you just kind of
18 walking around the area to make sure that nobody was
19 infringing?

20 A I was to move my vehicle to the end of the
21 intersection of that road and to shut down the road area.

22 Q All right. And we don't want anyone to come in or
23 out and contaminate the scene?

24 A Correct.

25 Q All right. But, now, as I understand it, you didn't

1 get there until 2:45, according to what you told the
2 solicitor; right?

3 A Approximate time, without me seeing the call logs
4 with dispatch.

5 Q Okay. And we know from your earlier conversation
6 that, at 2:18, is when you got the call to go to the fire
7 station; right?

8 A Correct.

9 Q So, whatever was happening at the scene was
10 happening at least at 2:18.

11 A Or if not before.

12 Q Or if not before. Okay.

13 So, when you get there, you're late to the game.
14 There are already other officers present?

15 A Correct.

16 Q And you don't know what they did or what they moved
17 or what they changed before you got there?

18 A Correct.

19 Q In fact, the bodies that were there had already been
20 removed when you got there?

21 A I didn't see any other bodies.

22 Q Yeah.

23 A Correct.

24 Q Well, if it's a murder crime scene, you'd expect the
25 bodies to be there; right?

1 A Correct.

2 Q Right. But they were gone, which is all I'm asking.
3 Not a trick question. I'm just asking you.

4 A I didn't see anything up by that house.

5 Q Okay. Fair enough.

6 Now, did you have any part in speaking to any of the
7 people who were there; that is, potential witnesses?

8 A No.

9 Q All right. Tell us what else you did -- you said
10 that you had to secure the perimeter. Other than that,
11 what else did you do at this location at [REDACTED]?

12 A I did nothing else at that location.

13 Q Nothing else. All right.

14 And that was the extent of your involvement in this
15 entire matter?

16 A Correct.

17 Q Okay. Didn't interview any witnesses later on?

18 A No.

19 Q Wasn't present when any interviews were being done?

20 A No.

21 Q Didn't participate in any search warrants?

22 A No.

23 Q Okay. One last thing: In the black pickup truck,
24 the Tacoma that was on the screen earlier that Ms. Bellamy
25 was driving, did you look inside of it?

1 A I did not.

2 Q Did you look at the video just a couple of minutes
3 ago with the solicitor?

4 A I did.

5 Q Did you see a black face mask hanging on the
6 steering column, a COVID-style black mask?

7 A I saw it in my vehicle, yes.

8 Q So, it was in your vehicle?

9 A It was in my vehicle.

10 Q And that's a COVID-style mask?

11 A It was.

12 Q No question about it?

13 A No question.

14 Q And it was black?

15 A It was.

16 THE COURT: Mr. Galmore, cross-examination?

17 CROSS-EXAMINATION

18 BY MR. GALMORE:

19 Q Ms. Miller, let me first ask you about State's
20 Exhibits 55 and 56. Those are the pictures of the white
21 Acura. I believe your testimony was that this was the
22 first time you have seen those cars today?

23 A Correct.

24 Q Okay. Did you have any involvement with any of
25 these -- with this vehicle?

1 A Did not.

2 Q Did you dust it for prints?

3 A No.

4 Q Did you search it for DNA evidence?

5 A No.

6 Q So, you had nothing to do with this?

7 A No.

8 Q It's my understanding that you were directed to go
9 to the fire station; is that correct?

10 A Correct.

11 Q While you were at the fire station, did you get a
12 chance to attempt to speak to Dajon Grate?

13 A From what I said on my video, that was the only
14 attempt of speaking to Mr. Grate.

15 Q Okay. And you saw Mr. Grate?

16 A I did.

17 Q And he was in the Tacoma truck when you saw him?

18 A In the passenger seat, being treated; correct?

19 Q Did you see a gun in the Tacoma truck?

20 A I did not see one.

21 Q Had you seen a gun, you would have identified it?

22 A Yes.

23 Q Might even would have confiscated it?

24 A Correct.

25 Q And you are trained to look for such things; is that

1 correct?

2 A Yes, sir.

3 Q So, you did not find a gun in the Tacoma truck?

4 A I did not search that vehicle.

5 Q No -- well, "search" isn't the right word. I guess
6 what I'm saying is, when you were --

7 A In plain view? There was no gun in plain view.

8 Q Thank you, ma'am.

9 A Yes, sir.

10 Q Now, you talked to Dajon Grate. What did you ask
11 him?

12 A I asked -- from what I said on the video, I asked
13 him what had happened or if he could tell me anything.
14 Whatever I said on the video is what I asked him.

15 Q Okay. And he said he didn't remember anything?

16 A He did not. He said, "No, ma'am, I don't know" or
17 something to that extent.

18 Q And you said you thought he was a victim?

19 A I did.

20 Q Okay. Did he tell you that he had committed a
21 robbery?

22 A No.

23 Q Did he tell you that he had shot someone?

24 A No.

25 Q Did he confess any crimes to you?

1 **A** He did not.

2 **Q** And would it be fair to say that you were the first
3 officer to talk to Dajon Grate?

4 **A** Yes.

5 **Q** At any time did you take Mr. Grate for a police
6 lineup?

7 **A** No.

8 **Q** Did you take him for what's called a show up?

9 **A** No.

10 **Q** Can you tell the jury what a show up is?

11 **A** I cannot. I don't know what a show up is.

12 **Q** You don't know what a show up is.

13 Did you put Mr. Grate in the back of your car and
14 drive to any location so that a witness might or might not
15 identify him?

16 **A** No.

17 **Q** You did not.

18 Let me show you what's been marked as State's
19 Identification No. 64. And do you recognize that
20 photograph?

21 **A** I do.

22 **Q** And what is that a photograph of?

23 **A** Inside of a Toyota Tacoma where Dajon Grate was
24 being treated for his injuries before they transported
25 him.

1 Q Okay. And who took that photograph?

2 A I did not, but this is an image of what appears to
3 be off of my body camera.

4 Q Okay. So, from this perspective, this is you
5 standing by the door ---

6 A It is.

7 Q --- looking into the Toyota Tacoma, with your body
8 camera running?

9 A Correct.

10 Q And this is a still photograph off of your body
11 camera?

12 A Correct.

13 Q Did you see any firearm in the Toyota Tacoma in that
14 exhibit?

15 A No.

16 Q No. All right. Now, I'm handing you State's
17 Exhibit No. 65 and ask you if you recognize what that is.

18 A Yes.

19 Q And what does that image purport to be?

20 A I can see my reflection in the side of the Toyota
21 Tacoma standing there. It's an image from my body camera,
22 the inside of the vehicle.

23 Q This would be another still photograph taken off of
24 your body camera?

25 A Correct.

1 Q All right. Do you see a firearm in that photograph?

2 A I do not.

3 Q Now, after you finished your investigation at the
4 fire station, you were directed to go to Highway [REDACTED]; is
5 that correct?

6 A [REDACTED].

7 Q [REDACTED]. I'm sorry.

8 A Yes, sir.

9 Q Yes, ma'am.

10 And [REDACTED] is the location where this shooting
11 occurred?

12 A From my understanding, yes.

13 Q Okay. When you were at Highway [REDACTED], did you
14 interview any witnesses?

15 A I did not.

16 Q Did you take any pictures?

17 A I did not.

18 Q Did you collect any fingerprints?

19 A No.

20 Q Did you interview any suspects?

21 A No.

22 Q Did you collect any DNA?

23 A No.

24 Q All right. Thank you, Ms. Miller.

25 MS. MARTIN: No further questions.

1 THE COURT: Redirect?

2 MS. MARTIN: Yes, Your Honor.

3 Will you grab that, Lacey. And I'm going to grab
4 these back. Do you still have 65 up there?

5 THE WITNESS: Yes, ma'am.

6 MR. GALMORE: Your Honor, did they use any of the
7 photographs from that chart, because, I mean, I would --

8 MS. MARTIN: I am. I am.

9 MR. GALMORE: Okay.

10 MS. MARTIN: I'll wheel it up closer for the jury,
11 too, so they can see it. I'm going to right now.

12 REDIRECT EXAMINATION

13 BY MS. MARTIN:

14 Q Now, when we talked earlier, we talked about your
15 video -- your body camera video?

16 A Correct.

17 Q And was that an accurate video?

18 A It was an accurate video.

19 Q Okay. And so, true, exactly what you saw?

20 A Correct.

21 Q And when you got to the fire station, the shooting
22 is already over?

23 A Correct.

24 Q Okay. And State's Exhibit -- can you step down one
25 more time. I want to show you State's Exhibit 63 real

1 quick. I'm going to take it off the thing real quick.

2 All right. Now, you would agree that this photo,
3 63, is accurate?

4 A Correct.

5 Q Okay. And when you got there, was the defendant
6 already being treated?

7 A Correct, yes.

8 Q So, he was already being treated?

9 A He was already being treated.

10 Q And so, his clothing would be accurate at this
11 point; correct?

12 A Correct.

13 Q And does he have a shirt on in this picture?

14 A Does not appear to be.

15 Q Okay. So, I'm going to put this back up for two
16 seconds and pull that back down in a minute.

17 So, you didn't ever see him in a shirt?

18 A That is correct.

19 Q Okay. So, you don't know if a shirt was cut off of
20 him?

21 A That is true.

22 Q Okay. But we do have --

23 MS. MARTIN: Video? Same place, please. Give me
24 one second.

25 BY MS. MARTIN:

1 Q So, we know no shirt. Do we know that?

2 A No shirt.

3 Q Okay. What about shoes? Do we know if he's wearing
4 any shoes?

5 A He had no shoes on.

6 Q And in this picture, can you really see if he has on
7 shorts or not?

8 A No.

9 Q Okay. So, we don't know there? Is that what you're
10 saying?

11 A Correct.

12 Q When you arrive and the defendant is being treated
13 in the truck ---

14 A Mm-hmm.

15 Q --- at this point, do you know if he's a suspect, a
16 victim, a now defendant? Do you have any idea?

17 A I do not.

18 Q Okay. So, what are you treating him as?

19 A I'm treating him as a victim at this point because
20 we are trained, you know, to make sure that everybody is
21 treated for their injuries first, until we investigate
22 further. So, to me, he was not a suspect of anything.

23 Q He was just a victim?

24 A A victim of a gunshot wound, yes.

25 Q And so, can you tell the jury, is he actively

1 bleeding at this point in time?

2 **A** He was, yes.

3 **Q** Okay. Actively bleeding.

4 So, you were asked about taking him in your car,
5 this actively bleeding man, who you were assuming was a
6 victim at this point in time. Would you have put him in
7 your car?

8 **A** Absolutely not.

9 **Q** Would you have taken him to a different -- would
10 you, as a police officer, taken him in this condition to a
11 different location to show him in a lineup to any
12 potential victims?

13 **A** No, ma'am. No.

14 **Q** Okay. Would EMS have had control over this
15 victim -- over this defendant at this point in time?

16 **A** Absolutely.

17 **Q** Okay. And would you have stopped him in any way,
18 shape, or form from getting the medical care that he
19 needed at this point? Would a criminal matter -- would a
20 criminal investigation take precedence over getting
21 somebody medical care?

22 **A** Absolutely not.

23 **Q** Okay. Now, let's -- I'm going to let you take your
24 seat again. Let's talk about this vehicle real quick.
25 Grab my notes. Sorry. I scribbled things real quick.

1 Now, we have already established that this is -- in
2 your mind, this is a victim at this point in time.

3 A Yes.

4 Q Arriving in a Tacoma --

5 A Toyota Tacoma.

6 Q Okay. Toyota Tacoma. What color?

7 A Black in color.

8 Q And that's a truck?

9 A That's a truck.

10 Q And was the lady there, Ms. Bellamy, was she really
11 wanting to speak with you at all?

12 A No.

13 Q She was not wanting to speak with you?

14 A She spoke with me but was very hesitant. I feel
15 that she was hesitant.

16 Q Did she want to give you any information at this
17 point?

18 A No.

19 Q And did you search that vehicle?

20 A I did not search that vehicle.

21 Q Okay. And did she get in the vehicle and drive away
22 with that vehicle?

23 A She did.

24 Q Now, the other defendant, Mr. Nasirea Grate, did you
25 see him at this location?

1 A No.

2 Q Did you see him in a black shirt with a red logo on
3 the back?

4 A No.

5 Q Did you see him at this location with a black shirt,
6 red logo on the back, and a face mask?

7 A No.

8 Q So, he wasn't there?

9 A I couldn't even tell you what he looked like until I
10 saw this.

11 Q Until you just saw this.

12 A Correct.

13 MS. MARTIN: Okay. Beg the Court's indulgence one
14 second.

15 THE COURT: All right.

16 MS. MARTIN: Nothing else from the State. Thank
17 you.

18 THE COURT: All right. You may step down.

19 THE WITNESS: Thank you. Do you need this back?

20 MS. MARTIN: That's what I was looking for. Thank
21 you.

22 THE WITNESS: Thank you.

23 MS. MARTIN: May she be released from her subpoena?

24 THE COURT: Any objection?

25 MR. WILSON: No, objection.

1 MR. GALMORE: No, sir.

2 THE COURT: All right. She's free to go.

3 The State can call your next witness.

4 MS. MARTIN: The State calls Charles Todd.

5 CHARLES TODD,

6 after having been duly sworn, was examined and
7 testified to as follows:

8 THE CLERK: You can be seated. Please state your
9 name and spell it for the Court.

10 THE WITNESS: Spell it? Charles Todd, Jr.
11 C-h-a-r-l-e-s T-o-d-d.

12 DIRECT EXAMINATION

13 BY MS. MARTIN:

14 Q Mr. Todd, how are you?

15 A How are you?

16 Q Can you tell the jury where you're currently
17 employed?

18 A Conway Used Cars.

19 Q Okay. And how long have you been there?

20 A Since 1983.

21 Q That's a long time.

22 A 40 years.

23 Q What do you do? What do you do there?

24 A I sell cars and tow cars and fix cars.

25 Q So, you're just a jack-of-all-trades. You do

1 everything there?

2 A Yeah.

3 Q Now, when you sell a car, do you ever issue a Bill
4 of Sale?

5 A Yes.

6 Q And on that Bill of Sale and paperwork, would it
7 have your signature on it?

8 A Yes.

9 Q Would it have the buyer's signature on it?

10 A Yes.

11 Q Okay. And I'm showing you what's been premarked --
12 let me show the defense first -- what's been premarked as
13 State's Exhibit 67. Showing the witness 67. Do you
14 recognize that?

15 A Yes.

16 Q And does that have your signature on it?

17 A Yes.

18 Q Has it been altered? Other than you adding a
19 signature at the bottom, has it been altered or
20 manipulated in any way?

21 A No.

22 Q Is that a true and accurate copy?

23 A Yes.

24 MR. MARTIN: Before we get into it, State seeks to
25 admit State's Exhibit 67 into evidence.

1 THE COURT: Mr. Wilson?

2 MR. WILSON: No objection.

3 THE COURT: Mr. Galmore?

4 MR. GALMORE: No objection, sir.

5 THE COURT: State's Exhibit 67 is admitted into
6 evidence without objection.

7 (State's Exhibit No. 67 was received into evidence.)

8 BY MS. MARTIN:

9 Q And can you tell the jury what that is?

10 A An '07 DTS Cadillac.

11 Q Is it a Bill of Sale?

12 A Yes.

13 Q Now tell them what it's a Bill of Sale for.

14 A A '07 DTS Cadillac.

15 Q And whose signatures are on it?

16 A Todd's?

17 Q Todd?

18 A Fry.

19 Q Todd Fry.

20 And your signature as well?

21 A Yes.

22 Q Okay. And did you sell that car to Todd Fry?

23 A Yes.

24 Q Okay. Are you familiar with this Cadillac that you
25 sold him?

1 A Yes.

2 Q All right. And if I showed it to you, would you
3 recognize it?

4 A Yes.

5 MS. MARTIN: Showing the witness what's already been
6 introduced into evidence as State's 40.

7 BY MS. MARTIN:

8 Q Okay. State's 40. Have you reviewed a video of the
9 Sunhouse?

10 A Yes.

11 Q And are those your initials on there?

12 A Yes.

13 MS. MARTIN: Ms. Miller, if you'll play just that
14 very beginning part.

15 BY MS. MARTIN:

16 Q Now, do you see the Cadillac that you sold Mr. Fry
17 in that video?

18 A Silver Cadillac.

19 Q Okay. Can you tell me where it is?

20 A On the far side.

21 Q When we say "far side," we mean right or left?

22 A It would be on my left.

23 Q So, top left corner?

24 A Yeah.

25 Q Just don't want to put words in your mouth.

1 MS. MARTIN: Your Honor, I have no more witnesses --
2 or no more questions for this witness.

3 THE COURT: All right. Mr. Wilson, cross?

4 MR. WILSON: Do you have 67?

5 MS. MARTIN: I left it up -- it's on his --

6 THE WITNESS: Looking for this?

7 MR. WILSON: Yes. Thank you.

8 THE WITNESS: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. WILSON:

11 Q I'm looking at what's marked as State's Exhibit No.
12 67. And you said you sold this to Mr. Fry; right?

13 A That's correct.

14 Q And the date of the sale is April the 6th of '22;
15 correct?

16 A Correct.

17 Q All right. And now, was this a cash sale where he
18 just paid you money, or were there payments that he had to
19 make towards the car? What kind of sale was it?

20 A It was a cash sale. He was going to pay within 30
21 days.

22 Q So, he was going to pay you by May the 6th?

23 A Yes, that's correct.

24 Q Is that correct?

25 A That's correct.

1 Q And did he pay you on May 6?

2 A No.

3 Q Did you ever get paid?

4 A No. I got -- they actually gave me the car back.

5 Q So, you got the car back?

6 A Yes.

7 Q After this incident, you got the car back?

8 A Right. Like six months later.

9 Q About six months later.

10 Now, did you know Mr. Fry prior to selling him the
11 car?

12 A He was my -- I eat lunch every day at Brody's
13 restaurant, and he was the cook there and he was also the
14 waitress there. Really well-mannered gentleman. Well
15 mannered.

16 Q All right. So, you sold him the car and -- because
17 you knew him from where he worked at a restaurant?

18 A That's correct.

19 Q All right. And how many payments did he make
20 towards the car, if any?

21 A He give the lady what she wanted, and I sold it to
22 him for 1150, what the trade-in would have been.

23 Q All right. So, what lady?

24 A The lady that owned the car previous.

25 Q So, you didn't own the car?

1 A Yes, I owned the car. She traded it in.

2 Q Okay. I'm confused.

3 A I let him have it for the trade-in, but what she
4 wanted different, he had give her.

5 Q So, he made an arrangement with her as well?

6 A Yes.

7 Q So, you and the lady together sold him the car?

8 A Pretty much.

9 Q And then he was to pay the lady some money?

10 A He paid her right then.

11 Q Okay. How much did he give her?

12 A It would have been the difference of the 1150 of the
13 2,000. 850, I guess.

14 Q So, the car price was \$2,000?

15 A Yes, sir.

16 Q And 1150 of it was to go to you?

17 A Right. That's what I give her trade-in, and that's
18 what he was going to give me for the trade-in.

19 Q Okay. All right. Now, did you and Mr. Fry, do
20 y'all socialize together?

21 A I seen him when I went to the restaurant every day
22 to eat lunch.

23 Q But, I mean, seen him. What I'm asking you is, did
24 y'all socialize? Did you do anything outside of the
25 restaurant?

1 A No, sir.

2 Q Huh?

3 A No, sir.

4 Q Okay. So, you would just see him there and that's
5 the extent of it?

6 A Yeah.

7 Q Have you ever been to his house or him to your
8 house?

9 A No.

10 Q Where did the sale take place?

11 A The sale took place at my shop, but he met the lady
12 at the restaurant, eating lunch.

13 Q All right. So, the shop is where you sell vehicles?

14 A He is, like, one block from the restaurant.

15 Q Okay. So, he came over to the place where you work
16 or your shop, and that's where y'all did this agreement?

17 A Yeah, mm-hmm.

18 Q Now, how long would you say you have known Mr. Fry
19 prior to the sale?

20 A Probably, I'd say, 30 days.

21 Q 30 days?

22 A Yeah.

23 Q So, you had only known him a month?

24 A Right. But I known his boss man for a long time.

25 Q Okay. So, the reason that you did it was because

1 you knew his boss, not because you knew him, because now
2 you're saying you only knew him for 30 days.

3 A He only worked there 30 days, that I know of.

4 Q Okay. All right. Okay. All right.

5 A I only known you ten minutes, and you seem like a
6 pretty good fella.

7 Q Thank you. I appreciate that.

8 All right. So, let me ask you this: Did you know
9 either -- did you know either of these young men over
10 here?

11 A Yes, sir.

12 Q All right. You met them before?

13 A No, sir.

14 Q All right.

15 A Todd, I have.

16 Q Okay. So, you don't know them?

17 A No.

18 Q And you didn't sell them a car?

19 A No.

20 Q You certainly didn't sell them a gold Cadillac?

21 A No.

22 Q Whatever color -- what color is this Cadillac?

23 A Silver.

24 Q Silver?

25 A Yeah.

1 Q Okay. So, it's not gold?

2 A No.

3 Q It's not brown?

4 A No.

5 Q It's silver?

6 A Silver.

7 Q Was it silver when you sold it to him?

8 A Yeah. Silver when I got it back.

9 Q So, it was never a brown Cadillac?

10 A No.

11 Q It was never a gold Cadillac?

12 A No.

13 Q It was a silver Cadillac?

14 A Yes, as in the picture.

15 Q Just so we're clear. All right.

16 MR. WILSON: No other questions. Thank you.

17 THE COURT: All right. Mr. Galmore,

18 cross-examination?

19 CROSS-EXAMINATION

20 BY MR. GALMORE:

21 Q Mr. Todd, you testified that it was a silver
22 Cadillac?

23 A Yes, sir, that's correct.

24 Q And you say not a brown Cadillac?

25 A Correct.

1 Q And not a gold Cadillac?

2 A That's correct.

3 Q Was it a tan Cadillac?

4 A Silver.

5 Q Silver Cadillac. All right.

6 Now, I think you said that you sell cars and repair
7 cars and tow cars; is that correct?

8 A That's correct.

9 Q Okay. Now, did you have occasion to do any towing
10 of a Toyota Tacoma on or about May 31st of 2022?

11 A No.

12 Q Okay. Did you have occasion to tow a white Acura on
13 or about May 31st of 2022?

14 A No.

15 Q Did you conduct any repairs on a white Acura or
16 Toyota Tacoma on or about May 31st of 2022?

17 A No.

18 Q All right. So, if I were to tell you those are the
19 vehicles that are involved in this case, you had no
20 involvement with those vehicles?

21 A No.

22 Q All right. Did you witness a shooting on May 31st
23 of 2022?

24 A No.

25 Q Do you know if there was a robbery on May 31st,

1 2022?

2 A No.

3 Q All right. Thank you, Mr. Todd. No further
4 questions.

5 THE COURT: All right. Redirect?

6 MS. MARTIN: Yes, Your Honor.

7 Showing the witness -- showing the defense what has
8 been premarked as State's Exhibit 69, 70, and 71.

9 MR. WILSON: Your Honor, the photographs are not
10 into evidence at this point. Those are not. And -- as I
11 understand it. And this is new matter because we have
12 been talking about the Cadillac forever and she's now on
13 recross -- on redirect --

14 THE COURT: All right. How are you --

15 MS. MARTIN: They're pictures of the Cadillac.

16 THE COURT: I mean, how is it in response to matters
17 that they have addressed on cross that you have not
18 addressed on direct?

19 MS. MARTIN: Should we approach the bench? But I
20 mean, it's --

21 THE COURT: Well, no, just tell me.

22 MS. MARTIN: It's the color. And then the State's
23 Exhibit 71 is also the VIN number --

24 THE COURT: Well, don't get into what it is.

25 MS. MARTIN: Okay. Sorry.

1 THE COURT: My question is how -- this is redirect.
2 How is it in response to cross-examination that has not
3 already been addressed on direct examination?

4 MS. MARTIN: It's gold versus silver and just
5 identifying.

6 THE COURT: Okay. I'll allow it. Go ahead.

7 MS. MARTIN: Just an ID of the vehicle.

8 REDIRECT EXAMINATION

9 BY MS. MARTIN:

10 Q I'm showing you State's exhibits which have been
11 premarked for identification purposes as State's Exhibits
12 69, 70, and 71, and I'm also handing up what's already
13 been marked -- or, sorry, been introduced as State's
14 Exhibit 67. Okay? Will you look over State's Exhibits?

15 A Silver.

16 Q Okay. And are these the car that you sold Todd Fry?

17 A Yeah.

18 Q Okay. And State's Exhibit 71, what is that?

19 A That's the VIN number.

20 Q Okay. And is has that been altered, manipulated, or
21 changed in any way that you know of?

22 A Mm-mmm.

23 Q And let me also ask you this: Is the VIN number
24 also placed on the Bill of Sale?

25 A Yes.

1 Q Okay. And State's Exhibit 71. Is that the VIN
2 number on the Bill of Sale?

3 A Yes.

4 Q Okay.

5 MS. MARTIN: Your Honor, the State seeks to admit
6 State's Exhibit 69, 70, and 71 into evidence.

7 THE COURT: All right. State's Exhibits 69, 70, and
8 71 admitted into evidence over Defendant's objection.

9 (State's Exhibit Nos. 69, 70, and 71 were received
10 into evidence.)

11 MS. MARTIN: Will you hold those up for the jury
12 real quick? Can I have the VIN number real quick?

13 BY MS. MARTIN:

14 Q All right. On State's Exhibit No. 71, can you
15 clearly see the VIN number?

16 A Yeah.

17 Q On the vehicle?

18 A Yeah.

19 Q Does that VIN number match the VIN number that is on
20 the Bill of Sale?

21 A Yes.

22 Q Okay. I'm going to hand y'all those real quick.

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

24 BY MS. MARTIN:

25 Q Now, so, the Cadillac that you sold Todd Fry, is

1 that the one on the video that we just saw?

2 A Yeah.

3 Q Is that the one in the pictures that have just been
4 introduced?

5 A Yes.

6 Q Okay. And regardless of the color that we're
7 talking about right now, this is the Cadillac?

8 A Yes.

9 Q Okay.

10 MS. MARTIN: Your Honor, I have no further
11 questions.

12 THE COURT: All right. You may step down.

13 MR. GALMORE: Permission to recross, Your Honor?

14 THE COURT: Denied.

15 MR. GALMORE: They got to introduce new evidence and
16 new exhibits after the direct examination, and I'd like
17 permission to re-cross.

18 THE COURT: All right. I'm going to deny it. As I
19 said, we have got direct, cross, redirect, and that's it.

20 MR. GALMORE: Yes, sir. Thank you.

21 MS. MARTIN: Permission to excuse him from his
22 subpoena?

23 THE COURT: Any objection?

24 MR. WILSON: Just subject to his objection to allow
25 recross.

1 THE COURT: I mean, we're talking about releasing
2 him from his subpoena. Do you want him to stay here?

3 MR. WILSON: No, sir.

4 THE COURT: Mr. Galmore?

5 MR. GALMORE: Like Mr. Wilson says, subject to my
6 objection, but it's the Court's ruling.

7 THE COURT: Well, I'm not going to allow recross,
8 but by the same token, I'm not going to release him from
9 his subpoena, so he'll have to come back at a later time
10 if there's a need to ---

11 MS. MARTIN: Yes, sir.

12 THE COURT: --- if they want to call him as a
13 witness. Okay?

14 MS. MARTIN: Yes, sir.

15 THE COURT: All right. Let's go ahead -- ladies and
16 gentlemen, I think we're going to go ahead and take our
17 morning break, about a 10- or 15-minute break. Give you
18 an opportunity to stretch your legs, get something to
19 drink, use the restroom, whatever the case may be.

20 Leave your notepads here in the jury box. Do not
21 discuss the case even among yourselves. Don't conduct any
22 independent investigation.

23 We'll just sit tight for a minute because I see that
24 some people are taking some notes. Well, we have got to
25 finish the publication.

1 (Pause in the proceedings while the jury reviews
2 exhibits.)

3 THE COURT: All right, ladies and gentlemen of the
4 jury. We'll take about a 10- or 15-minute break. Do not
5 discuss the case among yourselves. Don't conduct any
6 independent investigations. Leave your notepads here in
7 the jury box, and we'll bring you back in about 10, 15
8 minutes. Thank you very much.

9 (The jury exited the courtroom at 11:03 a.m.)

10 THE COURT: All right. Anything from the State
11 before we take a recess?

12 MS. MARTIN: Nothing from the State.

13 THE COURT: All right. Mr. Wilson?

14 MR. WILSON: Yes, sir, Your Honor -- and I
15 understand the Court has made its ruling and certainly we
16 respect that and we will abide by that. I have a concern,
17 though, in regards to recross. The State has, on almost
18 every witness, done redirect, and we have not been allowed
19 to challenge anything that they raise new on redirect.

20 And a good example of that is this last issue that
21 we just had regarding those photographs that they wanted
22 to put in. They did not put them in on direct. They
23 questioned the witness at length about the car and all of
24 that stuff.

25 Then when we got up and we raised an issue about it,

1 then they put in the pictures, but then we weren't allowed
2 to respond to the fact that they put those pictures in,
3 which is not -- which is not responsive to anything. It's
4 a new matter. Those pictures are new, they were not put
5 in on direct, and then we were not allowed to challenge
6 any of that or to present any additional information.

7 And I understand that now, because there are two
8 lawyers in this case, that it makes it drag out longer if
9 we just continually jump up and have recross and redirect
10 and recross after the redirect. I understand that. I do.
11 Lord knows I do.

12 But I think it's getting to be a little burdensome
13 because the State is taking full advantage of their
14 redirect, but we're not allowed to challenge it. And I
15 just -- I have concerns about it and whether or not we're
16 going to be able to get a fair trial as a result of that.

17 And so, I'm asking the Court to reconsider its ban,
18 if you will, or rule that we are not allowed to have any
19 recross under any circumstances. I just think it's a
20 little prohibitive, and I would ask the Court to
21 reconsider it.

22 THE COURT: All right. I understand your argument,
23 but I'm going to keep it going the way it is.

24 Mr. Galmore, anything you want to put on the record?

25 MR. GALMORE: Yes, sir, Your Honor. On that issue

1 of the prohibition against recross, I would just suggest
2 that a proper remedy would be to limit the redirect by the
3 State. We have had four or five witnesses so far.
4 Basically, they have direct examination on each witness
5 and then they come back and they do a redirect where they
6 cover the same issues a second time.

7 So, basically, the State is getting two bites of the
8 apple, and this most recent witness, they did get into new
9 exhibits, they got into new exhibits, and we were not able
10 to challenge that at all.

11 I would ask the Court to limit the State's ability
12 to redirect these witnesses because they're not doing
13 anything except cumulative testimony.

14 THE COURT: And I'm going to stick by my prior
15 rulings and limit no recross. But I'll admit, yeah, the
16 State is pushing the envelope. And whether they've gone
17 on the line and made a decision, it's in there. That
18 might create the reversible error if there's a conviction
19 in this case, but that's on the State if they want to keep
20 pushing the envelope the way they are and just keep going
21 -- rehashing direct examination, because there is a tinge
22 -- even though it is a minute tinge -- to where it is
23 addressing -- I mean, invariably every cross-examination
24 is going to be addressing what comes out on direct. And
25 I'll admit with you, there is very little on cross that is

1 new to the prosecution, and maybe it does give them two
2 bites at the apple, but that was a close call on that last
3 one. I'm going to allow it in. I'm going to stick by my
4 prior ruling. Whether it's right or wrong, the appellate
5 courts, if this comes down as a conviction, they can deal
6 with that issue.

7 MR. WILSON: Thank you.

8 MR. GALMORE: Thank you, sir.

9 THE COURT: All right. Anything from the State
10 before we take a recess?

11 MS. MARTIN: No, Your Honor.

12 THE COURT: Mr. Wilson?

13 MR. WILSON: Nothing further.

14 THE COURT: Mr. Galmore?

15 MR. GALMORE: No, sir.

16 THE COURT: All right. We'll take about a 15-minute
17 recess.

18 (A recess was taken from 11:08 a.m. to 11:28 a.m.)

19 THE COURT: All right. Anything from the State
20 before we bring in the jury in?

21 MS. MARTIN: Nothing from the State.

22 MR. WILSON: No, sir, Your Honor.

23 MR. GALMORE: No, sir.

24 THE COURT: All right. Let's bring the jury in.

25 (The jury entered the courtroom at 11:33 a.m.)

1 THE COURT: All right. Ladies and gentlemen,
2 welcome back. We're ready to resume the trial of the
3 case. Make sure you have your own notepads and nobody
4 else's notepads.

5 All right. The State can call your next witness.

6 MS. MARTIN: Neil Adams.

7 NEIL ADAMS,

8 after having been duly sworn, was examined and
9 testified to as follows:

10 THE CLERK: Please state your name and spell it for
11 the Court.

12 THE WITNESS: It's Neil, N-e-i-l, Adams, A-d-a-m-s.

13 DIRECT EXAMINATION

14 BY MS. MARTIN:

15 Q Hey, Mr. Adams. Good morning.

16 A Good morning.

17 Q Where do you currently reside?

18 A [REDACTED] Loop in Conway.

19 Q And back in 2022, where did you live?

20 A At the same residence.

21 Q How long have you been there?

22 A Approximately five years.

23 Q Okay. And -- State's Exhibit 8 already in evidence.
24 If I hold this up to you...

25 Are you -- can you tell the jury where [REDACTED] Loop

1 is?

2 A It's going to be right here.

3 MS. MARTIN: Pointed to [REDACTED] Loop on the map.
4 There's a red dot.

5 BY MS. MARTIN:

6 Q And did you happen to have a Ring doorbell or a Ring
7 camera at your address?

8 A Yes, ma'am.

9 Q Can you tell me where that was?

10 A Above the garage and also my doorbell.

11 Q Okay. And did you happen to live near [REDACTED]
12 Loop Road?

13 A Directly across and diagonal.

14 Q Okay. And let's see. Of the video footage of your
15 Ring camera, did you have Ring camera footage from May the
16 31st of 2022?

17 A Yes, ma'am.

18 Q Did you provide that to the police?

19 A Yes, ma'am.

20 MS. MARTIN: Okay. The State has already showed
21 defense attorney State's Exhibit 66. Showing to the
22 witness.

23 BY MS. MARTIN:

24 Q Can I ask you what that is?

25 A My initials.

1 Q Okay. And do you know what's in this envelope?

2 A Yes, ma'am.

3 Q And what's in that envelope?

4 A That's the disc of the footage that I provided.

5 Q Okay. Is it an accurate copy of that footage?

6 A Yes, ma'am.

7 Q Has it been manipulated or altered with?

8 A No, ma'am.

9 Q Shows what you saw that day?

10 A Yes, ma'am.

11 MS. MARTIN: Your Honor, the State seeks to admit
12 State's Exhibit 66 into evidence.

13 THE COURT: All right. Mr. Wilson?

14 MR. WILSON: I have no objections to it, Your Honor.

15 THE COURT: Mr. Galmore?

16 MR. GALMORE: I object as to relevance. It's a
17 video of Mr. Todd driving down the driveway. Nothing to
18 do with the -- it's not of the crime scene location and it
19 doesn't involve the shooting or robbery claims in any way.

20 THE COURT: All right. State's Exhibit 66 admitted
21 into evidence over objection of Dajon Gate.

22 (State's Exhibit No. 66 was received into evidence.)

23 BY MS. MARTIN:

24 Q So, the camera looking over your garage, where is
25 that pointed again?

1 A Directly across the street, but it captures the
2 whole -- the whole street for several homes in both
3 directions.

4 Q And can you see 51 or -- golly -- [REDACTED] Loop
5 Road?

6 A Yes, ma'am.

7 Q And do you know who lived there at that time?

8 A Todd Fry, his mother, and her boyfriend.

9 Q Okay. Is Todd Fry on this image?

10 A Yes, ma'am.

11 Q And can you tell me where he is?

12 A The bottom picture on the right.

13 MS. MARTIN: Okay. I'm pointing out the picture of
14 Todd Fry on the board.

15 BY MS. MARTIN:

16 Q And would this be both of y'all's addresses both on
17 there?

18 A Yes, ma'am.

19 Q Okay. And I'm pointing at [REDACTED] Loop and --
20 Sorry. [REDACTED] and [REDACTED] Loop.

21 MS. MARTIN: Permission to publish to the jury.

22 THE COURT: All right. Talking about 66?

23 MS. MARTIN: Yes, Your Honor.

24 THE COURT: All right.

25 MR. WILSON: I can't see around this, Your Honor.

1 (Video plays.)

2 MS. MARTIN: Pause it real quick.

3 BY MS. MARTIN:

4 Q Before we get going, I should probably ask you:
5 What is this right here?

6 A That's the view from my garage and my son's
7 basketball goal.

8 Q Okay. Is this your driveway ---

9 A Yes, ma'am.

10 Q --- that I'm pointing to on the screen?

11 A Yes, ma'am.

12 Q Can you tell me real quick where Mr. Fry's house
13 would be?

14 A Directly diagonal, across the street where the car
15 just pulled into the driveway.

16 Q Where the car just pulled into the driveway? Okay.

17 MS. MARTIN: If you'll please continue to play.

18 (Video plays.)

19 BY MS. MARTIN:

20 Q While we're waiting, can you tell us what the time
21 and date are on this camera?

22 A May 31st, 2022, 3:10 in the afternoon.

23 (Video continues to play.)

24 Q Can you tell me the date and time now?

25 A May 31, 2022, 4:24 in the afternoon.

1 Q And that car pulling into the driveway across the
2 street, whose house is that?

3 A That would be Todd Fry's house.

4 Q And do you know whose car that is?

5 A That is Todd Fry's car.

6 Q Do you know who is getting out of that car?

7 A It appears to be Todd Fry.

8 (Video continues to play.)

9 MS. MARTIN: Your Honor, the State is going to mute
10 it because this entire thing is just wind at this point.

11 THE COURT: That will be fine.

12 MS. MARTIN: Thank you. Unless there's any
13 objection.

14 MR. WILSON: I'm sorry?

15 MS. MARTIN: Any objection to muting it, since it's
16 just wind?

17 MR. WILSON: No objection.

18 MS. MARTIN: Mr. Galmore?

19 MR. GALMORE: No objection to the wind.

20 (Video continues to play.)

21 BY MS. MARTIN:

22 Q Can you tell the jury the date and time now?

23 A May 31st, 2022, 4:36 p.m.

24 Q Thank you.

25 (Video continues to play.)

1 Q Can you tell us the date and time at this point?

2 A This is May 30th of 2022. That's at 8:10 p.m.

3 Q Now, does your camera constantly run and record?

4 A Yes, ma'am.

5 Q Okay. It does? Okay.

6 And let's see. State's 40. Already introduced into
7 evidence, State's 40.

8 So, did you see that Cadillac and the man in that
9 video that you identified as Todd Fry? Did you see them
10 at that house often?

11 A Yes, ma'am.

12 Q Okay. And did you recognize that vehicle?

13 A Yes, ma'am.

14 Q What about --

15 MR. MARTIN: Publishing State's Exhibit 40 again,
16 Your Honor.

17 THE COURT: All right.

18 (Video plays.)

19 BY MS. MARTIN:

20 Q In this video, do you recognize any of the vehicles
21 or people?

22 A Yes, ma'am.

23 Q And what vehicles or people do you recognize?

24 A That's Mr. Todd Fry and the Cadillac he pulled up
25 in.

1 Q Okay. When you say "that," do you mean the man in
2 the white tank top and shorts?

3 A Yes, ma'am.

4 Q Okay. Getting into the Cadillac currently?

5 A Yes, ma'am.

6 MS. MARTIN: Give me one second. 69 and 70.

7 They're right here.

8 BY MS. MARTIN:

9 Q Showing the witness what's already been introduced
10 as State's 69 and 70.

11 A Yes, ma'am.

12 Q Do you recognize the vehicle in that picture?

13 A Yes.

14 Q And whose vehicle is that?

15 A That's Todd Fry's car.

16 Q Okay. And whose house is depicted in 69?

17 A That's across the -- that's [REDACTED] Loop.

18 MS. MARTIN: Your Honor, the State has no more
19 questions for this witness.

20 If you'll answer any questions that the defense may
21 have.

22 THE COURT: All right, Mr. Wilson.

23 Cross-examination?

24 MR. WILSON: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. WILSON:

2 Q Mr. Adams; right?

3 A Yes, sir.

4 Q Now, Mr. Adams, how long have you known Todd Fry?

5 A I don't know him.

6 Q You just know him when you see him?

7 A Yes, sir.

8 Q All right. Do you know his family?

9 A No, sir.

10 Q All right. There was two other cars that came to
11 that house when you were describing it to the solicitor.
12 There was a blue vehicle and then there was an SUV, looks
13 like maybe gray or something, that came up and they both
14 were parked in front of the house while -- and somebody
15 got out and went in. Do you know who those people were?

16 A No, sir.

17 Q All right. Do you know -- had you seen those cars
18 at his house before?

19 A I don't recall, sir.

20 Q Now, the solicitor asked you -- I think it was 4:24.
21 She asked you about a car that was pulling into the
22 driveway. Do you recall that?

23 A Are you referring to the Cadillac?

24 Q Yes, sir.

25 A Yes, sir.

1 Q All right. And then she asked you I think at 4 --
2 and I have to get these times right; I don't want to
3 mislead you. The other time was 4:36 p.m.; right?

4 A Yes, sir.

5 Q And what was happening with the Cadillac at
6 4:36 p.m.?

7 A I don't know what was happening, sir. There were
8 individuals around the car. That's all I could see.

9 Q How many individuals did you see?

10 A Approximately two to three.

11 Q Two to three? Well, two or three? Which?

12 A Two.

13 Q All right. So, two people. And that included
14 Mr. Fry?

15 A Yes, sir.

16 Q All right. And do you know who those people were?

17 A I do not, sir.

18 Q Do you know what they were doing with the car?

19 A No, sir.

20 Q In reviewing this video, do you ever see a situation
21 where Mr. Todd is cleaning the car or trying to clean it
22 out or washing it or anything like that?

23 A I don't know what he was doing, sir.

24 Q Now, were you actually at home when this video was
25 being filmed or were you at work or --

1 A I don't remember, sir.

2 Q Okay. All you remember is what's on the video.
3 Whatever is there is there?

4 A Yes, sir.

5 Q That's what you're essentially saying; right?

6 A Yes, sir.

7 Q All right. Have you had any direct contact with
8 Mr. Fry prior to May 20 -- May 31st ---

9 A No, sir.

10 Q --- of '22?

11 A No, sir.

12 Q Do you have any children?

13 A Yes, sir.

14 Q Are they Mr. Fry's age?

15 A My stepson is, yes, sir.

16 Q Are they friends or....

17 A No, sir.

18 Q You said "no, sir" matter-of-factly. Why is that?

19 A I just answered the question, sir.

20 Q Okay. All right.

21 So, they're not friends; right?

22 A Right.

23 Q Eventually, though, y'all live across the street
24 from each other?

25 A Yes, sir.

1 Q Now, in regards to the Cadillac, now is that a new
2 -- was that a fairly new addition to the house being
3 parked there? How long -- well, let me ask you this: How
4 long had you been living at that house?

5 A Approximately five years.

6 Q Okay. And how long had Mr. Todd been living across
7 or diagonal from you?

8 A I don't know, sir. I can't recall.

9 Q I mean, was it more than a year?

10 A Yes, sir.

11 Q Okay. And was it recently, then, that you started
12 seeing the Cadillac there or had it been there for the
13 entire year?

14 A I don't remember, sir.

15 Q Okay. All right. So, you're essentially telling us
16 that whatever is on that camera is all you know. You have
17 no independent knowledge about anything other than what it
18 shows ---

19 A Yes, sir.

20 Q --- which is the car being parked in the driveway
21 and somebody coming and going?

22 A Yes, sir.

23 Q Thank you, sir.

24 THE COURT: Mr. Galmore, cross-examination?

25 CROSS-EXAMINATION

1 BY MR. GALMORE:

2 Q Mr. Adams, let's talk about this video for a few
3 minutes. So, you said this is a Ring doorbell of your
4 house; correct?

5 A Yes, sir.

6 Q From your house.

7 And your video records constantly?

8 A Yes, sir.

9 Q Okay. Now, I think the solicitor asked you
10 throughout what time is it on the video. And I think the
11 initial time you said was around 2:30; is that correct?

12 A I don't recall, sir.

13 Q Okay. Do you recall whether the last time that you
14 called out for the solicitor was about 8 p.m.?

15 A Yes, sir.

16 Q Okay. Now, this video, is it a complete video or is
17 it sort of spliced together?

18 A It appears to be spliced together, yes, sir.

19 Q Okay. So, it's not a six-hour showing?

20 A No, sir.

21 Q No. All right.

22 And this is -- your house is on [REDACTED] Loop Road in
23 Conway?

24 A Yes, sir.

25 Q Just general idea, how far is that from Loris?

1 A I don't know, sir.

2 Q Maybe 15, 20 minutes?

3 A I'm not familiar with the area, sir. I don't know.

4 Q Okay. Do you have any video from Highway [REDACTED] in
5 Loris?

6 A No, sir.

7 Q No. Okay. And the video that you have from Conway,
8 I guess it shows Todd Fry's car parked in the driveway or
9 pulling up to the driveway and then pulling off at the
10 later date; would that be correct?

11 A Yes, sir.

12 Q Does it show any guns in the video?

13 A No, sir.

14 Q Do you see anything that looks like blood in the
15 video?

16 A No, sir.

17 Q Your Ring doorbell, I guess it records audio also,
18 because it was picking up the wind?

19 A Yes, sir.

20 Q Did it record any conversations?

21 A Not that I could hear, sir.

22 Q So, you don't have any conversations with Mr. Fry or
23 anybody that he was with?

24 A No, sir.

25 Q Okay. Now, at certain points, the video showed

1 additional people at Mr. Fry's residence. Were you able
2 to identify any of those people?

3 A No, sir.

4 Q Okay. At any time did the police bring you photos
5 and ask you to attempt to identify any of those people?

6 A No, sir.

7 Q So, you can't tell us who Mr. Fry was with?

8 A No, sir.

9 Q Were you able to identify Mr. Fry in the video?

10 A Yes, sir.

11 Q Okay. So, you can identify Mr. Fry but you don't
12 know who he was with?

13 A Yes, sir.

14 Q And you don't know what they were talking about?

15 A No, sir.

16 Q Okay. And I think Mr. Wilson asked you, you
17 weren't -- did you see them doing anything along the lines
18 of cleaning out the car?

19 A No, sir.

20 Q Did you see anything that you would consider to be
21 suspicious activity during that video?

22 A No, sir.

23 Q Thank you, sir. No further questions.

24 THE COURT: All right. Redirect?

25 MS. MARTIN: Very briefly. Lacey...

1 REDIRECT EXAMINATION

2 BY MS. MARTIN:

3 Q You were just asked do you recall being asked
4 whether the timestamp on the video at the very beginning
5 was 2:30 in the afternoon.

6 A I couldn't remember what it was, yes, ma'am.

7 Q That's exactly right. So, if I showed you the
8 video, would you remember?

9 A Yes, ma'am.

10 Q Okay. We'll have to wait for the thing to go down.
11 And what is the time stamp on the video?

12 A May 31st, 2022, 3:09 p.m.

13 Q 3:09 p.m.

14 In this video, is it a camera inside that vehicle?

15 A Inside which vehicle?

16 Q Inside the Todd Fry's Cadillac. I mean, can you see
17 inside it?

18 A Oh, no, ma'am.

19 Q So, do you know if there's blood in there?

20 A I do not, no, ma'am.

21 MS. MARTIN: No further questions.

22 THE COURT: All right. You may step down.

23 THE WITNESS: Thank you, sir.

24 THE COURT: Thank you.

25 MS. MARTIN: May he be released from his subpoena?

1 MR. WILSON: No objection, Your Honor.

2 MR. GALMORE: No objection.

3 THE COURT: All right. He's free to go.

4 The State can call your next -- well, let me see the
5 attorneys.

6 BENCH CONFERENCE

7 (The following bench conference was held outside the
8 hearing of the jury and others.)

9 THE COURT: How long is your next witness?

10 MS. LIVESAY: Probably about 30 minutes.

11 MS. MARTIN: I think, with cross-examination,
12 probably more than that.

13 MS. LIVESAY: Oh, yeah.

14 MS. MARTIN: We have two crosses. We're probably
15 looking at an hour.

16 THE COURT: Okay. Well, then, we may just do direct
17 and then break for lunch and come back and do cross
18 afterwards. Okay?

19 MR. GALMORE: Yes, sir.

20 THE COURT: Because it's 12 now.

21 MS. LIVESAY: Is that what you want to do or do you
22 just want to wait?

23 MS. MARTIN: Could we just wait until after lunch?

24 THE COURT: The lunch isn't here for the jury yet.
25 So, you're talking about 30 minutes of just dead time

1 where we can be getting in testimony, so let's go ahead
2 and do that.

3 MS. MARTIN: Yes, sir.

4 (Open court resumes as follows:)

5 THE COURT: All right. The State can call your next
6 witness.

7 MS. MARTIN: The State calls Detective Sean Wydra.

8 DETECTIVE SEAN WYDRA,

9 after having been duly sworn, was examined and
10 testified to as follows:

11 THE WITNESS: Sean Wydra, S-e-a-n W-y-d-r-a.

12 DIRECT EXAMINATION

13 BY MS. MARTIN:

14 Q Where are you currently employed?

15 A The Horry County Police Department.

16 Q And what do you do at the Horry County Police
17 Department?

18 A I'm a detective in the Homicide Unit.

19 Q And how long have you been there?

20 A At the Horry County Police Department as a whole?

21 Q Yes.

22 A Since 2012.

23 Q Well, tell me about -- tell me what all you have
24 done since you have been there.

25 A I worked in patrol and then I became a detective. I

1 worked in Property Crimes briefly, and then I was in the
2 Special Victims Unit, and then I went to Homicide in 2019.
3 And most recently I went to the Cold Case Section of
4 Homicide.

5 Q And do you have any type of specialized law
6 enforcement training?

7 A Yes, ma'am. All law enforcement officers do. You
8 have to obtain your initial certification when you become
9 a law enforcement officer. After that, you go through
10 yearly updates and yearly training to keep our
11 certification current.

12 Beyond that, we have specialized training depending
13 on what you're doing at the police department. As
14 detectives, we go through training in various things:
15 Interviewing, things that are specifically attached to
16 whatever unit you're in, sexual assault classes, homicide
17 investigations, things like that.

18 Q Okay. What about any evidence collection? Have you
19 taken any courses in evidence collection?

20 A We do -- we do training in-house on that, and then
21 most of that is also attached to things -- classes that
22 you do, like, sexual assault classes, homicide classes,
23 things like that.

24 Q On May 31st, 2022, were you working that day?

25 A Yes, ma'am.

1 Q And were you involved in the case we're presently
2 here about today?

3 A Yes, ma'am.

4 Q You were. And where did you go?

5 A My initial response was to the scene itself, but I
6 was redirected to go to the hospital.

7 Q Okay. And when you got to the hospital, who did you
8 go see?

9 A I was there to see Dajon Grate.

10 Q And at this point in time at the hospital, was
11 Mr. -- was the defendant, Mr. Grate, shot?

12 A He was, that's correct.

13 Q And during that time, did you know whether or not he
14 was a suspect? a defendant? a victim? What were you
15 treating him as?

16 A No, ma'am. At the time, he was being treated as a
17 victim. I knew that we had two individuals on the scene
18 that was deceased and also another individual, Mr. Grate,
19 was shot and was transported to the hospital.

20 Q So, while you were there to -- with this victim, did
21 you collect any evidence?

22 A Yes, ma'am, I did.

23 Q And what did you collect?

24 A DNA swabs from Mr. Grate and also a GSR kit.

25 Q Okay. And with the DNA swab, how is that collected?

1 A It's an oral swab collected from the inside of your
2 cheek.

3 Q Okay. Now, after leaving the hospital, what did you
4 do involving this case?

5 A Evidence was dropped off that we collected. There
6 was some other evidence that was taken to Myrtle Beach to
7 a NIBIN machine. I also participated in a search warrant
8 at Mr. Fry's residence.

9 Q Okay. Now, let's pause there and talk about this
10 search warrant at Mr. Fry's residence. Did you locate a
11 Cadillac matching the description at the crime scene and
12 the Sunhouse at Mr. Fry's house?

13 A Yes, ma'am. There was a Cadillac parked in
14 Mr. Fry's driveway.

15 Q And do you know who all lived at that house?

16 A I don't know exactly how many people lived there. I
17 know his mother was there and also he was there as well.

18 MS. MARTIN: State's Exhibit 8 again.

19 BY MS. MARTIN:

20 Q Can you come and show me where the search warrant
21 was on this map?

22 A Yes, ma'am. [REDACTED] Loop.

23 MS. MARTIN: Let the record reflect that he pointed
24 to the [REDACTED] Loop address.

25 BY MS. MARTIN:

1 Q So, when you assisted in executing a search warrant
2 at Todd Fry's house, did you find any evidence of value
3 there?

4 A We found Mr. Fry himself was there with a cell phone
5 in his possession and also there was some clothing and a
6 pair of shoes that were found in the living room area.

7 Q And where was that clothing located?

8 A In a trash bag that was on the couch, I believe, in
9 the living room.

10 Q Is that normal to locate clothes in a trash bag?

11 A No, ma'am.

12 MS. MARTIN: 33 and 34. State is showing the
13 witness State's 33 and 34, premarked.

14 BY MS. MARTIN:

15 Q Do you recognize any of these items?

16 A Those are some of the items that we found in the
17 home, the clothing that we discussed.

18 Q Okay. And have they been altered, manipulated, or
19 tampered with in any way?

20 A They don't appear to be.

21 Q And you collected these?

22 A I did.

23 MS. MARTIN: Your Honor, State's Exhibit Items 3,
24 33, and 34 into evidence.

25 THE COURT: All right. Mr. --

1 MR. WILSON: No objection.

2 THE COURT: Mr. Galmore?

3 MR. GALMORE: No, sir. No objection.

4 THE COURT: State's Exhibit 3, 33, and 34 admitted
5 into evidence without objection.

6 (State's Exhibit Nos. 3, 33, and 34 were received
7 into evidence.)

8 BY MS. MARTIN:

9 Q Did you also take photographs while you were at the
10 house?

11 A Yes, ma'am.

12 Q And then let me show you what is already in evidence
13 real quick as State's Exhibits 69, 70, and 71. Did you
14 take those photos?

15 A Yes, ma'am.

16 Q We'll put those to the side and show you these.

17 MS. MARTIN: Showing the witness 68 and then 72
18 through 76, premarked.

19 BY MS. MARTIN:

20 Q Are those your photographs?

21 A Yes, ma'am.

22 Q And have they been altered with or tampered in any
23 way?

24 A No, ma'am.

25 Q These accurately reflect the pictures that you took?

1 A Yes, ma'am.

2 MS. MARTIN: State seeks to admit State's Exhibit
3 69, 72, 73, 74, 75, 76 --

4 THE COURT: All right. Mr. Wilson?

5 MS. MARTIN: Oh, sorry; I apologize. 77 and 78 as
6 well.

7 MR. WILSON: I have no objections, Your Honor.

8 MR. GALMORE: No objection, sir.

9 THE COURT: All right. You said 72, 73, 74, 75, 76,
10 69, 77, and 78?

11 MS. MARTIN: And then also 79. I apologize. I
12 handed them over and I got them out of order when I did.

13 THE COURT: All right. Let's go through those
14 again. 72, 73, 74, 75, 76, 69, 77, 78, and 79.

15 MS. MARTIN: 68. 69 is already in evidence.

16 THE COURT: All right. Call them out to me again.

17 MS. MARTIN: Yes, sir. 68, 72, 73, 74, 75, 76, 77,
18 78, and 79.

19 THE COURT: So, no 69.

20 MS. MARTIN: 69, 70, and 71 are already introduced
21 in evidence. But I will put them all together now.

22 THE COURT: All right. State's Exhibits 72, 73, 74,
23 75, 76, 77, 78, 79, and 68 are admitted into evidence
24 without objection.

25 (State's Exhibit Nos. 68 and 72 through 79 were

1 received into evidence.)

2 MS. MARTIN: Permission to publish.

3 THE COURT: All right.

4 MS. MARTIN: Will you pull up 68 for me?

5 Your Honor, we do have a demonstrative of them,
6 these photographs on the disc.

7 BY MS. MARTIN:

8 Q I'm going to let you have these as we go through
9 them.

10 A Yes, ma'am.

11 MS. MARTIN: Ready whenever you are.

12 (Video plays.)

13 BY MS. MARTIN:

14 Q This is State's Exhibit 68. Can you explain to the
15 jury what we're looking at?

16 A A front view of [REDACTED] Loop, Todd Fry's
17 residence.

18 Q And why did you take that photograph?

19 A Generally, when we process a scene, we start from
20 outside, and we work our way within when we photograph it.
21 So, we usually take an exterior view and then move our way
22 into the home.

23 Q And then next photograph?

24 A It's, again, another front view, kind of to the
25 side, and then it also shows the car parked in the

1 driveway.

2 Q And what type of car is that?

3 A Same Cadillac.

4 Q And then let's go to State's Exhibit 70.

5 A That is the rear of the Cadillac with a display
6 paper tag on it.

7 Q And that paper tag -- we'll get that. Keep going.

8 A That's the VIN number of the Cadillac.

9 Q Next photo? Okay. So, can you tell me why you took
10 this picture?

11 A So, inside of the home, we found a license plate
12 that was on the counter and also a tool near the license
13 plate as well.

14 Q And would State's Exhibit 73, would that show the
15 tool that you were just talking about?

16 A That's correct.

17 Q Okay. Keep going. All right. So, what are we
18 looking at with State's Exhibit 74?

19 A That's the trash bag we discussed earlier and also
20 the shoes and shorts and also a hat that are near it.

21 Q Okay. And what's already been introduced as State's
22 Exhibit 3, 33, and 34, are these what's depicted in that
23 photo?

24 A That's correct.

25 Q Okay. Keep going.

1 A That's just the items we found, minus the trash bag.

2 Q And those were collected and introduced into
3 evidence today?

4 A That's correct.

5 Q And what do we have next?

6 A That's a picture of a bedroom.

7 Q Okay. And next?

8 A More of the bedroom.

9 Q And why do you take these pictures?

10 A You know, again, when we photograph a bedroom, we
11 want to show the bedroom as completely as possible.

12 Q Next photo?

13 A That is the top of a piece of furniture in the
14 bedroom.

15 Q Is there anything in particular in this
16 photograph that -- why would you take this picture?

17 A Because, as you can see, there's a Visa card on top
18 with Todd Frye's name on it.

19 Q Okay. And would that be the black Visa in the
20 pretty much middle of the picture?

21 A That's correct.

22 Q Keep going. And what is this picture?

23 A Just a close-up of that same Visa card.

24 Q Okay. And whose name is on it?

25 A Todd Frye.

1 Q And so, these photographs with the names on it, are
2 you doing that just to identify who's in that room or
3 whose bedroom that you believe that that belongs to?

4 A That's correct.

5 Q Okay. So, in the course of your investigation,
6 after executing the search warrant at Todd Fry's house,
7 did you also review any footage of a Ring camera?

8 A Yes, ma'am.

9 Q Okay. And was that collected from the -- from a
10 neighbor's house?

11 A That's correct.

12 Q Okay. And are you familiar with that footage?

13 A Yes, ma'am.

14 Q Have you reviewed that footage?

15 A Yes, ma'am.

16 Q Okay.

17 MS. MARTIN: Publishing State's Exhibit 66, just not
18 all of it.

19 (Video plays.)

20 MS. MARTIN: Lacey, will you pause it right there
21 please, ma'am.

22 BY MS. MARTIN:

23 Q In the top left corner, what house is that?

24 A That's Todd Fry's house.

25 Q And do you recognize that vehicle?

1 A That's Todd Fry's Cadillac.

2 Q And do you see -- do you recognize any of the people
3 walking out of that vehicle?

4 A Looks like Todd Fry.

5 Q Okay. And can you tell me what he's wearing in that
6 video?

7 A Appears to be a white tank top and a pair of jean
8 shorts.

9 Q And a pair of jean shorts?

10 A Yeah.

11 MS. MARTIN: Okay. If you'll please continue.

12 (Video continues to play.)

13 BY MS. MARTIN:

14 Q At this point in the video, what does the Cadillac
15 appear to be doing?

16 A Backing out of the driveway. And now it appears to
17 be backing back into the driveway.

18 Q And what is going on on this video now?

19 A He got out of the driver's seat and is back near the
20 rear license plate area of the vehicle.

21 Q Okay. And can you see exactly what's happening at
22 this point?

23 A No, ma'am.

24 MS. MARTIN: Keep going just a little bit more.

25 Okay. Pause it.

1 BY MS. MARTIN:

2 Q Detective Wydra, when he got out from behind the
3 vehicle, did he appear to have anything in his hand?

4 A Yes, ma'am.

5 Q What did it appear to be?

6 A A license plate.

7 Q And State's Exhibit 70, what did -- what's on the
8 back of the car at this point?

9 A A paper tag.

10 Q State's Exhibit 73, where was that located?

11 A In the house on the counter.

12 Q And the license plate is what shape?

13 A It's a rectangle.

14 Q Did that appear to match the description of what was
15 in his hand?

16 A That's correct.

17 MS. MARTIN: Beg the Court's indulgence. One
18 second, Your Honor. I apologize.

19 I have no further questions.

20 THE COURT: All right. Ladies and gentlemen, I
21 think we're going to go ahead and break for lunch. We
22 have lunch coming for you. If it's not here now, it will
23 be here shortly. Okay?

24 Leave your notepads in the jury box. Do not discuss
25 the case even among yourselves. Don't conduct any

1 independent investigation. We'll probably take about an
2 hour for lunch. That will give you plenty of time to eat.
3 So, don't feel rushed or anything of that nature. We'll
4 break, and then we'll bring you back after lunch and
5 resume. Okay? Thank you very much.

6 (The jury exited the courtroom at 12:30 p.m.)

7 THE COURT: All right. Detective Wydra, we're in
8 the middle of your testimony. So, under the law, you
9 cannot discuss your testimony with anyone, whether it be
10 the State's attorney, solicitors, defense attorneys, or
11 anyone. Okay?

12 THE WITNESS: I understand, Your Honor.

13 THE COURT: We're going to break for lunch but don't
14 talk about your testimony whether it be what you testified
15 to thus far or what you anticipate testifying to in the
16 future. Okay?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. Anything from the State
19 before we break for lunch?

20 MS. MARTIN: Nothing from the State.

21 THE COURT: Mr. Wilson?

22 MR. WILSON: No, sir.

23 THE COURT: Mr. Galmore?

24 MR. GALMORE: No, sir.

25 THE COURT: I have ordered lunch for the jury, so

1 I'm looking at about an hour, but I don't want to rush
2 them. Okay? All right. We'll be in recess at least
3 until 1:30.

4 (A lunch recess was taken from 12:32 p.m. to 1:23 p.m.)

5 (State's Exhibit Nos. 81 through 86 marked for
6 identification.)

7 (State's Exhibit Nos. 87 through 184, Scene
8 Photographs, were marked for identification.)

9 (State's Exhibit No. 185, Acura Disc, was marked for
10 identification only.)

11 (State's Exhibit No. 186-193, Crime Scene Photos,
12 were marked for identification.)

13 THE COURT: Anything from the State before we bring
14 the jury in?

15 MS. MARTIN: Yes, sir.

16 THE COURT: All right.

17 MS. MARTIN: I am asking, since we have not started
18 cross, I accidentally missed one thing in my direct, and
19 I'm asking to go back on the record with direct with six
20 questions.

21 THE COURT: Mr. Wilson, anything you want to put on
22 the record with regard to the request?

23 MR. WILSON: No, sir.

24 THE COURT: Mr. Galmore?

25 MR. GALMORE: No, sir. No objection.

1 THE COURT: I'll allow it.

2 Anything else from the State before we bring the
3 jury in?

4 MS. MARTIN: Nothing else from the State.

5 THE COURT: Mr. Wilson?

6 MR. WILSON: No, sir.

7 THE COURT: Mr. Galmore?

8 MR. GALMORE: No, sir.

9 THE COURT: All right. Let's bring the jury in.

10 (The jury entered the courtroom at 1:55 p.m.)

11 THE COURT: All right, ladies and gentlemen of the
12 jury. Welcome back. I hope everyone had a good lunch.
13 We're ready to resume with the trial of the case. The
14 witness is still under oath.

15 Ms. Martin, you can continue with your direct
16 examination.

17 Make you have got your own notepads and nobody
18 else's notepads.

19 All right. You can continue with your direct
20 examination.

21 COURT STENOGRAPHER: 194 marked.

22 (State's Exhibit No. 194, Tow Sheet, was marked for
23 identification.)

24 BY MS. MARTIN:

25 Q When you did the search of Todd Fry's house, you saw

1 the Cadillac there?

2 A Yes, ma'am.

3 Q Okay. And I'm showing you what's been premarked as
4 State's Exhibit 194.

5 A Yes, ma'am.

6 Q Did you have that vehicle was towed?

7 A The vehicle was towed by Officer -- or Detective
8 John Kelly, yeah.

9 Q Okay. And --

10 A He also participated in the search warrant as well.

11 Q Okay. And let me ask you this: When you tow a
12 vehicle, do y'all do impound or tow records?

13 A We complete a tow sheet, which is what you're
14 looking at here. It's the vehicle impound tow record.

15 Q Okay. And does this appear to be the tow record for
16 the Cadillac at Todd Fry's house?

17 A Yes, ma'am, it does.

18 Q Okay.

19 MS. MARTIN: Your Honor, at this time, the State
20 seeks to admit State's Exhibit 94 into evidence.

21 THE COURT: Mr. Wilson?

22 MR. WILSON: No objection, Your Honor.

23 THE COURT: Mr. Galmore?

24 MR. GALMORE: No objection.

25 THE COURT: State's Exhibit 194 admitted into

1 evidence without objection.

2 (State's Exhibit No. 194 was received into
3 evidence.)

4 BY MS. MARTIN:

5 Q Can you tell me what date the vehicle towed?

6 A June 1st, 2022.

7 MS. MARTIN: No further questions.

8 THE COURT: Mr. Wilson?

9 MR. WILSON: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. WILSON:

12 Q Detective Wydra, let's go back. Were you at the
13 hospital when Mr. Grate was in the hospital; that is,
14 Dajon Grate?

15 A I was.

16 Q And what was your purpose in going there?

17 A To speak with him to see what happened.

18 Q Did you speak with him?

19 A I did.

20 Q Okay. Now, at that point, he was in the hospital;
21 right?

22 A That's correct. He was in the hospital.

23 Q All right. And he was -- he had been shot?

24 A That's correct.

25 Q Multiple times?

1 A That's correct.

2 Q He was being treated by the nurses or the doctors at
3 the hospital at that time?

4 A He was admitted into the hospital.

5 Q Okay. Well, when they admit you into the hospital,
6 what is the purpose of admitting you in the hospital?

7 A To treat him for his gunshot injury.

8 Q Right.

9 A That's correct.

10 Q Okay. Now, you would agree with me, wouldn't you,
11 that, when you were originally trying to speak with him at
12 the hospital, that he's under medication; right?

13 A I'm presuming they gave him medication. I did not
14 observe them give him medication, but he's there for a
15 gunshot-related injury. I would presume they were
16 treating him with medication.

17 Q Okay. Did you collect his clothing from the
18 hospital?

19 A No, sir.

20 Q Who would have done that?

21 A I did not collect his clothing.

22 Q Well, that wasn't my question. My question was:
23 Who would have collected the clothing of Mr. Dajon Grate
24 from the hospital?

25 A I don't know, sir. I do not.

1 Q Okay. Now, you said that you did DNA swabs?

2 A That's correct.

3 Q What's the purpose of doing DNA swabs?

4 A We typically will take a standard from a person and
5 compare that to evidence we find on-scene.

6 Q Okay. Now, in taking these swabs, you're going to
7 take Q-tip kinds of swabs and swabs their mouths -- or the
8 interior of their mouths or tongue and then send that off
9 to be tested; right?

10 A We rub the inner cheek with a swab, that's correct.

11 Q Okay. And you send it to SLED, State Law
12 Enforcement Division, if you find -- to see if you can
13 find a match to something maybe at the crime scene; right?

14 A We submit it to Evidence, and Evidence would then
15 send it to SLED. It depends on -- they don't always
16 immediately send everything. It just depends on the
17 circumstances of the case.

18 Q Okay. So, you didn't send it?

19 A No, sir.

20 Q You turn it over to your crime scene investigator?

21 A It's gets turned into Evidence, sir.

22 Q And once you turn it in, do you ever see the results
23 of the examination?

24 A It depends. In this particular case, I was not the
25 lead detective. Normally, those results would probably be

1 sent to our Evidence supervisor initially, and then she
2 would then share them with the -- more than likely with
3 the lead detective.

4 Q Okay. Now, let's talk about the impounded cars.

5 A Sure.

6 Q Well, before I leave that, did you do swabs on any
7 other person -- DNA swabs on any other person other than
8 Dajon Grate?

9 A No.

10 Q Okay. So, let's talk about the Acura and the
11 Cadillac. Were you the officer who impounded or in the
12 petition that impounded the Acura?

13 A No, sir.

14 Q Were you the officer who did the impound for the
15 Cadillac?

16 A No, sir.

17 Q All right. So, you have no role in either
18 impounding or searching the interior of either the Acura
19 or the Cadillac?

20 A No, sir.

21 Q Did you procure a search warrant for either the
22 Acura or the Cadillac?

23 A No, sir.

24 Q Were you present when either of those vehicles were
25 being searched?

1 A I don't recall, sir. Normally, they'll -- Crime
2 Scene would do those searches. I don't recall whether or
3 not I ever walked outside at all while they were
4 processing them.

5 Q Well, when you were talking to the solicitor
6 earlier, did I understand you to say that you saw, on the
7 video, Mr. Fry with the license plate in his hand?

8 A He walked out from behind the vehicle carrying an
9 object that appeared to be a license plate.

10 Q Okay. And you saw that in person or you're saying
11 you saw that on the video?

12 A On the video, sir.

13 Q Okay. All right. Now, is that your interpretation
14 of what he had in his hand or did you have some distinct
15 way of knowing that that's, in fact, what he had in his
16 hand?

17 A Judging by the fact that he backed the car into the
18 driveway, went behind the vehicle, bent down near where
19 the license plate is, appeared to be doing something near
20 the license plate, got up and walked into the house with a
21 license plate-shaped object in his hand, and then we found
22 a license plate with a tool on the counter in the house.

23 Q All right. And what was the license plate that you
24 found in the house? What was it?

25 A It was a South Carolina license plate.

1 Q What was on the license plate?

2 A I don't recall the numbers off the top of my head,
3 sir. I'd have to see a picture of it.

4 Q Well, you were at the house; right?

5 A Excuse me? I didn't hear you, sir.

6 Q You were at the house?

7 A That's correct, yes, sir.

8 Q You say that you found a license plate inside the
9 house?

10 A That's correct.

11 Q Was there a license plate on the car?

12 A There was a paper tag on the car, sir.

13 Q All right. So, there was no hard tag on the
14 vehicle?

15 A No, sir.

16 Q The license tag that you found in the house, who did
17 that license tag belong to?

18 A I don't recall, sir.

19 Q You don't recall?

20 A No, sir.

21 Q Now, you say that you went -- you were investigating
22 a murder; right?

23 A That's correct.

24 Q And you go to this house and you say that you see a
25 man take a tag off of a vehicle and then you don't bother

1 to find out who the tag belonged to?

2 A There was another detective that did that.

3 Q So, somebody else did that?

4 A That's correct.

5 Q But you found the tag in the house. Isn't that what
6 you just told me?

7 A I photographed the house and searched the house,
8 that's correct.

9 Q So, wouldn't it be standard procedure pretty much to
10 run the tag to figure out if this tag is stolen from
11 somebody else, it might belong to somebody else?

12 A The tag would have been ran, yes, sir.

13 Q But you didn't run it?

14 A No, sir.

15 Q And you don't know who ran it?

16 A I can't recall who ran it, sir.

17 Q And you don't know what the results of it were?

18 A I can't recall what the results of it were.

19 Q Can't recall.

20 Well, don't y'all make notes? And you have body
21 cameras too; right?

22 A That's correct.

23 Q And so, those body cameras would see exactly
24 whatever you were seeing when you were there including
25 that license tag; right?

1 A That's correct.

2 Q And that would have been preserved on your body
3 camera in spite of whatever may or may not be on this
4 video; right?

5 A That's correct.

6 Q Yeah. Have you reviewed your body camera?

7 A Not recently, sir.

8 Q Not recently.

9 Well, you knew you were coming to testify; right?

10 A That's correct.

11 Q And you knew that this is a homicide case; right?

12 A That's correct.

13 Q And you knew that all the evidence that is collected
14 is important; right?

15 A Yes, sir.

16 Q Right. Because that's why you collect it, because
17 it's important. If it's not important, you're not going
18 to collect it; right?

19 A That's correct.

20 Q All right. Now, you said, when you got there,
21 Mr. Fry was at home?

22 A Yeah, he was found there.

23 Q All right. What was the address? What is the
24 address?

25 A [REDACTED] Loop.

1 Q 39 what?

2 A [REDACTED] Loop.

3 Q [REDACTED]?

4 A Yes, sir.

5 Q All right. And who lives at that address? Whose
6 home is that?

7 A Mr. Fry and his mother. And I'm not sure who else
8 lives there.

9 Q That house is entitled in Mr. Fry's name and his
10 mother's name? Is that what you're telling me?

11 A No, sir, that's not what I'm telling you.

12 Q Well, what are you telling me?

13 A I was telling you that they live there, not that
14 it's signed under their name.

15 Q Well, my question was: Whose house is it?

16 A I don't know, sir.

17 Q Do you know whether it's a rental? Do you know
18 whether it's a lease? Do you know whether they own it?
19 Do you have any idea?

20 A No, sir.

21 Q When you arrested or -- well, let me ask it this
22 way: Did you arrest Mr. Fry?

23 A I did not arrest Mr. Fry.

24 Q Was Mr. Fry arrested in your presence?

25 A Yes, sir. He was taken into custody by one of the

1 detectives.

2 Q All right. And did you search him or were you
3 present when he was searched?

4 A I don't recall if I was outside of the house or
5 inside of the house at the time when he was initially
6 searched.

7 Q Did you find any weapons at the house?

8 A No, sir.

9 Q Did you find any monies that were unaccounted for at
10 the house?

11 A No, sir.

12 Q Did you find any evidence that Kalik Conn had ever
13 been in that house?

14 A No, sir.

15 Q Did you find any bullets, shell casings, anything in
16 that house?

17 A No, sir.

18 Q Did you find any pictures of Mr. Dajon Grate or
19 Nasirea Grate in that house?

20 A No, sir.

21 Q Did you find anything in that house that belonged to
22 them?

23 A Who is "them," sir?

24 Q When I say "them," I'm talking about Mr. Grate and
25 Mr. Grate.

1 A No, sir.

2 Q Did you find any drugs in the house?

3 A No, sir.

4 Q Find any marijuana in the house?

5 A I don't -- I don't recall, sir, if there was any --
6 if there was any marijuana or not. I'd have to
7 double-check on the evidence sheet.

8 Q Do you want to check?

9 A I don't have it in front of me, sir.

10 Q Well, where is it?

11 A It would be in the case file, sir.

12 Q Well, do you have your case file with you?

13 A No, sir.

14 Q What did you say?

15 A I said "no, sir."

16 Q You come to court to testify about a murder case and
17 you leave your file at your office? Is that what you're
18 telling us?

19 A No, sir. The lead detective would have the case
20 file, sir.

21 Q Well, you have access to it; right?

22 A Generally, they have it.

23 Q In fact, Officer, to be fair, you have to do a
24 report about everything that you have done in this case;
25 right?

1 A Not necessarily everything, but...

2 Q So, you do things and you don't have to do a report
3 about it? Is that what you're saying?

4 A It depends on what you're talking about, sir.

5 Q Well, we're talking about this murder investigation.
6 If you're the officer and you're working on a murder
7 investigation, I'm simply asking you, don't you have to
8 write down what you do so that you know two years later
9 what you did and what you didn't do?

10 A It would depend on what you're talking about that
11 you're doing.

12 Q How about investigating a murder?

13 A It would depend on what you were doing.

14 Q Well, you're doing an investigation of a murder;
15 right?

16 A Yes, sir.

17 Q Okay. Where is the tag that you found?

18 A The tag that I found?

19 Q The tag that you say you saw, where is it now?

20 A I'm not sure, sir.

21 Q You're not sure?

22 A No, sir.

23 Q Okay. Let's go back to the hospital ---

24 A Sure.

25 Q --- to when you spoke to Mr. Grate. Were you alone?

1 A No, sir.

2 Q There were other officers present?

3 A That's correct.

4 Q How many other officers were present?

5 A There was three other detectives that were there.
6 We all were not in the room at the entire time, all four
7 of us together. But at various times, there would have
8 been four.

9 Q Now, I asked you if you had any part in impounding
10 these vehicles; right?

11 A Yes, sir.

12 Q And what did you tell me?

13 A That I'm not the one that impounded them.

14 Q And then I asked you did you assist. And what did
15 you tell me?

16 A Did I assist in what, sir?

17 Q In impounding the vehicles.

18 A I was present. I was there at Mr. Fry's house, but
19 I did not impound the vehicle. Detective Kelly did.

20 Q You assisted in impounding these vehicles. Do you
21 deny that?

22 A I was present when the vehicle was impounded, sir.

23 Q All right. And not only were you present for the
24 Cadillac, you were also present for the Acura?

25 A I'm not the one that impounded any of the --

1 Q That's not my question. You said that you were
2 present, and I said -- my question was, you were not only
3 present for the Cadillac, you were also present for the
4 Acura?

5 A I don't recall where the Acura was impounded from.
6 I don't recall if I was present for that one or not, but
7 the Cadillac, I was at Mr. Fry's house.

8 Q All right. Did you do some search warrants?

9 A No, I did not do the search warrants.

10 Q Huh?

11 A I did not do the search warrants.

12 Q You did not do search warrants.

13 You didn't do phone records request for Kalik Conn,
14 for Mr. Dicker, or Tatyana Bellamy and Victoria
15 Spann (ph)?

16 A I don't recall if I did the search warrant requests
17 on the phone records or not, or if that was another
18 detective.

19 Q Well, can you look at your records and find out and
20 tell me?

21 A I would have to, sir.

22 Q Okay. Okay. Look at your records and tell me.

23 A I don't have them in front of me, sir.

24 Q All right. When was it -- when was it that you
25 reviewed the video footage from the Ring camera of Mr. --

1 I think his name is Adams. When did you review that?

2 A The exact date?

3 Q Yes, sir.

4 A I don't recall the exact date that I reviewed the
5 footage.

6 Q Well, was it the next day or was it closer to trial?

7 A We reviewed the video footage not long after we
8 retained it, sir. And then reviewed it again at other
9 times.

10 Q Did you also see in that video, then, that there
11 were two cars that come up: A blue car and then there was
12 an SUV -- a light-colored SUV that pull up in that video
13 to Mr. Todd's house -- Mr. Fry's house? Do you remember
14 that?

15 A I apologize, sir. If I interrupted you, I
16 apologize.

17 Q No, that's okay. I'm good.

18 A There were other vehicles that pull up to the house,
19 yes, sir.

20 Q Who did those vehicles belong to? That was my
21 question.

22 A Oh, I don't know, sir.

23 Q Well, did you make an effort to find out who --
24 because now, the two cars that come up, that's around 3:30
25 in the afternoon, 4:00 in the afternoon, right, on May

1 31st, which is the day of the incident; right?

2 A Excuse me, sir? Sorry. Can you repeat that, sir?

3 Q The question is, the two cars -- the blue car and
4 the light-colored SUV -- that pull up in front of the home
5 of Mr. Fry occurred around 3:30, 4:00 in the afternoon?

6 A I'd have to see the video to be sure on the time,
7 sir.

8 Q Okay. Well, let's forget about the time.

9 A Okay.

10 Q I'm only concerned about the two cars. Do you know
11 who the two cars belonged to?

12 A I do not.

13 Q What effort, if any, did you make to determine who
14 the two cars belonged to?

15 A I did not make any effort, sir.

16 Q When did you see the Ring video?

17 A It would have been not long after it was sent to us.

18 Q Okay. And it was sent to you when?

19 A I don't recall the exact date. Not long after the
20 incident, though.

21 Q Okay. There were some other individuals -- at least
22 one, I think, is what the testimony was -- in the yard
23 near the car with Mr. Fry. Do you know who that
24 individual was?

25 A I don't.

1 Q Did you make any -- because this -- and the reason
2 this is important, Officer, is this is within a couple of
3 hours after this incident allegedly took place; right?

4 A That's correct.

5 Q Yeah. And so, wouldn't you want to know who he's
6 associating with and who is coming and going from his
7 house within two hours after his car is allegedly involved
8 in a homicide -- two homicides, in fact? Right?

9 A Yes, sir.

10 Q Yeah. And wouldn't you want to know who those
11 people are?

12 A Yes.

13 Q Tell me what effort -- tell me what effort you or
14 anyone else in law enforcement, to your knowledge, has
15 made to determine who those two cars belong to who are
16 there at his house within a couple of hours after this
17 incident and the individuals get out and go -- and we
18 don't know who the individuals are and we don't know who
19 the cars belong to.

20 A I can't speak as to what other detectives did or did
21 not do. I was not the one that interviewed. Other than
22 interviewing Mr. Grate initially at the hospital, I was
23 not the one who interviewed either one of them after that.
24 I did not make any effort to follow up on that information
25 or ask them about it at that point.

1 Q Okay. After Mr. Todd -- I'm sorry; I keep calling
2 him Mr. Todd. Todd Fry. After he was taken down to the
3 station or wherever he was taken once he was arrested
4 there, were you present at any interview that he may have
5 given?

6 A I was not -- I did not interview any of them other
7 than the initial interview with Dajon Grate.

8 Q That wasn't my question. My question wasn't whether
9 you interviewed him. My question was: Were you present
10 at any interview that he gave?

11 A I was not in the interview room, sir. I don't
12 recall if I was at the police department at the time or
13 not during that time frame, but I did not participate in
14 the interviews.

15 Q How long did they interview him? Do you know that?

16 A I don't.

17 Q You don't know.

18 Let me ask you about some shell casings. Did you
19 take some shell casings, which were collected from the
20 scene, to Myrtle Beach Police?

21 A That's correct.

22 Q All right. How many shell casings did you take?

23 A I don't recall how many I took, sir. I'd have to
24 look at the evidence sheet.

25 Q Well, can you look at it and tell me?

1 A I don't have the case file with me, sir.

2 Q So, you don't -- you take shell casings from a crime
3 scene to another department for the department to look at
4 them, and you can't tell me how many you took; right?

5 A Well, it's accounted for on the evidence form.

6 Q I'm sorry?

7 A I said it's accounted for on the evidence form.

8 Q Well, I know that, but we're in trial, and you're on
9 the stand. And I'm simply asking you to tell me what you
10 did with some degree of certainty.

11 A I took the casings to the Myrtle Beach Police
12 Department.

13 Q How many?

14 A I don't recall how many, sir.

15 Q What types?

16 A I don't recall.

17 Q I don't have any other questions.

18 THE COURT: Mr. Galmore?

19 CROSS-EXAMINATION

20 BY MR. GALMORE:

21 Q So, Detective Wydra, you interviewed my client at
22 the hospital?

23 A That's correct.

24 Q Did he admit to you that he shot anybody?

25 A No, sir, he did not.

1 Q I understand you also conducted a search warrant at
2 Todd Fry's house; is that correct?

3 A That's correct.

4 Q And these clothes and things were the items that you
5 recovered from Mr. Fry's house?

6 A Yes, sir.

7 Q Now, you also mentioned that you transported some
8 shell casings. Do you recall testifying about that?

9 A That's correct.

10 Q Where did you transport these shell casings from?

11 A The police department.

12 Q From the Horry County Police Department?

13 A To the Myrtle Beach Police Department.

14 Q Did you collect these shell casings?

15 A No, sir.

16 Q Well, how did they come to be in your possession?

17 A They were given to me to be transported to the
18 Myrtle Beach Police Department.

19 Q And what were you transporting shell casings to
20 Myrtle Beach for?

21 A To be put on a NIBIN machine.

22 Q And tell the jury what NIBIN means.

23 A I can tell you generally -- well, that would be a
24 better question for the person who operates the machine.

25 Q Okay. So, you took these shell casings to Myrtle

1 Beach Police Department to be tested by a Myrtle Beach
2 NIBIN operator?

3 A That's correct.

4 Q Okay. And were they tested by the Myrtle Beach
5 NIBIN operator?

6 A That's correct, they were.

7 Q Were you present when these shell casings were
8 tested?

9 A Yes, sir.

10 Q Did you observe the testing?

11 A Yes, sir.

12 Q And what happened to the shell casings after they
13 were tested?

14 A They were brought back.

15 Q Brought back to the county police department?

16 A That's correct.

17 Q By you?

18 A Yes, sir.

19 Q And these shell casings, are they casings that were
20 found out on Highway [REDACTED] at that scene?

21 A I don't recall where each shell casing was found at,
22 sir. I wasn't the one that collected them.

23 Q I mean, we're not talking about some other case.

24 A It would be in relation to this case, yes, sir, but
25 I don't recall exactly where they were found.

1 Q So, you took shell casings related to this case to
2 Myrtle Beach to be tested by a Myrtle Beach police
3 officer?

4 A By the person who operates the NIBIN machine.

5 Q By the NIBIN machine operator.

6 Can you tell the jury the results of any of the
7 tests?

8 A No, sir. That would be, again, a better question
9 for the person who operates the machine.

10 Q Your role was to transfer shell casings to the
11 Myrtle Beach Police Department?

12 A That's correct.

13 Q Do you know if any fingerprints were taken off any
14 of these shell casings?

15 A I do not.

16 Q Do you know if DNA was lifted or obtained off any of
17 these shell casings?

18 A I do not.

19 Q No further questions.

20 THE COURT: Redirect?

21 REDIRECT EXAMINATION

22 BY MS. MARTIN:

23 Q Detective Wydra, when this is a big case such as a
24 double murder like we're here on today, would it be
25 all-hands-on-deck with your department?

1 A Yes, ma'am.

2 Q Are you the only investigator within Horry County
3 Police Department?

4 A No, ma'am.

5 Q Okay. Would it be -- do y'all all work together on
6 bigger cases?

7 A Yes, ma'am, we do. Typically, with bigger cases or
8 with any homicide, there's a lead detective and then
9 there's multiple detectives that are assigned to assist
10 that lead detective in the investigation. Different
11 detectives do different things. We all don't always know
12 who does what at each and every time. It's common for it
13 to be a team effort and a group effort with multiple
14 people on various and different tasks.

15 Q Are you the lead investigator on this case?

16 A No, ma'am.

17 Q Even if you were the lead investigator on this case,
18 could you have possibly done everything by yourself?

19 A No, ma'am, that would not be possible.

20 Q Okay. Do you delegate and divvy out roles and
21 responsibilities?

22 A Yes, ma'am, they are.

23 Q To other people within your organization?

24 A Yes, ma'am.

25 Q Is that so that you can get fast and effective

1 outcomes?

2 A Yes, ma'am.

3 Q All right. Now, IBIN or NIBIN or IBIS, as it's
4 sometimes called, are those all the same name for the same
5 thing?

6 A Yes, ma'am.

7 Q Okay. Is that just an investigative tool used by
8 law enforcement?

9 A Yes, ma'am.

10 Q Okay. Give me one second.

11 A Yes, ma'am.

12 MS. MARTIN: Your Honor, I have no further
13 questions.

14 THE COURT: All right. You may step down.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: State can call your next witness.

17 MS. MARTIN: The State calls Jack Smith.

18 DETECTIVE JACK SMITH,

19 after having been duly sworn, was examined and
20 testified to as follows:

21 THE WITNESS: Jack Smith. J-a-c-k S-m-i-t-h.

22 DIRECT EXAMINATION

23 BY MS. MARTIN:

24 Q What's your current role?

25 A Ma'am?

1 Q Excuse me. Where are you currently employed?

2 A I'm employed with the Horry County Police
3 Department, ma'am.

4 Q And what's your current role there?

5 A I'm currently a detective in the Homicide Unit.

6 Q Okay. So, "detective" would be the right thing to
7 call you? Detective Smith?

8 A Yes.

9 Q Now, how long have you been with the Horry County
10 Police Department?

11 A Just a little bit over eight years, ma'am.

12 Q And what all have you done with the -- actually,
13 let's go back further. Before Horry County, what did you
14 do?

15 A I was in the United States Marine Corps for ten
16 years prior to being involved in law enforcement.

17 Q Okay. And after you got out of the United States
18 Marine Corps, where did you go?

19 A I came -- I got out of the military on Friday and
20 came to work for Horry County on Monday.

21 Q And to be an Horry County police officer, do you
22 have to have any type of training?

23 A Yes, ma'am. You initially get hired and then you
24 get your basic training at the South Carolina Criminal
25 Justice Academy up in Columbia.

1 Q Now, throughout your years of working for Horry
2 County Police Department, have you had any other types of
3 training?

4 A Yes, ma'am. Various other things. Most recently,
5 basic detective, a couple other investigative schools. We
6 do normal yearly training that involves, you know, active
7 shooter and legal updates. I mean, the list goes on. We
8 try to stay up to date with the most recent things going
9 on in law enforcement.

10 Q Prior to becoming a detective, what other roles did
11 you have as a police officer?

12 A So, when you're hired, generally, you start off as a
13 patrol officer, so you're working a sector, which I did
14 answering calls for service.

15 The next step, me personally, I was promoted to
16 corporal so then I was a patrol supervisor. Just there,
17 you know, to supervise the guys that are working the
18 sectors and then, obviously, most recently, I then moved
19 over to the Investigation Division.

20 Q On May 31st of 2022, what was your role at the Horry
21 County Police Department?

22 A I was a corporal, so I was a patrol supervisor on
23 that date.

24 Q And to be a patrol supervisor, can you tell the jury
25 what that means?

1 A Yeah. So, your -- really, the way I looked at it is
2 I was there for the guys that are working a sector, so
3 anything they need. I'm also available to help, you know,
4 answer calls for service, but really, I try to be an asset
5 for them so if they need help or we need to call any
6 county assets, that's kind of my call. I kind of oversee
7 everything that happens or does not happen on the
8 day-to-day operations for calls for service in Horry
9 County.

10 Q And on May 31st of 2022, did you respond to -- did
11 you respond to a case regarding why we're here today?

12 A Yes, ma'am, I did.

13 Q And where did you respond to?

14 A So, the exact address would have been [REDACTED] Highway
15 [REDACTED], and that, obviously, would be the Loris section of
16 Horry County.

17 Q So, that is in Horry County?

18 A That's correct.

19 Q And what did you see when you first arrived on the
20 scene?

21 A Yes, ma'am. So, again, I -- I wasn't too far away,
22 and I happened to be the first officer on-scene. When I
23 pulled up, I kind of parked at the end of the driveway.

24 Initially, you can see kind of like a longer
25 building that has multiple doors. It's, like, an

1 apartment kind of set up. And when I got out, kind of
2 observed everything, there was a group of people. People
3 were coming up to me, kind of giving me the rundown. The
4 call for service was in reference to a shooting that just
5 occurred. So, you know, my initial response is to go out
6 there and kind of understand what's going on.

7 Q So, you said that people came up and talked to you.
8 So, you located those witnesses?

9 A Yeah. The witnesses kind of wanted to talk to me at
10 first, and I'm pretty sure I pushed them away rather
11 quickly, just -- my big thing, when we have, you know, a
12 potentially a hectic scene is I need to make sure that
13 security is good. I want to make sure that I'm safe and
14 the witnesses are safe. And then the next step is to
15 start to preserve evidence.

16 Q When you arrived on the scene, did you locate any
17 victims?

18 A Yes, ma'am. So, generally, on the left side of
19 that -- what I would call, you know, a one-story
20 apartment, building, there was a vehicle, an SUV, and
21 there was a Black male that was inside of the vehicle that
22 was clearly deceased. And then on the other side of the
23 apartment, kind of in, like, a small grassy area around
24 some concrete, there was another Black male that was
25 deceased as well.

1 Q So, this vehicle that you're talking about, this
2 SUV, can you tell me about that? What did it look like?
3 Were there any deformities to it? Tell me about it.

4 A Yes. So, I believe one of the driver's side doors
5 was cracked and then one of the passenger side -- I
6 believe it was the front door was open, which is how I
7 kind of viewed everything inside of the vehicle.

8 Q And around the vehicle, did you observe anything?

9 A Yes. There was a firearm on the ground on the
10 passenger side of the vehicle kind of towards the rear of
11 it generally. Something that was fairly interesting about
12 that firearm is that it appeared to have a malfunction.
13 And when I say that, what I mean is the firearm appeared
14 to shoot but it didn't fully eject the shell casing, and
15 it had something that we would generally call, like, a
16 stovepipe. The shell casing was stuck inside of the
17 slide. It didn't fully come out and it got stuck when the
18 slide tried to go forward, if that makes sense.

19 Q So, stovepipe. Could another word for that be a
20 jammed gun?

21 A Yeah, absolutely, yes, ma'am.

22 Q Now, what did the victim in the vehicle look like?

23 A I don't -- he was -- to the best of my knowledge, he
24 was a Black male. I don't recall --

25 Q Was he alive?

1 A No, ma'am, he was not alive.

2 Q Did you try any life-saving measures?

3 A No, I did not try any life-saving measures.

4 Q Okay. And why didn't you try any life-saving
5 measures?

6 A Because he was clearly deceased, based on my
7 experience.

8 Q Okay. And then the other victim in this case, I
9 believe you said that he was on the far side of the
10 apartment complex, the townhouses?

11 A Yes, ma'am, that's correct, he was.

12 Q And did you try any life-saving measures of this
13 victim?

14 A I did not, ma'am, no.

15 Q Okay. And why didn't you do that?

16 A He appeared clearly deceased to me as well.

17 Q Now, while you were at the scene, did you secure it?

18 A Yeah, so, like I said, that's kind of the next step
19 once I'm satisfied with -- that I'm safe and everybody
20 there is safe. You know, we -- there's a lot of things
21 that go into, especially kind of in this situation because
22 it was -- townhouses are a better description, by the way.

23 A lot of different apartments. So, there was a lot of
24 steps that I kind of took initially, just the basic things
25 that were right in front of me. I wanted to make sure.

1 And then going to different apartments, seeing if
2 anybody was maybe injured inside the apartments or if
3 anybody was in there. I did a 360-degree sweep, so I
4 walked all the way around the townhouses to make sure
5 there was no other, you know, clear evidence or anybody
6 that may have been in trouble around the backside of it
7 maybe -- as far as security goes.

8 Q And while you were there -- were you issued a
9 body-worn camera?

10 A Yes, I was.

11 Q Okay. And was that camera recording that day?

12 A Absolutely, it was, yes, ma'am.

13 MS. MARTIN: Previously showing what's been marked
14 as State's Exhibit 80 to defense attorneys, approaching
15 the witness.

16 BY MS. MARTIN:

17 Q What am I showing you?

18 A That's a copy of my body-worn camera with my
19 initials right there.

20 Q And so, have you reviewed this?

21 A Yes, ma'am.

22 Q Is this an accurate depiction of what you saw that
23 day?

24 A It is.

25 Q Okay. Has it been tampered with or altered in any

1 way?

2 A No, ma'am.

3 MS. MARTIN: Your Honor, the State seeks to admit
4 State's No. 80 into evidence.

5 THE COURT: What number is it?

6 MS. MARTIN: 80.

7 THE COURT: 80?

8 MS. MARTIN: Yes, sir.

9 THE COURT: All right. Mr. Wilson, any objection to
10 State's Exhibit --

11 MR. WILSON: No objection, Your Honor.

12 THE COURT: Mr. Galmore?

13 MR. GALMORE: No sir, no objection.

14 THE COURT: State's Exhibit 80 is admitted into
15 evidence without objection.

16 (State's Exhibit No. 80 was received into evidence.)

17 MS. MARTIN: I'm going to publish to the jury. For
18 the record, we're going to start with the
19 two-minute-and-thirty-second mark. The first two minutes
20 and 30 seconds are nothing but the siren going off.

21 We're starting at 2:36. Beg the Court's indulgence
22 while we get the volume working.

23 (Video plays.)

24 MS. MARTIN: Your Honor, the State is stopping the
25 video at 9:59 -- nine minutes and 59 seconds into the

1 video.

2 THE COURT: All right.

3 BY MS. MARTIN:

4 Q Detective Smith, is there more to that video?

5 A Yes, there is.

6 Q Okay. And is that -- does that show the overview,
7 what we just saw, the two minutes -- I think we started at
8 two minutes and 36 seconds and ended at nine minutes and
9 59 seconds. Does that show the rough overview of the
10 scene?

11 A Yes, absolutely, it does.

12 Q Okay. And on that video, I believe earlier you said
13 that it was the driver's side door that may have been
14 cracked. When you looked at that video, did it appear
15 that the back driver's side door --

16 A Yeah. I believe that's what I meant. One of the
17 doors on the driver's side was cracked a little bit, and
18 then the passenger side door was wide open, which is how I
19 got that visual of what was inside the vehicle. Sorry if
20 there was any confusion.

21 Q No, I just wanted to clear it up because I get
22 confused sometimes.

23 A Okay. Yeah, I'm with you.

24 MS. MARTIN: Beg the Court's indulgence.

25 THE COURT: All right.

1 BY MS. MARTIN:

2 Q I have got no further questions. If you'll answer
3 anything that Mr. Wilson and Mr. Galmore have for you.

4 A Yes, ma'am.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. WILSON:

8 Q Detective Smith, when you're there -- well, let's
9 back up. What time did you get there?

10 A I can tell you, sir. Generally -- give me one
11 second. So, it appears the call for service came out on
12 5/31/2022 at 2:12 p.m., and I would have showed up
13 probably just a few minutes after that because I was
14 fairly close.

15 Q And when you arrived, were there any other officers
16 present?

17 A No, sir, I was the first one on-scene.

18 Q And on the video, it shows you walking across a
19 grassy area over to meet -- I guess that would have been
20 Ms. Berenice, the Hispanic lady. Is that you?

21 A That's me on the video, yes, sir.

22 Q Okay. And after having that short conversation with
23 her, you go to kind of see what's going on at the scene;
24 right?

25 A That's correct.

1 Q And did you get a good look at the car?

2 A I did, sir.

3 Q Okay. Did you -- well, let me ask it this way:
4 Were you present when the emergency medical people
5 arrived?

6 A Yes, sir. I met with one on the topside of the yard
7 as we saw shortly after the video or before it ended.

8 Q Now, you told us that you found a vehicle -- you
9 found a weapon, a gun of some type, and I think you said
10 it was jammed or I think you used another word but the
11 solicitor said "jammed" so we'll go with that. Is that
12 right?

13 A That's correct.

14 Q All right. And where would that gun have been found
15 in proximity to the vehicle?

16 A So, I know it's not obnoxiously clear on the video,
17 but if the vehicle -- that white SUV, if you're standing
18 right behind it so the driver's side is on your left and
19 the passenger side door is open. It's back in the
20 vicinity of the rear passenger side door on the ground.

21 Q So, the rear passenger door -- near the rear
22 passenger door?

23 A That's generally how I remember it, sir. I feel
24 pretty confident about that.

25 Q Was there a weapon found on the passenger side near

1 the sidewalk?

2 A Are we talking about a separate one?

3 Q Yeah. I'm asking.

4 A I don't know, sir. I wasn't an investigator at the
5 time. I'm there to secure the scene. I'm there to
6 preserve evidence. I noticed that firearm that I just
7 described to you and that was all I noticed.

8 Q All right. Did you go over to where the young man
9 was laying near the porch of the apartment? Did you go
10 over to review that?

11 A Yes, sir.

12 Q Did you find a weapon there or did you see a weapon
13 there?

14 A I didn't right off, sir. Now, again, I didn't do a
15 very deep dive into that scene, trying to make sure,
16 obviously, if there was any life-saving measures that
17 needed to be done and then securing it.

18 Q What about were you present when the body of the
19 person driving the white Acura was removed from the
20 vehicle?

21 A No, sir. I don't think I was.

22 Q Do you know whether or not a gun was found there?

23 A No, sir, I don't know.

24 Q Okay. Do you know whether any other weapons were
25 found at or near the white Acura other than the one that

1 you described to us?

2 A I don't, sir. It's not inherently my job to know,
3 being a patrol officer, when detectives are going to get
4 involved. They're the ones that are going to do the deep
5 dive in the investigation, and I am there to -- us and
6 patrol are there to preserve evidence so that we can have
7 the scene as preserved as possible when they get there so
8 they can get all the correct information.

9 Q But if you are the first officer on the scene,
10 before things are disturbed in any way whatsoever, it's
11 really important to know what you saw before everybody
12 else starts milling around; right? In fact --

13 A Go ahead.

14 Q Go ahead.

15 A I was going to agree with you. I think it's
16 important but you -- and so, I know this is not your first
17 rodeo. There's a thousand things going on in the scene
18 when I'm the only one there and there's a shooting that
19 just occurred; right? So, I have about a thousand jobs to
20 do prior to everybody getting there. So -- and I kind of
21 went down the list.

22 Security is my number one deal. I want to make sure
23 that I'm safe and that the citizens are safe. And then I
24 want to make sure that the evidence is being preserved so
25 that, eventually, we could get some sort of accountability

1 for this and that we do that through the evidence.

2 Q Let's talk about that.

3 A Yes, sir.

4 Q Being the first officer on the scene, as you have
5 indicated, it's incumbent upon you to do what they call
6 secure the crime scene; right?

7 A That's correct.

8 Q And part of that would be making sure that nobody
9 moved anything or touched anything or changed anything?

10 A That's absolutely correct.

11 Q That's part of it?

12 A Correct.

13 Q And then, too, at some point, y'all put up some
14 crime scene tape; right?

15 A That's correct, sir, we did.

16 Q And to cordon off the perimeter so nobody else can
17 come within that boundary?

18 A Yes, sir.

19 Q Other than people that you wanted in: officers, EMS,
20 whoever?

21 A That's correct.

22 Q Okay. Now, after you got the scene secured -- and
23 there were -- when you arrived, to be fair, there were
24 already people there; right?

25 A That's correct, sir, there were.

1 Q How many people were there including Ms. Berenice
2 and her husband or boyfriend? How many other people were
3 already there when you arrived?

4 A I probably couldn't give you a very accurate number.
5 Obviously, there was what we saw in the video. If the
6 video went further, there was a couple of people inside of
7 the apartments. I visually made contact with everybody
8 that I could on-scene, but I can't -- I'm not going to sit
9 here and give you a number. I don't know.

10 Q Well, that's fair. And my point is simply that
11 there were already people there when you arrived.

12 A Yes, sir, absolutely.

13 Q All right. And you can't tell us what they did
14 before you got there because there's no way for you to
15 know that?

16 A No, absolutely not. You're absolutely correct in
17 saying that, sir.

18 Q All right. Now, other than secure the crime scene,
19 make the view that you say you walked over to the car and
20 to the young man who was laying on the ground near the
21 apartment, other than that, what did you do?

22 A Some of the things that happened as the video goes
23 further is we don't see me knocking on each one of the
24 apartment doors and seeing if anybody was inside of there.
25 Like I said, there were a couple of people inside. Since

1 they were there and nobody was injured, I told them to
2 stay put as well.

3 I made a 360, again, around the entire townhouses
4 just to see if there was maybe any more things back there.
5 And things could be anything: evidence, people. You know,
6 obviously, the list goes on.

7 And then, at that point, after my arrival, I make
8 sure nobody touches anything and everything gets
9 preserved, and now I'm waiting for the detectives and
10 managing my assets as a supervisor, so my assets being the
11 patrol officers, you know, whatever other county assets
12 that we might pull in. So, blocking off roads, keeping
13 everything as secure as I can to make my life as easy as
14 possible and the detective's life when they show up.

15 Q Okay. And then, once the detective arrived, did you
16 inform them what you had observed on your arrival?

17 A That's correct. I believe he probably was a
18 sergeant at the time. But Sergeant Lent called me. He
19 was a sergeant over Homicide. Maybe he was a lieutenant.
20 Not important.

21 Q That's okay.

22 A Via phone, I gave him a brief overview so that he
23 can tell his detectives. And then this scene was fairly
24 -- it was a fairly big deal, so a lot of detectives showed
25 up. And as they show up, I give them a small brief

1 because -- now, keep in mind, and make no mistake about
2 it, I have a very, very small piece of the pie in this
3 case. I'm doing almost no investigating, talking to
4 almost nobody. I get very minimum to make sure and maybe
5 push out some BOLO -- some be-on-the-lookout information
6 for a vehicle or things like that. And then the
7 detectives are there to do the brunt of it.

8 Q Okay. When you saw the Acura initially, did you see
9 bullet holes in the back driver's door -- the passenger
10 door behind the driver?

11 A I don't recall, sir.

12 Q Okay. At any point, did you -- let me rephrase that
13 and ask: Did you participate in moving either of the
14 bodies that were there?

15 A No, sir.

16 Q All right. Were you present when they -- when I say
17 "present," I don't mean just in the area. I'm talking
18 about present, watching what was happening when those
19 bodies were removed.

20 A I don't -- I don't recall being present. I don't --
21 I don't think that I would've needed to be, again, because
22 I'm not there to investigate.

23 Q Okay. Fair enough. All right.

24 And so, what you're telling us essentially is this
25 -- and if I say it wrong, you correct me: That you got

1 there and you did your job, which was to secure the scene
2 and keep everything at bay until the detectives could come
3 and do their job?

4 A Yes, sir. That's pretty accurate.

5 Q That's fair.

6 THE COURT: Mr. Galmore, cross-examination?

7 CROSS-EXAMINATION

8 BY MR. GALMORE:

9 Q Detective Smith, I think you testified that you were
10 the first officer on the scene?

11 A Yes, sir, I did.

12 Q All right. And your initial duties were to try to
13 preserve the scene; is that correct?

14 A That's correct.

15 Q All right. Now, at one point, you walked around and
16 talked to different individuals that were out there; is
17 that true?

18 A Yes, sir.

19 Q Did you take any statements from any witnesses?

20 A Nothing official. I got very preliminary
21 statements. And, again, the only thing that I'm really
22 looking for is, again, maybe a vehicle description or
23 something that I could put out initially for the road
24 officers to be able to maybe find somebody involved.
25 That's kind of all I'm looking for. I'm not sitting down

1 getting a full-blown statement. That's just not my job at
2 that scene.

3 Q Okay. So, did you put out a BOLO for any cars in
4 this case?

5 A To be honest, sir, I don't know if I did, although I
6 do know that there was -- there was a vehicle description
7 involved in the call for service. Whether that came from
8 the initial caller who called this in or an officer -- I'm
9 not sure where it came from, but I do know that we did
10 have a vehicle description.

11 Q Okay. But did you put out a BOLO?

12 A I don't recall, sir.

13 Q Don't recall. Okay. All right.

14 Now, as far as witnesses, you said you did not sit
15 down and get a full-blown statement; correct?

16 A Correct.

17 Q Now, typically, a witness would be handed a form and
18 said write down what happened? Is that basically how it
19 works?

20 A For the most part. Yeah, I mean, that's certainly a
21 way to conduct that, absolutely.

22 Q Okay. And you did not do that?

23 A No, sir. I'm not out there handling paperwork.

24 Q Did you collect any evidence from the scene?

25 A No, sir, absolutely not.

1 Q Did you put up yellow crime scene tape?

2 A I believe I directed officers to put up crime scene
3 tape. Maybe I strung some up, but the tape got put up.
4 Whether it was by my direction or by me doing it, the tape
5 was put up.

6 Q Okay. Now, you're walking around out there and
7 talking to different people, and you had an opportunity to
8 walk up to the white car; is that correct?

9 A The SUV?

10 Q Yes.

11 A Yes, sir, I did.

12 Q All right. And you said that you saw a person in
13 the white SUV that was deceased?

14 A That's correct.

15 Q Okay. Did any of the people that you spoke to
16 on-scene, were any of them able to tell you how he ended
17 up dead?

18 A For -- based on my recollection, nobody on-scene was
19 able to give me a lot of good information other than that
20 they heard shooting and they came outside, as the young
21 lady in the video, as we saw, she kind of got down. But
22 I'm not prying. You know, obviously, if I can get there
23 and solve the crime, that's great. Unfortunately, we know
24 that that's not how this happens most time. And this
25 takes quite a bit of investigation, so...

1 Q So, nobody at the scene said, "Officer, I saw what
2 happened"?

3 A I don't recall. If that's the case, then that
4 person probably gets put to the side and we'd love to -- I
5 don't recall anybody coming up to me and telling me that
6 exactly.

7 Q If they did, you probably would have taken a written
8 statement from them.

9 A It would make sense.

10 Q Yes, sir. All right. So, you see the body in the
11 SUV. Did anything stand out about that particular part of
12 the scene? Well, let me say it like this: Did you see if
13 that person had a firearm?

14 A I didn't look very close, sir. So, I didn't notice
15 one. That's not to say he didn't have one or he did. I'm
16 not sure.

17 Q Okay. So, you couldn't tell us if the person in the
18 white SUV had a firearm?

19 A I could not.

20 Q You could not. Okay.

21 Now, you also saw this second body out there;
22 correct?

23 A I did.

24 Q All right. Could you tell us if that person had a
25 firearm?

1 A I don't recall him having a firearm. I know I
2 didn't call it out on the video. I assume, if I did
3 notice a firearm, I would have called it out like the
4 first one saying, hey -- I would have put an officer close
5 to it, because that's a very important piece of evidence.

6 Q Right. Okay. So, you don't recall if that person
7 had a firearm either?

8 A That's correct, I don't.

9 Q Do you know who was in charge of collecting evidence
10 from that scene?

11 A I don't, sir. No, sir.

12 Q But it wasn't you?

13 A It was not me.

14 Q Okay. Do you know if any other officers interviewed
15 witnesses at that scene?

16 A I don't think so. I think I kept them fairly --
17 patrol officers. My guys that I was supervising? Is that
18 what we're speaking of?

19 Q Yes, sir.

20 A I don't think so. I think I kept them fairly busy
21 with keeping crowd control and making sure that everything
22 was good. They may have spoke briefly, but again, I think
23 I made it very clear that -- with the officers too, I kind
24 of gave everybody a direction and sent them on their way
25 so that we all had a task and a purpose. Right? And

1 people knew what I needed to get done, and we tried to get
2 it done. And taking statements certainly probably wasn't
3 high on the list of priorities when most of the detective
4 division is coming out.

5 Q So, your primary role in the case was simply to
6 preserve the crime scene?

7 A Yes, sir, that's absolutely accurate.

8 Q All right. I don't have any further questions,
9 Detective Smith.

10 A Sure, thank you.

11 Q Wait, wait, wait. May 31st of 2022, you were not a
12 detective at that time?

13 A No, I was a corporal.

14 Q You were a sergeant -- excuse me, corporal. Okay.
15 Thank you.

16 A You're welcome, sir.

17 THE COURT: Redirect?

18 MS. MARTIN: Yes, sir.

19 REDIRECT EXAMINATION

20 BY MS. MARTIN:

21 Q I just got a little bit confused when Mr. Wilson was
22 questioning you at first.

23 A Okay.

24 Q So, he asked you about the gun on the passenger side
25 of the vehicle. Okay.

1 A Yes.

2 Q Is that right?

3 A Yes.

4 Q Okay. Did you find a gun outside of the vehicle?

5 A There was a gun outside the vehicle.

6 Q Okay. And can you tell the jury where outside of
7 the vehicle that gun was?

8 A Again, I believe it was on the passenger side of the
9 vehicle towards the rear of it.

10 Q Okay. So, there was a gun on the passenger side of
11 the vehicle?

12 A Yeah. I only noticed one gun. There may have been
13 more. I only noticed one gun on the scene.

14 Q That's perfect. I just wanted to clear that up.

15 MS. MARTIN: No further questions.

16 THE COURT: All right. You may step down.

17 THE WITNESS: Thank you, Your Honor. I appreciate
18 it.

19 MS. MARTIN: May he be released?

20 MR. WILSON: No objection, Your Honor.

21 MR. GALMORE: No objection.

22 THE COURT: All right. He's free to go.

23 State can call your next witness.

24 MS. LIVESAY: Thank you, Judge. At this time, the
25 State's going to call Robert Bauman to the stand.

1 DETECTIVE ROBERT BAUMAN,
2 after having been duly sworn, was examined and
3 testified to as follows:

4 THE WITNESS: Please state your name and spell it
5 for the Court.

6 THE WITNESS: First name is Robert, R-o-b-e-r-t.
7 Last name is Bauman, B-a-u-m-a-n.

8 DIRECT EXAMINATION

9 BY MS. LIVESAY:

10 Q And, Mr. Bauman, if you don't mind tell, these folks
11 where you're employed.

12 A I'm currently employed with the Horry County Police
13 Department.

14 Q And how long have you been with the police
15 department?

16 A I have been with the Horry County Police Department
17 for approximately 2-1/2 years now.

18 Q And where were you before Horry County?

19 A Before Horry County, we have a little bit of a list.
20 So, I did four years with the City of Conway. Prior to
21 that, there was a break in between my law enforcement
22 career. I'm retired, 25 years service out of the
23 Pennsylvania State Police. Prior to the Pennsylvania
24 State Police, I did 2-1/2 years with a small town or local
25 town, Hazelton, Pennsylvania, as a local officer.

1 Q Okay. So, you have been in law enforcement for most
2 of your career?

3 A Approximately 31 years, ma'am.

4 Q Okay. And are you going to retire any time soon?
5 That's a long time.

6 A I'm sure hope so.

7 Q And what do you do for Horry County Police
8 Department?

9 A For the Horry County Police Department, I'm a
10 detective, and I'm with the Crime Scene Unit.

11 Q Okay. Tell these folks what you do as a crime scene
12 investigator.

13 A As a crime scene investigator, basically, my job is
14 -- in situations such as why we're here today. The
15 primary focus for our department is we're notified --
16 we're called to assist the detective unit, the
17 investigations unit. We fall under -- we are part of them
18 with the Horry County Police Department, and we are the
19 folks -- we document the scene. We measure things. We
20 document the evidence. We collect the evidence. We
21 preserve the evidence. We subsequently transport the
22 evidence maybe from the scene. We get it back to the
23 station. We secure it appropriately. Package those items
24 appropriately.

25 And then, subsequent to that, we would have a

1 conversation with detectives -- lead detectives, if you
2 will, as far as, like, this is what we have, these are the
3 photographs that I have. You know, whatever -- you know,
4 I am not the person that handles interviews. I am no
5 longer the person that, you know, arrives first at the
6 scene.

7 Q Okay. So, you're not out interviewing people,
8 things like that. You are just handling the evidence.
9 Documenting, collecting, processing?

10 A Yes, ma'am.

11 Q And does everybody at Horry County kind of have a
12 specific job?

13 A Within the Crime Scene Department or just in
14 general?

15 Q Just in general.

16 A Approximately 300 individuals on the department, and
17 yes, everybody has a different area. Okay. So, there's
18 Crime Scene. There's detectives. There's patrolmen.
19 There's dog handlers.

20 Q There you go. So, the guy that's out writing
21 traffic tickets is not the same guy that shows up that's
22 documenting and processing the DNA?

23 A No, ma'am.

24 Q Okay. And your job is just to document and process
25 evidence for murders, armed robberies, etc.?

1 A Yes, ma'am.

2 Q Okay. And did you assist on the case we're here
3 today for?

4 A I assisted the detectives, yes. As far as Crime
5 Scene is concerned, it's my name on the report. I would
6 have been the lead crime scene investigator.

7 Q Okay. And as the lead investigator, did you respond
8 to [REDACTED] Highway [REDACTED]?

9 A I did.

10 Q Okay. And tell me a little bit about, when you
11 responded, what did you see?

12 A Okay. So, I was notified at approximately 3:30 in
13 the afternoon. The notification would have come from my
14 then-Sergeant Becky Phillips. She told me, "Head over
15 there. Looks like we may have a shooting incident. I
16 need you to start heading over that way."

17 And along with myself would have been another crime
18 scene detective, Detective Tamasi, and there would have
19 been a -- there was a crime scene tech, Tech Brown.

20 Q And when you get there, are there already officers
21 there? Is there crime scene tape up? Kind of where are
22 they in the process?

23 A Okay. With this particular scene, yes, there was a
24 multitude of detectives. There was a multitude of
25 uniformed personnel. The crime scene tape was erected.

1 And as a matter of fact, it was actually nice to see; it
2 doesn't happen all the time. It was set up in two layers,
3 if you will. There was a stretch of crime scene tape very
4 near the roadway, and then, if you recall the detective --
5 now-Detective Smith's video, where he was in that area in
6 front of this strip of apartments, there was a concrete
7 parking lot, and I recall there was another strip of crime
8 scene tape.

9 Q Okay.

10 A I guess I'll refer to it as a secondary layer, might
11 be a way to...

12 Q Okay. And when you get there, do you document how
13 it appears at that time?

14 A I start taking notes on things such as -- I digress.
15 It would have been Jensen Brown, the tech, was
16 certainly -- she was handling the notes that day. So, she
17 would have been making note of weather, GPS location,
18 basic description of the scene that we're at.

19 Q Okay. And let me ask you something: What is the
20 point of the crime scene tape?

21 A Point of the crime scene tape is to -- as a visual
22 barrier to let folks know, "Hey, something is going on
23 over here. You don't belong here." It's sort of a
24 security measure, if you will.

25 Q Okay. To make sure not just anybody is in and out

1 toying with the evidence?

2 A Correct.

3 Q Now, did you take pictures of everything out there,
4 including the evidence that you eventually collected from
5 the scene?

6 A Yes.

7 Q Okay. And I'm going to show you now State's
8 Exhibits 87 through 184. I want you to take a look at
9 these and tell me if you recognize what I'm showing you.

10 A (Reviewing exhibits.) Yes, ma'am.

11 Q And are those all pictures you took?

12 A Yes, ma'am.

13 Q And have they been tampered with in any form or
14 fashion?

15 A Certainly don't appear to be.

16 Q And do they document how the scene appeared along
17 with all the evidence that you collected from the crime
18 scene?

19 A I don't believe that's a full -- that may be
20 two-thirds of the photographs that I took. It's not
21 all-inclusive, but it certainly does cover the overalls
22 and the vast majority of things that we collected from the
23 scene.

24 Q Okay. And, in fact, some of them have the evidence
25 card in the picture; correct?

1 A If you're making reference to the yellow number, the
2 photo marker, yes, ma'am.

3 Q Okay. And that's to document, hey, we're showing
4 this is a piece of evidence and it's going to be
5 collected?

6 A Correct.

7 MS. LIVESAY: Your Honor, at this time, the State
8 wishes to put 87 through 184 into evidence and publish to
9 the jury.

10 THE COURT: Mr. Wilson?

11 MR. WILSON: I have no objection.

12 MR. GALMORE: May I see those, please?

13 THE COURT: Any objection?

14 MR. GALMORE: No, sir. No objection.

15 THE COURT: State's Exhibit 87 through 184 admitted
16 into evidence without objection.

17 (State's Exhibit Nos. 87 through 184, were received
18 into evidence.)

19 MS. LIVESAY: Thank you, Your Honor. At this time,
20 the State wishes to publish them.

21 THE COURT: All right.

22 BY MS. LIVESAY:

23 Q Detective Bauman, tell me what we're looking at.

24 A Okay. Ma'am -- and folks of the jury -- that would
25 be the set of apartments, single-story, four apartments,

1 asphalt roof, located -- this is the location. This is
2 the [REDACTED] Highway [REDACTED] over in the Loris section of Horry
3 County.

4 This is the front of the structure. I am over -- I
5 am out on the roadway taking a photograph towards the
6 front of the residence off to the right-hand side, maybe
7 not exactly laid out that way. I don't know if you happen
8 to have an aerial view, but I would say the left-hand side
9 would be to the north. I'm standing at a western view.
10 I'm to the west of the home, if I can phrase it that way.

11 Q What are we looking at now?

12 A Okay. So, I would have moved down the road to the
13 right, another overall picture. These are photographs --
14 the first couple of photographs give me an opportunity to
15 make sure my equipment is working properly, my camera.

16 So, in these first couple of photographs, I'm
17 walking up and down the road and taking a couple of
18 different views and I'm looking at, you know, the
19 brightness of the photographs. I'm looking at the dark
20 areas under the trees and things of that nature. I'm
21 making sure that it, you know, my stuff is working, for
22 the most part, the way it that should be. And this would
23 be down to the southern side of the building looking
24 across the front yard, that concrete area where the
25 vehicle is parked and subsequently the building itself.

1 Q So, let me ask you: Is this a relatively rural
2 area?

3 A It is.

4 Q Okay.

5 A Same spot. I just rotated a little bit. And to
6 this, you can see that, off to the side, there's a fenced
7 area. Another property.

8 Q So, the closest house is going to be the mobile home
9 that we see in this picture?

10 A Not 100 percent. There may be one -- as far as
11 distance-wise, there may be one a little closer behind the
12 treeline that you would have seen along the southern --
13 I'm sure I have an angle of that view.

14 Q Let me ask you something: Out there, was there any
15 surveillance -- video surveillance at the apartments?

16 A None to my knowledge, that was brought to my
17 attention.

18 Q Okay. So, what are we looking at here?

19 A Okay. So, at this point, I would have gotten the
20 information that the search warrant was signed. So, now
21 I'm moving into the property. Now, I'm in the driveway to
22 this multi-apartment structure. It's to the north side.
23 I'm approximately halfway or so down that driveway, and
24 I'm showing you that there's some items that are out and
25 behind the residence, because where I stood initially, you

1 couldn't see that.

2 Q Okay. So, is there anybody directly behind the
3 apartments? House, apartments, or anything?

4 A No, just that structure that you see in the rear
5 there.

6 Q Okay. And then the closest house to the left is the
7 mobile home?

8 A Yes.

9 Q And then there's a treeline to the right?

10 A As best as I can recall, yes.

11 Q Okay. So, what are we looking at here?

12 A This would have been an angle. This is more than
13 likely one of the photographs. As stated earlier by
14 Detective Wydra, he was getting into -- as far as taking
15 your photographs, the first thing we do is we take the
16 front of the structure, the front of the scene, and then
17 we pick a direction: clockwise, counterclockwise. We'll
18 move around the property. And this is probably one of the
19 photographs that I took from the southwestern corner of
20 the structure in the background there just beyond the
21 grill but near the porch.

22 Q And on this last window, do you notice the curtains
23 are a little open?

24 A Yes, ma'am.

25 Q And do you see the victim?

1 A We do.

2 Q Okay. So, that kind of shows you the relationship
3 of the victim to the last apartment?

4 A Yes.

5 Q And particularly that window; correct?

6 A Correct. The window, the front door, yes.

7 Q Okay. And is there anything obstructing the view
8 from that window to that cement area, the cement sidewalk?

9 A Just that short bush is exactly what I saw, as you
10 see it in the photograph.

11 Q Okay. So, you should be able to look out the window
12 and see whoever is on the cement walkway; correct?

13 A Yes.

14 MR. WILSON: Your Honor, I know she's leading and I
15 don't have a problem with that, but now she's suggesting
16 answers to him about what he can see if he was inside the
17 apartment.

18 THE COURT: Sustained.

19 MR. WILSON: And he never said he went inside.

20 THE COURT: I sustain the objection.

21 MS. LIVESAY: I understand, Judge.

22 BY MS. LIVESAY:

23 Q Is there anything obstructing the view from the
24 window to the sidewalk?

25 A No. It's a short bush, and it's out of -- it's

1 below the view.

2 Q Okay. What do we got here?

3 A Victim No. 2. That would have been the gentleman
4 that would be located down near Apartment No. 4. As a
5 matter of fact, as you can see on the door, the No. 4 is
6 present. And then, next to that gentleman, we have a
7 green slide.

8 Q Did you ever find the other slide that matched it?

9 A We did.

10 Q And where was it?

11 A That was up in that white SUV that's up at the far
12 end. It would have been located in the front passenger
13 floorboard.

14 Q Of which?

15 A I'm sorry. The white SUV, or the Acura. Whichever
16 you would prefer to refer to it as.

17 Q Okay. So, one flip-flop is out here; correct?

18 A Yes.

19 Q And the matching flip-flop is the passenger side of
20 the Acura; is that correct?

21 A Passenger front floorboard, yes.

22 Q Okay. Passenger front floorboard?

23 A Yes.

24 Q Okay. Now, what are we looking at here?

25 A This would be a scene. Obviously, I was off a

1 little bit in my description of the initial crime scene
2 tape. I had remembered that it was along the grass to the
3 cement, but obviously, it was a lot closer.

4 So, this is an overall shot. I'm working my way
5 continuing or coming around the building and noting the
6 position of that white SUV.

7 Q Okay. And is there -- are there any cars beside the
8 SUV?

9 A Well, there are; however, they're off view, and they
10 would have been located to the right of this photograph.

11 Q Okay. But they're open spaces beside the SUV;
12 correct?

13 A Yes.

14 Q So, somebody could park beside the SUV?

15 A Spaces are open.

16 Q Okay. And somebody could have been parked beside
17 the SUV; correct?

18 A Certainly.

19 Q Okay. What are we looking at here?

20 A That would have been the front of the Acura.

21 Q And what's the tag on the Acura?

22 A That would have been a New Jersey tag. November --
23 or [REDACTED].

24 Q Okay. And what do you see in the windshield?

25 A A number of holes.

1 Q How about here? What are we looking at here?

2 A Here, you have some markings along the side. You
3 have a hole in the rear driver's side door. You have at
4 least three that are in the driver window. And there's
5 some other minor damage along the vehicle. And then also
6 of note, the rear driver's side rim, there's a mark on
7 there that appeared to be a red stain.

8 Q Okay. And how about right here? If I can draw
9 everybody's attention right here. Tell me about that.

10 A That's a hole that would -- I would describe that as
11 a bullet hole, given the shape.

12 Q Did you find anything in the door eventually to
13 corroborate it was a bullet hole?

14 A I did.

15 Q And what did you find?

16 A We found the jacketing of a round. By jacketing, if
17 I can describe it, when it comes to most -- when it comes
18 to a bullet, there's multiple parts. You have the
19 projectile, you have the casing, you have the primer, and
20 of course, the gunpowder inside. Okay?

21 So, simply, I'm making reference, when I talk about
22 jacketing, many are manufactured in a manner to where the
23 projectile would be lead and it would be surrounded by
24 copper or brass. Many times, as you shoot into hard
25 surfaces -- there's many times that we find just pieces of

1 what I'm referring to as jacketing ---

2 Q Okay.

3 A --- as opposed to a piece of lead. If I can phrase
4 it as a wrapping around the lead portion of the
5 projectile.

6 Q So, when you looked into this door right here, at
7 the inside, you found a fragment of a fired bullet, some
8 portion of it?

9 A Yes, ma'am.

10 Q Okay. So, that would corroborate that, indeed,
11 that's a bullet hole?

12 A Yes, ma'am.

13 Q Okay. And you see what you find to be several
14 bullet holes on this side of the Acura; is that correct?

15 A Yes. There's at least three in the driver -- I'm
16 sorry.

17 Q And I'm going to draw your attention right here.
18 The back passenger door looks cracked. Is it? Is it open
19 a little bit?

20 A It is.

21 Q Okay. And is the driver door --

22 A Driver rear. Driver door is not open.

23 Q Okay.

24 MS. LIVESAY: Can we see the next one, Lacey?

25 BY MS. LIVESAY:

1 Q What are we looking at here?

2 A Different angle. Same side of the vehicle.

3 Q Okay. And New Jersey tag?

4 A Yes, ma'am.

5 Q Do you see any bullet holes going into the back of
6 the Acura?

7 A None that I located.

8 Q Okay. And that's a close-up of one on the back
9 driver's passenger door?

10 A Correct.

11 Q Okay. And this is a better shot at the back.

12 Again, do you see any bullet holes in the back of the car?

13 A None that I observed.

14 Q Okay. Tell me what we're looking at here.

15 A Okay. This would be a view from the rear passenger
16 corner of the vehicle. After I completed the scene, I
17 took -- as I came around the building, I also took
18 photographs of all the other vehicles that were in the
19 parking lot. I would have circled those vehicles. I
20 would have taken a picture of the VIN plates, if I could
21 see them, you know, if there wasn't things like laying --
22 obstructing the view of the VIN plate that would be on the
23 dash. And I worked my way over to this vehicle.

24 Q Go ahead. I'm sorry. I didn't mean to interrupt.

25 A Not a problem.

1 Knowing that there was a victim in this vehicle, I
2 decided we were going to work from -- to look at the front
3 of the scene just like we read. I decided, okay, we're
4 going to work from left to right, so I started with this
5 vehicle. This is probably one of the photographs. The
6 first thing I do is circle the vehicle.

7 Q Okay. So, this is kind of an overall view of the
8 entirety of the car?

9 A Yes, ma'am.

10 Q So, let me tell you something or ask you something:
11 I'm looking at the right side, the passenger side. Do you
12 see any bullet holes here?

13 A I do not.

14 Q None going into the car?

15 A None going in.

16 Q Okay. Any going out? Any that goes out?

17 A No, but as I recollect -- then, again, I'm sitting
18 here with the knowledge -- that is not the full search of
19 the vehicle. There was a subsequent search warrant to
20 this where we looked at the car a lot closer in our
21 impound lot. This -- when I completed the scene and
22 gathered what I could at the scene, that vehicle was
23 secured and transported to the impound lot.

24 Q All right. Hey, I understand, but let me ask you
25 something -- let me ask you right now: Do you see any

1 bullet holes ---

2 A No.

3 Q --- in that door?

4 A No.

5 Q And this door was open like that when you found it?

6 A Yes, ma'am.

7 Q Okay. What is this?

8 A That was an automatic weapon. That is the same
9 weapon that Corporal Smith -- now Detective Smith -- had
10 made reference to. I would have described it the exact
11 same way. That was a weapon that was laying near the
12 doors of the vehicle, and it was in a position of jam, I
13 believe is the term that we're going with here today.

14 Q Okay. And let me ask you something: This window --
15 I'm showing now a passenger window. Is that rolled up?

16 A It appears to be rolled up.

17 Q Okay. Do you see any holes in that window?

18 A I do not.

19 Q Do you see any holes right here in the interior of
20 this door going in, out, any direction?

21 A From that photograph, no.

22 Q Okay. So, no holes on the right side, the passenger
23 side of the Acura in these photographs?

24 A None that I can see with what I have seen so far.

25 Q Okay. So, now we can see the front part of the

1 Acura; right? The front part of the passenger door, the
2 window rolled up, this portion here; correct?

3 A Yes, ma'am.

4 Q Do you see any bullet holes in the door or that
5 front part of the car?

6 A I do not.

7 Q So, so far, all of the bullet holes are on the
8 driver's side?

9 A Yes, ma'am.

10 Q Okay. Uh-oh, what we got here, Detective Bauman?

11 A We have the photograph of the seating position of
12 what would be the front passenger had someone been in that
13 white Acura.

14 Q Okay. Did you through your investigation -- so this
15 is the other flip-flop, the green flip-flop; is that
16 right?

17 A Yes, ma'am.

18 Q Okay. And this matches the other foot of the
19 flip-flop found by the victim laying out in front of the
20 apartment?

21 A Yes, ma'am.

22 Q Okay. Wonderful.

23 And did you -- this young man here, did you find out
24 what his name was in the course of the investigation?

25 A Yes.

1 Q And what is it?

2 A Mr. Conn.

3 Q And the other fellow laying out in front of the
4 apartment, did you find his name out in the course of the
5 investigation?

6 A Mr. Dicker.

7 Q Okay. So, Mr. Dicker is laying out on the ground
8 and Kalik Conn is still in the car.

9 A Yes, ma'am.

10 Q Okay. Now, I noticed -- and you correct me if I'm
11 wrong -- this is Mr. Dicker's matching flip-flop; right?

12 A It's the shoe that was located down near Mr. -- it's
13 the opposing foot that was the same one to -- or the
14 match -- the mate that was with the other victim down at
15 the end of the sidewalk, yes.

16 Q Okay. And that door is open?

17 A Yes.

18 Q Okay. What we got here?

19 A On this one, you have the interior view of the
20 driver front window. You have the Victim No. 1.

21 Q Mr. Conn. Kalik Conn?

22 A Mr. Conn, yes. And you have a number of bullet
23 holes that have damaged the seat, along with the
24 conditions then existing when I took that photograph.

25 Q So, I'm going to point out, if I can draw

1 everybody's attention. Here, up there is one?

2 A In the headrest.

3 Q Okay. Looks like something here; correct?

4 A Yes.

5 Q In the seat?

6 A Yes, ma'am.

7 Q And how about right here?

8 A That appears to be a number of them.

9 Q Okay. So, there's definitely bullet holes in the
10 driver's seat?

11 A Yes.

12 Q Okay. Good. So, here -- and this is a portion of
13 it. Let's see if we can find a better picture. The
14 passenger seat, see any holes in there?

15 A From that view, from that angle, there's nothing
16 that I can see.

17 Q Okay. Is there one -- flip to the next one. We may
18 have to go back at a later time. These are close-ups of
19 the bullet holes in the driver's seat?

20 A Yes, ma'am.

21 Q And that young man's door is not even cracked?

22 A That's correct.

23 Q No bullet holes here in this door?

24 A No, ma'am.

25 Q What do we have here?

1 A That would be a weapon that was located as described
2 earlier. I believe that was a Canik, C-a-n-i-k, pistol.

3 Q And I think we have a close-up.

4 MS. LIVESAY: Is it the next one? No? Can you go
5 back one for me, please. Go back to the picture of the
6 Canik.

7 BY MS. LIVESAY:

8 Q So, what do we have here?

9 A That's --

10 MS. LIVESAY: Thank you. I appreciate that.

11 A What we're -- basically, when I got there, that's
12 exactly how the weapon was positioned. Okay? And that's
13 what we're referring to as the jam, if you will, the top
14 round was, at this point -- a round was exhausted or
15 expended. There's an expended casing in a funny position
16 preventing the slide from continuing back to its rest
17 position. And directly underneath that -- I know there's
18 another picture, but there's a round that's partially on
19 its way into the chamber, which would be the next round,
20 you know, had that one properly ejected.

21 Q So, the gun was jammed?

22 A Yes.

23 Q Can't be fired.

24 A Yeah.

25 Q So, what is this beside it?

1 A That's another casing.

2 Q Okay. Okay. Can we look at the next one. Now,
3 what are we looking at here?

4 A That's an overall area, some of the things that I
5 made note of. As I'm photographing this, what we'll do is
6 I'll provide you with the picture of what it looks like.
7 And then, as we discussed earlier, I then come back and
8 take the overall pictures again with these photo markers
9 placed in the scene. These markers would have been placed
10 in there by myself.

11 So, my first photograph is just a general overview.
12 And then when I come back and I start figuring out, okay,
13 what do we have here, I start labeling the items that I'm
14 collecting.

15 Q So, the markers are marking the items that are
16 ultimately collected?

17 A Yes.

18 Q Okay. And this picture shows kind of how -- well,
19 one thing relative to something else. So, you can kind of
20 get some idea where that item is relative to everything
21 else. Would that be fair to say?

22 A That's fair.

23 Q So, when you get up a close-up of No. 1, you know
24 where No. 1 is in relation to everything else?

25 A Yeah. You don't see just a casing identified as

1 No. 1. Up close, this gives you the opportunity to show
2 where that is exactly as you stated, in relation to the
3 other items that are located throughout the scene.

4 Q Okay. What are we looking at here?

5 A That would be a side view of the same items.

6 Q Okay. So, these are all items of evidence outside
7 the Acura.

8 A Yes.

9 Q Okay. And these are items as you're coming around
10 to the driver's side. These are all, again, marked to
11 show where different pieces of evidence are?

12 A So far, yes.

13 Q Okay. That's No. 1. Can we get a close up? Okay.
14 And what is Item 1?

15 A Item 1 was an expended casing or a fired bullet.

16 Q And tell this crowd what caliber.

17 A That's a 9mm Luger, casings.

18 Q And when you say "shell casings," that means the
19 bullet's already been fired?

20 A Yes. When I make reference to casing, it's the
21 backside of the bullet. The projectile has already been
22 fired off. So, what remains behind it is the brass casing
23 or aluminum or however they make it. And then if -- they
24 usually have the -- that's also a photograph. The reason
25 I'm holding it like that is to show the stamping on it,

1 because sometimes that becomes important.

2 Q Okay. And the stamping is for Winchester?

3 A Yes.

4 Q W-I-N?

5 A The primer's been fired. That point in the center.

6 Q Okay. What is this?

7 A That would be another casing. That one happens to
8 be right next to the pistol that was located over on the
9 passenger side.

10 MS. LIVESAY: Okay. Lacey...

11 BY MS. LIVESAY:

12 Q What caliber is this?

13 A That's a 9mm Luger.

14 Q And, again, and this is the spent casing that's
15 already been fired; correct?

16 A Correct.

17 Q Okay. What are we looking at here?

18 A That's the pistol that was jammed. That's the
19 pistol that was on the ground on the passenger side of the
20 vehicle near the doors.

21 Q Okay. Okay. Here's the picture I was looking for.
22 This here is the picture showing that it's jammed?

23 A It is.

24 Q Okay. And it's the casing or the bullet is stuck so
25 you can't fire it again; is that right?

1 A The casing is stuck and the bullet underneath it is
2 partially on its way to being chambered.

3 Q Right. And look at this part, the slide. Right?

4 A Yes, ma'am.

5 Q Clearly something is amiss; correct?

6 A Correct. It's not able to go forward because of
7 that casing in the way.

8 Q Okay. Showing again that the gun can't be fired?

9 A Well, I believe what I was photographing on this
10 side was the serial number, but yes, it also includes the
11 fact that there's a -- the casing was stuck.

12 Q And is this the round that you were referring to
13 earlier?

14 A Yeah, that would be the one that was partially on
15 its way to be chambered to be fired for the next round.

16 Q Okay. What are we looking at here?

17 A That was a red stain on the sidewalk. That's also
18 on the passenger side of the vehicle. It's -- if I'm not
19 mistaken, it's towards the rear tire there. And what I'm
20 looking at is that red stain to me, you know, it appears
21 that it was coming from the direction like either near the
22 vehicle just by the way the pattern of the stain.

23 Q I understand. What are we looking at here?

24 A That's a casing.

25 Q And where is this one located; do you remember?

1 A Obviously, I'd have to go back to the overall. I
2 believe we're to the rear of the vehicle at this point
3 because I'm working my way around. I began with the
4 passenger side, because I knew that that pistol was there.
5 So, I'm working my way in a clockwise motion from the
6 front of the car coming around to the rear of the car and
7 then up the driver's side of the car.

8 MS. LIVESAY: For Detective Bauman, can you hit back
9 to the one from the overall just real quick.

10 BY MS. LIVESAY:

11 Q Okay. Here we go.

12 A Okay. It's a little further out.

13 Q So, this is No. 5?

14 A Yes.

15 Q Okay.

16 MS. LIVESAY: Can you bring us back to where we
17 were? Okay.

18 BY MS. LIVESAY:

19 Q So, now we are kind of still on the side passenger
20 of the car; would you say that's fair?

21 A The rear corner -- passenger rear corner.

22 Q Okay. But still towards the right side of the car,
23 the right back of the car?

24 A Well, it would be the right if we're looking at the
25 rear of the car, yes.

1 Q Sorry. Let me be clear. Still working kind of
2 towards the back passenger side of the car?

3 A Yes. That's off the passenger side rear corner of
4 the vehicle on the ground.

5 Q Sorry about that.

6 And what caliber is this?

7 A That's a .45 auto.

8 Q Okay. So, that's a different caliber than a 9mm;
9 correct?

10 A It is.

11 Q Okay. Now, we are -- where would you say we are
12 now?

13 A To the rear of the vehicle. There was a short
14 distance between where the vehicle was at rest and the
15 sidewalks that move along in front of all the apartment
16 front doors. We're at the front of the apartments, and in
17 between the car and, like, Apartment No. 1 and 2.

18 Q Okay. So, we're kind of behind the car, would you
19 say?

20 A We are, as indicated by the rear bumper and the tail
21 pipe there.

22 Q Okay. And let me ask you something. Can you point
23 this out to everybody? Do you see these spots? What do
24 these appear to be to you?

25 A They appear to be droplets of blood.

1 Q Okay. And is that why you photographed them?

2 A That's part of the reason, is those. And then the
3 -- again, to get spatial relationship of Item No. 6 and
4 Item No. 7.

5 Q What caliber?

6 A .45 auto.

7 Q So, another .45?

8 A Yes, ma'am.

9 Q Okay. What are we looking at here?

10 A That would be the projectile. As I attempted to
11 explain earlier, that would be the part of the bullet
12 after it's fired. That would be the part that goes out
13 the barrel -- out the front of the barrel.

14 Q Okay. So, this door is open now. Did you open the
15 door?

16 A I did.

17 Q Okay. But, originally, it was not cracked, not
18 open, nothing?

19 A That is correct.

20 Q Okay. And what are we looking at here?

21 A This is Victim No. 1. Again, it's kind of an
22 overall photograph of how he's positioned. Some of the
23 evidence that lays about in the -- in his lap there. His
24 clothing.

25 Q Okay. Now, again, do you see any bullet holes in

1 the driver's door?

2 A The driver's --

3 Q I'm sorry, the driver's seat?

4 A Yes, you can see them from here.

5 Q Okay. And you can see a portion of the passenger
6 seat. Do you see that same portion there that we can see
7 in the driver's seat? Do you see that?

8 A Yes.

9 Q And do you see any holes in the --

10 A From this angle in that photograph, no, I do not.

11 Q Okay. What is this?

12 A That was a weapon that was located on the lap of
13 Victim No. 1, Mr. Conn.

14 Q Okay. What are we looking at here?

15 A That is the rear of the driver's seat.

16 Q The back of ---

17 A --- of the white Acura. That is the back of the
18 driver's seat.

19 Q Let me draw your attention. See this ring around
20 the hole?

21 A I do.

22 Q What does that mean to you?

23 A To me, that indicates that the weapon was within a
24 close range of that seat.

25 Q So, it's gunpowder?

1 A Yes.

2 Q Okay. And it's so close, the powder shows up on the
3 bullet hole?

4 A Yes.

5 Q Okay. And that's evidence that it's close range?

6 A That's consistent with a close fired shot, yes.

7 Q Okay. And did you open up -- right along in here,
8 did you open this up and look inside?

9 A Later on, yes. That was not done at the scene.

10 Q And when you looked in there, did you corroborate
11 that there were bullet holes?

12 A Yes.

13 Q And how did you do that?

14 A There was a fragment or a projectile. I'm not sure
15 which, if it was part of the jacketing or the projectile
16 itself. We had located one of those -- in behind this
17 plastic moulding that's on the back of the seat and it
18 was, you know, down towards the bottom of that plastic
19 moulding.

20 Q Okay. What are we looking at now?

21 A This is the rear seat of the Acura.

22 Q Okay. So, we're looking at the backseat. And I'm
23 going to draw your attention to -- well, what is this?

24 A That was a pink-colored slide.

25 Q So, a slide right behind the driver's seat?

1 A That's where it's at, yes, ma'am.

2 Q And --

3 A And it's on the floor of the driver's side rear seat
4 position.

5 Q Do you see another matching pink flip-flop?

6 A Over on the other side.

7 Q And how about a phone? Did you see a phone back
8 there?

9 A There is. It's located on the seat, and it's
10 located on the rear passenger seat.

11 Q Right there? And what's that shiny thing by the
12 phone, metal-looking thing?

13 A There were some casings located on the rear seat.

14 Q So, those flip-flops and phone gave you some
15 indication of who was sitting in the backseat?

16 A Yes.

17 Q Okay. Now, when I look at the backseat --

18 MS. LIVESAY: Hit me with the next one, Lacey,
19 please.

20 BY MS. LIVESAY:

21 Q So, now in this picture we have the flip-flop, and
22 then what do we have beside the belt?

23 A There's a casing beside the belt.

24 MS. LIVESAY: Okay. Can you hit me with the next
25 one? Okay.

1 BY MS. LIVESAY:

2 Q And this is you marking the casing?

3 A Yes, ma'am.

4 Q And what caliber?

5 A 9mm.

6 Q How about here?

7 A That was the casing located on the other side, but
8 yes, another casing.

9 Q Okay.

10 A And, again, we're at the rear seat.

11 Q Okay. And what caliber, could you tell?

12 A 9mm.

13 Q Probably, with the light, you might be able to
14 tell --

15 A Well -- I'm sorry.

16 Q I'm sorry?

17 A I was going say, it says Luger. As far as I know,
18 it's stamped Luger and making reference to a 9mm caliber.

19 Q Okay. And all of these are in the backseat, along
20 with the flip-flops and the phone? When I say "backseat,"
21 that back area of the car?

22 A On the floor of the rear seat, yes.

23 Q Okay.

24 A On the driver's side. Those items were.

25 Q Okay. So, what are we looking at now?

1 A Now we're over on the passenger side of the rear
2 seat.

3 Q Okay. Now, what is this? What does it appear to be
4 to you?

5 A That appears to be the casing in the center of the
6 seat.

7 Q Do you see any stains on the seat?

8 A Yeah, I do.

9 Q And what does that appear to be to you?

10 A It appears to be a swipe mark as if someone --
11 consistent with someone who may have been bleeding.

12 Q So, it's blood?

13 A Yes.

14 Q Okay. So, maybe somebody was bleeding in the
15 backseat?

16 A Yes.

17 Q Okay. Document this?

18 A We did.

19 Q And where was it?

20 A To the best of my recollection, there were three
21 locations of that green leafy vegetable matter. One was
22 in the rear seat.

23 Q What is this?

24 A That's a photograph of what I believe to be
25 marijuana.

1 Q Okay. And where was this located?

2 A Okay. This one, I believe, is located in the rear
3 seat area.

4 MS. LIVESAY: Okay. So, go back a little bit,
5 Lacey. Do we have a better picture of the overall --

6 THE WITNESS: There we go.

7 BY MS. LIVESAY:

8 Q So, is that what's in that bag?

9 A Yes, that's showing what's inside the bag, yes.

10 Q Okay. So, that's back there with the flip-flops,
11 the phone, and some shell casings?

12 A Yes.

13 Q Okay. That's just showing you collected it?

14 A Yes, ma'am.

15 Q Now, hold on.

16 A Item No. 12.

17 Q What is this here? What does that look like to you?

18 A That appears to be a red stain.

19 Q What kind of red stain?

20 A It's consistent with the color of blood.

21 Q Okay. What do we have here?

22 A That's an -- Item No. 13 was the casing. And then
23 surrounding that on the seat on the upright lower portion
24 of the upright -- and when I'm making reference to
25 upright, I mean the back of the seat.

1 Q Is there --

2 A Red staining.

3 Q Go ahead. I'm sorry.

4 A Red staining that, to me, is consistent with a swipe
5 mark through someone who is bleeding or there was some
6 blood there and something moved through the blood after it
7 was out of the seat.

8 Q What caliber?

9 A That's a 9mm.

10 Q 9mm?

11 A Yes, ma'am.

12 Q Are we still in the backseat area of the Acura?

13 A Yes, ma'am. Because I see on the side it's the
14 phone. So, that Item 14 was another casing that was
15 located but over on the passenger side seat portion.

16 Q Okay. So, can you tell --

17 A And that's a head stamp. That's a 9mm Luger.

18 Q Okay. And a bloodstain?

19 A Up above my knuckle, yes.

20 Q What do we have here?

21 A Item 15. It was a cell phone that was located in
22 the rear seat.

23 Q Okay. And that was collected?

24 A It was.

25 Q Okay. And there was nobody ever located in the

1 backseat, right, when you got there?

2 A When I got there, the two individuals that were
3 on-scene were both the decedents, Victim No. 1 and Victim
4 No. 2. Victim No. 1 was in the car. Victim No. 2, I'm
5 making reference to the gentleman that was down at the end
6 of the sidewalk near Apartment No. 4.

7 Q Okay. Are we still in the back of the Acura?

8 A No. 16, yes. I believe we were on the passenger
9 side rear seat on the seat portion, yes. There you go.

10 Q So, that was 16, the casings you just saw?

11 A Yes.

12 Q Okay. Do you know the caliber?

13 A That would be the head stamp of Item No. 16 and it's
14 9mm.

15 Q Okay. No. 17?

16 A Either the casing or the pink flip-flop. I'm not
17 sure which one I grabbed first.

18 Q Okay. Can you tell --

19 A I'm going to bet it's the casing, because now I'm
20 showing you the head stamp.

21 Q Can you tell the caliber?

22 A That's not really a pretty picture of it. I
23 apologize; I can't read that.

24 Q That's okay. But it's a spent casing?

25 A Yes, ma'am.

1 Q Okay. And it's in the back area of the Acura?

2 A This is behind the front passenger seat. So, this
3 is in the floor of the rear passenger portion of the
4 Acura, is where I found that item.

5 Q What do we have here?

6 A So, Item No. 18, that was a -- what's left of a
7 projectile, and I found that exactly where it lays. At
8 this point, the rear hatch is open, so I can get that
9 photograph to show you where that was.

10 Q Okay. What do we have here?

11 A That was red staining. And this is the rear
12 driver's side tire. I'm sorry. Rim. It's not on the
13 tire. It's on the rim.

14 Q Okay. So, that's on -- that's behind the driver's
15 side. So, the wheel -- the back right wheel, if you are
16 looking from back to front, am I right, on the driver's
17 side?

18 A It's the driver's side rear, yes.

19 Q Okay. So, it's the wheel that's right behind that
20 back door that was cracked open?

21 A Yes.

22 Q What are we looking at here?

23 A At this point, there's a number of things that are
24 again -- but in this photograph, at this point, the weapon
25 was collected. And what we have is --- I guess it's a

1 raincoat or a warm-up coat that's on his lap. Again, this
2 is just one of those photographs as you remove things. If
3 there's a number of things on the seat or what have you,
4 you know, we take a photograph, remove the top item or top
5 layer of items and take another photograph to show, as
6 we're working down through a pile of things. That's this
7 photograph -- at this point --

8 Q So, it's already been removed. So, you're starting
9 to remove items to see if there's anything underneath,
10 anything hidden from that item?

11 A Correct.

12 Q Okay. Car still running?

13 A Yes, ma'am, it was upon my arrival and for quite
14 some time while I was there.

15 Q Okay. And No. 20 is what?

16 A The camo jacket that's situated on this gentleman's
17 lap.

18 Q Okay. What are we looking at here?

19 A There's a couple of casings there.

20 Q And is this on the driver's side?

21 A This is tucked away in that camo jacket that I
22 photographed just prior.

23 Q Okay. So, this netting -- this black netting is a
24 portion of the camo jacket?

25 A Yes. If we were to go back one --

1 Q Can you go back one?

2 A -- you can probably see that. Maybe not. Okay.

3 I'm sorry. Up by his left forearm, you can see that same
4 type of material. So, I'm working my way down.

5 Q So, that's definitely the camo jacket?

6 A Yes, ma'am.

7 Q And that's his leg there to the right?

8 A That's -- no, that's my arm with my green glove.

9 Q This looks like your arm. What's this here?

10 A There's a phone charger there. That's the driver's
11 seat.

12 Q Okay.

13 A I was after the two expended casings there, to
14 document those.

15 Q Okay. So, showing that they were in the driver's
16 side in the camo jacket?

17 A Yes.

18 Q Okay. Caliber?

19 A 9mm Luger.

20 Q Caliber?

21 A 9mm Luger.

22 Q Okay. What's down there?

23 A All right. Located a cell phone. This is the
24 driver floorboard.

25 Q How about right there?

1 A A casing. Also located at the driver floorboard.

2 Q Okay. There it is, marked. Do we have a closer
3 shot? There we go. What caliber?

4 A 9mm.

5 Q Okay. What are we looking at here?

6 A So, at this point, the gentleman's been removed and
7 continuing on down. These would be the items that were
8 underneath Victim No. 1.

9 Q Okay. There it is marked, showing where it was
10 located.

11 MS. LIVESAY: And do we have a closer view? There
12 we go. One more. Go back. I'm sorry. Okay.

13 BY MS. LIVESAY:

14 Q So, that's 34?

15 A Yes, ma'am.

16 Q 35. So, there were two casings found once the
17 victim was removed?

18 A Correct.

19 Q Okay. What caliber?

20 A 9mm.

21 Q Now, this is kind of an overall. So, now we can see
22 kind of this area of the driver's side; right?

23 A Yes, ma'am.

24 Q This area from the passenger side. Do you see any
25 holes in the passenger side or any blood smears in that

1 picture?

2 A I do not. On the passenger seat, I do not.

3 Q Okay. Shell casing?

4 A Yes, ma'am.

5 Q Is that on the driver's side?

6 A It's on the console to the driver's side, if that
7 helps. It's on top of that -- I believe it's a Nike item.

8 Q Okay.

9 A That would be on the console, another tied-off gray
10 bag identified as Item No. 37.

11 Q Okay. And the car is in park?

12 A Yes.

13 Q Okay. Car is in park and running; is that right?

14 A Yes.

15 Q Okay. And 38?

16 A 38 was the -- this black and red bag that was
17 underneath Victim No. 1. And I unzip it and there's items
18 inside of there. So, I place 38 there, zipped it up,
19 secured the whole bag, and that was inventoried later on
20 back at our station.

21 Q Okay. Is that on the driver's side?

22 A That is. That's on the driver's side. It's a shell
23 casing, yes, ma'am.

24 Q Okay. 39, same shell casing?

25 A Yes, ma'am.

1 Q Now, where are we?

2 A To the rear of the car. Did not see it at first,
3 but directly in the center of the photograph, there's a
4 casing back in that sidewalk there.

5 Q There we go. Okay. Did you get a close-up?

6 A Yes, I do. I guess that answers that.

7 Q And then did you get the caliber? There we go.

8 A That appears to be .45 auto to me.

9 Q I'm sorry?

10 A It's .45 auto.

11 Q Okay.

12 A I believe.

13 Q Can you tell? I think it says "45" but what do you
14 think?

15 A I think it does, but it's also -- the other two .45
16 casings that were located to the rear were manufactured by
17 a company SIG SAUER. I can see the SIG on the head stamp
18 in that one.

19 Q Okay. But you would have documented the caliber on
20 your report and the sketch; correct?

21 A Correct.

22 Q Okay. Now, we're kind of looking -- we're sitting
23 in the Acura right here. The driver's side is right here.
24 So, now we're looking to the right. I'm sorry. That's
25 off to the left; correct?

1 **A** So, if the Acura is positioned towards the north of
2 the building, this would be a southerly view going down
3 the parking lot -- going down the sidewalk. Yes, the
4 Acura is either right next to me or I'm just in front of
5 it taking a picture, moving down the sidewalk. You know,
6 those were the other vehicles I was speaking of earlier
7 when I first got there.

8 **Q** And can you tell from this view what you're
9 documenting as 41?

10 **A** I can, yes.

11 **Q** And what is it?

12 **A** Basically, there's some more red staining. As a
13 trail of red stains that went out towards the rear of that
14 black SUV there. I believe that's an Envoy. And there's
15 also another trail that went down the sidewalk -- directly
16 down the sidewalk.

17 **Q** Okay. So, one blood trail was going down the
18 sidewalk and one is cutting off to the right.

19 **A** Correct.

20 **Q** Okay. Close-up?

21 **A** That's a better view of it, yes.

22 **Q** Blood droplets?

23 **A** Yes, ma'am.

24 **Q** So, the blood droplets there. 42. What am I
25 looking at there?

1 A This would be -- it was also on the ground behind
2 the Envoy vehicle. But that's just a different angle.
3 Same thing. Red staining on the concrete. Droplets. Red
4 in color. To me, they're consistent with blood.

5 Q Okay. There we go. How about here, 43?

6 A That would be in front of Apartment No. 3 there
7 along the sidewalk. Same thing, a red staining droplet,
8 red-in-color, consistent with blood.

9 Q Okay. Showing a close-up?

10 A Yes, ma'am.

11 Q What are we looking at here?

12 A That would be Victim No. 2. His location at the end
13 of the sidewalk, which just goes a little bit further than
14 the front door to Apartment No. 4. So, I'm over at the --
15 it may not be the exact south. It's a southerly
16 direction, the layout of this building. I'm over at the
17 southern side of this apartment building.

18 Q Okay.

19 A That would be the green slide that was located near
20 Victim No. 2, Mr. Dicker.

21 Q Okay. So, Jeremiah Dicker. It was near Jeremiah
22 Dicker, the green slide?

23 A Yes. That's the one that was near him, collected as
24 Item No. 44.

25 Q And the mate was in the passenger floorboard of the

1 Acura?

2 A The front passenger floorboard of the Acura, yes.

3 Q Now, we're kind of searching what was on Mr. Dicker.
4 What was Item 50?

5 A Item 50, there's a cell phone there. I don't know
6 if you can quite make it out. It's either the cell phone
7 or the black jeans. I believe it's the cell phone.

8 Now, the reason that you're -- in this particular
9 photograph, what happens as we recover a victim, there may
10 or may not be some trace evidence on the clothing. So,
11 after we take our overall photographs and document
12 injuries, things of that nature, we place the victim --
13 we're about to turn it over to the coroner's office, but
14 prior to doing so, there may be some items of evidence
15 that you can't see. There may be what we refer to as
16 trace evidence. You know, you might not see it right
17 away. You might need a microscope, what have you.

18 So, we collect the clothing from the victims. Each
19 piece of clothing gets bagged in an individual bag and
20 tagged accordingly. In this instance, you see my numbers
21 45, 50, 51. Those are the items that -- I'm identifying
22 those items, and then they're going to be listed on our
23 property record or our evidence record, if you will, as
24 such.

25 Q Okay. So, the phone was collected, the clothing,

1 including the boxer shorts?

2 A Yes, ma'am.

3 Q Okay. And did that kind of conclude documenting the
4 outer part of the crime scene, you know, before you start
5 actually doing a full search of the Acura and those kind
6 of things. This is kind of an overview of what was seen
7 at the crime scene?

8 A That was a -- yes. That was the initial scene.

9 Q I understand.

10 A Yes.

11 Q And additional things are done?

12 A Yes, they are.

13 Q But this is just to kind of say, "Hey, when I got
14 here -- and we have no reason to believe anything was
15 tampered with -- this is where the items were located"?

16 A Yes. For example, like those red stains, I may have
17 picked out, you know, just one or two as far as a future
18 DNA swab. That's why they're going to have numbers on
19 them.

20 Q Because you collect it to see who they may belong
21 to. That may be important at some point?

22 A Correct.

23 Q Did you do a sketch or was a sketch done to show the
24 -- where those items were located?

25 A Yes, ma'am. A sketch was done.

1 MS. LIVESAY: Are these marked?

2 MS. MARTIN: Yes, ma'am.

3 MS. LIVESAY: They are? Okay. Thank you.

4 MS. MARTIN: It's 5 and 6.

5 BY MS. LIVESAY:

6 Q So, these are Items 5 and 6. So, these are the
7 sketches. In looking at them, are they accurate in
8 showing -- identifying the items that were collected and
9 the relationship they are in as to each other?

10 A Of course they're not to scale, but yes, it's an
11 accurate representation of where the items were lying that
12 were collected. And then this one is in reference to the
13 two trails that went -- I'm sorry. The red stain, blood
14 trails, if you will. One went down the sidewalk and one
15 came around those vehicles that were parked down towards
16 the southern side of the home or apartment structure.

17 Q Okay. And do these sketches document what was
18 collected at the scene and their relationship with each
19 other?

20 A This one indicates the items that were collected
21 from the vehicle and its surroundings. There was a
22 projectile near the rear tire on the driver's side that's
23 not in there. But the stuff that was in the car is
24 represented.

25 Q Does it document all the shell casings?

1 A Yes, I believe so.

2 Q Okay. So, it documents the shell casings?

3 A Yes. Yes, it does.

4 Q And does this document what appears to be the blood
5 trails?

6 A Yes.

7 Q And does it document where the Acura is relative to
8 Mr. Dicker and the other cars?

9 A Yes.

10 Q Okay.

11 MS. LIVESAY: Your Honor, at this time, the State
12 wishes to put 5 and 6 into evidence and publish at the
13 appropriate time.

14 THE COURT: Any objection?

15 MS. LIVESAY: Can you come down, Mr. Bauman?

16 THE COURT: Hold for a second.

17 MR. WILSON: Can I see it again?

18 MS. MARTIN: Oh, I'm sorry. You do have an
19 objection?

20 MR. WILSON: Okay. I don't have any objections.

21 THE COURT: Mr. Galmore?

22 MR. GALMORE: No, sir. No objection.

23 THE COURT: State's 5 and 6 are admitted into
24 evidence without objection.

25 (State's Exhibit Nos. 5 and 6 received into

1 evidence.)

2 MS. LIVESAY: Okay. Can you step down, Detective
3 Bauman, and we'll get another easel over there and see if
4 we can't get it...

5 MR. WILSON: Your Honor, may I move so I can see?

6 THE COURT: Yes, that will be fine.

7 BY MS. LIVESAY:

8 Q Okay. This is showing State's Evidence No. 5. Now,
9 let me ask you something, Detective Bauman. Now, that
10 we're looking at it kind of relative to everything, these
11 casings we were discussing earlier, the .45s -- here, do
12 you see the numbers from the Horry County Evidence?

13 A I do.

14 Q Were all the .45 shell casings located outside the
15 vehicle?

16 A They were.

17 Q Okay. And is this accurate as to where the gun was
18 located relative to the Acura?

19 A That's the approximate location.

20 Q Okay. And these items here -- you see these items
21 that are color-coded? Some are blue. Some are kind of a
22 lime green, gray, and red. Do those indicate the shell
23 casings that were located in and around the car?

24 A To the best of my recollection, that's a fairly
25 accurate representation.

1 Q And does this flip-flop, is the sketch accurate that
2 the green flip-flop was located in the floorboard of the
3 passenger seat?

4 A It is.

5 Q Okay. And is it accurate in that these red
6 flip-flops were located in the floorboard of the backseat?

7 A Yes.

8 Q Okay. And how about the phone? Is that also
9 located in the back?

10 A The backseat. It was, I believe, Item 15.

11 Q Okay. Now, does this show all the shell casings
12 that you located, to your recollection?

13 A Shell casings.

14 Q Yes.

15 A To the best of my recollection, yes.

16 Q Okay. So, all the casings were located either in or
17 directly around the white Acura?

18 A Yes.

19 Q Okay. So, it wasn't like, when you walked down the
20 sidewalk, there's casings just sprayed all over the place;
21 is that fair to say?

22 A That's fair to say.

23 Q Okay. So, they're all in this one area?

24 A They're in the immediate area of the vehicle. I can
25 phrase it that way, yes.

1 Q Okay. And these casings represent what comes out
2 when you fired the gun; correct?

3 A The casing is the rear portion of the round, yes.

4 Q Okay. And when I'm firing and it pops out, is that
5 the shell casing?

6 A Yes.

7 Q Okay. So, that's some indicator of where the gun
8 was fired from a round; right?

9 A Yes.

10 Q Okay. So, when you walked down and you found
11 Mr. Dicker on the ground, did you find any shell casings
12 around him?

13 A I did not.

14 Q Okay. When you did the blood trail -- when we
15 follow the blood trail down the sidewalk, did you find
16 shell casings all the way down the sidewalk?

17 A I did not.

18 Q Okay. So, whoever was firing the gun was firing it
19 in the vicinity of the white Acura; is that fair to say?

20 A Yes.

21 Q Okay. Now, how many casings were recovered?

22 A Honestly, I would have to look on my property
23 record.

24 Q Do you mind taking a look at your property record so
25 we can get a count?

1 A Do you have one with you?

2 Q This is what we have got down here.

3 A Okay. There may be one or two more, but I'm not
4 sure. There was quite a few casings, especially in
5 reference to where Victim No. 1 was located. There was
6 casings on his lap, there was casings underneath him, and
7 there was one on the floorboard, which I believe is that
8 representation there.

9 Q Okay.

10 A There were the two in the back.

11 Q Okay. Here you go. Would your crime scene report
12 help you? Let me get this out of your way. Go ahead.

13 A So, the crime scene report itself does not have the
14 attachments. It would be property records. However, as
15 we go through them on the report, as I find different
16 things, I noted that a number of them are marked, but then
17 there's the inventory, but that doesn't take place until
18 the following day or two days later.

19 So, I would need the property record. This is the
20 report that I put together. When I get back -- when I
21 hand in my evidence, there's a list of all the things that
22 all I would have collected, and that goes with the
23 evidence to the Evidence section.

24 Q So, let me ask you something: Did you collect these
25 casings from the scene?

1 A I did, yes.

2 Q Okay. And these are these evidence numbers down
3 here?

4 A Those numbers are not the same numbers that I -- I
5 would have indicated. If you wanted to go back and
6 identify -- you can show the backseat again. I believe
7 the cell phone was 15. I believe this casing located here
8 was 14.

9 Q So, these numbers are Horry County Police Department
10 evidence numbers; correct?

11 A Oh, I see what -- okay. I'm sorry. I have to
12 explain. When I collect it, I -- when I get to the scene
13 and I'm doing my collections, I identify it as Item No. 1
14 through however many things I collect. Okay?

15 When I take those items and I package them and I
16 submit them to the Evidence section, the Evidence section
17 has their own sticker number. We refer to it as a sticker
18 number because, such as a scene like this, you have your
19 initial scene. I'm collecting things.

20 You heard earlier from other officers. One of them
21 went to the hospital, and some items were collected from
22 the hospital. But you can imagine that detective is also
23 listing his items, whatever 1 through 10.

24 So, to avoid confusion, you can imagine we have
25 multiple number ones, multiple number twos. You get the

1 idea. Different people are collecting different things
2 from different scenes. The Evidence section assigns
3 sticker numbers as they get the items in from myself, and
4 then maybe they'll get them from another detective.
5 They're going right down the list. They're assigning my
6 numbers -- their assigning their own sticker number to
7 keep track of everything. And I hope I explained that
8 well.

9 Q Mr. Bauman, do you recognize what I'm showing you
10 now?

11 A Yes, I do.

12 Q And what is it?

13 A This would be the evidence record.

14 Q And does that show the items that you collected from
15 the scene?

16 A Yes, it does.

17 Q And does it show a number beside it to indicate that
18 that item goes with that number?

19 A It does.

20 Q Okay. Good. You don't have to show it.

21 So, if you don't mind, go through and look at it and
22 read off -- when you see a casing that you collected from
23 the scene, read off that number and the casing
24 description, caliber, whatever is on there.

25 A So, my No. 1 is identified as Sticker No. 15.

1 I see what's going on here now.

2 Q It's okay.

3 A I apologize.

4 Q No, you're fine.

5 A I wasn't on the same page.

6 Q So, let me do this.

7 MS. LIVESAY: Can you give me, like, a little pen or
8 pencil.

9 BY MS. LIVESAY:

10 Q Let's check them off from down here. You give me
11 the number when you find the casing.

12 A Item No. 1 was 15.

13 Q Okay. Hold on. Down here. There we go. Do a
14 little check. Okay.

15 A Item No. 2, spent casing found on the ground near
16 the Canik. So, Sticker No. 16.

17 Q Okay.

18 A Sticker No. 20, that would be the one that was
19 jammed or stove-piped that was still inside the weapon.
20 That's the one that's the casing that did not eject from
21 that pistol.

22 Q So, hold on. Let me check it here. 20? All right.
23 Stovepipe in Canik?

24 A And 17 -- Sticker No. 17 is in reference to Item
25 No. 3, which is the black-in-color Canik TP9 Elite pistol.

1 Q Check it right here. 17 Canik?

2 A Yep. So, Sticker No. 21 is not identified. It's a
3 live round. You're only after casings here.

4 Q That's right.

5 A So, my Item No. 5 is 23. So, that one is accounted
6 for. 23.

7 Q Okay.

8 A 24 is accounted for.

9 Q Down here. 24.

10 A That was my Item No. 6.

11 Q Yes, sir.

12 A Sticker No. 27 is identified as the pistol that was
13 located on Victim No. 1's lap.

14 Q So, was it at GLOCK 19, Gen 4?

15 A It was.

16 Q Okay.

17 A Okay. Spent casing. My No. 10 is 028.

18 Q 28. Okay. We get it right here. Hold on. Right
19 here. 28. Okay.

20 A My No. 11 is No. 29, which is that one.

21 Q Okay. Right over here. 29. Okay.

22 A My No. 13, Sticker No. 031 located right there.

23 Q Okay. 031. Got it right here, Detective.

24 A All right. My 14 is Sticker No. 32.

25 Q Okay. Hold on. Here we go right here.

1 A 16 is 34.

2 Q 34 right here.

3 A This is the same page. Two copies.

4 Q You're fine.

5 A 35, that was my No. 17.

6 Q What number is it on the chain?

7 A 035.

8 Q Okay. 35, right there.

9 A 039 is going to be my No. 21. 039.

10 Q Let me get over here.

11 A That was the casing that was stuck on the camo
12 raincoat.

13 Q Down there?

14 A Yes, ma'am. No. 40. Those were the two -- mine 21
15 and 22.

16 Q Okay. There you go.

17 A The phone is accounted for.

18 Q The phone, No. 33?

19 A Yes, ma'am. That was my No. 50.

20 Okay. That's the one that was on the floor so that
21 one is accounted for. My No. 33 was Sticker No. 55.

22 Q Check.

23 A And it's -- 056, there we go. So, that one is
24 accounted for.

25 Q Okay. Hold on. Let me check right here.

1 A I'm sorry.

2 Q You're absolutely fine. 56?

3 A Yes.

4 Q Check.

5 A 57 is there.

6 Q 57. Check.

7 A Yes, ma'am. 58. Check.

8 Q There you go. 9mm?

9 A Yes, ma'am.

10 A 61. No. 39, 61. That's accounted for.

11 Q Okay.

12 A No. 40 is 62. Over here.

13 Q Okay.

14 A My No. 40. Your 62.

15 Q Okay.

16 A I believe that covers everything.

17 Q Okay.

18 A So, this one was located in the door. So, that was

19 not recovered at the initial scene. That's back at the

20 impound lot. But I located a casing in the compartment of

21 the rear passenger door.

22 Q Okay. And it's showing here to show it was in the

23 rear passenger door?

24 A Not inside the door like behind the panel, but in

25 the actual -- like, there's a compartment in the moulding.

1 And it was in the door pocket, if I can refer to it that
2 way.

3 Q Okay. So, it was 9mm Luger spent casing inside door
4 pocket?

5 A Correct.

6 Q So, now tell me how many shell casings were
7 collected at the scene.

8 A 18, 19, 20.

9 Q So, at least 20?

10 A At least 20. If I'm missing...

11 Q Okay. You'd say at least 20 shell casings?

12 A Yes.

13 Q So, that means at least 20 bullets were fired;
14 right?

15 A Yes.

16 Q Okay. And when we looked at the Acura, the only
17 place with 20 bullets being fired where there's any bullet
18 holes is on the driver's side of the vehicle; is that
19 right?

20 A That penetrated the vehicle, yes.

21 Q Okay. Okay. So, 20 shots are fired. Nine are at
22 the back. Nine are on the passenger side where the green
23 flip-flop is; is that right? All on the -- all on the
24 driver's side; is that right?

25 A Yes.

1 Q Okay. Did you see any bullet holes in the apartment
2 building?

3 A I did not.

4 Q Okay. Did you see any random bullet holes in those
5 other vehicles at the apartment building?

6 A I did not.

7 Q So, out of 20 shots fired, the only ones that
8 created a hole were on the driver's side where Kalik Conn
9 was sitting?

10 A Well, on the driver's side and the very front of the
11 windshield. There were some to the front of the vehicle.

12 Q Okay. So, on the windshield and on the driver's
13 side of the vehicle?

14 A Yes.

15 Q Okay. All right. Thank you, Detective Bauman. If
16 you don't mind having a seat.

17 A Yes, ma'am. They're out of order.

18 Q You're fine.

19 Did you collect these shell casings?

20 A I did.

21 Q Okay. Do you recognize what I'm showing you now?

22 A I do.

23 Q Okay. And what is it?

24 A That would be an evidence bag with my signature on
25 it, dated 6/10 of '22 with all of the stickers. And by

1 that, that's what I meant by sticker numbers. And that's
2 where -- I apologize. I was thinking the numbers as I
3 collected them. But the numbers -- the sticker numbers
4 are all on the envelope.

5 Q Okay.

6 A Okay?

7 Q And what are those sticker numbers for?

8 A That's what I was attempting to explain. When I
9 turn in my evidence, the Evidence section applies a number
10 to a sticker to go with the piece of evidence. Okay? And
11 their number may very well -- usually always does --
12 differ from all our numbers when we hand them in.

13 Q So, what are these items?

14 A These are casings. More casings. They're all
15 casings.

16 Q Are they the casings you collected from the scene?

17 A They are.

18 Q And who wrote in the Sharpie on the front, those
19 numbers?

20 A Okay. So, I may have had some help as I was
21 processing these things, and a fellow CSI member may have
22 been, you know, jotting numbers down for me or filling out
23 the envelope as we're moving along.

24 Q And when it says Item 1, 2, are those your item
25 numbers?

1 A Those numbers that are handwritten out there, those
2 are the numbers that I collected. Those are my numbers as
3 I collected them from the scene.

4 Q Okay. So, when we look at the card -- if you don't
5 mind, just go through a couple -- until we hit the first
6 card. Right there. So, these card numbers correspond
7 with the numbers written on this envelope?

8 A Yes. So, Casing No. 1, where it's handwritten here
9 "Item No. 1," that would be my assigning No. 1 to the
10 casing that would be underneath the front door of the car
11 there. And then evidence-wise, it would be 015, would be
12 the first sticker.

13 Q Okay.

14 A I'm just showing you that they assign a different
15 number than I did.

16 Q I understand. But the one written in matches the
17 card that you laid down beside it?

18 A Yes.

19 Q Okay. And this contains -- tell the Court what
20 evidence this envelope contains.

21 A This envelope contains a -- my Item 1, 2, 3-C, 5, 6,
22 10, 11, 13, 14, 16, 17, 21, 22, 33, 34, 35, 36, 39, and
23 No. 40, which are all casings that were collected from the
24 scene -- the initial scene.

25 MS. LIVESAY: Your Honor, at this time, the State

1 wishes to put the items in State's No. 19 into evidence.

2 THE COURT: Any objection?

3 MR. WILSON: No, sir. No objections.

4 THE COURT: Mr. Galmore?

5 MR. GALMORE: No, sir. No objection.

6 THE COURT: State's Exhibit No. 19 admitted into
7 evidence without objection.

8 (State's Exhibit No. 19 was received into evidence.)

9 MS. LIVESAY: Can he step down, Judge, please?

10 THE COURT: Do what?

11 MS. LIVESAY: Can he step down?

12 THE COURT: Oh, yeah.

13 MS. LIVESAY: Let me ask you something, Judge: Do
14 you want these individually marked or no?

15 THE COURT: You're creating the record and you're
16 prosecuting it. You can do whatever you want to do.

17 MS. LIVESAY: Okay.

18 BY MS. LIVESAY:

19 Q Okay. If you don't mind, Detective Bauman, just
20 step right up here. Tell us what we're looking at.

21 A As the casings are collected, what you have inside
22 of these clear plastic envelopes, you're going to find the
23 casing and you're going to find the white envelope. I
24 would have placed the casing into the white envelope.

25 Okay? And then some of them, you can see, just by the way

1 that you have them lying, that they would have been sealed
2 with the red evidence tape and that would have been signed
3 by myself.

4 Q Okay. And on the white evidence envelope, what
5 information is up there?

6 A I go on to describe that it's HCPD. I put the item
7 number on there, the case number -- and I don't mean
8 casings number; I mean the case number that's been
9 assigned to this particular incident -- what that consists
10 of and then a brief description of what the item is that's
11 in the envelope.

12 For example, this one is a casing, SIG .45 auto on
13 sidewalk in front of Apartment No. 1. And then the
14 address or location thereof.

15 Q And does every single one of them have a white
16 envelope with a description in it?

17 A I don't know that they're all identified in that
18 manner; however, if you were to move down the list, also
19 on the white envelope that I would have packaged the
20 casing inside of, you not only have a sticker on the
21 envelope that they're all in but each one has its own
22 sticker. In other words, there's a duplicate sticker.
23 There's so many that were in that envelope; each one has
24 its own sticker to identify, just like on your board, you
25 know, whatever number Evidence would have assigned to that

1 casing.

2 Q Okay. So --

3 MS. LIVESAY: And I'm going to mark these
4 individually, Bobbi. I think that's going to be easier
5 for everybody.

6 BY MS. LIVESAY:

7 Q So, we have got predominantly 9mm casings; right?

8 A Predominantly.

9 Q Look at it there. We have got it marked here. The
10 vast majority of the casings are 9mm; correct?

11 A Yes, ma'am.

12 Q But that doesn't mean one gun fired every 9mm;
13 correct?

14 A That's correct.

15 Q Okay. And even though we have all these casings,
16 just by us looking at them, there's no way to identify if
17 one gun fired it, two guns, three guns, four guns, five
18 guns, so on. There's no way for you to just look at it
19 right here and make that determination?

20 A Absolutely not.

21 Q Okay. So, the caliber -- two different 9mms can be
22 fired; correct?

23 A You mean a 9mm can be fired from different weapons?

24 Q Yes.

25 A Yes.

1 Q Okay. And how would you ultimately determine,
2 looking at all these casings, how many guns were fired?

3 A Okay. So, after I collect them, whatever I find --
4 like I said, it goes in the white envelope. I seal it
5 with the red tape. Then there's another person on our
6 team who would then -- as the other detective was
7 attempting to explain, the NIBIN -- or you also brought up
8 IBIS. They're basically -- there's a database, you know,
9 that they can go to. They photograph the casings and they
10 microscopically analyze it. There's a database somewhere
11 but I believe, ultimately, it's handled by the ATF. They
12 have all that information. And they make a comparison.
13 The best correlation that I can associate that with would
14 be like the AFIS machine for your fingerprints.

15 Q So, let me ask you this though: There's a SLED tag
16 and lab number on these shell casings; correct?

17 A Okay. Yes.

18 Q And why are they sent to SLED?

19 A Okay. As far as I know, for the time that I'm
20 working with Horry County, if we recover only casings ---

21 Q Right --

22 A --- we can go to Myrtle Beach and they have NIBIN.

23 Q I'm not asking you about Myrtle Beach.

24 A I understand.

25 And then SLED comes into play when we either have --

1 they can't handle it or SLED also comes into play when we
2 have projectiles. If you have a projectile and a casing
3 and a gun, it's my understanding that that particular case
4 would go to SLED.

5 Q Okay. But you could send these casings to SLED,
6 correct, and somebody can look at them and say these cases
7 were tied to one gun?

8 A Yes. Along with Myrtle Beach, SLED has access to
9 the NIBIN database.

10 Q Okay. Have a seat.

11 A Yes, ma'am.

12 Q Detective, have you ever been qualified as an expert
13 in ballistics?

14 A No, I have not.

15 Q Okay. So, that would be somebody from SLED;
16 correct?

17 A Yes, ma'am.

18 MS. LIVESAY: Okay. All of these are in evidence,
19 Ms. Bobbi, but I'm going to need to separately mark them.
20 So, how do you want to handle that? Just on the break?

21 COURT STENOGRAPHER: Sure.

22 MS. LIVESAY: Okay. That would be wonderful. Thank
23 you.

24 BY MS. LIVESAY:

25 Q So, two guns were collected as well; correct?

1 A Yes.

2 Q Okay. I'm going to show you now what's been marked
3 as 21 and 22. Do you recognize what I'm showing you?

4 A I do.

5 Q And what are they?

6 A These are gun cases, and that would have been -- I
7 see it's written on there with -- in my handwriting the
8 date of collection and the incident number that's been
9 assigned to the incident. And it also has a descriptor
10 that this one inside of the box is the 9mm Canik that was
11 located on the ground on the passenger side of the
12 vehicle. And this one here is a 9mm GLOCK. That would
13 have been the weapon that would have been located in the
14 lap of Victim No. 1, Mr. Conn.

15 Q Okay. So, the box -- if you look at these guns --
16 contain the guns that were collected from the crime scene:
17 One from the victim's lap and the Canik from outside the
18 passenger seat?

19 A Yes.

20 Q Okay.

21 MS. LIVESAY: Your Honor, at this time, the State
22 wishes to place 21 and 22 into evidence and publish it to
23 the jury.

24 THE COURT: Any objection?

25 MR. WILSON: No objection.

1 MR. GALMORE: No objection, sir.

2 THE COURT: State's Exhibit -- you said 21 and 22?
3 Ms. Livesay, 21 and 22?

4 MS. LIVESAY: Is that what you're asking, the
5 evidence numbers?

6 THE COURT: Yes.

7 MS. LIVESAY: Yeah, let me double-check. Yeah, 21
8 and 22.

9 THE COURT: All right. State's Exhibits 21 and 22
10 are admitted into evidence without objection.

11 (State's Exhibit Nos. 21 and 22 were received into
12 evidence.)

13 BY MS. LIVESAY:

14 Q So, these two handguns were recovered from the
15 scene; correct?

16 A Yes.

17 Q Okay. But there's no way to know which casings or
18 if they fired any casings without sending it to SLED; is
19 that correct?

20 A Correct.

21 Q And SLED can match up and say this gun fired these
22 casings or fired no casings?

23 A Correct.

24 Q Okay. Now, some other items were recovered that we
25 saw pictures of. They were ultimately collected. Showing

1 you now 31 and 32. Do you recognize what I'm showing you
2 now?

3 A I do.

4 Q And what is it?

5 A Those would be the green slides that were located at
6 the scene.

7 Q Okay. And which one was located in the car?

8 A (Indicating.)

9 Q 32?

10 And which one was located at the scene?

11 A Down by Victim No. 2.

12 Q Okay. So, this one was found by Jeremiah Dicker?

13 A Yes. This one was located in the car.

14 Q In the front passenger floorboard?

15 A Yes, ma'am.

16 MS. LIVESAY: 31 and 32 into evidence?

17 THE COURT: Any objection?

18 MR. WILSON: No, sir.

19 MR. GALMORE: No, sir.

20 THE COURT: All right. State's Exhibits 31 and 32
21 are admitted into evidence without objection.

22 (State's Exhibit Nos. 31 and 32 were received into
23 evidence.)

24 BY MS. LIVESAY:

25 Q Okay. And, ultimately, some more slides were

1 located in the Acura; correct?

2 A Yes, ma'am.

3 Q Okay. They weren't collected until the car made it
4 back to the M.L. Brown but, ultimately, they were
5 collected from the Acura?

6 A Yes, ma'am.

7 Q Okay. Show you now what's Evidence No. 35. Do you
8 recognize what I'm showing?

9 A I do, ma'am.

10 Q And where were they located?

11 A They were located in the floorboard on the -- on the
12 rear floor -- rear seating position floor of the Acura.

13 MS. LIVESAY: Your Honor, at this time, the State
14 wishes to place 35 into evidence.

15 MR. WILSON: No objection.

16 MR. GALMORE: No objection, sir.

17 THE COURT: State's Exhibit 35 admitted into
18 evidence without objection.

19 (State's Exhibit No. 35 was received into evidence.)

20 BY MS. LIVESAY:

21 Q And do you know whether or not those slides were
22 consistent with what any of the defendants were wearing
23 earlier in the day?

24 A I would have no idea personally, no. If they were
25 at the scene and I collected them --

1 MR. WILSON: Your Honor, I object. It's -- one,
2 it's calling for speculation because, obviously, he wasn't
3 there when whatever happened happened. So, how in the
4 world would he possibly know who had those shoes on or
5 what they were doing? The whole question is improper, let
6 alone the response.

7 THE COURT: Sustain the objection.

8 BY MS. LIVESAY:

9 Q So, all you know is what was located in the Acura?

10 A Correct.

11 Q Okay. And you don't know who it belonged to?

12 A Correct.

13 Q Okay. But, at some point, the red flip-flops were
14 swabbed; is that right?

15 A Yes.

16 Q And why were they swabbed?

17 A For ownership.

18 Q Okay. To try to figure out --

19 A To try and figure out who would have had them on.

20 Q In the back of the Acura; right?

21 A Yes, ma'am.

22 Q Okay. Showing you now 27, 26, and 25. Take a look
23 first at 25. Does that have an Horry County Police
24 Department sticker on it?

25 A It does.

1 Q And does that sticker tell you where it was
2 collected from?

3 A It tells me the rear passenger seat.

4 Q And is that the phone that was located in the back
5 of the Acura with the flip-flops?

6 A This one was on the seat, yes.

7 Q Okay. The backseat?

8 A Yes, ma'am.

9 MS. LIVESAY: Okay. Your Honor, at this time, the
10 State wishes to put 25 into evidence and publish it to the
11 jury.

12 THE COURT: Any objection?

13 MR. WILSON: No objections.

14 MR. GALMORE: No objection.

15 THE COURT: State's Exhibit 25 admitted into
16 evidence without objection.

17 (State's Exhibit No. 25 was received into evidence.)

18 BY MS. LIVESAY:

19 Q So, one phone is found in the backseat with the red
20 flip-flops; is that correct?

21 A Yes.

22 Q Okay. The back of the Acura.

23 And that can be looked at, too, correct, to try to
24 figure out whose phone it was?

25 A There's folks that can download the phones, yes. It

1 is not me.

2 Q I'm going to show you 26. Does that have an Horry
3 County Police Department number on it?

4 A It does.

5 Q And does it give a description of where that item
6 was collected from?

7 A It does.

8 Q And where was it collected from?

9 A Front driver's side floorboard.

10 Q And was that of the Acura?

11 A That was on the Acura, yes.

12 Q So, this was another phone found in the front
13 driver's floorboard of the Acura?

14 A Yes.

15 MS. LIVESAY: Okay. And this is going to be No. 26.
16 The State wishes to place into evidence and publish it to
17 the jury.

18 THE COURT: Any objection?

19 MR. WILSON: No objections, Your Honor.

20 MR. GALMORE: No objection, sir.

21 THE COURT: State's Exhibit 26 admitted into
22 evidence without objection.

23 (State's Exhibit No. 26 was received into evidence.)

24 BY MS. LIVESAY:

25 Q And that phone can be looked at as well to try to

1 figure out who that phone belonged too?

2 A Yes, ma'am.

3 Q I'm going to show you now State's Exhibit No. 27.

4 Do you recognize what I'm showing you now?

5 A I do.

6 Q Okay. Does it have an Horry County Police
7 Department number?

8 A It does.

9 Q And does it have the description of where it was
10 collected from?

11 A Front left pocket of Victim No. 2 jeans.

12 Q Okay. So, was that --

13 A That would have been my Item 50.

14 Q Okay. So, that was the phone collected out of
15 Jeremiah Dicker's pocket, the guy laying out in front of
16 the apartment?

17 A Yes.

18 MS. LIVESAY: Your Honor, at this time, the State
19 wishes to introduce into evidence 27 and publish it to the
20 jury.

21 MR. WILSON: No objection.

22 MR. GALMORE: No objection.

23 THE COURT: State's Exhibit 27 admitted into
24 evidence without objection.

25 (State's Exhibit No. 27 was received into evidence.)

1 BY MS. LIVESAY:

2 Q And all these phones can be looked at, correct -- or
3 tried to be looked at to figure out who they belonged to;
4 is that right?

5 A That's correct.

6 Q Okay. And to see whether or not any of these people
7 had contact before all this happened; is that fair to say?

8 A That's fair to say.

9 Q Okay.

10 A Along with many other things.

11 Q I understand.

12 Now, did you bring back the Acura to M.L. Brown?

13 A Did I personally? No.

14 Q Okay. I'm sorry. Was it towed to M.L. Brown?

15 A Yes, it was towed by Squeaky's back to the impound
16 lot.

17 Q Okay. So, it was towed back for further processing?

18 A Correct.

19 Q Okay. And when it was towed back, that's when you
20 took the pink flip-flops out; correct?

21 A Yes.

22 Q Okay. Now --

23 A I believe, yes. I would have to look at the
24 property record. I'm sorry.

25 Q It's okay. But at some point, you collected them?

1 A Yes.

2 Q Okay. Now -- and, at some point, did you swab them?

3 A Yes.

4 Q Okay. And that's to try to figure out who the
5 flip-flops belonged to?

6 A Correct.

7 Q Okay. And when we were looking at the pictures
8 earlier, do you remember seeing the blood in the back of
9 the Acura?

10 A Yes.

11 Q Okay. And did you swab that?

12 A Yes.

13 Q Okay. And why did you swab that?

14 A For the same reason, as to find out possibly whose
15 blood that is or who was seated in the rear of the
16 vehicle. You know, maybe we got a victim that we don't
17 know about. You never know, so...

18 Q So, to try to figure out --

19 A Figure out who it belongs to, yes.

20 Q Somebody was bleeding back there.

21 Now, there were also -- there was some blood on the
22 outside of the wheel of the car, do you remember that --
23 of the Acura?

24 A Yes.

25 Q And did you swab that to try to figure out whose

1 blood that belonged to?

2 A Yes.

3 Q Now, when you brought it back for closer
4 examination, is that when you found the shell casing in
5 the door panel?

6 A Yes.

7 Q Okay. And did you collect it?

8 A Yes.

9 Q Okay.

10 A On that -- on that poster, it's -- if I may, sir.

11 THE COURT: All right.

12 THE WITNESS: Just to get the number. It was -- on
13 here, it's identified as No. 147.

14 BY MS. LIVESAY:

15 Q Okay. And that's the one you found once you did the
16 final search?

17 A Yes.

18 Q Okay. Now, when you were doing further examination
19 of the car, there was some taking down of the panel,
20 right, to see if these holes yielded a bullet fragment or
21 any kind of additional evidence?

22 A Yes.

23 Q Okay. And you also used trajectory rods; is that
24 right?

25 A Yes.

1 Q Okay. What are the trajectory rods for?

2 A That was -- you take the rod, for example, in the
3 driver's seat. You would place the rod through one of the
4 holes and continue on, and that gives you a pretty darn
5 good indication as to the trajectory of the projectile
6 that would have passed through that item.

7 Q Okay. I'm going to show you now what's been marked
8 as 191. Well, hold on. Kind of out of order now. Hold
9 on. 190 -- 188 to 193. Take a look at these and tell me
10 if you recognize what I'm showing you.

11 A Yes, I recognize them.

12 Q And are these pictures documenting what went on with
13 the Acura and what, if anything, was recovered when it was
14 being processed at M.L. Brown?

15 A Yes.

16 Q And did you take the pictures?

17 A I did.

18 Q And are they accurate?

19 A They are an accurate representation of what I saw
20 that day I took the photograph, yes.

21 MS. LIVESAY: Your Honor, at this time, the State
22 wishes to place them into evidence and publish them to the
23 jury.

24 THE COURT: Any objection?

25 MR. WILSON: No, I have no objection.

1 MR. GALMORE: I object, Your Honor. There's no
2 evidence that this witness is trained in the use of
3 trajectory rods, and there is no evidence of his
4 qualifications to draw conclusions from the use of
5 trajectory rods.

6 As far as using the rods to find a projectile that
7 they found in a seat cushion, I have no objection to that,
8 but as far as the remainder of it, I do object. Lack of
9 foundation, lack of qualifications.

10 THE COURT: All right. Well, I'm going to allow
11 State's Exhibits 188 to 193 to be admitted into evidence
12 over Defendant Dajon Grate's objection. But he is right;
13 he cannot render any opinions unless he's qualified.

14 MS. LIVESAY: I don't know that it's any more
15 qualified than using a tape measure, but I can ask him
16 some questions.

17 MR. GALMORE: It's not a tape measure.

18 BY MS. LIVESAY:

19 Q Detective Bauman, what is a trajectory rod?

20 A A trajectory rod is basically a wooden dowel stick.

21 MR. GALMORE: I'm sorry. Did Your Honor rule
22 already?

23 THE COURT: Yes, I said -- well, but she's trying --

24 MR. GALMORE: So, I'm not sure she's asking
25 questions.

1 THE COURT: Because she's trying to qualify him as
2 an expert where he can give the opinion.

3 MR. GALMORE: Yes, sir.

4 THE COURT: All right. Go ahead.

5 BY MS. LIVESAY:

6 Q So, what is a trajectory rod?

7 A It's basically a dowel stick -- a wooden dowel
8 stick. And it has a length of -- some of them are 2 feet,
9 some of them are 3 feet. And, basically, the dowel stick
10 assist us. We do exactly that. We place it into a bullet
11 hole, such as the example of maybe this a seat here. And
12 then I take a photograph thereof, and it shows where the
13 bullet is coming from, where it went to. Gives you a darn
14 good idea.

15 Q Okay. So, all it is is a stick that you stick
16 through the bullet hole?

17 A Yes, ma'am.

18 Q Okay. And the stick either goes this way, this way,
19 this way, whatever way that the hole lends itself?

20 A Yes.

21 Q Okay. And do you sometimes also have to use a
22 measure -- a tape measure, as a crime scene investigator?

23 A Yes.

24 Q Okay. And you sometimes you have to measure how far
25 the casing is maybe from the car; is that correct?

1 A Yes.

2 Q Now, do either one of these things require any kind
3 of special training? Did you have to get special training
4 to use the tape measure?

5 A No.

6 Q Okay. Do you have to get special training to stick
7 the rod just through the hole?

8 A No, ma'am.

9 Q Okay. And in no way -- you're not manipulating or
10 doing anything. You just stick it through the hole, and
11 it shows what it shows?

12 A That's exactly correct.

13 Q Okay. Now, there are things that you do need
14 special training in; correct?

15 A Yes.

16 Q Like fingerprints; right?

17 A Yes, ma'am.

18 Q To run the AFIS machine, you need some sort of
19 special training? You have to take a test, etc.; right?

20 A Yes, ma'am.

21 Q Meet some sort of criteria?

22 A Yes, ma'am.

23 Q Okay. Do you have to take a test to use the tape
24 measure or to stick the rod through the hole?

25 A No, ma'am.

1 Q Okay. No test that says you have got to be
2 qualified by SLED to use the tape measure or to stick the
3 rod through?

4 A No, ma'am.

5 MS. LIVESAY: Your Honor, at this time, the State
6 believes this doesn't require any kind of expertise. It's
7 merely sticking the rod through and documenting what it
8 shows.

9 THE COURT: Well, that's a factual -- that's not
10 rendering an opinion.

11 MS. LIVESAY: Right.

12 THE COURT: That's factually this goes here and this
13 is what it shows.

14 MS. LIVESAY: Exactly.

15 THE COURT: So, I'll allow that.

16 MS. LIVESAY: Thank you, Judge.

17 At this time, can we allow in, then, the pictures
18 just documented, 186 to 193?

19 THE COURT: You said 188 to 193?

20 MS. LIVESAY: Hold on. We got 186, 187, all the way
21 to 193.

22 THE COURT: Okay. 186 to 193 is admitted into
23 evidence over Defendant Dajon Grate's objection.

24 (State's Exhibit Nos. 186 to 193 received into
25 evidence.)

1 BY MS. LIVESAY:

2 Q Now, we're going to look at these pictures on the
3 TV, and some of them are going to show the trajectory rod;
4 correct?

5 A Yes.

6 Q And do you do anything to manipulate the rod or
7 anything like that?

8 A I don't.

9 Q Okay. So, you just stick it through the bullet hole
10 and document it?

11 A Yes. Basically, yes.

12 Q Okay. And it shows what it shows?

13 A Yes, ma'am.

14 Q Now, what are we looking at here?

15 A So, there's a side view. This is the Acura. This
16 is the driver's side. Driver's side door is open. And a
17 couple of things are going on.

18 When the vehicle left the scene, prior to the
19 vehicle going on the tow truck, those of us in the unit,
20 we -- may I stand up?

21 Q Go ahead. Show us what you mean.

22 A So, before it leaves, you'll note on the doors
23 there's a little piece of evidence tape and that's just
24 for us to know -- like, it may be a day or two later that
25 we're in our impound lot. That indicates to us that, you

1 know, if somebody opened that door, that they would break
2 that tape. So, then when I'm looking at it at the impound
3 lot -- so, that's a photograph -- that's what that is as
4 far as the evidence tape. But the rest of it -- up in the
5 windshield, you can see a couple of trajectory rods. All
6 right? It's an overall photograph. I'm sure there will
7 be some closer photos.

8 Q Okay. So, this is just kind of overall?

9 A Yes.

10 Q Okay. And how about No. 187? What are we looking
11 at here?

12 A Okay. That would be the hole that was located in
13 the driver's side rear door. Okay? From my training and
14 what I was taught, okay, this hole is indicative and
15 consistent with a bullet strike for the simple fact that
16 the markings that are located on the right side of the
17 hole. And then as it widens into it, a teardrop, if you
18 will. That shows me that that round was fired from
19 somewhere to the rear of the car going towards the front
20 of the car.

21 Q And did you ultimately find a bullet fragment in the
22 door?

23 A There was some bullet fragment or the jacketing; I
24 forget exactly which. But there we have it. I refer to
25 that as the jacketing of the bullet that we talked about

1 at the very beginning.

2 Q Okay. So, that corroborates that that is a bullet
3 hole?

4 A Yes, ma'am.

5 Q Okay. What am I looking at here?

6 A Okay. A couple of the holes that are in the seat.
7 This is the driver's seat of the Acura. And we're located
8 at our impound lot at this point.

9 Q Okay. The top at the headrest, what is that white
10 stuff?

11 A That's some foam that was from inside the headrest.

12 Q Okay.

13 A The soft cushion that's inside the leather.

14 Q What am I looking at here?

15 A This is the rear of the driver's seat. What you're
16 going to see is the trajectory rods or the dowel sticks,
17 whatever you wish to call them. And then I went ahead and
18 I placed a measurement sticker on there, and I identified
19 it with a letter for the photography purposes and --

20 Q The trajectory rod is just stuck in the hole to show
21 this is a bullet hole?

22 A Yes.

23 Q And this is how it appears that the trajectory was
24 by putting this rod through it?

25 A Right. So, if put it in the back, I can see -- if

1 it sticks out the front, I now know that that bullet went
2 all the way through the seat.

3 Q And there's not one in the hole with the gunshot
4 residue?

5 A That's correct.

6 Q Okay. Why is that?

7 A Because, when we attempted that, something was
8 stopping the rod from going all the way through. It's
9 like a piece of metal at the framing of the seat. You
10 know, it's something -- something was stopping, so,
11 therefore, I couldn't push it all the way through.

12 Q Okay. And did you open up the back of the seat to
13 see whether or not there was a bullet fragment in there?

14 A We did. And I say "we," because it was myself and
15 my now-sergeant.

16 Q And did you find bullet fragment in the driver's
17 seat?

18 A Down in behind that plastic cover that you see here
19 in this photograph, you're going to see that pulled away.
20 Okay? And down in behind there, there was a bullet
21 fragment or projectile.

22 Q Okay. What am I looking at now?

23 A That's the front of the driver's seat and that's
24 where the opposing side where the dowel sticks come out.

25 Q Okay. I'm sorry. Can you go back? So, those are

1 the bullet holes that went all the way through?

2 A Yes, ma'am. And what I did, just to explain those
3 tape marks, when I assigned a letter to the hole, I then
4 slid the trajectory rod through, and then where it came
5 out on the other side, I identified it as, like, the same
6 letter where it went in, I then used the same letter and
7 like .1 or -- just to show that it's like -- it came from
8 this way and here's the opposing hole on the other side.
9 So, I categorized it -- like the entry would be like
10 whatever, the letter E, and on the other side, if it went
11 all the way through the seat, I identified the other side
12 of the seat as E.1.

13 Q Okay. And are all the rods pointing to the driver?

14 A In that image, yes.

15 Q So, Kalik Conn was sitting in that seat; correct?
16 In the driver's seat?

17 A He was, yes.

18 Q Okay. And are all the rods -- somebody was sitting
19 there. Are all the rods pointing at that individual?

20 A With the exception of that -- maybe the pink rod may
21 have missed.

22 Q What is that pointing to?

23 A I'm sorry. It just looks like going -- it's on the
24 far side of the seat up in the shoulder area.

25 Q Can you highlight the pink one?

1 A Yes. That's H-1. It appears as if it's -- you
2 know, if someone were sitting in that seat, they may have
3 been missed.

4 Q Okay. Is it pointing towards the passenger?

5 A Sure does look it from that photograph. It appears
6 so.

7 MS. LIVESAY: Can you highlight it again, Lacey.
8 Put some light on it.

9 BY MS. LIVESAY:

10 Q Can you tell if that's pointing towards the
11 passenger seat -- the passenger, the person sitting in the
12 other seat?

13 A I'm not sure if it's going straight --

14 MR. WILSON: Your Honor, I do object.

15 THE COURT: Sustained. It's asked and answered.

16 BY MS. LIVESAY:

17 Q So, these rods just show this is the trajectory of
18 the bullet. When you put the rod in, this is what it is?

19 A Yes.

20 Q And all these are in the driver's seat; correct?

21 A In this image, yes.

22 Q Okay. What am I looking at here?

23 A That would be the one -- you can see that the
24 moulding has been pulled away, and we were able to find
25 that that piece of the projectile down in behind that

1 plastic moulding in the seat.

2 Q Okay. And did that make it all the way through or
3 no?

4 A That's the one that did not go through.

5 Q Okay. But it was found in the back of the driver's
6 seat?

7 A Yes.

8 Q Okay. Behind that piece of plastic?

9 A Yes.

10 Q So, that would corroborate that the holes in the
11 back of the seat were, indeed, bullet holes?

12 A Yes.

13 Q What am I looking at here?

14 A That would be the casing. And forgive me.

15 Q Sure.

16 A Identified on your sketch as 147.

17 Q So, the one right here?

18 A That would be in the rear passenger cargo area. The
19 cargo area is located right behind the hand. So, it's the
20 rear door, the compartment of the panel.

21 Q Okay. But it's in the back-back; correct? Back of
22 the Acura?

23 A It's in the passenger side rear door.

24 Q Okay. So, in that rear door behind the passenger?

25 A Yes.

1 Q Okay. Perfect.

2 Now, once you finish processing the Acura and you
3 removed these items, did the trajectory rod, took the
4 swabs, at any point did you process a second car?

5 A I did.

6 Q And what kind of car was that?

7 A That was a Cadillac.

8 Q Okay. And I'm going to show you now the tow sheet
9 that's already in evidence, 194. 2007 Cadillac. Is that
10 the Cadillac that you searched at M.L. Brown?

11 A I wouldn't know without seeing the picture. This is
12 not my handwriting, and I'm not the individual that did --

13 Q Would your report help -- crime scene report?

14 A Yes. I believe it's right here on the podium.

15 Q I had it up there somewhere. I think I handed it to
16 you earlier.

17 A Yes, ma'am. It's still sitting on your podium.

18 Q Okay. Perfect. Take a look at this and see if this
19 will give you some guidance.

20 A Okay. Yes. The VIN numbers are the same.

21 Q Wonderful.

22 So, the Cadillac that was towed to M.L. Brown, what
23 day was it towed?

24 A It's noted here in this paperwork that it was towed
25 in on 6/1 of '22.

1 Q And, ultimately, you searched that Cadillac?

2 A Yes, ma'am.

3 Q And, in your report, it documents the same VIN
4 number to confirm that that, indeed, is the Cadillac that
5 you searched?

6 A Correct, yes.

7 Q Okay. Good. Now, before we go into the details,
8 did the Cadillac have any bullet holes?

9 A Can I refer --

10 Q Of course you can. Please.

11 A I don't see any notation in my report referencing
12 any bullet holes; so, therefore, I'm going to say no, to
13 answer your question.

14 Q Did you use any trajectory rods?

15 A No.

16 Q So, that you would indicate there were no bullet
17 holes?

18 A That would also be indicative that, no, there's no
19 holes.

20 Q Okay, good. So, when you searched the Cadillac, as
21 part of the processing, did you use anything to figure out
22 whether there was any blood in the Cadillac?

23 A Yes.

24 Q Okay. And what did you use?

25 A I observed it with my eyes that there was a red

1 stain on the seatbelt, I recall. There was -- I think
2 that's the only one that I was able to find, like, without
3 any assistance.

4 And then through the use of LCV, leucocrystal
5 violet, which is basically a chemical that would turn
6 purple upon the presence of blood because that particular
7 chemical grabs onto the hemoglobin. And it's like that.
8 And I don't know the specifics of it but that's what that
9 item does.

10 And so, when you spray it around on the seat, you
11 know, it would like luminesce, or light up a little bit,
12 if you will. It would fluoresce to -- and it would show
13 you the presence of blood.

14 Q Okay. So, if I wiped down the seat and it had blood
15 on it, you may not be able to see blood anymore, right, if
16 I wipe it off?

17 A Correct.

18 Q But if it was there, LCV would fluoresce to let you
19 know, hey, there is blood there?

20 A Yes.

21 Q And that's what LCV is for; correct? If the naked
22 eye can't see it, this chemical says, hey, it's here?

23 A Yes.

24 Q Okay. I'm going to show you State's Exhibit 82
25 through 85. Tell me if you recognize what I'm showing

1 you.

2 A Yes.

3 Q And what is it?

4 A I recognize it. It would be the rear seat of the
5 Cadillac that I processed. There's a photograph prior to
6 the application of the common initials LCV. And then the
7 subsequent results of the luminesce or fluorescence
8 indicating the presence of blood.

9 MS. LIVESAY: At this time, the State wishes to put
10 State's Exhibit 82 through 85 into evidence and publish it
11 to the jury.

12 THE COURT: Any objection?

13 MR. WILSON: No objection.

14 MR. GALMORE: No objection.

15 THE COURT: State's Exhibits 82, 83, 84, and 85 are
16 admitted into evidence without objection.

17 (State's Exhibit Nos. 82 through 85 were received
18 into evidence.)

19 BY MS. LIVESAY:

20 Q What am I looking at?

21 A You're looking at a photograph of the rear seat of
22 the Cadillac that I -- that I processed at the impound
23 lot.

24 Q That's the Cadillac that was towed to M.L. Brown?

25 A Yes, ma'am.

1 Q Okay.

2 A It's the rear seat of it.

3 Q I'm sorry. Go ahead, Detective, and tell me that
4 again.

5 A I'm sorry. That's the rear seat of that Cadillac.

6 Q Okay. When you look at the rear seat, does it
7 appear to be any blood on the rear seat?

8 A No, it doesn't. The blood spot that I was able to
9 observe without the assistance of enhancements, it was on
10 the seatbelt itself.

11 Q Okay. You don't see any blood in that seat, do you,
12 like you do the one in the Acura?

13 A No.

14 Q Okay. Because when we looked at the pictures of the
15 Acura, do you remember me and you could look here and say
16 that looks like a blood smear there?

17 A Yes, ma'am.

18 Q Okay. Do you see anything on this seat -- on the
19 seat here that looks like a blood smear?

20 A No. There's a mark that's closer to us on the seat
21 portion.

22 Q Right here?

23 A Yeah. That's visible, whatever that is, but then up
24 above it on the actual seat portion, there's some kind of
25 scrape mark. It does not appear to be --

1 Q You mean a scrape mark here?

2 A Yeah, as if maybe some object was there and maybe
3 tore up the seat or something, it appears.

4 Q But on the actual seat, the backseat of the
5 Cadillac, it looks clean, doesn't it?

6 A Yes, ma'am.

7 Q And the back part, where you lean the back up --
8 what do you call that?

9 A I refer to it as an upright. I mean, I don't even
10 know that that's the exact term, but I -- to differentiate
11 my -- for when I'm spelling out my report, I try and
12 specify what portion of the seat that I'm trying to
13 describe.

14 Q Okay. Does this part look clean?

15 A It does.

16 Q And the seat part where you sit in looks pretty
17 clean, doesn't it?

18 A Yes.

19 Q You don't see it full of blood, do you?

20 A No.

21 Q Did you try or place the LCV on it to find out
22 whether or not there was blood there?

23 A We did.

24 Q Okay. And that's because maybe somebody wiped it
25 off; right?

1 A Possibly, yes.

2 Q Okay. And the naked eye can't catch it?

3 A Correct.

4 Q What am I looking at now?

5 A That would be the fluorescence or the luminesce that
6 I was attempting to describe verbally just a little bit
7 ago. That's the backseat.

8 Q The fact that it turned blue means what -- or
9 purple?

10 A The presence of blood. Again, that particular
11 chemical, it grabs on to the hemoglobin.

12 Q Okay. How about there?

13 A Same. It gives it that bluish-purpleish color.

14 Q And we kind of saw something that looked like blood
15 in that area?

16 A We did.

17 Q So, not too surprised, are you?

18 A No, ma'am.

19 Q How about there?

20 A Same.

21 Q Okay. Was all of this in the Cadillac in the
22 backseat behind the driver's seat? Like what door?

23 A Yes, that would be the driver's side rear.

24 Q Okay. And that was the only spot that fluoresced?

25 A As best as I can recall, yes.

1 Q Okay. And you said something earlier about the
2 seatbelt. What seatbelt would you see blood on in the
3 Cadillac?

4 A The same area behind the driver's seat. So, the
5 rear driver's side --

6 MS. LIVESAY: Go back. One more.

7 A That seatbelt in that photo.

8 BY MS. LIVESAY:

9 Q Right there?

10 A Yes, ma'am.

11 Q Okay. So, you swabbed the seatbelt in that area to
12 see whether or not there was blood there and who the blood
13 belonged to?

14 A Well, it was swabbed, yes.

15 Q Okay. Okay. And the items in the floorboard, the
16 pizza and the Pringles, were they just there when you got
17 the Cadillac?

18 A Yeah, I didn't touch any of that.

19 Q Do you know where they came from?

20 A No, I do not.

21 Q So, you don't know if they came from the Sunhouse on
22 May 31st?

23 A I would have no idea as to ---

24 Q Okay.

25 A --- when they got there. Okay. If they were

1 covered in mold, they would have been there awhile. That
2 would have been consistent with being in there for a long
3 time. But it doesn't appear that there's mold on that
4 pizza. But, no, I don't have an exact date that was
5 there.

6 Q Okay. You just know it was there on 6/1/2022?

7 A This was 6/3.

8 Q 6/3. When was the car towed?

9 A The car was towed on 6/1. I executed the search
10 warrant on the Cadillac -- if I may, just to be sure.

11 Q Sure can.

12 A 6/3.

13 Q When was it towed to the police department?

14 A It's dated 6/1.

15 Q Okay. Do you have any reason to believe these items
16 were put in there by somebody at the police department?

17 A No.

18 Q Okay. So, this backseat looks however it looked
19 when it was towed there on 6/1?

20 A Yes, ma'am.

21 Q You just happened to snap the shot on June 3rd?

22 A Correct. I executed the search warrant on the
23 Cadillac on 6/3.

24 Q Okay. And let me ask you something: Who those
25 items belong to in the Cadillac, these items here on the

1 floor, would that give you some indication as well as who
2 had been in the Cadillac?

3 A Just to look at them there, no. I have no idea.

4 Q Okay. And after you searched the Cadillac, where
5 did you go next to search?

6 A Okay. So, there was -- throughout this
7 investigation, I'm involved in four parts. I had the
8 initial scene as we discussed, the two vehicles that we
9 just finished talking about, and then there was an address
10 of [REDACTED] Road.

11 Q So, next you go to [REDACTED] Road?

12 A Correct.

13 Q Okay. And I'm going to show you what's been marked
14 as State's Evidence No. 30. Do you recognize what I'm
15 showing you?

16 A I do.

17 Q And what is it?

18 A That would be a box manufactured by GLOCK that they
19 place their weapons in there and usually a magazine. And
20 that's the container that you get when you purchase a
21 firearm.

22 Q So, a gun box?

23 A It's a gun box.

24 Q And does it have an Horry County Police Department
25 sticker?

1 A It does.

2 Q And does it indicate where the gun box was located
3 from?

4 A Gun box description, this one in particular just has
5 the serial number noted on it.

6 Q Okay. Do you know where it was found at?

7 A Do I know where it was -- yes.

8 Q Where?

9 A It was located on the property [REDACTED] Road to the
10 rear of the main residence. And I say main residence.
11 There was a residence on the property, there was an out
12 building, and out in behind the main residence, there was,
13 like, a collection of I want to say three vehicles. It
14 was inside one of those vehicles in the rear seat in a bag
15 in a backpack.

16 MS. LIVESAY: Okay. Your Honor, at this time, the
17 State wishes to put Item No. 30 into evidence and publish
18 it to the jury at the appropriate time.

19 THE COURT: Any objection?

20 MR. WILSON: No, that's fine. I don't have an
21 objection.

22 THE COURT: Mr. Galmore?

23 MR. GALMORE: No, sir, no objection.

24 THE COURT: State's Exhibit 30 admitted into
25 evidence without objection.

1 (State's Exhibit No. 30 was received into evidence.)

2 BY MS. LIVESAY:

3 Q And the car -- you say it was located in a car?

4 A Yes.

5 Q Okay. But was that car operable?

6 A No.

7 Q So, the car wouldn't go anywhere?

8 A No. None of the three appeared that they were
9 recently driven, if I can phrase it that way.

10 Q Okay. And so, a backpack was in this car?

11 A Yes.

12 Q Okay. And in the backpack was the gun box?

13 A Yes.

14 Q And this was at [REDACTED] Road?

15 A It was.

16 Q And the gun box has a serial number on it; correct?

17 A It does.

18 Q And you can actually run the serial number and find
19 out the caliber of the weapon that belongs to that gun
20 box?

21 A Correct.

22 Q And, in fact, the serial number was run through an
23 ATF trace; is that correct?

24 A That's correct.

25 Q And what caliber of weapon does the gun box belong

1 to?

2 A I don't believe I have that attachment, but a G26 --
3 model G26 of a GLOCK is a 9mm.

4 MS. LIVESAY: Court's indulgence.

5 BY MS. LIVESAY:

6 Q Did you ever observe the ATF trace?

7 A Have I?

8 Q Mm-hmm.

9 A Yes.

10 Q In fact, you're the one that gave it to me; correct?

11 A Correct.

12 Q Okay. So, do you have it somewhere where you can
13 look at it now?

14 A At the moment, no, I do not. I only brought my
15 report. I did not bring my plethora of attachments, the
16 property records, the photographs. I don't have any of
17 that with me.

18 MS. LIVESAY: Okay. Give me one second.

19 THE COURT: All right. I think it's a good time for
20 us to take a break. I think several of the jurors need a
21 break.

22 We'll take a short break. Bring you back in just a
23 minute. Don't discuss the case. Leave your notepads in
24 the jury box. Thank you very much.

25 (The jury exited the courtroom at 5:40 p.m.)

1 THE COURT: All right. Anything from the State
2 before we take a short recess?

3 MS. LIVESAY: Nothing.

4 MR. WILSON: Nothing, Your Honor.

5 MR. GALMORE: No, sir.

6 THE COURT: All right. Let's take about a
7 ten-minute break.

8 You can step down, but don't discuss your testimony.

9 THE WITNESS: Yes, sir.

10 (A brief recess was taken at 5:41 p.m.)

11 (State's Exhibit No. 195, Spent Casing 9mm from
12 Passenger Rear Door Pocket, was marked for
13 identification.)

14 (State's Exhibit Nos. 19A through 19S were marked
15 for identification and received into evidence previously.)

16 THE COURT: Anything from the State before we bring
17 the jury back in?

18 MS. MARTIN: Nothing from the State, Your Honor.

19 MR. WILSON: Nothing, Your Honor.

20 MR. GALMORE: Nothing, sir.

21 THE COURT: All right. Let's bring the jury in.

22 (The jury entered the courtroom at 6:00 p.m.)

23 THE COURT: Ladies and gentlemen, welcome back.

24 Make sure you have your own notepads.

25 Ms. Livesay, you can continue your direct.

1 BY MS. LIVESAY:

2 Q Detective Bauman, I was asking you about the gun
3 box. Do you remember that?

4 A I do.

5 Q And an ATF trace was ran; correct?

6 A Correct.

7 Q If you saw it, would that refresh your memory on the
8 caliber that it belonged to?

9 A Yes.

10 It states right on the paperwork the caliber is a
11 9mm.

12 Q Okay. So, the box belongs to a 9mm handgun?

13 A Correct.

14 Q Okay. And when you found the box, was the gun in
15 there?

16 A No, ma'am.

17 Q Okay. And 9mms were fired at the crime scene;
18 correct?

19 A Yes, ma'am.

20 Q Okay. So, they match -- the gun matches the caliber
21 of some of the shell casings?

22 A Yes, ma'am.

23 Q And is that gun box, that was located at [REDACTED]
24 Road?

25 A Yes, ma'am.

1 Q Okay. I'm going to show you State's Evidence No.
2 23. Does that have a sticker on it?

3 A It does.

4 Q And does it identify the item?

5 A It does. .45 caliber bullet.

6 Q Okay. And where was it located?

7 A Located, top drawer of small dresser.

8 Q Okay. And what address?

9 A At the -- this incident number. The address -- top
10 of dresser -- small dresser.

11 Q Let me show you the chain. Can you decipher from
12 the chain?

13 A I mean, I know, when I made reference, when I was at
14 [REDACTED], the small dresser -- I identified a tall dresser and
15 a small dresser ---

16 Q Okay, perfect.

17 A -- that would have been at the end of the hallway to
18 the right. After you go through the front door and you're
19 in the living room, you would have to traverse the hallway
20 and you would come into a Bedroom No. 1, and then a
21 bathroom, and then what I'm referring to as Bedroom No. 2.
22 In that room, there was a tall dresser and a small
23 dresser. And that's how I differentiated.

24 Q Okay. So, ultimately, it was found in a dresser in
25 [REDACTED] Road?

1 A Located top drawer of small dresser, yes. Yes.

2 MS. LIVESAY: At this time, Your Honor, the State
3 wishes to place State's Exhibit 23 into evidence.

4 THE COURT: Any objection?

5 MR. WILSON: No objection, Your Honor.

6 THE COURT: Mr. Galmore?

7 MR. GALMORE: No, sir.

8 THE COURT: State's Exhibit 23 admitted into
9 evidence without objection.

10 (State's Exhibit No. 23 was received into evidence.)

11 BY MS. LIVESAY:

12 Q And what is the caliber of the live round?

13 A .45 auto.

14 Q Okay. And that means it hasn't been fired yet;
15 correct?

16 A Correct.

17 Q Okay. And were there .45 caliber rounds or shell
18 casings located at the crime scene?

19 A There were.

20 Q Okay. .45s and 9mms; correct?

21 A Yes, ma'am.

22 Q Okay. And I'm going to show you now State's Exhibit
23 No. 22 [sic]. Do you recognize what I'm showing you now?

24 A Yes, I have seen that before.

25 Q And what is it?

1 A It's a black T-shirt with a silk screening of a
2 gorilla face with a crown on it.

3 Q And who did it belong to?

4 A It belonged to -- forgive me; I want to say Kalik,
5 if I'm pronouncing it correctly. Mr. Conn.

6 Q Okay. So, this came off the victim in the Acura?

7 A Yes.

8 Q Okay. The one that was deceased in the Acura?

9 A Yes.

10 MS. LIVESAY: Okay. Your Honor, at this time, the
11 State wishes to place State's Exhibit 2 into evidence and
12 publish it to the jury.

13 THE COURT: 2 or 22?

14 THE WITNESS: 2, sir.

15 THE COURT: It's 2?

16 MS. LIVESAY: Yes, sir.

17 THE COURT: Oh, okay. Any objection?

18 MR. WILSON: I thought she said 22.

19 THE COURT: That's what she said earlier, was 22.

20 MS. LIVESAY: I'm sorry. 2.

21 MR. WILSON: All right. 2. I have no objection.

22 THE COURT: Mr. Galmore?

23 MR. WILSON: No objection, sir.

24 THE COURT: All right. State's Exhibit 2 admitted
25 into evidence without objection.

1 (State's Exhibit No. 2 was received into evidence.)

2 BY MS. LIVESAY:

3 Q Do you notice anything about the back of the
4 T-shirt?

5 A I do.

6 Q Is that hole consistent with the hole in the
7 driver's seat?

8 A That would have been the approximate area, yes.

9 Q Okay. And I'm going to show you now State's
10 Evidence No. 5. Do you mind stepping down real quick?

11 So, what am I looking at?

12 A This is an illustration. Aerial view of the parking
13 area. You're looking at the top view, again, Apartment
14 No. 1, 2, 3 and 4. This is the overall initial scene
15 where those other vehicles were located, where the Acura
16 is located, and Victim No. 2.

17 Q Okay. Is there a blood trail leading from the
18 passenger side of the Acura to Victim No. 2?

19 A Yes.

20 Q And is there also a second blood trail leading out
21 into the parking lot?

22 A Yes.

23 Q Does that indicate to you that one -- more than one
24 person is bleeding that made it out of the Acura?

25 A Yes.

1 Q Now, is there any blood around the driver's door of
2 the Acura?

3 A No.

4 Q Is the door even open?

5 A No.

6 Q Is there any indication that that young man ever had
7 the capability to get out of the car or even try to get
8 out?

9 A It did not seem so.

10 Q Car still running?

11 A It was.

12 Q Was it in park?

13 A It was.

14 Q Okay. So, the car -- driver's door was never open
15 and the gear shift was -- never even made it into drive;
16 correct?

17 A The vehicle certainly wasn't moving. So, it was
18 either park or neutral. The engine was running.

19 Q Okay. And the only bullet holes in the car were
20 either the front windshield --

21 MR. GALMORE: Judge, this has been asked and
22 answered.

23 THE COURT: Yeah, let's don't rehash it.

24 MS. LIVESAY: I'm not, Judge.

25 BY MS. LIVESAY:

1 Q Were those the only bullet holes?

2 A That's it.

3 Q Have a seat, if you don't mind, Detective.

4 Now, the Canik was further processed; correct?

5 A Yes, ma'am.

6 Q Okay. For fingerprints?

7 A Yes.

8 Q Okay.

9 A I believe it was.

10 Q Do you want to check your report?

11 A May I?

12 Q Okay. Check it.

13 A I know I swabbed the grip and trigger at the scene.

14 Q Let me show you evidence or Exhibit 20. Take a look
15 at that. Does that have an Horry County number on it?

16 A It does.

17 Q Does it have a description?

18 A It does.

19 Q And what is the description?

20 A It says, "Latent lift from lower ejection side of
21 magazine. Latent lift from lower magazine." There's a
22 SLED sticker over it, so...

23 Q Okay. And do you know whether or not there's latent
24 lifts from the magazine of the Canik, the gun outside the
25 car?

1 A I didn't do it outside the car. I only swabbed it
2 outside the car. I would have processed the gun and the
3 magazine -- for fingerprints, I would have processed it
4 back at the police department.

5 Q Okay. And did you process the Canik magazine?

6 A That's where I was headed, yes. That is my
7 handwriting so, obviously, I processed it for latent
8 lifts. So, my answer is yes. Yes. It was processed for
9 latents. The magazine was. Or I got them from the
10 magazine.

11 Q So, is Item 20 the latent lifts that you lifted from
12 the Canik magazine?

13 A Sticker No. 27, 28, and 29. Item 20. Yes.

14 MS. LIVESAY: Your Honor, at this time, the State
15 wishes to place 20 into evidence. You can put it down
16 right there. Those are going to be latent lifts from the
17 Canik.

18 THE COURT: Any objection?

19 MR. WILSON: No objection.

20 MR. GALMORE: No objection.

21 THE COURT: State's Exhibit 20 admitted into
22 evidence without objection.

23 (State's Exhibit No. 20 was received into evidence.)

24 BY MS. LIVESAY:

25 Q Okay. I want you to -- earlier, you said you

1 swabbed the Cadillac seatbelt. Do you remember that?

2 A Yes.

3 Q Okay. I'm going to show you now what's been marked
4 State's Exhibit 39. Can you tell us what that is?

5 A It has an Horry County sticker on it. Sticker
6 No. 186. It is DNA swabs, red stain, driver rear backseat
7 seatbelt.

8 Q Okay. And can you see the little swab in there, the
9 little carton?

10 A I can see the box.

11 Q Okay. And is this your writing on the box?

12 A My writing is in here, yes.

13 Q Okay. So, does that indicate that's the swab you
14 took from the seatbelt from the Cadillac?

15 A That's my initials. I sealed the box, yes. That's
16 my initials, yes.

17 MS. LIVESAY: At this time, the State wishes to
18 place 39 into evidence. It's the swab taken from the
19 Cadillac seatbelt.

20 MR. WILSON: No objections.

21 MR. GALMORE: No objection.

22 THE COURT: State's Exhibit 39 admitted into
23 evidence without objection.

24 (State's Exhibit No. 39 was received into evidence.)

25 BY MS. LIVESAY:

1 Q I'm going to show you State's Exhibit No. 12. Do
2 you recognize those items?

3 A Yes.

4 Q And what are those items?

5 A They are DNA swabs of red stains. The driver rear
6 wheel/rim and there's four others. Interior driver rear
7 seat pillar. Interior driver rear backseat. Red stain.
8 Passenger seat near the center. And then red stain, rear
9 center seat.

10 Q And are those the swabs you took from the Acura?

11 A Yes.

12 Q Okay. And that's from the pictures we saw earlier
13 of the blood in the backseat?

14 A Yes.

15 Q Okay.

16 MS. LIVESAY: Your Honor, at this time, the State
17 wishes to place State's Exhibit 12 into evidence. It's
18 the swabs from the backseat of the Acura.

19 THE COURT: Any objection?

20 MR. WILSON: No objections.

21 MR. GALMORE: No objections.

22 THE COURT: State's Exhibit 12 admitted into
23 evidence without objection.

24 (State's Exhibit No. 12 was received into evidence.)

25 BY MS. LIVESAY:

1 Q I've got one more item: The shell casing. Did you
2 -- showing you now State's Exhibit 195. Do you recognize
3 that? Does it have an Horry County Police Department seal
4 on it?

5 A It does.

6 Q And does it have the description?

7 A It does.

8 Q And what is it?

9 A Spent casing PMC 9mm Luger, passenger rear door
10 pocket.

11 Q Okay. So, would that be the casing that you
12 collected later out of the rear pocket of the Acura?

13 A Yes, it would be because it's 147.

14 MS. LIVESAY: Your Honor, at this time, the State
15 wishes to place 195 into evidence. It's going to be the
16 casing from the rear compartment in the Acura.

17 THE COURT: Any objection?

18 MR. WILSON: No objection.

19 MR. GALMORE: No objection.

20 THE COURT: State's Exhibit 195 admitted into
21 evidence without objection.

22 (State's Exhibit No. 195 was received into
23 evidence.)

24 MS. LIVESAY: One second, Your Honor, please.

25 THE COURT: All right.

1 BY MS. LIVESAY:

2 Q So, after you did the search warrant at [REDACTED] Road,
3 did you go to any other physical locations to perform any
4 kind of search?

5 A I did not. I'm responsible for the initial scene,
6 [REDACTED] Road, and the Acura and the Cadillac.

7 Q Okay.

8 MS. LIVESAY: No further questions, Your Honor.

9 THE COURT: All right. Let me see the attorneys for
10 a second.

11 BENCH CONFERENCE

12 (The following bench conference was held outside the
13 hearing of the jury and others.)

14 THE COURT: I'm assume y'all's cross is going to go
15 on for a while.

16 MR. WILSON: Yeah, it's going to be lengthy.

17 THE COURT: We'll go ahead and break now until
18 Friday.

19 MR. WILSON: Yes, sir.

20 (Open court resumes as follows:)

21 THE COURT: All right. Ladies and gentlemen, it's
22 6:15. We've been at it since 9:30 this morning. We're
23 going to go ahead and break for the day. Also, we will
24 not be having court tomorrow. I'll need you back Friday
25 at 9:15 and we'll get started. We have got some other

1 matters we have to tend to tomorrow, and so, we're going
2 to continue this until Friday morning.

3 Please be back at 9:15 Friday morning. Leave your
4 notepads in the jury box. Again, do not discuss the case
5 even among yourselves. Don't conduct any independent
6 investigations.

7 I hope you have a good day tomorrow and we'll see
8 you back Friday morning. Thank you very much.

9 (The jury exited the courtroom at 6:17 p.m.)

10 THE COURT: All right. Detective Bauman, we're in
11 the middle of your testimony, so the law says you cannot
12 discuss your testimony with anyone, whether it be the
13 solicitors, defense attorneys, family members. You can't
14 talk about your testimony with anyone, whether that be
15 what you testified to thus far or what you anticipate
16 testifying to in the future. All right?

17 MS. LIVESAY: Understood.

18 THE COURT: All right. Thank you very much.

19 Anything from the State before we recess?

20 MS. MARTIN: Nothing from the State.

21 MR. WILSON: Nothing, Your Honor.

22 MR. GALMORE: No, sir.

23 THE COURT: We'll be in recess until-- I'll take the
24 bench at 9:30 Friday morning.

25 MS. MARTIN: 9:30?

1 THE COURT: 9:30. I have the jury coming back 9:15.

2 MS. MARTIN: Will you -- since I just don't feel
3 comfortable talking to Mr. Bauman, will you direct him to
4 be here at 9:15 as well?

5 THE COURT: Well, I mean, he's under subpoena.

6 MS. MARTIN: I just want to make sure that he's here
7 in enough time to get him on the stand and everything
8 before the jury.

9 THE COURT: Well, that's -- telling him what time to
10 be here is not discussing his testimony.

11 MS. MARTIN: I know. I just get nervous.

12 THE COURT: All right. Thank y'all very much.

13 (The trial adjourned for the day at 6:18 p.m.)

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CERTIFICATE OF COURT REPORTER

CASE NAME/NUMBER: State v. Grate and Grate

DATE OF HEARING: August 21, 2024 (Trial Day 3)

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings to the best of my ability, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

_/s/ Bobbi Fisher_____

Bobbi Fisher, RPR, Court Reporter III

Date Submitted: 12/16/24

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1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 *
 2 COUNTY OF HORRY * TRANSCRIPT OF RECORD

3 -----X
 4 STATE OF SOUTH CAROLINA, *
 *
 5 State, *
 *
 6 vs. * Case No. 2023-GS-26-00422
 * 2023-GS-26-00423
 * 2023-GS-26-00453
 7 DAJON MALIK LAVERN GRATE, *
 *
 8 Defendant. *
 9 -----X

10 STATE OF SOUTH CAROLINA, *
 *
 11 State, *
 *
 12 vs. * Case No. 2023-GS-26-00424
 * 2023-GS-26-00425
 * 2023-GS-26-00452
 13 NASIREA BREWNOPLIS JEROME *
 *
 14 GRATE, *
 *
 15 Defendant. *
 -----X

August 19-28, 2024

TRIAL - VOLUME 4
Friday, August 23, 2024

B E F O R E:

The Honorable Benjamin Culbertson, Presiding Judge;
and a jury.

Court Stenographer: Bobbi Fisher, RPR
SC Official Court Reporter III

NOTE: There was no court held Thursday, August 22, 2024.

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

Nancy Livesay, Esq.

Liz Martin, Esq.

Assistant Solicitors for the State

James Galmore, Esq.

Attorney for Defendant Dajon Grate

Ralph Wilson, Sr., Esq.

Attorney for Defendant Nasirea Grate

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID.	REC'D
196	Photograph of Grate with Face Mask/Hat	759	
197	Photograph of Grate with Face Mask/Hat	759	
198	ID ONLY - Chain of Custody	795	

1 P R O C E E D I N G S

2 (9:34 a.m.)

3 MOTION/MATTER OF LAW

4 THE COURT: I guess first thing is we need to
5 address the email I got from the solicitor's office
6 yesterday. How do we want to proceed on that?

7 MS. LIVESAY: So, I think what we would like -- and
8 I have already talked with Mr. Wilson about it; I talked
9 to him yesterday morning. I think probably the best thing
10 to do is to have an in camera hearing either in here with
11 everybody else out of the room, allow you to ask whatever
12 questions you need, Judge, if you deem that necessary.

13 I attached the two affidavits. I don't know if
14 that's sufficient or not. But if it's not, I have got
15 those two ladies here. So, if an in camera hearing needs
16 to be had, they're present and they're ready.

17 THE COURT: All right. Mr. Wilson?

18 MR. WILSON: That process is fine with me, Your
19 Honor. I just think we have to put whatever we need to
20 put in the record so that it's clear.

21 THE COURT: Well, we're going to have to address it.
22 Okay?

23 MR. WILSON: Yes, sir.

24 THE COURT: All right. I guess we need to clear the
25 courtroom and just call in people as we need them?

1 MS. LIVESAY: So, however you want to do it, Judge.
2 We can clear either the courtroom or you can do it in your
3 chambers. However you want to do it.

4 THE COURT: Yeah, let me find out.

5 I guess the easiest for you would be to stay here or
6 how hard is it to --

7 COURT STENOGRAPHER: I can move.

8 THE COURT: Is there another courtroom available?

9 THE DEPUTY: 3-A.

10 THE COURT: 3-A? Do we want to do 3-A?

11 MS. LIVESAY: Okay.

12 THE COURT: Is that agreeable?

13 MR. WILSON: Yes, sir.

14 THE COURT: All right. So, who do we need in there?

15 MS. LIVESAY: I would think, if you want to put it
16 on the record, Ms. Beam would need to be in there first
17 and put on the record, you know, all of what I sent you,
18 and if you have any questions for her. And I would assume
19 Mr. Wilson. I don't need to be in there. I don't think
20 James needs to be in there. I don't think anybody else
21 needs to be in there.

22 THE COURT: Well, everybody just sit tight because
23 we may be calling you in there.

24 MS. LIVESAY: Oh, yeah. Definitely. But you know
25 what I'm saying. I don't want to be in there until it's

1 the appropriate time.

2 MR. WILSON: Your Honor, while I do think that we
3 have to have a hearing and I think it has to be in camera,
4 I don't think that the solicitor can be present during
5 that.

6 MS. LIVESAY: I agree.

7 THE COURT: Well, that's what she's saying is,
8 number one -- you said Ms. Beam? Riley Beam?

9 MS. LIVESAY: Riley Beam. Yes, sir.

10 THE COURT: All right. And --

11 MS. LIVESAY: Madison Genevro.

12 THE COURT: All right. We have got Ms. Genevro,
13 Ms. Beam. And what about Ms. Vinson?

14 MS. LIVESAY: That's up to you, Judge. I mean, you
15 can certainly call her in there just to say "I don't have
16 anything."

17 THE COURT: I think what I have got to do is let
18 Mr. Wilson have access to whoever he wants to question.

19 MR. WILSON: I want whoever was present. And I
20 don't know who that was.

21 THE COURT: Well, according to the memorandum, Riley
22 Beam was in her office and overheard the conversation.

23 MS. LIVESAY: That's right.

24 THE COURT: She spoke with Madison Genevro.

25 MS. LIVESAY: That's correct.

1 THE COURT: And the two of them went and spoke with
2 Ms. Vinson.

3 MS. LIVESAY: Riley called Lauren Vinson, who is in
4 Family Court, and asked her what to do, but she didn't
5 disclose any of the contents to her.

6 THE COURT: She just said, "What do I do?"

7 MS. LIVESAY: Yes. "I overheard this conversation
8 and what do I do?"

9 And Lauren said, "Don't tell me anything. You need
10 to tell Solicitor Richardson."

11 THE COURT: Okay. That's when they got Solicitor
12 Richardson ---

13 MS. LIVESAY: That's right.

14 THE COURT: --- Scott Hixson, and all of them came
15 together?

16 MS. LIVESAY: Yes.

17 THE COURT: Okay.

18 MS. LIVESAY: And we're available too, Your Honor --
19 myself, Ms. Martin, anybody else -- just to take the stand
20 and say that we do not know any of the contents of the
21 conversation.

22 THE COURT: I gotcha. All right. Well, I think,
23 first, we'll start off with Ms. Beam. Mr. Wilson?

24 MR. WILSON: Yes, sir, that's fine.

25 THE COURT: Now, I mean, do you want your client in

1 there too?

2 MR. WILSON: Yes, sir.

3 THE COURT: How hard is that going to be to get him
4 in?

5 MR. WILSON: He's not in custody.

6 MS. LIVESAY: He's not in jail.

7 THE COURT: Okay. So, he can go into Courtroom A as
8 well.

9 MS. LIVESAY: Sure.

10 THE COURT: Okay. All right.

11 MR. GALMORE: Your Honor, I believe I should be
12 present as well just to protect my client's interest,
13 whatever those might be.

14 THE COURT: Well, this has to do with Mr. Wilson and
15 his client and whether or not there was any breach of
16 confidentiality there.

17 MR. GALMORE: I understand, but we're all on trial
18 together.

19 MR. WILSON: And let me say -- and it's -- I can't
20 really -- I think that he needs to be there, and I'll
21 explain to you why when we get in camera. I don't want to
22 tell you why now in open court.

23 THE COURT: I can understand that. The first
24 question I'm going to have, though, is this deals with
25 attorney-client privilege.

1 MR. WILSON: Absolutely. Yes, sir.

2 THE COURT: If there is a disclosure, even in the
3 course of this in camera hearing, to someone outside the
4 attorney and the client, it's no longer privileged.

5 MR. WILSON: That's -- I understand. But the
6 privilege is already broken, which is what my point is.
7 The privilege is already broken even though, as innocent
8 as it may have been, the fact that I am unaware that they
9 were able to hear my conversation with my client in and of
10 itself is a violation.

11 THE COURT: Well, my question is, if Mr. Galmore is
12 present and participates in the in camera hearing, has
13 your client effectively waived any privilege to that
14 conversation?

15 MR. WILSON: I can see that argument as well.

16 THE COURT: I think the best thing is to just limit
17 it to you, your client. You can still disclose in the
18 in camera hearing whatever you want to disclose in the
19 in camera hearing and then we can make a decision. But
20 rather than saying Mr. Galmore and his client are in there
21 initially, I would hold off on that because I think -- you
22 say they can participate in the in camera hearing and then
23 your client has waived any privilege that exists.

24 MR. WILSON: I understand that ruling. And my
25 point, though, is the privilege has already been violated,

1 so it doesn't even matter at this point how many other
2 people hear it. It's already been violated once
3 she overheard it. And --

4 THE COURT: Well, and -- excuse me for interrupting.

5 MR. WILSON: Yes, sir.

6 THE COURT: But as I understand, it's a two-prong
7 test. Number one, is it intentional prosecutorial
8 misconduct? If it is, then mistrial, solicitor's office
9 is recused; we start all over with a different prosecutor.
10 If it is not, then you have to show prejudice to your
11 client.

12 I don't want to create a prejudice by having someone
13 participate in an in camera hearing when the prejudice
14 could have been -- when prejudice doesn't exist now.
15 Let's say, hypothetically, prejudice does not exist now;
16 then, if Mr. Galmore is in there, that might create a
17 prejudice. Certainly if Ms. Livesay is in there, it could
18 create a prejudice.

19 MR. WILSON: That's fine.

20 THE COURT: So, I think it's going to be best to
21 just limit it to you, your client, and then whoever we
22 deem we need to speak with which, initially, I think we
23 all agree Ms. Beam is going to be one.

24 MR. WILSON: Yes, sir.

25 THE COURT: All right. Let's take --

1 MS. LIVESAY: So, do you want us all to leave or are
2 y'all going to Courtroom A or what?

3 THE COURT: Well, I guess my question is, what is
4 the easiest? To go to A?

5 COURT STENOGRAPHER: Sure.

6 THE COURT: All right. Let's take about a five- or
7 ten-minute break and let the court reporter get over in
8 Courtroom A and we'll proceed in Courtroom A.

9 (A recess was taken from 9:43 a.m. to 9:49 a.m.,
10 resuming in Courtroom 3-A.)

11 IN CAMERA HEARING

12 THE COURT: All right. This is State of South
13 Carolina versus Nasirea Brewnoplis Jerome Grate regarding
14 Indictments 2023-GS-26-00424 and 00425. This is an
15 in camera hearing to determine whether or not there has
16 been a violation of the defendant's Sixth Amendment
17 rights, a breach of attorney-client privilege.

18 Present during this hearing are the defendant; his
19 attorney, Ralph Wilson.

20 And, ma'am, could you state your name.

21 MS. BEAM: Riley Beam. It's B-e-a-m.

22 THE COURT: All right, Ms. Beam. If I could get you
23 to raise your right hand, please.

24 RILEY BEAM,

25 after having been duly sworn, was examined and

1 testified to as follows:

2 THE COURT: All right. Any objection to her
3 speaking from right there?

4 MR. WILSON: No, sir.

5 THE COURT: Now, Ms. Beam, it's been brought to the
6 Court's attention that you overheard a conversation
7 between Mr. Wilson and his attorney?

8 MS. BEAM: Yes.

9 THE COURT: And when was this?

10 MS. BEAM: This was Wednesday morning, so that would
11 be the 20th.

12 THE COURT: Okay. Tell us what happened.

13 MS. BEAM: I was in my office working on a
14 spreadsheet, and I didn't have --

15 THE COURT: Excuse me. Before we go any further,
16 don't get into what was said.

17 MS. BEAM: Absolutely.

18 THE COURT: But just give us the situation as to
19 what transpired.

20 MS. BEAM: Absolutely.

21 THE COURT: Okay. Go ahead.

22 MS. BEAM: I was in my office working on a
23 spreadsheet, and I was starting to hear voices from the
24 wall that's behind me. And that has happened before, but
25 I have not been able to actually discern the conversation.

1 I could only hear Ralph Wilson speak because I
2 recognized his voice and it was very clear, but I couldn't
3 hear any other voices about the conversation, only
4 Mr. Wilson's voice.

5 After that, I kind of didn't know what to do. I
6 didn't really know how serious it was, so I contacted one
7 of my co-workers asking for help. She came upstairs. I
8 pulled her into my office. And I, unfortunately,
9 disclosed parts of the conversation that I overheard and
10 asked what I should do.

11 We agreed that I should talk to an attorney that has
12 nothing to do with this, so I decided to talk to one of
13 our Family Court attorneys because she's not in General
14 Sessions and I have worked with her before and I did trust
15 her.

16 So, I went to her office to ask what I should do.
17 She stopped me. She said, "Do not say anything about this
18 conversation. Go to Jimmy. Call Jimmy. Talk to the
19 solicitor as soon as you can. Say nothing else." And so,
20 I did that.

21 I met with Mr. Richardson at 9:30 the next day, so
22 that would be Thursday morning. That was a closed-door
23 conversation in his office. I started by saying, "I
24 overheard something," and he said, "Do not say anything
25 about the contents of what was said but explain the

1 logistics of how it happened."

2 So, I explained the logistics to him, and we
3 discussed it. He brought in Deputy Solicitor Mr. Hixson.
4 We discussed it again. Did not disclose any of the
5 contents of the conversation.

6 And then we brought in Nancy Livesay and Liz Martin
7 to also discuss what was going on. At that point, we all
8 agreed, that second, I'm not on this case anymore. Any of
9 the materials I was working on was going to be handed over
10 to another person to finish. I wasn't to be in the
11 courtroom. I wasn't to be anything with this case
12 anymore.

13 And we also discussed me being out of that room for
14 the trial for the time being. So, whenever trial starts
15 up again, I will move my office down to the solicitor's
16 office downstairs, is kind of the situation.

17 THE COURT: All right. Now, I understand the first
18 person you contacted is Madison Genevro?

19 MS. BEAM: That is correct, yes.

20 THE COURT: And what is her position?

21 MS. BEAM: She is the victim advocate for the
22 criminal sexual conduct team.

23 THE COURT: Okay. And you disclosed to her what you
24 heard?

25 MS. BEAM: Yes, yes. Part of what was said.

1 THE COURT: All right. And then the two of y'all
2 went and discussed with Ms. Vinson? Who is that?

3 MS. BEAM: That is a Family Court attorney. But to
4 clarify, I'm the only one that went to Lauren Vinson about
5 this conversation.

6 THE COURT: Okay. So, you just went to Ms. Vinson.

7 MS. BEAM: Yes. We had a conver- -- yes.

8 THE COURT: But you didn't disclose to her what you
9 heard.

10 MS. BEAM: No.

11 THE COURT: Okay.

12 MS. BEAM: She explicitly said that she does not
13 want to know what the conversation was. She also did not
14 know the case that was going on at the time because she
15 doesn't work in General Sessions.

16 THE COURT: All right. So, the only person you
17 disclosed at least part of what you heard was to
18 Ms. Genevro.

19 MS. BEAM: Yes. And that was within my office with
20 the door closed.

21 THE COURT: All right. And when you overheard the
22 conversation, you were in your office?

23 MS. BEAM: Yes.

24 THE COURT: And you just heard through the wall from
25 an adjoining office?

1 MS. BEAM: Yes.

2 THE COURT: And what is the adjoining office?

3 MS. BEAM: The adjoining office is the -- from my
4 understanding, the defense counsel's side room outside of
5 3-B. My office is 3A67, I believe. It backs up -- it's
6 in the front hallway, is the door, but my side wall backs
7 up to that.

8 THE COURT: So, that defense conference room and
9 your office have a common wall.

10 MS. BEAM: Yes, they do.

11 THE COURT: I gotcha.

12 Mr. Wilson, any questions or anything you want
13 clarified?

14 MR. WILSON: Just a couple of questions, Your Honor.
15 I would like to know how long she's been in that office.

16 MS. BEAM: Absolutely.

17 THE COURT: Okay. How long have you been in that
18 office?

19 MS. BEAM: That specifically? On and off for about
20 two years.

21 THE COURT: How often have you heard defense counsel
22 speaking with clients in that adjoining office?

23 MS. BEAM: Actually, very sparingly, because a large
24 majority of my work is IT help, so I'm constantly running
25 to other places or I'm doing video editing, which requires

1 me to have headphones on and to work on audio mixing.

2 MR. WILSON: I would ask her if she heard -- prior
3 to this conversation, with any other lawyers, did she tell
4 someone that she heard Axelrod's voice in there talking to
5 one of his defendants in the past.

6 THE COURT: I guess has this situation ever come up
7 before?

8 MS. BEAM: This has never come up before because
9 most of the cases that I work for -- for example, anything
10 that I do video editing for, I am in trial working court.
11 I am helping with the presentation of digital evidence.
12 This is the first time that I have not been needed for a
13 case that I worked on.

14 THE COURT: Okay. So, you have never -- well, let
15 me ask you this: On prior occasions, you've heard
16 conversations between defense counsels and their clients?

17 MS. BEAM: Yes. I've had no knowledge of the
18 defense attorney in the room or the client in the room,
19 and oftentimes, when I overheard it, it was a civil trial
20 going on that day. I have never heard it for a General
21 Sessions trial.

22 THE COURT: I see. Okay.

23 MS. BEAM: I could not tell you the people's names.
24 But I do recognize Mr. Wilson's voice.

25 THE COURT: Okay. So, this is the first time it's

1 ever heard in a General Sessions setting.

2 MS. BEAM: Yes.

3 THE COURT: And you deal only in General Sessions
4 cases.

5 MS. BEAM: Yes, yes. Specifically trials. I deal
6 with just trial prep in terms of cases.

7 THE COURT: All right. Does that answer your
8 question or anything further?

9 MR. WILSON: Yes, sir, that answers my question.

10 THE COURT: Anything else you need?

11 MR. WILSON: My understanding is she's saying she
12 told just one other person part of what occurred, but
13 there's no conversation -- well, let me back up.

14 With the Family Court attorney, who is also with the
15 Solicitor's Office, Ms. Vinson -- Lauren Vinson is an
16 assistant solicitor who does Family Court. So, my
17 understanding is she had a conversation with Ms. Vinson
18 but that she didn't disclose that to Ms. Vinson. Is
19 that --

20 THE COURT: You didn't -- you disclosed what
21 happened but not the contents of Mr. Wilson's
22 conversations with his client.

23 MS. BEAM: Yes, absolutely. I went to her office
24 and I asked, "I overheard a conversation; what should I
25 do?" She said, "Don't tell me anything else about it.

1 Talk to Jimmy."

2 THE COURT: Jimmy Richardson being the solicitor.

3 MS. BEAM: Jimmy Richardson. I apologize.

4 THE COURT: And that's what you did.

5 MS. BEAM: Yes.

6 THE COURT: So, the only person to whom you
7 disclosed the contents of the conversation was
8 Ms. Geneviro.

9 MS. BEAM: Correct.

10 THE COURT: Okay. Anything else?

11 MR. WILSON: No, nothing else.

12 THE COURT: Do you want Ms. Geneviro?

13 MR. WILSON: Yes, sir.

14 THE COURT: Okay. Would that be the next one we
15 need to speak with?

16 MR. WILSON: Yes, sir.

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

18 MS. BEAM: Absolutely.

19 THE COURT: You're free to go. We need to get
20 Ms. Geneviro in here. I don't know --

21 MS. BEAM: I can just go in and get her.

22 THE COURT: However you want to do it. If you can
23 just go tell Ms. Geneviro we need to speak with her.

24 MS. BEAM: Absolutely. Thank you.

25 THE COURT: Thank you.

1 (Pause in the proceedings from 10:00 a.m. to
2 10:02 a.m. Ms. Beam exited the courtroom; Ms. Genevro
3 enters the courtroom.)

4 THE COURT: Ma'am, you are Madison Genevro?

5 MS. GENEVRO: Mm-hmm. Yes, sir, Your Honor.

6 THE COURT: Am I pronouncing that correctly?

7 MS. GENEVRO: Mm-hmm, you are. Sorry; it's Italian.

8 THE COURT: That's all right.

9 All right. If I can get you to raise your right
10 hand, please.

11 MADISON GENEVRO,

12 after having been duly sworn, was examined and
13 testified to as follows:

14 THE COURT: All right. Thank you. You can have a
15 seat right there.

16 Now, we have been speaking with Ms. Beam about her
17 overhearing some conversations.

18 MS. GENEVRO: Mm-hmm.

19 THE COURT: Tell us your involvement in what
20 happened.

21 MS. GENEVRO: Mm-hmm, yes, sir. So, the other
22 morning -- I believe it was Wednesday morning -- Ms. Beam
23 had contacted me and let me know that she heard something
24 and it felt, in her words, illegal, and she didn't know
25 what to do about it. That was a little bit before

1 lunchtime.

2 Around lunchtime -- and I'm so sorry. I'm a victim
3 advocate with the solicitor's office, and part of my job
4 duties as a victim advocate is to help get meals for
5 victims and witnesses, especially when court is involved.

6 Well, the victim advocate working court for this
7 trial needed some help, as there's a bunch of witnesses
8 and victims, so I helped another advocate bring some food
9 upstairs, and that is when I saw Ms. Beam, as her office
10 is right next to the courtroom. And she pulled me in.
11 She let me know what she had heard, and she asked me what
12 she should do about it.

13 And I told her, "Unfortunately, I'm not sure," and I
14 apologized, but I told her that she should probably ask
15 somebody with some more experience. I'm not entirely sure
16 how we got to the point of Ms. Vinson, but we agreed that
17 it shouldn't be somebody within our office in terms of
18 prosecution in criminal work.

19 THE COURT: And then what happened?

20 MS. GENEVRO: To my knowledge, I know that she had
21 contacted Ms. Vinson and had spoken to her. I was not
22 involved in the conversation with Ms. Vinson, but she had
23 let me know afterwards that it was very serious and made
24 sure that I knew that I should not tell a single soul.
25 And prior to her telling me that, I had not told a single

1 soul and nor do I plan on telling a single soul.

2 THE COURT: Okay. So, she disclosed part of the
3 conversation to you.

4 MS. GENEVRO: Mm-hmm. Yes, Your Honor.

5 THE COURT: And have you disclosed it to anyone?

6 MS. GENEVRO: No, Your Honor.

7 THE COURT: All right. Did you talk to Ms. Vinson
8 at all?

9 MS. GENEVRO: No, Your Honor, I have not.

10 THE COURT: Have you spoken to anyone about this --
11 anybody else within the solicitor's office or anywhere
12 else?

13 MS. GENEVRO: No, Your Honor, and nor do I plan to.

14 THE COURT: Okay. And are you involved in this
15 case -- oh, you were helping with getting the meals and
16 stuff like that.

17 MS. GENEVRO: Yes. The only other involvement I
18 have in this case is I helped inform of the victim's moms
19 about a previous co-defendant having pled guilty, I
20 believe, on August 12th, and I provided her a work excuse
21 for this trial.

22 THE COURT: I see.

23 Mr. Wilson?

24 MR. WILSON: I don't have any questions, Your Honor,
25 for her.

1 THE COURT: All right. Thank you very much.

2 MS. GENEVRO: Thank you, Your Honor.

3 THE COURT: Who else do you need or do you want to
4 speak with?

5 MS. GENEVRO: Do you want me to grab anyone for you?

6 THE COURT: Well, that's what I --

7 MR. WILSON: The only -- I mean, I don't know that I
8 need to talk to anybody else. I mean, they have said --
9 both have said they haven't disclosed it to anybody else.
10 I guess I need -- I don't know what she told Ms. Vinson so
11 I do need -- I guess we need to talk to Ms. Vinson to find
12 out what was said to her, if anything.

13 She's the one, apparently, who told them not to
14 disclose it any further to anybody because that all
15 happens prior to them meeting with Mr. Richardson and
16 Mr. Hixson.

17 THE COURT: All right. Then let's see if we can
18 get --

19 MR. WILSON: Her name is Lauren Vinson.

20 THE COURT: Lauren Vinson? All right. If can get
21 Lauren Vinson.

22 MS. GENEVRO: I can grab her, Your Honor. She is on
23 the second floor so it might take me, like, five minutes.

24 THE COURT: That will be fine.

25 (Pause in the proceedings from 10:06 a.m. to

1 10:13 a.m. Ms. Genevro exits the courtroom; Ms. Vinson
2 enters the courtroom.)

3 MR. WILSON: Your Honor, the only other person that
4 I would want after this is either Mr. Hixson or
5 Mr. Richardson, since they were the last ones to meet with
6 her prior to coming here.

7 THE COURT: Okay.

8 MR. WILSON: Either one is fine. It doesn't matter
9 to me.

10 THE COURT: Do we want to go ahead and maybe -- he's
11 saying he's probably going to need Mr. Hixson or
12 Mr. Richardson.

13 MS. VINSON: Do you want me to call them?

14 MR. WILSON: Either one is fine, yeah.

15 THE DEPUTY: Do you want me to go ahead and bring
16 them in also?

17 THE COURT: Don't bring them in now but let's go
18 ahead and get them down here because I don't think
19 Ms. Vinson -- we're going to be very long with her.

20 THE DEPUTY: I'll either be getting Jimmy or Scott.

21 THE COURT: Thank you. I apologize for the
22 interruption, Ms. Vinson.

23 If I can get you to raise your right hand, please.

24 LAUREN VINSON,

25 after having been duly sworn, was examined and

1 testified to as follows:

2 THE COURT: And you are Lauren Vinson?

3 MS. VINSON: Yes, sir.

4 THE COURT: All right. You can have a seat. Thank
5 you.

6 Now, we're having this in camera hearing because of
7 an incident involving Ms. Beam and Ms. Genevro. The other
8 day I understand they contacted you?

9 MS. VINSON: Ms. Beam did.

10 THE COURT: Ms. Beam. Tell us what happened.

11 MS. VINSON: Wednesday morning, Riley Beam sent me a
12 text message and said, "I need to talk to somebody. Are
13 you available?" And I said, "Yes, I am."

14 So, she came up to my office. She told me at that
15 point that she was concerned because, where she was
16 sitting, she could hear the defense speaking with their
17 client. We had a conversation at that point, because I
18 was really confused -- I don't spend a lot of time on the
19 third floor; I only work in Family Court. So, I thought
20 she was saying she in the courtroom where everybody could
21 see where she was sitting, because I know she does
22 technology for our office.

23 THE COURT: Right.

24 MS. VINSON: So, I had some confusion about what she
25 meant by that. And then, finally, she explained that she

1 was actually in her office. And she had to explain to me
2 how it's all set up, where the rooms are, and that that
3 room where the defense attorney would meet with their
4 client shares a wall with where her office was.

5 And she said she didn't know what she should do so
6 she wanted to tell somebody that she could hear things. I
7 told her at that point this is something you need to go
8 directly to Solicitor Richardson about. And I told her,
9 "You probably need to stay out of your office the rest of
10 the day" and offered my office to her.

11 She called to set up an appointment to meet with
12 Mr. Richardson as quickly as possible while she was still
13 upstairs in the Family Court office. And that was pretty
14 much the end of my role in it.

15 THE COURT: Did she disclose to you anything that
16 was said ---

17 MS. VINSON: No, sir.

18 THE COURT: --- between Mr. Wilson and the client?

19 MS. VINSON: No, sir.

20 THE COURT: All right. Mr. Wilson, anything you
21 wanted to ask?

22 MR. WILSON: Did she share with you that she had
23 overheard other voices on previous occasions?

24 MS. VINSON: I honestly don't think so.

25 MR. WILSON: Okay.

1 MS. VINSON: I believe she was referring to this
2 trial, which is why she came directly to me, but I didn't
3 ask that question.

4 THE COURT: All right.

5 MS. VINSON: I don't know how long she's been in
6 that office. Like I said, I was under the impression she
7 meant she was sitting in the courtroom when this was
8 happening.

9 THE COURT: I understand. Anything else?

10 MR. WILSON: No, sir.

11 THE COURT: All right. Thank you very much. I
12 appreciate it. Sorry to interrupt you.

13 MS. VINSON: Thank you.

14 (Pause in the proceedings from 10:16 a.m. to 10:18
15 a.m. Ms. Vinson exits the courtroom.)

16 THE COURT: I probably should have gone over this
17 earlier. Do you want to go ahead and disclose or put
18 anything on the record as to why you think Mr. Galmore
19 should have participated?

20 MR. WILSON: Yes, sir. One of the things that we
21 were talking about was his client and the fact that his
22 client had given a statement and that that statement
23 implicated my client, who is --

24 THE COURT: When you said "one of the things we
25 talked about," you're talking about you and your client?

1 MR. WILSON: That's correct.

2 THE COURT: Okay. All right. Go ahead.

3 MR. WILSON: Me and my client. We were discussing
4 that, and we were discussing whether or not he should
5 plead guilty or whether he should continue with the trial
6 and about the witnesses and what we thought our strategy
7 should be regarding the witness who -- the federal
8 witness, the one that --

9 THE COURT: Mr. Davis?

10 MR. WILSON: Yes, sir. Josh Davis.

11 And the other witness who we were discussing was
12 Todd Fry, who we were discussing whether or not he was
13 going to testify and how that was going to impact us in
14 this case and whether we wanted to -- how we wanted to
15 deal with that ---

16 THE COURT: I sese.

17 MR. WILSON: --- strategically. So, I mean, it was
18 a very intense conversation. And, Your Honor --

19 THE COURT: Excuse me for interrupting, but during
20 that conversation, Mr. Galmore and his client were not
21 part of that conversation?

22 MR. WILSON: The only people in that room were me
23 and him. Just me and my client.

24 THE COURT: All right.

25 MR. WILSON: Nobody else was there.

1 THE COURT: All right. And I apologize for
2 interrupting you.

3 MR. WILSON: No, sir. No, sir.

4 THE COURT: Anything else?

5 MR. WILSON: I just wanted to ask you --

6 THE COURT: Okay. Hold for a second.

7 THE DEPUTY: Mr. Richardson is here.

8 THE COURT: Do you want to deal with that after?

9 MR. WILSON: Yes, sir.

10 THE COURT: All right. Let's go ahead and bring him
11 in.

12 (At 10:20 a.m., Mr. Richardson entered the
13 courtroom.)

14 THE COURT: Mr. Richardson, how are you?

15 MR. RICHARDSON: Fine, Your Honor.

16 THE COURT: Good. If I can get you to raise your
17 right hand, please.

18 JIMMY RICHARDSON,

19 after having been duly sworn, was examined and
20 testified to as follows:

21 THE COURT: All right. And you can have a seat
22 right there. You're Jimmy Richardson, the solicitor?

23 MR. RICHARDSON: Yes, sir.

24 THE COURT: All right. We're here for this
25 in camera hearing regarding conversations overheard by

1 Riley Beam, who is employed with the solicitor's office.

2 MR. RICHARDSON: Yes, sir.

3 THE COURT: If you could just tell us your
4 involvement and what transpired.

5 MR. RICHARDSON: Yes, sir. Yesterday morning, I
6 guess it was around 8:30, maybe 9:00, Riley Beam came into
7 my office and closed the door. She said, "I need to tell
8 you something. I was in my office, and I heard a
9 conversation between -- I recognize the voice as being
10 Mr. Wilson and I'm guessing his client."

11 I said, "Well, Riley, don't tell me anything that
12 was said. I don't need to know it."

13 She said, "I'm not."

14 She gave me the details that, when she had heard
15 that information -- I asked her, "What did you do?" She
16 said, "I went out -- I left the room. I talked with
17 Madison, who is a victim advocate, and Madison advised her
18 to talk with an attorney that wasn't involved."

19 She said, "I went to Lauren Vinson. I didn't give
20 her the details of the conversation but I did ask her what
21 I should do, and Lauren said come get with me."

22 So, that was -- all that had taken place on
23 Wednesday afternoon. And then I was traveling back from
24 Charlotte, so Friday morning was the -- excuse me,
25 Thursday morning is when she come in and sat with me.

1 Since that time -- and we have had that office for
2 years, but I have told her not to be back in the office
3 and that we were going to move her to another office and
4 then move the storage of that office into the middle one.

5 But I don't have any clue as to what was said. I
6 stopped her from giving any information, and I told her
7 not to give that information to anyone else, which she
8 agreed not to do. So, I don't know what was said. I
9 don't know what sort of voice it was said in. I don't
10 have any clue except trying -- to my knowledge, the only
11 people would be -- that had any information was Ralph,
12 Riley, and then she told some of that to Madison.

13 THE COURT: All right. Mr. Wilson?

14 MR. WILSON: Just one question. Solicitor, do you
15 know how long she's been in that office next to the
16 defendant's -- the defense's consultation room?

17 MR. RICHARDSON: No, sir. I know that, to help you
18 and maybe you can help me, but the person that had the
19 office before was Jeanette Chichester, and when she
20 retired, I don't know if Riley -- see, Riley is not in
21 that office much. She's up there to do video editing.
22 When she has to do that, she is in that office. But I --
23 I don't -- I would say a year, maybe two years, something
24 like that ---

25 MR. WILSON: Okay.

1 MR. RICHARDSON: --- in and out of that office.

2 MR. WILSON: But you do realize that that -- that
3 her office shares a common wall with the defense's
4 consultation room? You are aware of that; right?

5 MR. RICHARDSON: I'm aware now. I didn't know as of
6 yesterday that it did.

7 MR. WILSON: Okay. I don't have anything else.

8 THE COURT: Thank you, sir.

9 MR. RICHARDSON: Thank you, Your Honor.

10 THE COURT: Appreciate it.

11 MR. RICHARDSON: Do you need me to get anyone else?

12 MR. WILSON: No, I think we --

13 THE COURT: All right. I think that covers it.
14 Thank you, sir. Appreciate it.

15 MR. WILSON: Thank you, Solicitor.

16 THE COURT: All right. You want to continue with
17 what we were discussing earlier?

18 MR. WILSON: Yes, sir. And, Your Honor, let me say
19 this at the outset: I do not believe for one second that
20 this was intentional; that this young lady -- because she
21 didn't have to come forward if she was really trying to be
22 deceitful. So, I don't believe that for one second.

23 My concern is this, is that this has been going on
24 for a long time and it's not new. And they knew -- she
25 says that she heard -- in civil cases, she's heard voices.

1 And it doesn't matter whether it's a civil case or a
2 criminal case. When a lawyer is meeting with his client,
3 he's entitled to privacy. That's the whole idea. And
4 that's why that room is set aside for us to go.

5 And the other thing that really troubles me is the
6 State took the far room and gave us, the defense, the room
7 next to where she is. They could have just as easily put
8 us on the other side and they could have taken that and
9 then this never would have happened, either in civil or
10 criminal cases.

11 The bell is rung, and not only -- not only did it
12 happen but she's also at least told part -- I don't know
13 what part, but she's told part to another person. So, it
14 didn't just stop with her. It's now in the hands of an
15 additional individual.

16 I don't know how we correct this. As I said, do I
17 think that this was some scheme or plan to try to get
18 information? I do not. I do not. And I'm not going to
19 sit here and suggest that. I'm just saying, though, that
20 they knew this problem existed and they knew it for two
21 years, according to her. She said she could hear civil
22 cases that she recognized. She said this was the first
23 time that she actually recognized a criminal case.

24 But as I said, it doesn't even matter whether it was
25 civil or criminal because it violates -- when we go in

1 those rooms like that, we go in with the expectation that
2 I can openly discuss stuff with my client without somebody
3 overhearing, which is why we go in the room; otherwise,
4 I'd just talk to him or whisper to him in the courtroom
5 and take the chance that somebody might overhear.

6 In this particular case, I mean, this was the heart
7 and soul of our defense, and it's now in the hands of the
8 prosecutor regardless of whether the guy who is standing
9 there at the bench is -- or standing there at the counsel
10 table actually heard it himself or herself. I don't even
11 know that that's important.

12 The problem is, the State has possession of it. It
13 would be no different than like we're doing with this
14 whole thing with the redacted statement that we're doing
15 on this Josh whatever his last name -- Davis. The fact
16 that the police have it and the solicitor said, "Well,
17 they won't give it to me," it doesn't matter. It's still
18 in their possession because they're law enforcement and
19 law enforcement is a part of the prosecution. Same thing
20 is true here. This lady is a part of the prosecution.
21 That's what her job is.

22 And so, for one to have it is for all to have it
23 regardless of whether they specifically gave them the
24 words that I said or whatever happened.

25 So, I just -- I don't know how we -- so, I don't

1 know the degree of prejudice because I don't know -- well,
2 I know two people know. I know two people overheard it.

3 And as I said, the thing that troubles me the most
4 is the fact that this has been going on for two years. I
5 can't tell you how many times I have been in that very
6 room with other clients, how many times. And, you know,
7 whether they overheard those conversations or not, I don't
8 know.

9 I'm troubled. And I think that -- for me, I think
10 that the State should not be allowed to continue the
11 prosecution of him and that a solicitor from another
12 circuit should be appointed to handle it because of that
13 conflict.

14 If -- Judge, in another case -- let me give you an
15 example. Let's say -- and this happens all the time.
16 Somebody from the public defender's office handles a case
17 in the public defender's office and the State is
18 prosecuting that case. Well, they can't share any of that
19 information with anybody in the solicitor's office if they
20 leave the public defender's office and come over to the
21 solicitor's office. Right?

22 Same thing is here, but now, you've already got a
23 person who is already in the office, and then that person
24 shares it with somebody else. I just -- you know,
25 whatever the Court decides, I'm good.

1 THE COURT: Well, the only guidelines I have is
2 State v. Quattlebaum and the cases that follow that which
3 say that, number one, we have to determine whether or not
4 there's been actual prosecutorial misconduct, and I find
5 that there has not. No intentional attempt to eavesdrop
6 or anything of that nature.

7 So, then the burden is that the defendant has to
8 make a prima facie showing as to whether or not there is a
9 prejudice to his case. I don't know that there -- well, I
10 know that there has not been a prima facie showing. Based
11 upon the cases that follow Quattlebaum and cite
12 Quattlebaum, it's this same type of situation that comes
13 up where there has been an unintentional listening or
14 relay of information that is deemed privileged but that
15 it's not in the actual hands of the prosecution, and the
16 actual prosecutor does not know the contents of that
17 communication. So, they say that there is no prejudice.

18 There's often this talk of the Chinese wall that
19 guards that information. Even though it is in the hands
20 of an employee of the solicitor, it's not in the hands of
21 the actual person prosecuting the case, and so there is no
22 Sixth Amendment violation there. So, that's going to be
23 my ruling.

24 MR. WILSON: All right, sir.

25 THE COURT: Anything else you wanted to put on the

1 record with regard to Mr. Galmore's participation in this
2 hearing?

3 MR. WILSON: No, sir. Nothing else. As I said, it
4 was just that I knew we were discussing his client.

5 THE COURT: I see.

6 MR. WILSON: And that's why I thought that.

7 THE COURT: All right. Anything else you want on
8 the record?

9 MR. WILSON: No, sir.

10 THE COURT: All right. And I think we'll go ahead
11 and take a short break and we'll go back in the courtroom
12 and I'll go ahead and say we conducted an in camera
13 hearing. I think I am going to put on the record who we
14 spoke with, who testified, and based upon that, give my
15 decision.

16 MR. WILSON: All right, sir.

17 THE COURT: All right? Thank you.

18 MR. WILSON: Thank you, Your Honor.

19 (A recess was taken from 10:32 a.m. to 10:42 a.m.,
20 returning to Courtroom 3-B.)

21 MOTION/MATTER OF LAW

22 THE COURT: All right. Mr. Wilson, anything you
23 want to put on the record?

24 MR. WILSON: No, sir, Your Honor, not in addition to
25 what I said at the hearing.

1 THE COURT: All right. I'll go ahead and put on the
2 record in open court so everybody knows, I did conduct an
3 in camera hearing to determine whether or not there had
4 been a Sixth Amendment violation for a breach of the
5 attorney-client privilege as it pertains to the defendant
6 Nasirea Grate.

7 During the in camera hearing, we took testimony from
8 Riley Beam, Madison Genevro, Lauren Vinson, and Solicitor
9 Jimmy Richardson. The Court's finding is there is no
10 prosecutorial misconduct. The defense has not shown or
11 made a prima facie showing of any prejudice to the
12 defendant, so I'm going to allow the trial to continue.

13 MR. WILSON: And, Your Honor, since we did this in
14 camera, I guess I need to just take exception on the
15 record since we're back in court.

16 THE COURT: That will be fine, yeah.

17 During the in camera hearing, there was -- I guess
18 there was a motion for a mistrial and to declare or force
19 the solicitor's office to recuse themselves from
20 prosecution in the case, and I'm denying that motion here
21 in open court.

22 MR. WILSON: Yes, sir.

23 THE COURT: Anything further, Mr. Wilson, in regard
24 to that?

25 MR. WILSON: No, sir.

1 THE COURT: All right. Also, Mr. Galmore, we did
2 discuss in the in camera hearing your participation, and I
3 found that it would not have been appropriate for you or
4 your client to participate in that hearing.

5 MR. GALMORE: Yes, sir. Thank you, sir.

6 THE COURT: Anything further from the State before
7 we bring the jury in?

8 MS. LIVESAY: No, sir.

9 THE COURT: All right. Mr. Wilson?

10 MR. WILSON: No, sir.

11 THE COURT: All right. Mr. Galmore?

12 MR. GALMORE: No, sir.

13 THE COURT: All right. If we could have Mr. Bauman,
14 you can come back, take the stand.

15 You're still under oath from the day before
16 yesterday. Okay?

17 THE WITNESS: Yes, sir.

18 THE COURT: If you'd come have a seat.

19 What's that?

20 THE WITNESS: It was my report, sir, that I had from
21 the other day.

22 THE COURT: Oh, okay. You can have it. Just have a
23 seat.

24 All right. Let's go ahead and bring the jury in.

25 (The jury entered the courtroom at 10:50 a.m.)

1 THE COURT: All right. Ladies and gentlemen,
2 welcome back. I hope everyone had a good break yesterday.
3 I appreciate your patience. We had another matter we had
4 to address this morning. I appreciate your patience on
5 that.

6 Make sure you have your own notepads and do not have
7 anyone else's notepads. We're ready to proceed with the
8 trial of the case. And as I understand when we broke the
9 day before yesterday, we had just finished the direct
10 examination of Detective Bauman.

11 All right. Mr. Wilson, cross-examination?

12 MR. WILSON: Thank you very much, Your Honor.

13 DETECTIVE ROBERT BAUMAN,
14 after having been previously duly sworn, continued
15 to be examined and testified to as follows:

16 CROSS-EXAMINATION

17 BY MR. WILSON:

18 Q Detective Bauman ---

19 A Yes, sir.

20 Q --- let's go back and talk about your processing of
21 the crime scene on -- I think it was Highway [REDACTED]? [REDACTED]?
22 Is that the Highway?

23 A No, sir.

24 Q What's the name of the Highway?

25 A It was [REDACTED].

1 Q I apologize. But you processed the crime scene
2 there, including the white Acura; is that fair?

3 A That's fair, yes.

4 Q All right. And let's talk about that now. When you
5 got there, how many other officers had already been there?

6 A I do not have an exact number, sir.

7 Q How many people had taken pictures or picked up
8 items prior to your arrival?

9 A I would have no knowledge of that. None that I'm
10 aware of, sir.

11 Q Okay. So, you're not aware that anyone picked up or
12 moved any item prior to your arrival? Is that what you're
13 telling us?

14 A Yes, sir.

15 Q All right. And if they had, there would be a log of
16 that?

17 A That would have been an officer from our department
18 or -- anything of that nature. They would basically do
19 the same thing that I think I did. If they took
20 photographs, there would be a report, there would be an
21 evidence record on something that they may have collected.

22 Q Okay. All right. So, as far as you know and as far
23 as you understand, you are the first officer to process
24 the scene; is that fair?

25 A That's a fair assessment, yes.

1 Q Okay. All right. Now -- and when you were
2 processing it, taking pictures, marking shell casings,
3 whatever it is that you're doing, was anyone assisting you
4 doing that, or were you doing it all by yourself?

5 A No, sir. There was three other members from the
6 Crime Scene Unit that were with me.

7 Q Okay. All right. So, there were four of you doing
8 different things simultaneously?

9 A No, sir. We worked in conjunction as we moved
10 through the scene.

11 Q All right. So, there were all four -- three
12 following you as you did each thing? Is that what you're
13 saying?

14 A Not exactly, sir. If I can further explain.

15 Q Yeah, please.

16 A Okay. One of those members was then-Detective
17 Sergeant Becky Phillips, and she arrived -- basically, her
18 role would have been had we needed additional equipment or
19 given the fact that it was a very hot day, you know, she
20 may have brought some extra Gatorades or things of that
21 nature. She was more of a support role.

22 Q Yes, sir.

23 A Specifically Detective Chanel Tamasi was with me.
24 And we also have a crime scene tech, Jensen Brown. And
25 her role was the -- assisting with taking notes, things of

1 that nature as we're moving through the scene. She would
2 be jotting down various things. Say, for instance, in the
3 photographs -- say, for instance Item No. 1, I would say
4 it's a casing, it's a -- you know, whatever casing it was
5 -- 9mm, things of that nature. And the technician would
6 be writing those things down.

7 Q Okay. All right. Let me -- and the reason I'm
8 asking you that is because I noticed, when you did your --
9 I call them sticks; you call them rods -- and you were
10 sticking them through the back headrest of the vehicle and
11 in the driver's seat; right? Is that correct or no?

12 A Well, you --

13 Q Let me rephrase the question in case you didn't
14 understand it. What I'm simply asking you is, did you
15 insert rods in the driver's seat, either in the headrest
16 and in the body of the driver's seat where you say there
17 were bullet holes -- or you suspected there were bullet
18 holes?

19 A Okay. But initially, when you began questioning me,
20 you brought up the scene -- the initial scene. The
21 trajectory rods, those photographs did not take place
22 until the vehicle was brought back to the impound lot.
23 So, that was a separate situation.

24 Q Okay. Well, yeah. And it's not important where it
25 was done. I'm just asking: You did that; correct?

1 Whether you did it down at the police station or whether
2 you did it at the scene, it doesn't matter. You inserted
3 the rods in the seat, and you made pictures of those rods
4 in the seat?

5 A Yes, sir.

6 Q All right. Now, you also found bullets that went
7 through the back and through the backseat and into the
8 trunk area of the car. Did you make any -- or did you
9 insert any rods in that to show the angle that those
10 bullets that went into the trunk area, how they got there?

11 A I would have to take a look at the pictures to see
12 if I documented that, sir.

13 Q Take a look.

14 MS. LIVESAY: Judge, I have got his full report and
15 he can use it.

16 THE COURT: Well, he wants to look at the pictures.
17 If that's got the photographs --

18 MS. LIVESAY: It does. It's got the thumbnails.

19 THE COURT: That would be fine.

20 MS. LIVESAY: Here you go.

21 A I did not see one that extends into the trunk area.

22 BY MR. WILSON:

23 Q No rod into the trunk area.

24 And, clearly, you found either a piece of a
25 projectile or shell casings in the trunk area of the car

1 which came through the backseat. Is there any question
2 about that part?

3 A None, sir.

4 Q But you made all these rods about the driver's side,
5 but none about what went into the back and into the trunk;
6 right?

7 A I see a rod in the -- what appeared to be looking at
8 the thumbnail. Forgive me; my eyes are 50-some-years old.

9 Q Well, I'm 73, so that's young.

10 A Very well, sir.

11 I don't know if we have a larger photograph of Image
12 No. 154.

13 COURT STENOGRAPHER: Can you pull that mic down, the
14 microphone? Thank you.

15 THE WITNESS: Sorry.

16 A Image 155 and 156 are of the -- what appears to be
17 the rear of the seat.

18 BY MR. WILSON:

19 Q Right.

20 A And I happened to notice there's a trajectory rod
21 placed in Image 154, but I don't know that that's -- I
22 don't see it coming out the backside.

23 Q Well -- but that wasn't my question. My question
24 was, Did you place a rod in the hole that were [sic] in
25 the back of the vehicle -- in the backseat of the

1 vehicle -- through the backseat of the vehicle?

2 A I don't know at this point if I did. There's not an
3 image of it.

4 Q And you were meticulous about taking these pictures;
5 right? You took -- how many -- you said -- the solicitor
6 gave you a whole passel of pictures, and you said that's
7 only, like, two-thirds of them; right?

8 So, if you had made a picture of these rods in the
9 back, you would have a photograph of them; wouldn't you?

10 A I would hope I would have, but I am human.

11 Q And then would you agree with me that you probably
12 didn't put a rod in them?

13 A Not that I can show you. Not that I can prove to
14 you here today that I did and nor do I recall.

15 Q But you knew you were coming to court; right?

16 A Yes, I did, sir.

17 Q And you knew that this was a trial and that evidence
18 is important; right?

19 A Yes, sir.

20 Q And you are the crime scene specialist for the
21 department; right?

22 A One of them, yes, sir.

23 Q Yeah, one of them.

24 And you have been doing this for how many years?

25 You said law enforcement, 30-plus years?

1 A Yes, sir.

2 Q All right. So, why the focus on only the driver's
3 seat and headrest and not shots that were fired towards
4 the backseat of the car? Why the focus on one and not the
5 other?

6 A Well, there was the focus throughout the vehicle,
7 sir.

8 Q Well, let me rephrase that. Why do the rods in that
9 area and not do it in the back? Why? And make a picture
10 of it and bring it to us and show it to us like you did
11 all these other photographs showing all these rods?

12 A I don't have an answer. I may have missed one.

13 Q Okay. Fair enough.

14 So, let's move on to something else.

15 A Okay, sir.

16 Q Let's talk for a second about this pistol that was
17 found. I'm going to show you --

18 MR. WILSON: May I approach, Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. WILSON:

21 Q I'm going to show you what's marked as State's
22 Exhibit 22 and 21. All right?

23 A Yes, sir.

24 Q And ask you to hold them and take a look at them for
25 me, please. And you recognize both those items?

1 A I didn't open them yet, sir.

2 Q Oh, I'm sorry. Do you need some gloves?

3 MR. WILSON: Thank you, ma'am.

4 BY MR. WILSON:

5 Q Do you recognize both those items?

6 A Yes, sir.

7 Q And did you collect both those items?

8 A Yes, sir.

9 Q All right. Now, let's start with State's Exhibit
10 20 -- well, it says No. 3 on the box, but State's Exhibit
11 21 is what I have got. Is that your No. 3?

12 A Yes, sir. That would be my No. 3. I'm just seeing
13 if I would be allowed to catch up to you.

14 Q Sure. Take your time.

15 A So, your question is in reference to the Canik?

16 Q Whatever it is that's in Item No. 3 and State's
17 Exhibit 21. Whatever it is.

18 A For the verification, we can look at the VIN. In my
19 report I -- or VIN, excuse me. Serial number.

20 Q Okay.

21 A The serial number is on the other side. I would
22 have to turn the weapon over just to verify that it is, in
23 fact -- if you wish to have the serial numbers matched.

24 Q No, I'm not -- I don't have a question about the
25 serial number.

1 A Okay.

2 Q If you tell me that that's the Canik, then I -- I
3 don't know enough about guns to dispute you anyway. If
4 you tell me that, I'm good.

5 Is that the Canik? Is that what that is? 21?

6 A I believe it is, if I was able to verify the serial
7 number.

8 Q Well, do whatever you need to do. Whatever you need
9 to do to verify it, go ahead. I don't have any
10 objections.

11 MR. WILSON: Your Honor, is it all right?

12 THE COURT: Yes. That will be fine, whatever he
13 needs to do.

14 THE WITNESS: Do you have a cutting instrument?

15 MR. WILSON: Ms. Clerk, do you have a pair of
16 scissors?

17 THE CLERK: Yes, sir.

18 THE WITNESS: The weapon is clear.

19 Yes, that is the weapon that was collected.

20 BY MR. WILSON:

21 Q And that is the Canik?

22 A That I would have referenced in my report as being
23 Item No. 3.

24 Q Okay. All right. Now, tell me where that item was
25 found.

1 A That weapon was located on the -- that weapon was
2 located on the passenger side. If one was to be on-scene
3 and one was to look at the front of the white SUV, the
4 white Acura, it would then be on the passenger side on the
5 ground in the immediate area of what I refer to as the
6 B pillar, which is the framing of the vehicle between the
7 front door and the rear door, somewhere in that area, a
8 short distance away.

9 Q And it was lying on the ground?

10 A Yes, sir.

11 Q All right. And it also had a shell casing lodged in
12 it so that it was jammed, if that's the word you want to
13 use, or stoved up, whatever you want to call it?

14 A Yes, sir.

15 Q Now, who removed the stoved-up bullet?

16 A That would have been myself.

17 Q Okay. And what did you do with it once you removed
18 it?

19 A I secured that casing. And that would be noted
20 as -- that was noted as Item 3-C.

21 Q Okay. Now, once you took that -- took possession of
22 that weapon and you removed the cartridge from the
23 chamber, did you, at some point, then remove the magazine
24 that was attached to it?

25 A Yes, sir.

1 Q All right. Tell us how many live rounds were in the
2 magazine that you found.

3 A So, I went to the date of processing. Image
4 No. 419. That's noted as being the image that contains
5 the magazine. And, again, I apologize. In a thumbnail, I
6 cannot give you an exact number, but I see a series of
7 rounds that are situated next to that magazine.

8 Q I'm not following you. You say you see live
9 rounds -- explain that again because I missed it.

10 A Image No. 419, there's what I have noted in my photo
11 log as "magazine from Canik 9mm, 419."

12 Q I don't know if you understood my question, and I'll
13 try to repeat it. What I'm asking you is, once you got
14 the magazine and you say you removed from the weapon, how
15 many live rounds were still in the magazine?

16 A Right. And what I'm attempting to say is, from the
17 thumbnail, I can see that there's a series of live rounds
18 in the photograph, but I can't see them that small.

19 Q No, I'm not asking you -- I'm not asking what's in
20 the --

21 A I don't have an exact number.

22 Q Well, you have been the person to remove these items
23 because you just told me that, and you're telling me now
24 that you don't know -- yeah, you removed them, but you
25 don't know how many you removed?

1 A Do we have a larger image of 419, by chance?

2 Q Are you asking me that or....

3 A Yes, sir.

4 Q No. I thought you were going to testify about it.

5 All right. So, let's move on to something else.

6 You don't know how many live rounds were in the weapon;
7 right?

8 A No, I do not.

9 Q Okay. What is the capacity -- what is the capacity
10 of that magazine; that is, how many live rounds can you
11 put in that magazine? Do you know that?

12 A It appears to be 18, sir.

13 Q 18?

14 A It's numbered on the magazine that's located with
15 the Canik.

16 Q So, that magazine will hold 18 live rounds. Now,
17 does that include one in the chamber or just 18 total?

18 A The magazine apparently has the capacity to hold 18.

19 Q Okay.

20 A And the one in the chamber would be one more. That
21 would be separate from --

22 Q Okay. So, the magazine could hold 18 rounds and
23 then you could have one in the chamber?

24 A So, it appears, yes.

25 Q Okay. Now, which side -- which side does this

1 weapon -- when it fires, it ejects a shell; right?

2 A Yes, sir.

3 Q Which side does it eject to?

4 MS. LIVESAY: Your Honor, at this time, the State
5 has to object. Detective Bauman is not an expert in
6 ballistics.

7 THE COURT: Well, this isn't a ballistics question.
8 I think he can tell which direction.

9 Go ahead.

10 BY MR. WILSON:

11 Q Do you know?

12 A Yes, sir. It appears to eject to the right if the
13 person were holding the weapon, unless, of course, you're
14 looking on either end.

15 Q Fair enough. All right. Now, at the scene -- well,
16 let me back up. What type of shell casing did you find in
17 that weapon? What caliber?

18 A That would have been a 9mm.

19 Q All right. So, it would have been a 9mm.

20 Did you photograph the manufacturer on the head of
21 the bullet -- did you take a photograph of the
22 manufacturer of the bullet that you found; that is, the
23 shell casing -- I apologize, the shell casing that you
24 found in the chamber?

25 A It may or may not be in Image 414. Other than that,

1 I do not have an individual photo of the head stamp of
2 that particular casing that I can see immediately here.

3 Q All right. So, we don't know how many live rounds,
4 if any, you removed from the weapon, and now we don't know
5 the manufacturer of the shell casing that you removed from
6 the chamber that was jammed; right?

7 A Well, the -- if the casing is here as part of the
8 evidence, we can take a look at it and verify the
9 manufacturer head stamp.

10 Q Well, that's why I'm asking you these questions so
11 that you can tell me.

12 All right. Let's move on to the second gun. We
13 don't know much about the first one, so let's talk about
14 the second gun. This Canik -- before I leave that. This
15 Canik gun, 9mm, is what you're saying? At least we know
16 that; right? Is that fair?

17 A 9 by 19, yes. It's a 9mm weapon.

18 Q And it has a 19 live-round-capacity magazine
19 attached to it; fair?

20 A 18.

21 Q 18. And one in the chamber. 19. Okay. 18. All
22 right.

23 And we don't know how many shell -- how many live
24 rounds it had in it when you initially got it. We don't
25 know?

1 A Without looking at Image 414, no, I do not.

2 Q All right.

3 A Or a larger version of Image 414.

4 Q All right. Now -- and you said it ejects to the
5 right?

6 A Yes, sir.

7 Q All right. Now, let's talk for a second about --
8 and this weapon -- this Canik weapon was found on the
9 ground on the passenger side of the white Acura; is that
10 fair?

11 A Yes, sir.

12 Q All right. On the ground on the passenger side
13 midway between the back and the front passenger seat,
14 somewhere in that area off to the right; fair?

15 A If we're looking at the front of the car, it would
16 have been off to the left.

17 Q Off to the left?

18 A A short distance away from the -- the front door was
19 open --

20 Q On the passenger side of the car. Is there any
21 question about that?

22 A No.

23 Q It was on the passenger side of the car; right?

24 A Yes.

25 Q All right. Now, let's talk about the second weapon.

1 Where was this weapon found?

2 A This weapon was the weapon that was on the lap of
3 Victim No. 1.

4 Q Okay. That is Mr. Conn, the driver of the vehicle;
5 fair?

6 A On Victim No. 1, yes, Mr. Conn.

7 Q Okay. And that -- what kind of gun is that?

8 A This weapon is a GLOCK.

9 Q A GLOCK what? Is it a 9mm?

10 A I'm verifying that for you. This is a GLOCK model
11 19 Gen 4, and it is also stamped 9 by 19, which is
12 indicative of a 9mm.

13 Q All right. So, you found the second weapon is also
14 a 9mm; right?

15 A Yes, sir.

16 Q Okay. So, what is the magazine capacity of that
17 weapon?

18 A The particular magazine that is with it?

19 Q Yes.

20 A Apparently, I should have brought my cheaters with
21 me.

22 Appears to be lowest number is 27, and there's a
23 space beyond that.

24 Q At least 27; right?

25 A That's what it appears the capacity it can hold,

1 yes.

2 Q So, it will hold at least 27 live rounds.

3 How many rounds was in that gun when you found it?

4 How many live rounds were in that magazine when you
5 recovered it?

6 A I'm going back through to processing photographs.

7 Q Okay.

8 A Forgive me; there's a lot to go through.

9 Q That's all right.

10 That's all right if you don't have it. We'll go on
11 to something else.

12 Let me ask you, when you were processing the scene,
13 you found some marijuana or at least -- let me rephrase
14 that. You found a leafy green substance in a plastic bag
15 in the driver's back passenger floorboard or on the seat,
16 whichever. Is that fair?

17 A That was one, yes.

18 Q All right. Did you find any other marijuana in that
19 car other than that?

20 A Yes, sir.

21 Q Tell us where you found it.

22 A On the console portion between the two front seats
23 of the Acura. And then there was -- if I'm not mistaken,
24 inside of a black and red, I believe it was a Nike-type
25 waistband -- I believe it's referred to as a fanny pack.

1 Somewhere in there.

2 Q Did you find any in the trunk?

3 A Not that I recall, off the top of my head.

4 Q What was the weight of what you found?

5 A I did not weigh it. I just packaged it, sir.

6 Q All right. So, you found three separate packages of
7 marijuana. You packaged that to send to SLED for testing?
8 Is that what you're saying?

9 A Yes, sir. The weighing and things of that nature
10 would occur there.

11 Q Now, the GLOCK 9 that you just told us about that we
12 were discussing, where did you find that in the vehicle --
13 in the Acura? Where was it actually located?

14 A It was on the lap of Victim No. 1.

15 Q All right. Did you find a set of scales in the car?

16 A Running through my list of what I collected on the
17 scene, sir.

18 Q Take your time.

19 A I see in my list -- in my notes from the white Acura
20 what I have noted as No. 27, I have noted as a
21 black-in-color CR digital scale inside top tier center
22 console.

23 Q Okay. Thank you, sir.

24 Oh, let me show you what's marked as State's Exhibit
25 135, 136, and 61. As regards to State's -- I'm sorry; I

1 apologize. Is that a photograph that you took?

2 A It is, sir.

3 Q All right. And what is that sitting on the console
4 in the plastic bag?

5 A That is a -- could be Walmart or any store. It
6 appears to be a plastic bag that you would get from the
7 grocery store, knotted up.

8 Q But you collected it; right?

9 A Yes, sir.

10 Q So, what's in it? That's what I want to know.

11 A Green leafy vegetable matter.

12 Q All right. Green leafy vegetable substance.

13 All right. Let me show you 135 -- State's Exhibit
14 135. Tell us what that's a picture of.

15 A Same description. A green leafy vegetable matter.

16 Q Okay. Where was that found?

17 A Well, the image is a close-up, so...

18 Q Let me show you --

19 A Do you have one for the back, sir?

20 Q Maybe. I'm going to show you 136. Take a look at
21 that and see if that helps any.

22 A 136 would be the rear seat on the driver's side of
23 the Acura.

24 Q Okay. And you collected all of this; right?

25 A Yes, sir. That was --

1 Q And when I say "all of this", I'm referring to
2 State's Exhibit 61, 135, and 136.

3 A The items in those images were collected.

4 Q And what did you do with them once you collected
5 them?

6 A They are collected, bagged, brought back to the
7 police station. There may or may not have been some
8 further photographs, and ultimately submitted into the
9 Evidence section.

10 Q Okay. Now, let me go back for a minute to the shell
11 casings. Did you ever give another officer shell casings
12 to take to Myrtle Beach Police Department to be examined
13 or tested or whatever is the appropriate word might be in
14 police language?

15 A I don't recall directly handing someone those items.
16 They would have been -- if there is, there would be a
17 chain of custody noted. My items are usually photographed
18 and turned in to Evidence, and then if someone signs them
19 out or -- there would be a chain of custody if that were
20 to occur.

21 Q Okay. All right.

22 A But it's not uncommon. There have been times where
23 casings were turned over to another officer who handles
24 the transport down to Myrtle Beach.

25 Q Okay. Now, is there any question that there were