

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC 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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Pages 501-1000

INDEX

INDEX i

TRIAL TRANSCRIPT DATED AUGUST 19-28, 2024.....1

OPENING STATEMENT BY MS. MARTIN 33

OPENING STATEMENT BY MR. WILSON 39

OPENING STATEMENT BY MR. GALMORE.....42

TESTIMONY

SABRINA BRYANT

Direct Examination by Ms. Livesay 45

Cross-Examination by Mr. Wilson 64

STATE’S OBJECTION TO REFERENCES TO THIRD-PARTY GUILT BY
MS. LIVESAY 66

COURT’S RULING OVERRULING STATE’S OBJECTION TO REFERENCES TO
THIRD-PARTY GUILT BY MS. LIVESAY 67

TESTIMONY

SABRINA BRYANT

Continued Cross-Examination by Mr. Wilson.....67

Cross-Examination by Mr. Galmore.....72

Redirect Examination by Ms. Livesay.....75

JURY NOTE #1 86

DEFENSE OBJECTION TO JURORS TAKING NOTES BY MR. GALMORE 86

COURT’S RULING DENYING DEFENSE OBJECTION TO JURORS TAKING
NOTES BY MR. GALMORE 87

DEFENSE OBJECTION TO STATE’S EXHIBIT 46 (N. GRATE PHOTO) AND STATE’S
EXHIBIT 47 (N. GRATE BOOKING REPORT) BY MR. WILSON.....90

COURT’S RULING OVERRULING DEFENSE OBJECTION TO STATE’S EXHIBIT 46
(N. GRATE PHOTO) AND STATE’S EXHIBIT 47 (N. GRATE BOOKING REPORT)
BY MR. WILSON 93

COURT’S RESPONSE TO JURY NOTE #1 96

TESTIMONY

SANDY LOWE

Direct Examination by Ms. Livesay	98
Cross-Examination by Mr. Wilson	104
Cross-Examination by Mr. Galmore	105
Redirect Examination by Ms. Livesay	107

BERENIECE URESTI MELLADO

Direct Examination by Ms. Livesay	109
Cross-Examination by Mr. Wilson	143
Cross-Examination by Mr. Galmore	161
Redirect Examination by Ms. Livesay	164

ALICIA MILLER

Direct Examination by Ms. Martin	188
Cross-Examination by Mr. Wilson	199
Cross-Examination by Mr. Galmore	206
Redirect Examination by Ms. Martin	212

CHARLES TODD

Direct Examination by Ms. Martin	218
Cross-Examination by Mr. Wilson	222
Cross-Examination by Mr. Galmore	227
Redirect Examination by Ms. Martin	230

NEIL ADAMS

Direct Examination by Ms. Martin	238
Cross-Examination by Mr. Wilson	246
Cross-Examination by Mr. Galmore	250
Redirect Examination by Ms. Martin	253

SEAN WYDRA

Direct Examination by Ms. Martin	255
Cross-Examination by Mr. Wilson	272
Cross-Examination by Mr. Galmore	290
Redirect Examination by Ms. Martin	293

JACK SMITH

Direct Examination by Ms. Martin	295
Cross-Examination by Mr. Wilson	305
Cross-Examination by Mr. Galmore	313
Redirect Examination by Ms. Martin	318

ROBERT BAUMAN	
Direct Examination by Ms. Livesay	320
RILEY BEAM (<i>in-camera</i>)	
Direct Examination by the Court	452
MADISON GENEVRO (<i>in-camera</i>)	
Direct Examination by the Court	460
LAUREN VINSON (<i>in-camera</i>)	
Direct Examination by the Court	465
JIMMY RICHARDSON (<i>in-camera</i>)	
Direct Examination by the Court	469
DEFENSE MOTION FOR RECUSAL OF PROSECUTOR BY MR. WILSON.....	475
COURT’S RULING DENYING DEFENSE MOTION FOR RECUSAL OF PROSECUTOR BY MR. WILSON	478
TESTIMONY	
ROBERT BAUMAN (<i>Continued</i>)	
Cross-Examination by Mr. Wilson	480
Cross-Examination by Mr. Galtmore.....	534
JEFF ROY	
Direct Examination by Ms. Livesay	560
Cross-Examination by Mr. Wilson	567
Cross-Examination by Mr. Galtmore.....	573
PAUL GREER	
Direct Examination by Ms. Livesay	575
Cross-Examination by Mr. Wilson	599
Cross-Examination by Mr. Galtmore.....	606
Redirect Examination by Ms. Livesay.....	608
JASON FISHER	
Direct Examination by Ms. Livesay	625
Cross-Examination by Mr. Galtmore.....	627
SERAPHIM “SAMMY” HAFTOGLU	
Direct Examination by Ms. Martin	630
Cross-Examination by Mr. Wilson	634
Cross-Examination by Mr. Galtmore.....	635

THOMAS DARNELL	
Direct Examination by Ms. Martin	637
Cross-Examination by Mr. Wilson	656
Cross-Examination by Mr. Galmore.....	661
Redirect Examination by Ms. Martin.....	667
KEN MARCUS	
Direct Examination by Ms. Martin	670
<i>Voir Dire</i> Examination by Mr. Wilson	690
<i>Voir Dire</i> Examination by Mr. Galmore.....	695
Continued Direct Examination by Ms. Martin	700
Cross-Examination by Mr. Wilson	755
Cross-Examination by Mr. Galmore.....	779
Redirect Examination by Ms. Martin.....	800
ROBERT GRAHAM	
Direct Examination by Ms. Livesay	809
Cross-Examination by Mr. Wilson	826
Cross-Examination by Mr. Galmore.....	827
STEVE BROWN	
Direct Examination by Ms. Livesay	828
DEFENSE MOTION TO STRIKE WITNESS BROWN'S TESTIMONY BY MR. GALMORE.....	
	836
STATE'S RESPONSE BY MS. LIVESAY	
	836
COURT'S RULING DENYING DEFENSE MOTION TO STRIKE WITNESS BROWN'S TESTIMONY BY MR. GALMORE.....	
	836
TESTIMONY	
STEVE BROWN	
Direct Examination Continued by Ms. Livesay.....	836
Cross-Examination by Mr. Wilson	838
Cross-Examination by Mr. Galmore.....	844
Redirect Examination by Ms. Livesay.....	850
Recross-Examination by Mr. Galmore	858
DEFENSE MOTION FOR MISTRIAL BY MR. GAMORE	
	860
DEFENSE MOTION TO RECUSE MS. LIVESAY BY MR. GALMORE	
	860
DEFENSE MOTION FOR MS. LIVESAY TO BE CROSS-EXAMINED AS A WITNESS BY MR. GALMORE.....	
	860

RESPONSE BY MR. WILSON	860
STATE’S RESPONSE BY MS. LIVESAY	862
COURT’S RULING DENYING DEFENSE MOTION FOR MISTRIAL BY MR. GALMORE	864
COURT’S RULING DENYING DEFENSE MOTION TO RECUSE MS. LIVESAY BY MR. GALMORE	864
COURT’S RULING DENYING DEFENSE MOTION FOR MS. LIVESAY TO BE CROSS-EXAMINED AS A WITNESS BY MR. GALMORE	864

TESTIMONY

ISIDRO MARTINEZ

Direct Examination by Ms. Livesay	875
Cross-Examination by Mr. Wilson	891
Cross-Examination by Mr. Galmore	898
Redirect Examination by Ms. Livesay	899

CHRISTIAN FLETCHER

Direct examination by Ms. Livesay	904
Cross-Examination by Mr. Galmore	910

ANGELINA PHILLIPS

Direct Examination by Ms. Livesay	912
Cross-Examination by Mr. Wilson	931
Cross-Examination by Mr. Galmore	939
Redirect Examination by Ms. Livesay	942

TYSHEENA MAY

Direct Examination by Ms. Livesay	946
Cross-Examination by Mr. Wilson	951
Cross-Examination by Mr. Galmore	962
Redirect Examination by Ms. Livesay	968

JENSEN BROWN

Direct Examination by Ms. Livesay	983
Cross-Examination by Mr. Wilson	985
Cross-Examination by Mr. Galmore	986

CAMERON WISNIEWSKI

Direct Examination by Ms. Livesay	987
Cross-Examination by Mr. Wilson	993

Cross-Examination by Mr. Galmore	996
SAMUEL STEWART	
Direct Examination by Ms. Martin	999
Cross-Examination by Mr. Wilson	1041
Cross-Examination by Mr. Galmore	1047
STATE RESTS	1051
DEFENSE MOTION FOR MISTRIAL BY MR. WILSON	1063
DEFENSE MOTION FOR MISTRIAL BY MR. GAMORE	1066
DEFENSE MOTION TO DISMISS BY MR. GALMORE	1068
STATE’S RESPONSE BY MS. LIVESAY	1069
COURT’S RULING DENYING DEFENSE MOTION FOR MISTRIAL	1079
COURT’S RULING DENYING DEFENSE MOTIONS FOR MISTRIAL AND TO DISMISS ON BY MR. GALMORE	1079
DEFENSE MOTION FOR DIRECTED VERDICT AS TO ARMED ROBBERY BY MR WILSON	1079
DEFENSE MOTION FOR DIRECTED VERDICT BY MR. GALMORE.....	1081
STATE’S RESPONSE BY MS. LIVESAY	1082
COURT’S RULING DENYING DEFENSE MOTION FOR DIRECTED VERDICT	1088
DEFENSE MOTION FOR DIRECTED VERDICT AS TO MURDER BY MR. WILSON	1088
DEFENSE MOTION FOR DIRECTED VERDICT AS TO MURDER.....	1092
STATE’S RESPONSE BY MS. LIVESAY	1092
COURT’S RULING DENYING DEFENSE MOTIONS FOR DIRECTED VERDICT	1095
TESTIMONY COLLOQUY WITH CO-DEFENDANTS	1096
MR. WILSON RESTS ON BEHALF OF DEFENDANT N. GRATE	1102
MR. GALMORE RESTS ON BEHALF OF DEFENDANT D. GRATE.....	1102

CHARGE CONFERENCE	1103
CLOSING ARGUMENT BY MS. LIVESAY	1112
CLOSING ARGUMENT BY MR. WILSON	1142
CLOSING ARGUMENT BY MR. GALMORE	1163
CHARGE ON THE LAW	1186
JURY NOTE #2	1210
DEFENSE OBJECTION TO COURT’S SUGGESTED CURATIVE INSTRUCTION TO JURY NOTE #2 BY MR. WILSON	1212
DEFENSE OBJECTION TO COURT’S SUGGESTED CURATIVE INSTRUCTION TO JURY NOTE #2 BY MR. GALMORE	1215
STATE’S RESPONSE BY MS. MARTIN	1216
COURT’S RULING DENYING DEFENSE OBJECTIONS TO SUGGESTED CURATIVE INSTRUCTION TO JURY NOTE #2	1217
COURT’S RESPONSE TO JURY NOTE #2	1219
VERDICT	1223
DEFENSE MOTION FOR NEW TRIAL BY MR. WILSON	1233
COURT’S RULING DENYING DEFENSE MOTION FOR NEW TRIAL BY MR. WILSON	1234
DEFENSE MOTION FOR NEW TRIAL BY MR. GALMORE	1234
COURT’S RULING DENYING DEFENSE MOTION FOR NEW TRIAL	1235
SENTENCING	1249
STATE’S EXHIBIT 28 (SC DRIVER’S LICENSE-N. GRATE)	1251
STATE’S EXHIBIT 47 (N. GRATE BOOKING REPORT)	1253
STATE’S EXHIBIT 49 (TODD FRY BOOKING REPORT)	1254
STATE’S EXHIBIT 51 (D. GRATE BOOKING REPORT)	1255

STATE’S EXHIBIT 223 (SLED ITEMS OF EVIDENCE).....	1256
COURT’S EXHIBIT 2 (JURY QUESTION #2).....	1259
INDICTMENTS	1260
SENTENCE SHEETS	1272
CERTIFICATE OF COUNSEL	1276

[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 only two guns -- pistols found at that scene? Two?

2 A Two that I'm aware of that were found at the scene,
3 correct.

4 Q That's my question. There were only two guns, both
5 with extended magazines; right?

6 A Yes, sir.

7 Q And when we say -- well, I won't ask you that. I'll
8 ask the other fellow when he comes.

9 But -- and both those weapons were 9mms? The GLOCK
10 was a 9mm and the Canik was a 9mm?

11 A Yes, sir.

12 Q Okay. But there is a way to determine which shell
13 casing may have been fired by which weapon; right? Is
14 that possible in law enforcement?

15 A Sometimes, yes.

16 Q All right. Now, that is the reason that you collect
17 the shell casings; right?

18 A Yes, sir.

19 Q To preserve -- because you want to send those shell
20 casings to SLED so they can examine them to determine
21 which, if any, of these guns fired those shell casings;
22 right?

23 A Yes, sir.

24 Q Same thing is true with removing the magazines from
25 the gun to send to SLED for fingerprints; right?

1 A It can be forwarded to SLED.

2 Q Okay. Well, if -- when you're collecting evidence,
3 the idea is to collect anything that might be valuable
4 because you don't know at that moment everything that is
5 valuable; right?

6 A That is correct.

7 Q So, you collect everything, which is why you take
8 all of these pictures, because even if you miss actually
9 picking up the item, you end up getting it in the
10 photograph; right?

11 A Yes.

12 Q It's like a security blanket, so it just helps you
13 get more coverage of the area and be more specific about
14 what you saw and what you got and what was there when you
15 were there. Fair?

16 A Yes, sir.

17 Q All right. Now, were you there when they --
18 whoever -- and I don't know who "they" is -- but whenever
19 the body of Mr. Conn was moved from the driver's seat,
20 were you there?

21 A Yes, sir.

22 Q And how many shell casings were in his lap when they
23 removed the body?

24 A Okay. Off the top of my head, I recall shell
25 casings identified as No. 20 and 21 were on his lap. They

1 were on top of the camel-colored raincoat.

2 Q What about --

3 A I would have to go back through the images and
4 confer with my -- it's been two years, sir. I apologize.

5 Q That's okay. That's okay.

6 A So, you only want the amount of casings that were on
7 his lap, not underneath him on the seat, not on the
8 floorboard? You only want --

9 Q Just the ones in his lap for now, yes.

10 A I recall 20, 21. There may be more.

11 Q What about 34, 35, 36, 38 on your list?

12 A 34, 35. I'm sorry, did you mention -- all right.

13 34 was located on the front driver's seat. 35, located on
14 the front driver's seat.

15 Q Okay.

16 A And I apologize --

17 Q 36 and 38.

18 A 36 was a spent casing located on the center console.
19 So, that would not be his lap.

20 And the other number?

21 Q 38.

22 A Item No. 38 was the red and black fanny pack that
23 was located on the seat, not on his lap.

24 Q And that was where the marijuana was found or some
25 of the marijuana?

1 A It was located within that bag, yes.

2 Q Okay. Fair enough.

3 Now, did you look to see, when you removed the shell
4 casings from the magazine, did you look to see that the
5 shell casings that were in his lap were the same
6 manufacturer as the shell casings in his gun?

7 A Again, that would be noted in the images, and once I
8 get to the processing portion, which is where the
9 magazines would have been downloaded and an overall
10 photograph would have been taken. So, now I need to move
11 through that binder.

12 Q All right. That's fine.

13 A Okay. To answer an earlier question, you had asked
14 about the stove pipe or jammed casing, the information on
15 the head stamp on that particular casing was PMC 9mm
16 Luger.

17 Q Okay. Thank you, sir.

18 A So, the -- to reconfirm the magazine reference, an
19 earlier question, for that weapon is a -- the company is
20 P-MAG, P-M-A-G, and that is a 27-round capacity magazine.
21 Inside of that, I believe you requested how many live
22 rounds were in it?

23 Q Yes, sir.

24 A And I have noted that would have been Item 92.
25 Therefore, that was 17 live rounds with a manufacturer

1 stamp of W-I-N, which is indicative of Winchester, 9mm
2 Luger. And I have noted they were hollow points.

3 Q Okay. All right. So, they were -- how many did you
4 say? I apologize.

5 A Upon inspection, when that magazine was
6 downloaded -- the item is Item 9. Once I removed the
7 magazine from the weapon, I make the -- whenever it comes
8 off the initial item -- so, the magazine, to me, is Item
9 9.1. And then 9.2 would have been the list of rounds that
10 were located within -- and, again, sir, to answer your
11 question that would be 17, one-seven. They were live
12 rounds, and they were Winchester 9mm Luger, and they were
13 hollow point rounds.

14 Q And this is the weapon that had a capacity for 27?

15 A Yes, sir.

16 Q All right. Go ahead.

17 A I'm sorry. Getting sidetracked with that, back to
18 our original question, which is --

19 Q Which I forgot now.

20 A I apologize. There's a lot of stuff to go through.

21 Q That's fine. Let 's go to, on 27(B)(1) on your
22 sheet ---

23 A Yes, sir.

24 Q --- there's supposed to be 15 live rounds. It says
25 W-I-N 9mm Luger. Now, where was that found?

1 A 27?

2 Q 27(B)(1).

3 A 27(B)(1). That was collected from the scene.

4 Q Yes, sir. I understand that. But where? And more
5 specifically I'm asking you, pretty much, are those 15
6 rounds from that Canik weapon or do we know?

7 A As soon as I find the image from the scene, which
8 contains my photo marker No. 27, I can further assist you
9 with that answer.

10 Okay. So, Item 27 that was recovered from the
11 scene, okay, and Item 27 would be the pair of pants that
12 were on Victim No. 1.

13 Q Okay. That would be Mr. Conn?

14 A Yes, sir.

15 Q Okay.

16 A And so, 27 would have been the pair of pants. And
17 now to see that image I know, as I had stated in previous
18 testimony, as we collect the victims, we also collected
19 clothing.

20 Q Okay.

21 A In doing so, collecting the pair of jeans, I
22 remember making note that, as we were collecting the
23 jeans, there was a -- I want to say Kobalt -- there was a
24 knife of some sort, or it may have been one of those razor
25 knives you get from Lowe's or Home Depot -- and the

1 magazine also. So, I cannot tell you if it was in his
2 waist or in a back pocket. But as the jeans were removed,
3 those items came out of the jeans.

4 Q All right. So, let me see if I understand. In
5 addition to -- and let me show you State's Exhibit 125,
6 which is a photo of him with this gun between his legs.

7 You're saying that, in addition to whatever is in
8 that magazine, that you found 15 additional rounds -- live
9 rounds somewhere on his person? Is that what you're
10 saying?

11 A In a separate magazine, yes.

12 Q So, not only did he have the magazine that's in that
13 gun that's in his lap, there was another magazine with
14 additional live rounds, 15 of them?

15 A Yes, sir.

16 Q Okay. Fair enough. Thank you.

17 Now, in regards to Mr. -- well, let me show you
18 this. Let me show you State's Exhibit No. 90 and ask you
19 if you recognize that photograph.

20 A I do, sir.

21 Q Is that one that you took as well?

22 A Yes, sir.

23 Q And what is it a picture of?

24 A Victim No. 2.

25 Q All right. And who is Victim No. 2?

1 A Mr. Dicker. Or maybe it's Dickers with an S.

2 Q Anywhere in the vicinity where he is within a 15- or
3 20-foot radius, did you see a weapon? Did you find a
4 weapon?

5 A I did not locate a weapon near Victim No. 2's
6 location.

7 Q And did you or were you present when his body was
8 removed?

9 A Yes, sir.

10 Q All right. And you didn't see any weapon at that
11 point?

12 A No, sir.

13 Q Just let me ask you this: Do you happen to know, in
14 taking these photographs, where his wound was? If you
15 don't, you don't. I was just asking you if you took a
16 photograph of where he was wounded.

17 A Yes, sir.

18 Q Where was he wounded, if you know?

19 A There was one located -- as a matter of fact, it's
20 presented right here in this image right here that you
21 provided me, which is known as State's Exhibit No. 90.

22 Q Right.

23 A And there's a wound, mid back area.

24 Q Mid back?

25 A Yes, sir. And if I'm not mistaken, there may be

1 another wound. I believe there's another image with one
2 to the -- in the front area. In other words, I can't 100
3 percent say so never mind.

4 Q That's okay.

5 A There was a second mark in his body, and it was
6 towards the front torso, as I recall at the moment.

7 Q But there's no question, you didn't find a weapon in
8 his immediate vicinity and he was shot in the back?

9 MS. LIVESAY: Hold on. Objection, Your Honor. This
10 -- Detective Bauman isn't a pathologist. He has no --

11 MR. WILSON: I'll withdraw.

12 THE COURT: He withdrew the question.

13 MR. WILSON: She's right. She's right. I'll
14 rephrase it and ask it another time.

15 BY MR. WILSON:

16 Q In addition to this, if you look at your picture,
17 when you found this body in 125, was it in this condition?

18 A In 125?

19 Q I'm sorry. What did I say? 90. I apologize. Got
20 them mixed up.

21 A That would be -- that's probably one of my overall
22 photographs, so...

23 Q Yeah.

24 A Yes, sir.

25 Q Okay. And do you know what that is all over his

1 body? Do you know what it is?

2 A What portion of his body, sir?

3 Q His back, which is exposed to the picture.

4 A I would assume it's red staining.

5 Q Red staining on his back and face? Is that what
6 you're saying?

7 A I do not know what that is.

8 Q Okay.

9 A I just see the red staining around the wound.

10 Q Okay. All right. We'll ask the pathologist about
11 that. Thank you in regards to that.

12 All right. Now, let's move to -- on your -- can't
13 put my finger on it right now.

14 Anyway, let me ask you: Is there a bullet that was
15 fired that went into the rear passenger seat that did not
16 exit into the trunk that you retrieved?

17 A I need to get up to the part for the processing of
18 the -- the white Acura?

19 Q Yes, sir. And it may have been during the time of
20 impoundment that you retrieved it.

21 A I'm jumping between photo logs and photos and the
22 property records.

23 It was a projectile recovered from the passenger
24 rear door.

25 Q From the passenger rear door?

1 A Yes, sir. Or a fragment thereof.

2 Q All right.

3 A I would have just referred to it as a projectile.

4 Q Okay. And was it in the little pocket under the
5 door or was it on the seat? Where in the rear passenger
6 compartment?

7 A Item No. 40. To reference Image No. 182 of the
8 white Acura processing, I can see in that image that the
9 panel has been removed. So, my answer will be within the
10 confines of the rear passenger door. In other words, I
11 would have had to have removed the panel to locate that
12 item.

13 Q Did you do a rod to determine the direction that
14 that shot came from?

15 A I'll have to go back and review the images, sir.

16 Q Okay. If you would.

17 A In Image 148, there's some rods located in the area
18 of the B pillar.

19 Q But my question --

20 A I understand, sir.

21 Q My question is: Is there a rod in the hole that the
22 bullet made going into that door in the back passenger
23 seat?

24 A So, Image 153, rear passenger seat with trajectory
25 rods, rear passenger door closed. So, Image 153.

1 Q All right. And tell us, what is the purpose of
2 these rods so that you go through the trouble of finding a
3 rod and putting it in a hole? And it's also very
4 important how you place it in there; would you agree with
5 that?

6 A I -- I would agree.

7 Q And I know you would not do this, but you can
8 manipulate them to some degree -- right? -- if you wanted
9 to? I'm not saying you'd do that, as I'm sure you
10 wouldn't. Right?

11 A I imagine there -- it depends on the size of the
12 entry hole. There may be some varying degree as to which
13 the rod rests once inserted into the hole.

14 Q And if it's a soft material, it makes it a little
15 bit easier to lean it one way or the other, even though
16 it's in there; right? You would agree with that?

17 A It would also depend on the depth of the soft
18 material.

19 Q Right. So --

20 A And if there's enough to hold the majority of the
21 rod, I would imagine it would hold it better than just a
22 thinner item.

23 Q But, in general, the idea is to know from which
24 direction the bullet came; right? That's fair; right?

25 A The purpose of the trajectory rod would be to

1 somewhat indicate the angle at which the projectile or
2 item passed through the object.

3 Q Right. From wherever it came from to wherever it's
4 going. Bullets don't change course. They go in a
5 straight line. So, if you put the rod in there -- right?
6 Because you're the one that did these rods; right?

7 A Yes, sir.

8 Q All right. And what you're trying to show us is how
9 the angle of the bullet was fired so that we will know how
10 the bullet came to be where it was.

11 A From the general direction.

12 Q Yeah. Now, in regards to the -- these rods, how
13 many rods did you use in total that day? On the Acura,
14 I'm talking about.

15 A It's going to take me a while to count.

16 Q That's okay. You did a number of them; right? It
17 was --

18 A Yes, sir.

19 Q -- several, and we can agree on that. But the only
20 thing I'm really interested in is how many did you do in
21 the backseat.

22 A So, it appears, in the backseat specifically, as I
23 see in this one image we have one, two, three stickers.
24 One is in the rear seat center console. Two of them would
25 be located in the rear seat, passenger side.

1 Q You said stickers? What does that mean? There's
2 rods --

3 A Wherever I found a hole in the seat or a defect, I
4 would have labeled it accordingly.

5 Q But my question --

6 A Was the rod. So far, I have one that is inserted
7 into the flip-down center console in the rear seat.

8 Q Okay. So, you got three stickers where there are
9 gunshots into the back, but you only have one rod. And
10 you say that was where?

11 A That was -- the rod is -- the image with the rod is
12 located in the center console.

13 Q Okay. There's a console in the back as well?

14 A I'll describe it as a flip-down cup holder. You may
15 refer -- I don't know what you would refer to it as, but
16 it's a flip-down-type cup holder that's folded up in the
17 upright seat portion.

18 Q Okay. All right. So, it's a cup holder kind of
19 thing. Because you can actually walk -- there is
20 clearance in between the seat and the two doors; right?
21 The two back doors -- the two passenger back doors, if
22 you're sitting on that seat, you can slide all the way
23 across without any interruption; right?

24 A Yes. It's integral to the rear seat upright.

25 Q So, I just want to be clear, there's no console

1 sitting in between the two passengers in the backseat.

2 A Okay. Yes. There is no console.

3 Q All right.

4 A It is a flip-up armrest, cup holder.

5 Q Now, let's move on to something else.

6 A Okay.

7 Q I want to talk for a minute about -- I guess this
8 is -- hold on, [REDACTED] Road. All right? Did you
9 participate in collecting any evidence at the search at
10 [REDACTED] Road?

11 A Yes, sir, I did.

12 Q All right. And tell me what you collected. Well,
13 first of all, let me ask you this: Who lives or whose
14 address is that? Whose home is [REDACTED] Road?

15 A I didn't come across the information on the owner of
16 the residence.

17 Q Well, did you execute a search warrant --

18 A I did.

19 Q -- at that location?

20 A I did.

21 Q And you participated and you don't know whose house
22 it was that you went to?

23 A That's correct.

24 Q You wouldn't go to somebody's house that you don't
25 have a search warrant; right? I mean, you have a reason

1 to go there and you have a search warrant with their name
2 on it to search; right?

3 A If the warrant fully describes the address location
4 and it describes the residence, okay. Without that
5 information, as far as who owns the house, I mean, if
6 everything matches up, then --

7 Q Who lived there? That's what I was asking. I
8 didn't ask --

9 A But -- I know what you asked, and I'm looking for
10 that information, sir.

11 Q Okay.

12 A But then you asked a subsequent question.

13 Q Yeah. Let me ask you this, and maybe this will
14 help: When you got there, was anybody home?

15 A There was a -- there was an older couple there. I
16 did not have a conversation with the female party. And
17 the only thing at the very end of the search warrant
18 execution, the gentleman that was on the porch indicated
19 that he was her boyfriend, and the woman was out in the
20 front yard having a conversation. So, therefore, I do
21 have it noted --

22 Q So, you went to the -- I'm sorry. Go ahead.

23 A There was a number of us that were there.

24 Q Yeah. How many officers do you think were there?

25 A There was some detectives, and I know I was assisted

1 there with Detective Matt Stevenson.

2 Q Okay. All right. So, you went to a house. There
3 was an older couple there. And let me show you State's
4 Exhibit 30.

5 A I left it with the owner's live-in boyfriend, a
6 gentleman by the name of Robert Graham.

7 Q You mean the search warrant?

8 A The copy of the search warrant was left with him
9 because the owner was busy speaking with someone out in
10 the front yard.

11 Q Okay. Let me show you what's marked as State's
12 Exhibit 30.

13 A Okay.

14 Q Take a look at that for me, and tell me if you can
15 identify it and if it's something that you collected.

16 A Yes, sir. I recall the item.

17 Q And what is State's Exhibit 30?

18 A State's Exhibit No. 3 is a GLOCK gun box.

19 Q A GLOCK gun box. Okay.

20 And did you -- what was your reasons for getting
21 it -- confiscating it?

22 A I'm going back to the search warrant for that
23 residence. And the reason would have been: "Any and all
24 firearms including, but not limited to, handguns, long
25 guns, ammunition, gun boxes, paperwork, or proof of

1 fireman's -- I'm sorry -- proof of firearms and fired
2 casings."

3 Q Okay. So, you get the gun box, which is State's
4 Exhibit 30. What do you do with it when you get it?
5 What's the purpose of taking the box case? What is the
6 purpose?

7 A The item was specifically listed in the warrant for
8 gathering that information. And, from there, this box in
9 particular still maintained those identifying markings,
10 the serial number of the weapon that would have been in
11 it.

12 Q Okay.

13 A So, it's a subsequent probably tracking of that
14 weapon.

15 Q Okay. So, you took it so that you could try to
16 track the weapon, where it was purchased, who purchased
17 it, that kind of thing; right?

18 A Yes, sir.

19 Q All right. And what did you find out?

20 A There was an e-Trace conducted, and I don't believe
21 I have a copy of that in front of me.

22 Q It was a what? Done what?

23 A There was a search warrant of that, and the results
24 of that -- a copy of the results that would have been
25 returned to us, I do not see at the moment. I'll keep

1 looking.

2 Q All right. So, you found a gun box. You used the
3 serial number, you say, to try to see who the owner of the
4 gun is or who purchased the gun, that kind of thing;
5 right?

6 A Yes. I was provided with that paperwork in previous
7 testimony when I was here the other day.

8 Q All right. Is there any question that you're the
9 one who confiscated the gun or collected it, for a better
10 word?

11 A I collected the box. There was no gun in the box.

12 Q Okay. I apologize.

13 A There were other items.

14 Q Okay. All right. The box. You collected the box?

15 A Yes, sir.

16 Q All right. And what I'm simply asking you now is,
17 once you collected the box, you got the serial number, you
18 said, of what would have been the content of the box,
19 which would have been a gun originally -- a GLOCK gun of
20 some type; right?

21 A Yes.

22 Q The purpose, then, is to follow up and find out who
23 purchased the gun, who owned the gun, and what happened to
24 the gun eventually; right?

25 A As part of it, but then also contained in the box

1 were some ammunition, some magazines, things of that
2 nature.

3 Q I'm with you. Right now, I just want to know about
4 the ownership of the gun.

5 A Correct.

6 Q And what I'm simply asking you is, when you traced
7 it, who did the gun come back belonging to? Or if you
8 traced it at all. I don't know.

9 A It was run. I was provided with that paperwork
10 while I was under questioning by the prosecutor.

11 Q Okay.

12 A So, I know that paper -- she had showed me the
13 paperwork, and I know it exists.

14 Q So, you know --

15 A But I don't recall the name of the individual on the
16 paperwork at this moment.

17 Q Well, let me ask you: Was it Mr. Grate right there?

18 A I do not recall the owner that was listed on the
19 paperwork at this moment, sir.

20 Q Okay. All right. If you knew, you'd tell us;
21 right?

22 A If I recalled it, of course I would.

23 Q All right.

24 A Yes, sir.

25 Q Now, where was this box, 9mm GLOCK box? Where was

1 it found?

2 A Okay. So, I believe this also came out when I was
3 here the other day. There is -- on the property of
4 [REDACTED] Road, there was a -- the residence, and then
5 situated behind the residence -- offhand, I believe it was
6 three or four vehicles. And they didn't appear to be that
7 they were running vehicles. So, it was in the backseat --
8 I remember it was gold-in-color but allow me to find the
9 image. It was in the backseat of one of the vehicles that
10 was located behind the residence.

11 Q Okay.

12 A And then, subsequently, in that backseat, it was in
13 a bag that contained a backpack, and this was part of the
14 contents of that backpack.

15 Q The case was a part of the content of the backpack?

16 A Yes, sir.

17 Q All right. So, there are three cars -- junk cars, I
18 assume, based on what you're saying -- that are in the
19 yard, and you find this in one of those junk cars in the
20 yard?

21 A Yes.

22 Q So, my next question is: Who did the cars belong
23 to?

24 A I did not get that information. The information may
25 have been run by another detective.

1 Q Were there cars open and unlocked, or did you have
2 to unlock them to get what you retrieved?

3 A They were unlocked, I believe.

4 Q Okay. But you have a search warrant, anyway, so you
5 could have opened them even if they were locked; right?

6 A Yes, sir, if we felt that there was something
7 pursuant to the warrant, yes.

8 Q So, did the cars have tags on them so that you could
9 run the plate on the car to see who that car belonged to
10 at some point in time?

11 A I'm working my way down to those images, and I can
12 answer that question as soon as I get to that section of
13 the images.

14 If there were plates, we would have ran the plates.
15 If the VIN plates that would be located on the dash, if
16 they were visible, we probably would have cross-referenced
17 that, but I did not do that.

18 Q To your knowledge, did anybody else do it that you
19 know in law enforcement?

20 A I know the information was noted. Subsequent -- I
21 don't get to see all other detectives' paperwork in
22 reference to this case.

23 Q When you were at the house, you said that there was
24 a couple there -- an older couple. Did you ask them whose
25 car or who those cars belonged to?

1 A I did not, sir.

2 Q Did anybody in law enforcement in your presence ask
3 them?

4 A They may have. I don't recall. I get there, I take
5 the photos, and document the evidence. And then other
6 portions of the investigation are left up to other
7 detectives.

8 Q Okay.

9 THE COURT: Mr. Wilson, I hate to interrupt your
10 cross-examination, but I think it's time for us to break
11 for lunch.

12 MR. WILSON: Yes, sir. Thank you.

13 THE COURT: Ladies and gentlemen, we have got lunch
14 for you today. We're going to go ahead and break for
15 lunch.

16 Leave your notepads in the jury box. Do not take
17 them with you. Do not discuss the case, even among
18 yourselves. I hope you have a good lunch, and we'll
19 reconvene in about an hour. Okay? Thank you very much.

20 (The jury exited the courtroom at 12:49 p.m.)

21 THE COURT: All right. Detective Bauman, we're
22 still in your testimony. Do not discuss your testimony
23 with anyone, whether that be what you have testified to
24 thus far or anticipate testifying to in the future. Okay?

25 THE WITNESS: Yes, sir.

1 THE COURT: Anything from the State before we
2 recess?

3 MS. LIVESAY: No, sir.

4 THE COURT: Anything?

5 MR. WILSON: Nothing, Your Honor.

6 THE COURT: Mr. Galmore?

7 MR. WILSON: No, sir.

8 THE COURT: All right. We'll take at least an hour
9 break so the jury can eat lunch and then we'll come back.

10 (A lunch recess was taken from 12:50 p.m. to 2:00 p.m.)

11 (State's Exhibit 196 and 197, Photograph of Grate
12 with Face Mask/Hat, was marked for identification.)

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

15 MS. LIVESAY: No, sir.

16 THE COURT: Mr. Wilson?

17 MR. WILSON: No, sir.

18 THE COURT: Mr. Galmore?

19 MR. GALMORE: No, sir.

20 THE COURT: All right. Let's bring the jury in.

21 (The jury entered the courtroom at 2:07 p.m.)

22 THE COURT: All right. Ladies and gentlemen,
23 welcome back. Make sure you have your own notepads and no
24 one else's notepads.

25 We're ready to resume with the trial of the case.

1 Mr. Wilson, continue with your cross-examination.

2 MR. WILSON: Thank you, Your Honor.

3 BY MR. WILSON:

4 Q I just got a couple of more questions. Let me ask
5 you -- and this goes back to the original crime scene.

6 There were 9mm shell casings found with more than one type
7 or one manufacturer? Would that be correct?

8 A Yes, sir.

9 Q All right. And other than 9mm shell casings, were
10 there .45 shell casings found?

11 A Yes, sir.

12 Q How many?

13 A There were three or four in all.

14 Q Okay.

15 A And, sir, if I may go back.

16 Q Sure.

17 A And I apologize. You asked me a previous question
18 before His Honor had dismissed us for lunch. I knew I was
19 close to finding that answer. Your question was in
20 reference to which junk vehicle did the -- forgive me, I
21 forget the State's number, but the black gun box.

22 Q Yes, sir.

23 A You had asked me which vehicle that came out of. I
24 located that, and I have it noted it came out of the
25 Nissan Altima, to answer that question.

1 Q Okay. Did you also find out who the owner of that
2 Nissan Altima was?

3 A I did not.

4 Q All right. So, back to my current question, which
5 is: How many .45 caliber shell casings were found at the
6 scene?

7 A Yes, sir.

8 Q And while you're looking, just so I'm clear, I'm
9 going to need to know where they were found.

10 A Okay. So, one was -- one SIG .45 auto was located
11 near the passenger rear tire of the Acura. Another was
12 located near rear of Acura.

13 Q Near the rear?

14 A Yes, sir.

15 Q Rear meaning the back-back or near the back
16 passenger side?

17 A I have it noted as near the rear of the Acura. So,
18 I would say it was more so the rear of the vehicle as
19 opposed to closer to the passenger.

20 Q Okay. All right. Very good.

21 A So, that is two .45.

22 Q Just two?

23 A So far.

24 Q All right.

25 A There was another .45 also manufactured SIG .45

1 auto. That was located on the sidewalk in between
2 Apartment No. 1 and Apartment No. 2.

3 Q And all three of those would have been collected;
4 right?

5 A Yes, sir.

6 Q Okay.

7 A Would you like property numbers on those, sir?

8 Q No. But thank you.

9 Now, let me ask you about [REDACTED] Road. Did
10 you go there and did you participate in a search at [REDACTED]
11 [REDACTED] Road?

12 A No, sir.

13 Q So, you didn't participate in that search at all?

14 A No, sir. To clarify, my portion -- anything that I
15 had to do with this case was in reference to the initial
16 scene, the subsequent processing of the Acura, the
17 processing of the Cadillac, and the execution of the
18 search warrant of the location at [REDACTED] Road.

19 Q Okay. So, that would be the extent, then, of your
20 participation. Is that what you're saying?

21 A Yes, sir.

22 Q Okay. What about the Cadillac? Did you participate
23 in swabbing the Cadillac or searching the Cadillac?

24 A I did.

25 Q Okay. And tell me what items, if any, you removed

1 or took or confiscated from the Cadillac.

2 Okay. I'm sorry. Are you ready?

3 A If you are, sir.

4 Q Go ahead.

5 A Items collected from the Cadillac consisted of DNA
6 swabs of all four exterior front and rear door handles.

7 There was latent lift from the -- do you care for
8 locations or do you just want a summation of this, sir?

9 Q However you want to present it is fine.

10 A Four DNA swabs were collected from all four exterior
11 handles of the four doors. There were four latent lift
12 cards, one of which was from the driver rear door window.
13 Second from the driver's side of the trunk lid along the
14 chrome strip. The third latent lift was located and
15 lifted from the center of the trunk lid. And I also have
16 that followed up by chrome strip. The fourth latent lift
17 was the exterior passenger side of trunk lid along the
18 chrome strip.

19 Item No. 9 consisted of two touch DNA swabs,
20 referenced the interior driver front door handle.

21 Item No. 10 consisted of a DNA swab of the steering
22 wheel.

23 Item No. 11 consisted of a DNA swab of the gear
24 shift knob.

25 Item No. 12 consisted of DNA swabs, the interior

1 driver rear door handle.

2 And, sir, just to clarify, when I say, "interior
3 door handle," personally I'm referencing the latch, the
4 actual mechanism that you would pull to release the door
5 to open the door.

6 Q Okay. All right.

7 A I know sometimes they have handles.

8 Q That's fine.

9 A Moving on...

10 Item 13 would have been the interior passenger rear
11 door handle/latch.

12 DNA swab of the interior passenger front door
13 handle.

14 And then Item 15 was a latent lift, interior
15 passenger rear door handle.

16 And then No. 16, DNA swabs of red stain, driver rear
17 backseat seatbelt, which was tested with a presumptive
18 positive test.

19 Q Are you finished? I'm sorry?

20 A 1 through 16. I have 16 items listed for the
21 Cadillac, sir.

22 Q So, you're doing these swabs to see if there's a
23 presence of blood; right?

24 A Well --

25 Q The swabs. When you take the swabs and you wipe

1 down the car or whatever you want to call it with the
2 swabs and then you send those off to be tested to see if
3 any substance is blood or DNA of some type; is that right?

4 A Yes. DNA of some type, which would be inclusive of
5 blood.

6 Q Okay. All right. And then with the latents, what
7 we're talking about is lifting fingerprints from different
8 locations in the vehicle or on the vehicle?

9 A Yes, sir.

10 Q All right. And latent lifts is simply the prints
11 that we put on there, and then you take something and lift
12 them off and put them on the car to send them to be looked
13 at -- or I guess that's the right word. If it's not, you
14 can tell me what it is. Examined?

15 A Yes, sir.

16 Q All right. And -- but you don't do the examination
17 yourself of, say, the swabs. Let's start with that. You
18 don't actually examine the swabs and tell us whether it's
19 DNA on the swabs or not?

20 A No, sir. Those swabs would be forwarded to the SLED
21 lab.

22 Q Okay. All right. Now, do you have some chemical or
23 some way of knowing where a substance or stain may have
24 blood in it? A presumptive test of some kind?

25 A Yes.

1 Q And tell us about that. What do you do in order to
2 make that determination?

3 A So, we have a presumptive kit that we use, and the
4 kit consists of a Q-tip. And what we'll do is we'll -- if
5 the stain is dry, we would utilize an ampule of sterile
6 water. And then moisten it and, basically, we would rub
7 the Q-tip on there.

8 Now, the first thing I would do is I would take --
9 because, depending on the size of the stain, okay -- and
10 we would do that with a smaller stain. We would always go
11 with the DNA swab first prior to the presumptive testing
12 due to the fact that maybe the sample isn't large enough.

13 So, of course, the DNA that would be sent off to be
14 tested at the lab would be more important than me being
15 able to sit here and tell you, you know, it was
16 presumptive for blood or it was not.

17 So, we would collect the DNA swab first. Then we
18 would follow that up with a presumptive test. As I was
19 stating, I would utilize sterile water and I would swab
20 that area; say, for instance, in this case, the red stain.

21 And then there's an ampule with a chemical, and I'd
22 crush up the glass tubes, the chemical combines, and then,
23 we drip this on the tip of the Q-tip. And the Q-tip would
24 fluoresce in, like, a bluish-green type color.

25 Q Would it fluoresce if it's animal blood, say, as

1 opposed to human blood?

2 A I don't know all of those particulars, but I know it
3 focuses on the hemoglobin in the blood.

4 Q So, you look for the florescence, and once you see
5 that, then you preserve that swab and send it off so that
6 it can be further tested by SLED or whoever?

7 A Not the presumptive. The DNA swab we do, yes, but
8 the presumptive -- if it shows the color, we take a
9 photograph of it near the stain that we did the swab, and
10 then we would discard -- you know, because now we have the
11 photograph.

12 Q And I apologize because I did say -- I said
13 "presumptive test," but I meant the swab, the swab that
14 you used to wipe the area. You put it in a package and
15 then you send that to be tested?

16 A Yes.

17 Q Okay. Now, let's talk for a second about the
18 fingerprints. Explain to us, when you're looking -- when
19 you're examining the inside and the outside of the vehicle
20 and you're looking for prints, you're looking to determine
21 if -- because if someone is riding in a car or touching a
22 steering wheel or opening a door or putting their hands on
23 some smooth surface inside the vehicle, there is a
24 possibility that there might be some prints, right, from
25 that person?

1 A Yes, sir.

2 Q Now, that's not always true, but there's a
3 possibility?

4 A Yes, sir.

5 Q And you want to capture that so that you can see
6 whose prints -- who those prints belong to, to try to see
7 if that person can be associated with that particular
8 vehicle?

9 A Yes, sir.

10 Q All right. And you did that in this case. And how
11 many latents did you say you had from that car? And we're
12 talking about now the Cadillac.

13 A Yes, sir. In reference to the Cadillac, I have
14 listed that there were five latent lifts collected.

15 Q Okay. And so, that would mean that you saw
16 something that you thought would be a potential print?

17 A Yes, sir.

18 Q All right. And did you get -- well, I'll ask that
19 later.

20 Okay. And so, other than the swabs from -- for
21 blood or DNA and the latents, did you do anything else
22 with the Cadillac?

23 A The only thing that I can recall is what was
24 presented the other day, sir --

25 Q Okay.

1 A -- which was the LCD on the backseat.

2 Q Okay. All right. Now, where did you conduct these
3 tests on the Cadillac?

4 A That would have been conducted in our impound lot to
5 the rear of the property at the police station.

6 Q Okay. I think that's -- I think that's it. Thank
7 you very much. I appreciate it.

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

9 CROSS-EXAMINATION

10 BY MR. GALMORE:

11 Q Detective Bauman, how are you, sir?

12 A Doing okay, sir. And yourself?

13 Q I'm fine. Thank you.

14 So, I understand that you were called to the scene
15 out on Highway [REDACTED] of May 31st of 2022; is that correct?

16 A On [REDACTED], sir.

17 Q I'm sorry. Yes, sir. [REDACTED].

18 About what time were you called out to the scene?

19 A I arrived on the scene on 5/31 of '22. I arrived on
20 the scene at 1525 hours. So, 25 minutes after 3:00 in the
21 afternoon.

22 Q Okay. So --

23 A I apologize. Your specific question was what time
24 was I notified. I didn't note that, but I know, from
25 where I was at to where I needed to be, I probably

1 received a notification somewhere in the area of 3:00.

2 Q All right. So, you weren't present at the shooting?

3 A No, sir.

4 Q No. You didn't see the shooting?

5 A No, sir.

6 Q Okay. Did you collect any video surveillance of the
7 shooting?

8 A I did not collect any video, sir, no.

9 Q Okay. And I think you testified earlier in the week
10 that you do not interview witnesses?

11 A No, sir.

12 Q Right. That's not your responsibility.

13 A Correct, sir.

14 Q Okay. Your responsibility is to collect physical
15 evidence; is that correct?

16 A A portion thereof my responsibilities, yes, sir.

17 Q Okay. So, outside of the physical evidence that you
18 collected, you don't know anything about this case?

19 A No, sir.

20 Q Could you tell this jury if these young men were
21 attempting to rob Mr. Conn?

22 A I cannot.

23 Q And, likewise, you can't tell this jury if Mr. Conn
24 was attempting to rob them?

25 A I cannot.

1 Q Can you tell this jury who fired first?

2 A No, sir.

3 Q Can you tell this jury the sequence of firings of
4 the guns that were fired in this case?

5 A I cannot.

6 Q You cannot.

7 Let me ask you about the Acura. So, when you get to
8 the scene, you identify the Acura as being involved in the
9 shooting; is that correct?

10 A Victim No. 1 was located in the Acura, yes.

11 Q And let me show you what's been marked as State's
12 Exhibit No. 125 and ask you if you recognize that.

13 A I do recall seeing this, yes, sir.

14 Q Did you take that picture?

15 A Yes, sir.

16 Q And what is that a picture of, sir?

17 A That is the picture of the gentleman, Mr. Conn,
18 Victim No. 1.

19 Q Yes, sir.

20 MR. GALMORE: Permission to publish, Your Honor?

21 THE COURT: That's already in evidence?

22 MR. GALMORE: Yes, sir.

23 THE COURT: Yes, go ahead.

24 BY MR. GALMORE:

25 Q Now, regarding Victim No. 1, what's that in his lap?

1 A In his lap? There were quite a few things in his
2 lap, but I believe you're making reference to the weapon
3 that was located in his lap, which that weapon was --

4 Q State's Exhibit No. 22. Let me hand you what's been
5 marked as State's Exhibit No. 22 and ask you if you
6 recognize that.

7 A All right, sir. Do we have the set of gloves? I
8 have seen it before, yes.

9 Q Yeah, I guess maybe we need a set of gloves, please.
10 And what is State's Exhibit 22?

11 A State's Exhibit No. 22 is my Item No. 9. It was
12 a -- it's a GLOCK weapon.

13 Q Okay. And did you collect that GLOCK into evidence?

14 A I did, sir.

15 Q Okay. Is that the same GLOCK that's depicted in the
16 picture, State's Exhibit 125?

17 A Yes.

18 Q All right. Could you take it out of the box for us?
19 And just to be clear, it's not loaded, is it?

20 A The weapon is clear.

21 Q All right. Now, I notice in the box there is a
22 magazine. Is that the magazine that you collected in
23 State's Exhibit No. 125?

24 A Yes, sir.

25 Q Now, it seems to me that that's not the original

1 magazine to go with that handgun, is it?

2 A I would say no, sir.

3 Q All right. Would you call it an extended clip or a
4 high-capacity clip?

5 A I would refer it to as an extended magazine, yes,
6 sir.

7 Q And does that clip fit into that firearm?

8 A It does, sir. I believe there's photographs from
9 the scene that we saw the other day that was Item No. 3 --
10 or I'm sorry, Item No. 9. It was on Victim No. 1's lap.
11 I'm sorry; I momentarily confused it with the Canik weapon
12 that was outside the vehicle.

13 Q We'll get to the Canik in a minute.

14 All right. I'm not going to ask you to insert the
15 clip, but it would be fair to say that is the firearm that
16 was in Mr. Conn's lap?

17 A Yes, sir.

18 Q And when you took that gun into evidence, did it
19 have any live rounds in the clip?

20 A If you'll allow. I need to get to the processing of
21 that.

22 Q Yes, sir.

23 A All right, sir. I'm at the portion of the property
24 record and/or evidence record, if you will. The Item 9.1
25 would be in reference to the extended mag. The extended

1 mag came from Item 9, which is noted at the weapon; so,
2 therefore, anything that comes off of that item now has a
3 subsequent serialization of 9.1.

4 9.2 is noted as 17 -- one seven -- live rounds. All
5 of those were, as stated earlier, the Winchester 9mm
6 Luger. And I also have it noted that those particular
7 live rounds were hollow point rounds.

8 Q So, that GLOCK had 17 hollow points in it?

9 A Yes, sir.

10 Q Okay. What is the capacity on that extended clip?

11 A The capacity on that magazine is 27 rounds.

12 Q 27.

13 When you took that GLOCK and magazine into evidence,
14 did you conduct any testing to see if it had recently been
15 fired? Like in the '70s detective shows, they'll just
16 kind of like smell the barrel and say, "This gun has
17 recently been fired." Were you able to do that?

18 A No, sir.

19 Q We don't smell barrels anymore?

20 A No, sir.

21 Q Is there any kind of test to conduct to figure out
22 whether that gun had recently been fired?

23 A There would be a -- the only test I can think of --
24 no, to answer your question. There was no subsequent
25 testing to see if it was recently fired because there

1 would be gunshot residue. And, you know, if you had taken
2 this weapon to the range a month prior and you did not
3 clean it -- I mean, there's still the potential that
4 gunshot residue can still be sitting in there. So, no.

5 Q So, we don't have a test that can say this gun has
6 been fired in the last 60 minutes or so?

7 A Not to my knowledge. And that would be a ballistics
8 expert question.

9 Q Okay. Did you get any fingerprints off of the
10 GLOCK?

11 A Off of the gun itself? No, sir.

12 Q Okay. Did you get any fingerprints off of the
13 extended clip magazine?

14 A If I may take a moment to ---

15 Q Yes, sir.

16 A --- track something down. I want to be sure we're
17 talking about the same item.

18 Q Yes, sir.

19 A Because I do see it noted that there's latent lifts
20 from a magazine but I just need to figure out which one.

21 Q Yes, sir.

22 A No, sir, there were no latent lifts taken from the
23 magazine ---

24 Q Okay.

25 A --- which is noted as my 9.1. For this GLOCK

1 weapon, there were no latent lifts taken off that
2 magazine.

3 Q Now, when you said you were getting it confused with
4 the other magazine, would that be the magazine that
5 Mr. Conn had in his back pocket?

6 A No, sir.

7 Q There's another magazine?

8 A Yes, sir.

9 Q Well, were there any prints lifted off of the
10 magazine that Mr. Conn had in his back pocket?

11 A No, sir.

12 Q Okay. Back to the extended clip -- and you said
13 there were 17 rounds of hollow points rounds in there.
14 Were there any fingerprints that were lifted off of any of
15 those 17 rounds?

16 A According to what I...

17 No, sir.

18 Q Okay. Is it possible to lift fingerprints off of a
19 live round of ammunition?

20 A Yes, sir.

21 Q And if it wasn't done in this case, is that
22 because -- well, why would that be, if it wasn't done in
23 this case?

24 A Well, it probably was done, yes.

25 Q Okay.

1 A It just -- we didn't come up with -- okay. Had
2 there been some ridge detail, we would have lifted it.

3 Q So, you didn't see it or it wasn't there?

4 A Correct. Or there was not enough ridge detail on
5 the item, and that could be due to the size of the item or
6 maybe the sample. When I say "sample," I mean, like, the
7 area of the latent that might be there. If it's so
8 small --

9 Q Too small of a print or piece of a print.

10 A Yeah, if it's a smaller partial that doesn't have
11 enough detail, then that would not have been sent off.

12 Q Well, what about the magazine that's in Mr. Conn's
13 pocket? Did it have live ammunition in it also?

14 A Okay. So, Item No. 27 is the one that you're making
15 reference to. I believe Victim No. 1, the magazine that
16 came out of his jeans?

17 Q Yes, sir.

18 A That was my No. 27, and I had noted black-in-color
19 magazine, and I have in parentheses loaded, found inside
20 Victim No. 1's jeans.

21 Q When you say "loaded," does it say how many rounds
22 of ammunition?

23 A I can break that down for you, yes, sir. I can
24 answer that question if you allow me to -- because it -- I
25 would have collected that item. I'm sure you're aware of

1 the process, but for the purposes of the jury, it's
2 collected on-scene and then it's bagged, transported back
3 to our station. And back at the station in our lab,
4 that's where I go further and count the rounds and things
5 of that nature.

6 Q Right. You're not fingerprinting that on the scene.
7 You're doing that back at the police department.

8 A Correct. And like things with the maker, if we came
9 across a wallet and we had to break down the wallet, all
10 of these things we call itemizing. In the instance of
11 that black-and-red bag that was located in the front
12 driver's seat, you know, I collected the whole bag, get
13 back to the station, and that's where I open the bag, and
14 I itemize what's inside the bag.

15 Same thing with the magazines. Same thing with
16 anything that would be a bag of some sort that has any
17 sort of contents within, and that's why you see me jumping
18 within all of these property records, because they're done
19 at separate times.

20 (Reviewing documents.)

21 I apologize it's taking me so long.

22 Q Take your time, sir.

23 A So, the magazine that fell out of the jeans of
24 Victim No. 1 is noted as 27.B.1. That contained 15 live
25 rounds of Winchester 9mm Luger rounds.

1 Q Okay. Were those 15 rounds --

2 A 15 live rounds.

3 Q -- 15 live rounds, were they dusted for prints by
4 any chance?

5 A I'm sure they were, sir. As a result of that, the
6 results would have been negative.

7 Q Okay. Were they hollow point rounds also?

8 A They were not, sir. I only made note of that, the
9 other magazine.

10 Q Well, what's the difference between a regular round
11 and a hollow point round?

12 MS. LIVESAY: Excuse me, Your Honor. Objection.

13 MR. GALMORE: He's a police officer.

14 MS. LIVESAY: Detective Bauman is not a ballistics
15 expert.

16 MR. GALMORE: He is a police officer.

17 THE COURT: Well, I mean, if he knows, I'm going to
18 allow him to testify to that. I don't think you have to
19 be an expert to know the difference between a hollow point
20 and non-hollow point.

21 Go ahead and ask your question.

22 BY MR. WILSON:

23 Q What's the difference between a hollow point round
24 and a regular round?

25 A What you're referring to as a regular round, the

1 complete projectile, it would be rounded at the nose
2 and/or there's others that are manufactured where had they
3 have a flat top. In reference to a hollow point, during
4 the processing, what they have done is they have made an
5 indentation in the tip of the projectile.

6 Q And what would be the purpose of making the
7 indentation in the tip?

8 A My understanding, not being an expert and being a
9 police officer, it's been my experience that the purpose
10 of having hollow points is for -- when the bullet enters
11 its intended target, all right, the round expands quicker
12 because of the force as it's going through. For example,
13 soft tissue, the round expands and becomes wider and/or,
14 for want of a better term, I'll say stars out to produce
15 more terminal stopping power.

16 Q Would it be fair to say that the hollow point rounds
17 are more lethal than a regular round of ammunition?

18 MS. LIVESAY: Your Honor, objection.

19 THE COURT: Sustain that objection.

20 BY MR. GALMORE:

21 Q Are hollow point rounds generally sold to the
22 public?

23 A Yes, sir, they can be purchased.

24 Q Okay. Now, you mentioned gunshot residue. Did you
25 conduct a gunshot residue test on Mr. Conn?

1 A I don't believe I did for the simple fact that his
2 hands were covered in blood.

3 Q Okay. So, because they were covered in blood, it
4 wouldn't be feasible to conduct a gunshot residue test?

5 A Correct. And the only thing that would indicate any
6 way, sir, would have been at some point somewhere he fired
7 the weapon, and that would have been a week before, that
8 could have been a month before. I don't know how long the
9 residue remains on human hands.

10 Q Okay. This GLOCK with the extended clip, do you
11 know if it was fired in this shooting?

12 A I'm sorry? The GLOCK?

13 Q Yes. The GLOCK with the extended clip.

14 A Do I know if that was involved in this shooting?

15 Q Yes. You collected 20 casings.

16 A Correct.

17 Q Was that GLOCK fired as any of those 20?

18 A I do not have the results of that. The gun and
19 casings would have been sent off to an expert for that
20 determination.

21 Q Okay. And you did send the gun and casings off in
22 this case?

23 A I turned them over to Evidence, and I am sure
24 Evidence sent these in.

25 Q Okay. Is that the NIBIN that we're talking about?

1 A So, there's -- it's my understanding -- NIBIN is the
2 umbrella for the ballistics examination.

3 Q Yes, sir.

4 MS. LIVESAY: Your Honor, objection. This would be
5 outside the scope of Detective Bauman's (A) job
6 responsibilities and (B) expertise.

7 THE COURT: What was the question again?

8 MR. GALMORE: The question was: What is NIBIN?

9 THE COURT: What is what?

10 MR. GALMORE: NIBIN.

11 THE COURT: I'll allow it.

12 MS. LIVESAY: Horry County Police Department doesn't
13 even have NIBIN.

14 MR. GALMORE: Yeah, that's kind of the point.

15 THE COURT: I don't know what it is, but he may know
16 what it is. If he knows the answer, I'll allow that.

17 A NIBIN is the acronym for National Integrated
18 Ballistic Information Network.

19 BY MR. GALMORE:

20 Q All right. And only certain officers are trained to
21 use NIBIN equipment; is that correct?

22 A Yes, sir.

23 Q And you are not trained in using NIBIN equipment?

24 A Correct, sir.

25 Q And, in this case, the casings and bullets and

1 weapons were sent to Myrtle Beach to be tested by the
2 NIBIN administrator?

3 A I don't believe -- sir, there's SLED tape on this.

4 Q Okay.

5 A So, they would have been sent to SLED.

6 Q Okay. So, what was sent to SLED and what was sent
7 to NIBIN?

8 A That would be a better question for the evidence
9 personnel in our department. I don't personally do the
10 sending. When I'm done with the processing, I then turn
11 it in to our Evidence section and then the detectives and
12 those folks -- whatever they decide, whatever evidence
13 they would like to use or not use or whatever -- and
14 whatever evidence they wish to send off for further
15 testing, they go ahead and handle that.

16 Q Okay. You collect the evidence and someone else
17 sends it off for testing?

18 A Yes, sir.

19 Q All right. And you can't tell this jury if that gun
20 was fired during this shooting?

21 A That's correct, sir. That's beyond me.

22 Q Well, let me ask you about State's Exhibit 21. And
23 ask you if you can identify that.

24 A As earlier, sir, this is the Item No. 3 that I
25 collected. Other numbers have since been assigned to it,

1 but yes. That is the weapon that was Item No. 3 collected
2 on the scene. This is the weapon that was on the ground
3 on the passenger side of the Acura at the location of
4 [REDACTED] Highway [REDACTED].

5 Q Were you able to lift any fingerprints off of either
6 the weapon -- I guess we'll call it the Canik -- or its
7 magazine or ammunition?

8 A Yes.

9 Q Okay. Did those fingerprints come back as a match
10 to anyone involved in this case?

11 A I do not have those results with me, sir.

12 Q Okay. But you were able to lift prints off of the
13 Canik?

14 A Yes, sir. And that --

15 Q I'm sorry; what part of the firearm specifically
16 were you able to lift prints off of?

17 A The magazine, sir.

18 Q The magazine. Okay.

19 Were you able to lift -- swab for DNA for the Canik?

20 A Sir, for the weapon itself, while I was on the
21 scene, I swabbed the grip and the trigger for DNA
22 collection.

23 Q Did you send that DNA sample off for analysis or
24 comparison? Or someone else did that?

25 A Yes, sir, I collect my evidence, and then I --

1 again, I turned it in to our Evidence folks, and that
2 determination is not made by me, what gets tested and what
3 does not.

4 Q Okay.

5 A Nor do I personally get involved in the transport
6 thereof.

7 Q We heard testimony that the Canik stove-topped or
8 jammed; is that correct?

9 A That is correct, sir.

10 Q Would you be able to tell this jury how many rounds
11 it fired before it jammed?

12 A No, sir.

13 Q All right. Now, I understand, at the scene, you
14 collected three .45 round casings; is that correct?

15 A Yes, sir. I believe it was three, yes.

16 Q Okay. Were you able to get any fingerprints off of
17 those casings?

18 A No, sir. What I have in front of me is -- that is
19 not on my list of items that were sent off to AFIS or
20 requested to go to AFIS. There's nothing listed as far as
21 my latent lifts that indicate a .45. So, therefore, I
22 will assume it was either negative results or the sample
23 was not a viable enough latent print to forward.

24 Q Okay. Were you able to swab any DNA off of those
25 .45 casings?

1 A The casings were not swabbed.

2 Q Okay. Now, I understand that, when you conducted
3 the search warrant at [REDACTED] Road, you found a single .45
4 round -- live round; is that correct?

5 A If you'll allow me to catch up with the -- what I
6 collected from [REDACTED] Road. If I may have a minute.

7 Q Yes, sir.

8 A Item No. 11, .45 caliber bullet located in top
9 drawer of small dresser in back bedroom.

10 Q Okay. Were you able to lift any fingerprints off of
11 that .45 bullet?

12 A I do not recall getting a latent lift off of there.

13 Q All right.

14 A It would have been noted. I'll keep searching.

15 Q Were you able to swab any DNA off the live .45
16 round?

17 A The round itself was not swabbed.

18 Q Okay.

19 A By me.

20 Q Okay. Well, was it swabbed by someone else in the
21 department?

22 A It may have been forwarded to the lab. I don't --

23 Q To the best of your knowledge, it was not?

24 A To the best of my knowledge, that particular .45
25 round was not swabbed.

1 Q All right. Can you tell this jury if that .45 round
2 came from the same box of ammunition as the three live
3 rounds -- three spent casings that you found at the scene?

4 A If it came from the same box as the other three?

5 Q Yes, sir.

6 A I cannot tell you that.

7 Q You cannot tell us that.

8 Is there any connection you can make between the
9 single .45 live round and the three casings that were
10 found at the scene?

11 A If I go back to the photographs, I may be able to
12 tell you if the head stamp on the .45 that was located at
13 [REDACTED] Road might be the same manufacturer.

14 Q Okay.

15 A That would be the only connection I'd be able to
16 make for you.

17 Q And possibly the same manufacturer?

18 A Yes, sir.

19 Q Okay. Well, let me ask you about State's Exhibit
20 No. 30, the GLOCK box.

21 A Yes, sir.

22 Q First, was there a weapon found in that box?

23 A There was not.

24 Q Okay. There was no GLOCK or any other type of
25 firearm?

1 A Firearm? No. There was no firearm located within
2 that box.

3 Q Were there any test rounds in the box? You know,
4 sometimes when you buy a new gun, it comes with a couple
5 of rounds that have already been fired.

6 A I have heard of that. In the weapons I have owned
7 over my life, I have never experienced that myself
8 personally.

9 Q But that does happen though? It comes with test
10 rounds on certain occasions?

11 A Yes. But, no, there were no test rounds that I
12 noted.

13 Q Okay. Now, where was this box found specifically,
14 sir?

15 A This would be found at the property located at
16 [REDACTED] Road. On that property, there is a Nissan
17 Maxima located to the rear of the building. I believe it
18 was gold-in-color. It was located in the back seat of
19 that vehicle inside of a grocery-type plastic bag, which
20 in turn, it was in a black backpack, and this box was
21 inside of the backpack that was stored in the rear
22 driver's side of that junk vehicle.

23 Q The box was inside of a grocery bag inside of a
24 backpack inside of a car?

25 A No, sir, the other way around.

1 Q I'm sorry.

2 A This box was in the backpack.

3 Q Right. And the backpack was in the grocery bag?

4 A Correct. It was, like, a plastic grocery bag.

5 Q Okay. Based on the serial number on the box, were
6 you have able to identify the owner of the box?

7 A That paperwork was presented two days ago when we
8 were all here. It was presented by the prosecution.

9 Q Did the owner report that their gun was stolen?

10 A I don't have that information, sir. That would have
11 been -- if that was looked into, it would have been looked
12 into by the detective or the lead detective or any one of
13 them that were assisting that individual.

14 Q Okay. Did the box have any fingerprints on it?

15 A The box did not have any fingerprints on it.

16 Q Did the box have any DNA on it?

17 A I did not swab the box for DNA.

18 Q So, can you tell this jury who handled that box?

19 A I cannot. At this point, I can only tell you what
20 was inside of that box.

21 Q Okay.

22 A Which all of -- everything was spelled out in
23 accordance with the warrant that was brought to my
24 attention and which is the warrant that I executed on that
25 particular day.

1 Q In fact, there was nothing in the box; is that
2 correct?

3 A That is not correct.

4 Q So, what was in the box?

5 A There was rounds. There was a couple of magazines
6 that I recall. I'm getting to that list. And that's --
7 I'm searching for the [REDACTED] Road portion of this binder.

8 Do you care to see the images -- or I mean, they're
9 thumbnails. In any event, upon my execution of that
10 warrant, I have documented here the vehicles out in the
11 back and then more specifically, Image No. 103, 104, 105.
12 Image 106 is the front of this box. And then 107 is the
13 box opened up on the scene.

14 Q What were the contents of the box?

15 A From what I can see here -- forgive me, my eyes are
16 50-some years old. There's some magazines in there.
17 There's some live rounds. It appears that there's some
18 rounds in a clear plastic baggie. There were some items
19 in there. I can dig up the itemization on that.

20 Q Were any of those items tested for fingerprints or
21 DNA?

22 A I probably would have attempted prints. Again, I
23 don't have anything that I sent off to the AFIS folks, so
24 I'm going to say there was negative results for latent
25 prints.

1 Q Okay.

2 A Can you hear me okay? I'm sorry.

3 Sir, let me hand you what's been marked as State's
4 Exhibit 100 and ask you if you recognize this.

5 A Yes, sir. I do.

6 Q And what does State's Exhibit 100 purport to be?

7 A I'm sorry. What does State's Exhibit 100 --

8 Q What is it?

9 A It's an image of the white Acura.

10 Q And it more specifically has the rear left side
11 driver's side door open; is that correct?

12 A The rear driver's side door is partially ajar, yes.

13 Q Okay. Were you able to lift any fingerprints from
14 the rear passenger door -- rear driver's side door? I'm
15 sorry.

16 A You're asking specifically for the rear driver's
17 side; is that correct, sir?

18 Q Yes, sir.

19 A Latent print from the rear quarter panel. Latent
20 print from the exterior passenger front door handle;
21 that's not what you're after.

22 No, sir, there was no latent lifts from the rear
23 driver's side door ---

24 Q All right.

25 A --- that were collected.

1 Q Thank you.

2 Let me hand you what's been marked as State's
3 Exhibit No. 135 and ask you if you recognize that picture.

4 A Yes, sir, I do.

5 Q And what is that, sir?

6 A Green leafy vegetable matter housed inside of a gray
7 plastic grocery-type shopping bag.

8 Q Were you able to get any fingerprints or DNA off of
9 the grocery bag?

10 A No, sir.

11 Q All right. Let me hand you what's been marked as
12 State's Exhibit 134 and ask if you recognize that.

13 A I do, sir.

14 Q And what is State's 134, sir?

15 A That would be an image from the passenger side rear
16 door covering the rear seat area of the white Acura.

17 Q Yes, sir. And did you take that picture as well?

18 A I did, sir.

19 Q All right. And in that picture, we see that gray
20 bag with the marijuana in it on the backseat?

21 A Yes, sir.

22 Q And that's the bag that you previously indicated had
23 no fingerprints or DNA on it?

24 A Correct, sir.

25 Q All right. We also see two shoes in the floorboard

1 area; is that correct?

2 A That is correct, sir.

3 Q And where are those shoes located?

4 A Where are they now, sir?

5 Q Well, where are they located in the picture? I'm
6 sorry.

7 A They're on the rear floor of the rear seating area
8 of the white Acura.

9 Q And one is on the left side and one is on the right
10 side; is that correct?

11 A Yes, sir.

12 Q All right. Now, it's my understanding that you were
13 able to get DNA off of those flip-flops; is that correct?

14 A I swabbed them for DNA. I don't know if they --
15 that would be a SLED DNA expert question.

16 Q Okay. So, you wouldn't have sent it off. Someone
17 else in the department would have sent it off. But you
18 swabbed the DNA?

19 A I swabbed for the presence of DNA for the ownership
20 of those shoes, yes.

21 Q All right. Just in conclusion, were you able to get
22 my client's fingerprints off of any of these firearms?

23 A I'm not sure who your client is, sir.

24 Q My client is Dajon Grate.

25 A If those results come back, I don't have them here

1 in front of me to look at.

2 Q Were you able to get my client's fingerprints off of
3 any of these casings?

4 A Again, I don't have the results of the AFIS. That
5 would be an AFIS expert question, whoever the tech would
6 be from SLED in Columbia.

7 Q Okay. But you did collect all of the casings that
8 you were able to find in the area?

9 A Yes.

10 Q All right. Thank you, sir. No further questions.

11 THE COURT: Redirect?

12 MS. LIVESAY: No, sir.

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

14 MS. LIVESAY: At this time, the State calls Jeff
15 Roy.

16 MS. MARTIN: May we release him?

17 MR. WILSON: No objection.

18 MR. GALMORE: No objection.

19 THE COURT: He's free to go. Thank you.

20 JEFF ROY,

21 after having been duly sworn, was examined and
22 testified to as follows:

23 THE CLERK: Please state your name and spell it for
24 the Court.

25 THE WITNESS: Jeff Roy, R-o-y.

1 (State's Exhibit No. 198, Chain of Custody, was
2 marked for identification.)

3 DIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q Mr. Roy, where are you currently employed?

6 A Currently employed by the City of North Myrtle
7 Beach.

8 Q And what do you do for North Myrtle Beach?

9 A I'm their procurement officer, so I purchase and
10 issue all their equipment.

11 Q Okay. And where did you work back in 2022?

12 A At that time, I was a crime scene technician for the
13 Horry County Police.

14 Q And how long had you been at the Horry County Police
15 Department?

16 A I previously worked there as a detective, so I think
17 I was there, like, 7-1/2 years, and I have a total of 23
18 years of law enforcement experience.

19 Q Okay. And what were your job responsibilities when
20 you were with Horry County?

21 A In the crime scene?

22 Q Yes, sir.

23 A Assist detectives like Bauman and others. Sometimes
24 simply just scribing, describing what was found and where.
25 Sometimes processing evidence, but the bulk of my position

1 was transporting evidence from our agency to SLED.

2 Q Okay. Wonderful.

3 And are you familiar with the case that we're here
4 today for?

5 A I did not actively take part in that case, but I did
6 transfer -- transport the evidence from our agency to
7 SLED.

8 Q Okay. Wonderful.

9 And, if you don't mind, tell these folks what you
10 transferred from the Horry County Police Department
11 evidence room to South Carolina Law Enforcement Division.

12 A So, the actual content isn't known to me at that
13 time. It is a list of item numbers and they're all sealed
14 and contained in a box, and I transport it to SLED and
15 relinquish it to the technician at SLED, who signs that
16 they received the stuff sealed in its original containers
17 with initials on it.

18 Q And in this particular case, if you don't mind, tell
19 these folks, did you sign a document showing what you took
20 to South Carolina Law Enforcement Division?

21 A I did. I have a chain of custody that shows that I
22 took a number of items from our agency to SLED, and a
23 corresponding form that shows a SLED receipt of the same
24 items.

25 Q Okay. And what items were those?

1 A Again, the contents, I don't know.

2 Q Okay.

3 A There's a series of numbers that reference what's in
4 them. I do have a printout from SLED that shows what the
5 contents were, but at the time, I'm not aware of what is
6 in those envelopes or sealed boxes even.

7 Q Okay. If you don't mind, tell me what the contents
8 were noted.

9 A On all of them?

10 Q Yes. Yes, sir.

11 A Oral swabs from Grate. Spent casing. Another spent
12 casing. The black Canik 9mm. Spent casing. Spent
13 casing. Spent casing. Projectile. GLOCK 19. Spent
14 casing. Spent casing. Spent casing. Spent casing.
15 Spent casing. Spent casing. Spent casing. Projectile.
16 Two swabs of a red stain. Spent casing. Spent casing.
17 Buccal swabs from the interior cheek. Spent casing.
18 Spent casing. Spent casing. Spent casing. Spent casing.
19 Spent casing. Buccal swabs from Mr. Dicker. Bullet from
20 the right elbow of a victim. That was something that --
21 it's noted from the autopsy that I also transported from.
22 Bullet from the back of Victim No. 1.

23 Q Who is Victim No. 1?

24 A Conn.

25 Q Okay.

1 A And a bullet from the back of Conn's -- yeah, from
2 his back. A fragment from Conn's brain. Black Canik
3 18-round magazine I transported. Two swabs, red stain.
4 Two swabs, red stain. Two swabs. Two swabs of red stain.
5 Spent casing. Projectile located in clothing in the rear
6 hatch. Projectile recovered from driver's side door
7 panel. Another projectile. Projectile. Projectile. And
8 a black extended magazine.

9 Q Okay. Let me ask you something: Is there a page on
10 this document where you printed your name and signed?

11 A There is, yes.

12 Q Okay. And is that documenting that you took the
13 items that are attached to this to South Carolina Law
14 Enforcement Division?

15 A Yes. There's one record of me signing it from
16 Evidence from Horry County, and then there's a
17 corresponding intake sheet from SLED indicating, with my
18 name at the bottom of it, that it was delivered to them.

19 Q Okay. And when you got the box to take it to South
20 Carolina Law Enforcement Division, was it sealed?

21 A Yes. Everything is individually packaged and
22 sealed. Could be a manilla envelope, a gun box. Even,
23 like, clear plastic things are contained sometimes in
24 manilla envelopes, so I can't view the contents. I don't
25 know what it is. They're sealed with this person that

1 sealed them's signature.

2 Q Okay. And did any of those packages appear to have
3 been tampered with?

4 A No.

5 Q And while they were in your custody and control
6 going from Conway to Columbia, at any point, did you
7 unseal any of those items?

8 A No. I store them in the back of a Tahoe that I was
9 issued, and they're in the back compartment of the
10 vehicle.

11 Q Okay. And, at any point, did you tamper with them
12 in any form or fashion?

13 A I did not.

14 Q Okay. And when you drive them to Columbia, tell me
15 about that.

16 A So, it's an intake process, and sometimes you submit
17 the evidence directly to lockers and sometimes you submit
18 it to a technician. They were in the midst of switching
19 between buildings, and I don't recall if it was a direct
20 evidence locker or if I submitted it to an individual.

21 Q Okay. Well, tell me about the locker.

22 A So, the lockers are numbered one through whatever
23 the numbers are, and certain evidence like biological
24 evidence would have to go into the cooler, you know, any
25 type of rape kit or anything. Regular evidence would just

1 go into a standard locker.

2 Q Okay. And is the standard locker locked or sealed?

3 A Yes. So, there's a key in each one. You remove the
4 key, open it, put the contents in, and then you take the
5 key and you slide it into another sealed unit that goes
6 behind a wall.

7 Q Okay. And is that to ensure, once you put the items
8 in there and the locker is locked, nobody can open the
9 locker and tamper with it?

10 A Correct. Nobody from the outside SLED's walls can
11 gain access to that.

12 Q Okay. So, whether you give it to somebody
13 personally or you put it in the locker, the locker is
14 sealed?

15 A Correct.

16 Q Okay. So, there's no way somebody else outside of
17 South Carolina Law Enforcement Division can touch it,
18 unseal it, or tamper with it?

19 A Correct.

20 Q Okay. And the first page of this document, does it
21 document that this case is regarding victim Kalik Conn,
22 victim Jeremiah Dicker, Defendant Dajon Grate, Nasirea
23 Grate, and Todd Fry?

24 A So, I do see it says homicide times two victim --
25 oh, it does. Down below, it does list deceased victims

1 and three suspects.

2 Q Okay. And who are the two victims and the three
3 suspects?

4 A Mr. Conn and Mr. Dicker.

5 Q Are victims or suspects?

6 A I'm sorry; those are the deceased victims.

7 Q Okay. And then who are the suspects?

8 A A Mr. Dajon Grate. And I can't say the first name
9 of the other gentleman.

10 Q Can you spell it?

11 A N-a-s-l-e-r-a [sic] Grate.

12 Q Okay. Nasirea Grate?

13 A Yes.

14 And then Todd Fry.

15 Q Okay. And so, these are all the items you took
16 regarding that case?

17 A Correct.

18 Q Let me ask you something: Do you know why shell
19 casings are taken to SLED?

20 A So, they would be brought there for further
21 examination, probably through the NIBIN system that they
22 have talked extensively about, to compare injector marks
23 and so forth to see if they can pinpoint if they were
24 fired from the same weapon and so forth.

25 Q Okay. So, if you have got several casings -- which

1 you would agree you read off several casings?

2 A Yes.

3 Q So, it's to determine if one gun fired, two guns
4 fired, or three guns fired?

5 A Correct.

6 Q Okay. And there's really no other way to make that
7 determination other than a ballistics expert?

8 A Correct. Not that I'm aware of.

9 Q Okay. You can't look at it with the naked eye and
10 tell; is that correct?

11 A Correct.

12 Q And some swabs were sent as well. Is that for DNA
13 testing at the South Carolina Law Enforcement Division?

14 A Correct.

15 Q Okay. So, none of that stuff is done at Horry
16 County Police Department?

17 A No, ma'am.

18 MS. LIVESAY: No further questions.

19 THE COURT: Mr. Wilson, cross-examination?

20 MR. WILSON: I just have a couple of questions, Your
21 Honor.

22 CROSS-EXAMINATION

23 BY MR. WILSON:

24 Q As I understand, you said you didn't know what was
25 in the package; right?

1 A Correct.

2 Q And so, all you had was a list, and the package was
3 sealed?

4 A All each individually sealed, yes.

5 Q Okay. So, you couldn't match what's on your list to
6 what's in the package?

7 A Just by number.

8 Q Well, I thought the package was sealed.

9 A They are.

10 Q So, if the package is sealed, how are you going to
11 match what's on your list to what's in the package?

12 A Very simply. As the evidence as you brought up with
13 numbers on them, they correspond to the numbers that I
14 sign and brought out of Evidence to SLED.

15 Q All right. So, you're saying that you went to the
16 evidence locker, you got these items, you packaged them,
17 you put them in the sealed box, and then you took them to
18 SLED?

19 A I never said any of that.

20 Q Well, I'm asking.

21 A What I said was, I transported the evidence from the
22 Evidence Department, who then takes it out of the evidence
23 locker and signs it over to me. It's already previously
24 sealed. The overall box that it's transported in is not
25 sealed. They're individually sealed in this box.

1 Q So, just so we're clear, are you telling me that you
2 get individually packaged packages?

3 A Correct.

4 Q And then you match those individually packaged
5 packages to your list, and then you put those packages in
6 a box, and then you seal that box and then you take that
7 box to Columbia? Is that what you're saying?

8 A No, I'll say it again. The box itself is not
9 sealed. The items individually are sealed. They take out
10 the evidence. They bring it to me. They say, "You are
11 taking this item." They show me that item. It's put in a
12 box. "You're taking this item." It's placed in the box.
13 They correspond with this sheet. And I sign for them and
14 then it's followed up by SLED, acknowledging they received
15 the same items.

16 Q Okay. So, you do know what's in the box?

17 A I don't. I only know it by number.

18 Q Okay. All right. Whatever it was, you took it to
19 SLED?

20 A Correct.

21 Q And you dropped it off.

22 A Correct.

23 Q And you don't know who got it and you don't remember
24 whether you gave it to somebody or whether you put it in a
25 locker, but you took it and dropped it off?

1 A Correct.

2 Q All right. Did you have any other involvement in
3 this case other than that?

4 A I went to the autopsy and transported that evidence
5 back to the County.

6 Q And did you have to sign a chain of custody form for
7 that?

8 A I did.

9 Q And how many items did you take from the autopsy?

10 A Eight.

11 Q Okay. And what were those eight items that you
12 took?

13 A Fingernail clippings, right hand, left hand. Hair
14 pulled from the scalp. Blood spot. A CD with autopsy
15 photos. A bullet from the back neck with sponge material.
16 A bullet from the back. And a fragment from the brain.

17 Q Did you take any latent prints, any swabs, any DNA
18 samples, or anything from Nasirea Grate?

19 A I would have to look individually at what it
20 itemized to, but I did transport swabs. I don't know
21 exactly who they're from.

22 Q Would you look?

23 A Yes. Here's an oral swab from Mr. Grate.

24 Q Okay.

25 A Buccal swabs from Conn. Buccals from Dicker. So,

1 yes, I did transport some for them.

2 Q From "them" meaning from Nasirea Grate, is what I
3 asked.

4 A Let me find out what his first name is.

5 THE COURT: He may not -- are you aware that both
6 defendants in this case, the last name is Grate?

7 THE WITNESS: No. I have no involvement in this
8 case other than transporting the evidence.

9 THE COURT: All right. We have a Dajon Grate and a
10 Nasirea Grate.

11 THE WITNESS: Okay.

12 THE COURT: All right. Go ahead.

13 BY MR. WILSON:

14 Q So, I'm specifically asking about Nasirea Grate.
15 Did you transport anything -- swabs, latent lifts --
16 anything regarding Nasirea Grate?

17 A I don't recall labeling any latent prints when I
18 read off this list, but let me look here.

19 I don't see that name listed on any of these swabs.

20 Q Okay. And as I understand it, you said you got some
21 items from the hospital -- from the pathologist; right?

22 A Correct.

23 Q And then you transported whatever items you had on
24 that list to Columbia?

25 A I brought them back to Horry County Police.

1 Q So, you didn't take them up to there? You went and
2 picked them up?

3 A The items recovered from the autopsy went to Horry
4 County Police.

5 Q Okay. I was asking -- I apologize then. I was
6 asking about what you took to Columbia.

7 A The list I read off earlier?

8 Q Yes, sir.

9 A Do you want me to read it again?

10 Q No, sir. I'm just asking you, did you take anything
11 else to Columbia other than what's on your list?

12 A No.

13 Q And you told me already that you didn't take
14 anything from Nasirea Grate?

15 A Not that I see his name listed on here.

16 Q All right. And you didn't go out to the scene where
17 this incident occurred?

18 A I did not.

19 Q Okay. And have you received any reports back on any
20 of the stuff that you took up there?

21 A No. I'm not in that -- I wasn't privy to that type
22 of that information back then and certainly not now.

23 MR. WILSON: All right. Thank you.

24 CROSS-EXAMINATION

25

1 BY MR. GALMORE:

2 Q Can you explain for the jury what a buccal swab is?

3 A It is a swab of the interior mouth in the cheek
4 area, a wooden stick with cotton on it.

5 Q And what is the purpose of taking that swab?

6 A To collect DNA profile for comparisons.

7 Q Okay. And you transported the buccal swab along
8 with DNA that was collected at the scene to Columbia in
9 this case for testing?

10 A Correct.

11 Q Thank you. No further questions.

12 THE COURT: Redirect?

13 MS. LIVESAY: No, sir, Your Honor.

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

15 Do you want to take a short break?

16 MS. LIVESAY: Sure.

17 THE COURT: All right. Ladies and gentlemen, we're
18 going to take our afternoon break. We've been at it for a
19 while.

20 Leave your notepads in the jury box. Do not discuss
21 the case even among yourselves. We'll take about a 10- or
22 15-minute break and come back and resume. Thank you very
23 much.

24 (The jury exited the courtroom at 3:33 p.m.)

25 THE COURT: All right. Anything from the State

1 before we take a break?

2 MS. LIVESAY: No, sir.

3 THE COURT: Mr. Wilson?

4 MR. WILSON: No, sir, Your Honor.

5 THE COURT: Mr. Galmore?

6 MR. GALMORE: No, sir.

7 THE COURT: All right. Let's take about a
8 ten-minute break and we'll come back and get started.

9 (A brief recess was taken from 3:34 p.m. to 3:52
10 p.m.)

11 THE COURT: Anything from the State before we bring
12 the jury in?

13 MS. MARTIN: Nothing from the State.

14 THE COURT: Mr. Wilson?

15 MR. WILSON: No, sir.

16 THE COURT: Mr. Galmore?

17 MR. GALMORE: No, sir.

18 THE COURT: All right. Let's bring the jury in.

19 (The jury entered the courtroom at 3:55 p.m.).

20 THE COURT: All right, ladies and gentlemen.

21 Welcome back. Make sure you have your own notepads and
22 don't have anybody else's notepads.

23 The State can call your next witness.

24 MS. LIVESAY: Thank you, Judge. At this time, the
25 State calls Paul Greer.

1 PAUL GREER,

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

4 THE CLERK: Please state your name and spell it for
5 the Court.

6 MR. WILSON: My name is Paul Greer. G-r-e-e-r.

7 DIRECT EXAMINATION

8 BY MS. LIVESAY:

9 Q And, Mr. Greer, if you don't mind, tell these folks
10 where you're currently employed.

11 A Yes, ma'am. I'm employed at the South Carolina Law
12 Enforcement Division, which is commonly known as SLED.

13 Q And how long have you been at SLED?

14 A I have been employed at SLED just over ten years.

15 Q And what exactly do you do at SLED?

16 A At SLED, I am a forensic scientist within our
17 Forensic Services Laboratory, where I specifically work in
18 the Firearms Department.

19 Q And what kind of training did you undergo to work in
20 the Firearms Department?

21 A Before I joined SLED, I received a Bachelors of
22 Science in Biological Sciences from the University of
23 South Carolina, and upon my appointment at SLED, I began
24 our SLED firearm and tool mark course of instruction.
25 This is an apprenticeship-style training program that's

1 conducted at SLED under the supervision of other qualified
2 examiners.

3 During that time, it was the lengthy program -- it
4 took approximately three years' worth of training -- I
5 conducted many microscopic comparisons, I assisted other
6 examiners prep their cases, and also was given many
7 written and practical examinations.

8 At the conclusion of that training period, I was
9 given a multipart comprehensive final exam that included
10 some mock casework. I successfully passed that and was
11 then able to begin casework on my own.

12 Q Perfect. And if you don't mind, tell us what kind
13 of microscopic comparisons are you doing.

14 A Sure. So, what we do every day is called --
15 referred to as firearm tool mark identification.
16 Specifically firearms identification is we're going to
17 look at tiny microscopic marks that are left on fired
18 bullets and fired cartridge cases as a result of having
19 been fired or cycled through a firearm. And we're going
20 to look at those marks in order to determine those
21 specific ammunition components that fired a cartridge case
22 or fired bullet were fired by a particular firearm.

23 Q Okay. So, if somebody submits several shell
24 casings, you're looking to find if one gun fired all, two
25 guns, three, etc.?

1 A Essentially that's what we're doing, yes, ma'am.

2 Q Okay. And if somebody like Horry County Police
3 Department or Myrtle Beach submits a firearm, you can then
4 do an analysis, microscopic comparison, to find out
5 whether or not that particular firearm ejected those
6 particular shell casings or fired that particular
7 projectile?

8 A Yes, ma'am. Essentially, we looked at those fired
9 cartridge cases. If we have a firearm submitted in a case
10 or those fired bullets, we would test-fire the firearm
11 within our laboratory, compare those tests, and determine
12 that those evidence components were fired by the firearm
13 that was submitted.

14 Q Okay. So, if somebody submits ten 9mm shell
15 casings, it doesn't mean all ten were fired from one
16 firearm?

17 A No, ma'am. We would have to compare those on our
18 comparison microscope, look at those marks, look at those
19 characteristics that are on those cartridge cases as a
20 result of having been fired or cycled through a firearm,
21 and through those comparisons within each other, arrive at
22 our conclusion. And that conclusion would support whether
23 those were all fired by one gun, multiple guns, or we may
24 not know.

25 Q And have you ever been qualified as an expert?

1 A Yes, ma'am, I have.

2 Q What have you been qualified as an expert in?

3 A I'm typically an expert in firearms identification.

4 Q Okay. And how many times?

5 A Approximately 60 times.

6 Q How many?

7 A 60.

8 Q And in what courtrooms?

9 A That's in state and federal courts.

10 Q Okay. And in General Sessions?

11 A Yes, ma'am.

12 MS. LIVESAY: Your Honor, at this time, the State
13 asks that Mr. Greer be recognized as an expert in
14 firearms identification.

15 THE COURT: All right. Any challenges or --

16 MR. WILSON: No challenges. No objection.

17 MR. GALMORE: No objection.

18 THE COURT: All right. I find this witness to be an
19 expert in the field of firearm identification.

20 Now, ladies and gentlemen, I'll give you some
21 instructions on expert testimony when I charge you on the
22 law in the case. All you need to know at this point is
23 that, typically, a witness can only testify as to his or
24 her personal knowledge: what they saw, what they smelled,
25 what they tasted, things of that nature.

1 There is an exception for experts who are qualified
2 as experts, which means that, in addition to his personal
3 knowledge, he is allowed to render an opinion in the field
4 in which he is qualified as an expert.

5 All right. You may continue.

6 MS. LIVESAY: Thank you, Judge.

7 BY MS. LIVESAY:

8 Q And did Horry County Police Department submit shell
9 casings and guns from the case involving Kalik Conn,
10 Jeremiah Dicker, Dajon Grate, Nasirea Grate, and Todd Fry?

11 A Yes, ma'am.

12 Q And did you examine those spent casings?

13 A I did.

14 Q And, in fact, two guns were submitted as well; is
15 that correct?

16 A That's correct.

17 Q Okay. And was one gun submitted with a Canik with
18 the serial number -- actually, why don't I hand you this
19 and you tell me whether or not it was submitted.

20 A Ladies and gentlemen, this firearm is unloaded.
21 It's safe for me to handle, and has this gun lock through
22 it. I will keep it pointed in a safe direction here.

23 Yes, ma'am, I recognize this item.

24 Q Okay. And so, SLED did receive that firearm?

25 A Yes, ma'am, that's correct.

1 Q Okay. And was that firearm part of your analysis?

2 A It was.

3 Q Okay. And I'm going to show you -- and that was for
4 the record -- I apologize -- that is State's Evidence 21.
5 And I'm going to show you now State's Evidence 22. If you
6 don't mind, take a look at that firearm and tell me
7 whether or not that was also submitted for analysis.

8 A Again, this firearm is unloaded, safe for me to
9 handle.

10 Yes, ma'am, I recognize this firearm as well.

11 Q Okay. And how many shell casings were submitted to
12 the South Carolina Law Enforcement Division from this
13 case, just shell casings?

14 A Submitted to the SLED laboratory for examination, I
15 received a total of 20 fired cartridge cases for
16 examination.

17 Q How many?

18 A 20.

19 Q Okay. 20.

20 Now, if you don't mind, can you come down and look
21 at the casings in front of the jury box and tell me if
22 those were the 20 that you examined.

23 A Yes, ma'am.

24 MS. LIVESAY: Is that okay with you, Judge?

25 THE COURT: As long as he's near a microphone where

1 the court reporter can pick up his testimony.

2 THE WITNESS: And may I take my notes with me, Your
3 Honor?

4 THE COURT: Yes, sir.

5 THE WITNESS: Would you like me to identify those?

6 BY MS. LIVESAY:

7 Q If you don't mind, just go through and take a quick
8 look.

9 If you don't mind, tell these folks what you're
10 looking at to be able to identify whether or not you
11 examined those cases.

12 A Sure. When items are submitted to the SLED
13 laboratory, each case that comes in is given a unique SLED
14 lab number. That's what can be tracked in our system.
15 Additionally, each item receives its own item number. And
16 as I'm looking at some of these cartridge cases here --
17 this is a fired cartridge case -- I'm looking for some of
18 that information that I would have left on this individual
19 item.

20 Additionally, you can see some of the packaging
21 that's within the Ziploc container that includes our lab
22 number, item number, and you'll see my initials. And
23 additionally, my initials and my seal date are still at
24 the top of this package. This is how I packaged it at the
25 conclusion of my examination. And it's in a heat-sealed

1 pouch, so that way, it can all be entered and it's still
2 intact.

3 So, I'm looking at a little bit of all that
4 information as I go down the line here. Sometimes that
5 information is very small.

6 Yes, ma'am, these were the ones that were part of my
7 examination.

8 Q Okay. So, you examined all 20?

9 A Yes, ma'am.

10 Q Okay. And after you examined all 20 before we even
11 get into the examination of the guns, were you able to
12 determine how many guns were fired when you examined these
13 casings?

14 A Yes, ma'am, I was.

15 Q How many?

16 A Based on my examination of these 20 cartridge cases,
17 I determined that four firearms had fired these 20
18 cartridge cases.

19 Q Okay. So, four guns were fired?

20 A Yes, ma'am.

21 Q Okay. And how many were submitted that were from
22 Horry County Police Department?

23 A I received two firearms to examine.

24 Q Okay. So, let me ask you this: When you received
25 the firearms, tell this crowd, were you able to tell which

1 casings were fired from these two weapons from the crime
2 scene?

3 A Yes, ma'am.

4 Q Okay. And if you don't mind, I'd like to start
5 first with the 19, Gen 4. And that's going to be 27 for
6 the County. Were you able to determine which casings were
7 fired from that gun?

8 A Yes, ma'am.

9 Q Okay. If you'll tell me, I'll put them in one pile.
10 And if you'll double-check behind me, that will be good.
11 So, what do we got first?

12 A So, the SLED Item 4 firearm, that was determined to
13 be -- or, excuse me. The SLED Item 9 firearm was
14 determined to be the GLOCK model 19 Gen 4 semi-automatic
15 pistol. Based on my examination of the comparisons, I
16 determined that SLED Items 2 --

17 Q Hold on. Where are they?

18 A The SLED item number may be on the cartridge case or
19 on the packaging. So, that's SLED Item 3.

20 Q Okay. So, why don't we do this, because there's so
21 many of them: Help me separate them out. So, there were
22 four guns fired; correct?

23 A That's correct.

24 Q So, Item 3. What caliber is Item 3?

25 A Item 3 was a 9mm Luger caliber.

1 Q Okay. And did either one of these guns fire Item 3?

2 A Yes, ma'am.

3 Q Which one?

4 A SLED Item 9, which was the GLOCK pistol.

5 Q So, this firearm here?

6 A Correct.

7 Q Okay. I'm going to put this right here.

8 And, if you don't mind, I'm looking now at -- is
9 that 19?

10 A Yes, ma'am.

11 Q Okay. And did either one of these firearms fire 19?

12 A Yes, ma'am. SLED Item 9, the GLOCK pistol.

13 Q And this is a 9mm; correct?

14 A That's correct.

15 Q I'm looking at now 11?

16 A Yes, ma'am.

17 Q Okay. And did either one of these firearms fire 11?

18 A SLED Item 9, the GLOCK pistol.

19 Q Okay. I'm looking at now Item 37.

20 A Yes, ma'am.

21 Q And did either one of these guns fire 37?

22 A They did not.

23 Q Okay. So, what caliber is this?

24 A 37 -- SLED Item 37 was determined to be a 9mm Luger
25 caliber cartridge as well.

1 Q Okay. And both of these guns are 9mms?

2 A That's correct.

3 Q But neither one of them fired this one?

4 A That's correct. It was not fired by those two
5 firearms.

6 Q Okay. So, there had to be a third 9mm somewhere; is
7 that correct?

8 A Yes, ma'am, there was another 9mm firearm.

9 Q Okay. And I'm looking at 18; is that right?

10 A Yes, ma'am.

11 Q Okay. And did either one of these guns fire 18?

12 A Yes, ma'am. SLED Item 9, GLOCK pistol.

13 Q I'm looking now at 14. Did either one of these guns
14 fire 14?

15 A No, ma'am, they did not.

16 Q Okay. And now, let me ask you something: What
17 caliber is 14?

18 A SLED Item 14 was also a 9mm caliber Luger cartridge
19 case.

20 Q Okay. So, did the same gun fire 14 that fired 3 --
21 37? I'm sorry.

22 A Yes, ma'am. 14 and 37 were fired by the same
23 firearm.

24 Q Okay. So, both of these were fired by a separate
25 9mm?

1 A That's correct.

2 Q But the same 9mm?

3 A But the same 9mm.

4 Q Okay. And looking at 15. Either one of these guns
5 fire 15?

6 A No, ma'am.

7 Q Okay. And what caliber is 15?

8 A 15 was also determined to be a 9mm Luger caliber
9 cartridge case.

10 Q Okay. So, let me ask you this: Did the same gun
11 fire 15 that also fired these two casings?

12 A That's correct. They were fired by the same
13 firearm.

14 Q Okay. So, all three were fired by a separate 9mm?

15 A Yes, ma'am, by the same 9mm firearm.

16 Q Okay. Just not one of these two?

17 A That's correct.

18 Q Okay. And I'm looking now at 2. Did either one of
19 these guns fire Item 2?

20 A SLED Item 9, the GLOCK pistol, fired Item 2.

21 Q And I'm looking at Item 13. Either one of these
22 fire 13?

23 A Yes, ma'am. The SLED Item 4, Canik pistol, fired
24 Item 13.

25 Q So, this gun fired this one?

1 A Yes, ma'am.

2 Q Okay. Let me look -- this is 22. Either one of
3 these fire 22?

4 A The SLED Item No. 9, GLOCK pistol.

5 Q And I'm looking at 25.

6 A That was determined to have been fired by the SLED
7 Item 9 GLOCK as well.

8 Q I'm looking now at 10.

9 A SLED Item 10 was determined to have been fired by
10 SLED Item 4, which was the Canik pistol.

11 Q Okay. So, both of these casings came from this one?

12 A Yes, ma'am.

13 Q Okay. And I'm looking now at SLED Item 24.

14 A SLED Item 24 is determined that it was fired by SLED
15 Item 9, which was the GLOCK pistol.

16 Q And I'm looking now at 21 -- is that 21?

17 A Yes, ma'am.

18 Q Okay. And was 21 fired by either one of these guns?

19 A 21, it was concluded that it was fired by SLED Item
20 4, the Canik.

21 Q Okay. And I'm looking now at Item 26. Was this
22 fired by either gun?

23 A SLED Item 26 was determined to be .45 auto caliber
24 cartridge, and it was fired by a different firearm than
25 what we have identified here.

1 Q Okay. So, this is going to be the fourth gun?

2 A Yes, ma'am. That is another firearm.

3 Q And I'm looking now at Item 12.

4 A SLED Item 12 was fired by the same firearm that
5 fired Items 14, 15, and 37, so the cartridge cases that we
6 have positioned here.

7 Q So, there is a third 9mm but a gun was never
8 submitted?

9 A I only received two firearms for examination.

10 Q Okay. But the same firearm fired all four?

11 A That's correct.

12 Q Okay. I'm looking now at Item 6.

13 A Item 6 was also determined to be a .45 auto caliber
14 cartridge, and it was fired by the same firearm that fired
15 SLED Item 26.

16 Q So, right here?

17 A Yes, ma'am.

18 Q So, two .45s. And both were fired by the same gun?

19 A That's correct. One firearm fired both of those
20 cartridges.

21 Q I'm looking now at SLED Item 5.

22 A Yes, ma'am.

23 Q Tell me about it.

24 A SLED Item 5 is another fired 9mm Luger caliber
25 cartridge case, and it was determined that it was fired by

1 SLED Item 4, the Canik pistol.

2 Q And I have got 7.

3 A Yes, ma'am. 7 was a .45 auto caliber cartridge case
4 as well, and it was fired by the same firearm that fired
5 the other two .45 auto caliber cartridge cases.

6 Q Okay. And how about 23?

7 A 23 was fired by SLED Item 9, which was the GLOCK
8 pistol.

9 Q So, these were fired by this gun; correct?

10 A Yes, ma'am. Those were my conclusions.

11 Q Okay. And that's Item 27 for the County; correct?
12 And Item 9 for SLED?

13 A Yes, ma'am. That's how it was listed on our
14 submission paperwork.

15 Q Okay. And the Canik, which is SLED Item 4 --- is
16 that correct?

17 A That's correct.

18 Q --- that fired these casings?

19 A Yes, ma'am.

20 Q Okay. And then two guns -- two other guns were also
21 used; correct?

22 A Yes, ma'am.

23 Q Okay. And no gun was ever submitted?

24 A No gun other than the two that are present here, no.

25 Q Okay. So, let me ask you something: Have you

1 already seen this sketch?

2 A Yes, ma'am.

3 Q Okay. So, you are familiar with how this is
4 categorized here; correct?

5 A Yes, I am.

6 Q And I'm showing Evidence No. 5.

7 And three .45s were all fired from the same gun; is
8 that correct?

9 A Yes, ma'am. Those were SLED Item 6, 7, and 26 were
10 fired by the same firearm.

11 Q Okay. So, that's going to be -- Item 6 is going to
12 be Item 23 for the County; is that correct?

13 A Yes, ma'am, that's how it was on our submission
14 paperwork.

15 Q Okay. And 24 is going to be Item 7; is that
16 correct?

17 A Yes, ma'am.

18 Q And 62 is going to be Item 26?

19 A Yes, ma'am, for SLED Item 26.

20 Q Okay. So, all three of these casings were fired
21 from the same gun?

22 A Yes, ma'am.

23 Q Now, I'm looking at SLED Item 12, 15, 14, and 37.

24 All of these were fired by -- these four were fired by the
25 same gun; is that correct?

1 A Yes, ma'am, that is correct.

2 Q So, 12, 14, 15, 37 all in gray were fired by the
3 same gun; correct?

4 A Yes, ma'am.

5 Q Okay. And that's going to be Horry County's 147,
6 35, 34, and 31?

7 A Yes, ma'am, that's how it was on our submission
8 paperwork.

9 Q Okay. So, all the gray -- we're correct in that the
10 gray shell casings all were fired by the same gun?

11 A That's correct.

12 Q Okay. Okay. And all the red casings are fired by
13 one gun?

14 A That's also correct.

15 Q Okay. Now, we have got a third gun; correct?

16 A Yes, ma'am.

17 Q Okay. And these are SLED Items 5, 21, 10, and 13.
18 Is that correct?

19 A Yes, ma'am.

20 Q Okay. And you have got it here 5, 10, 13, 21. So,
21 is it correct that all the blue shell casings -- or all
22 the blue, these SLED numbers, were all fired by the Canik?

23 A Yes, ma'am, that was my conclusion that those four
24 cartridge cases were fired by the SLED Item 4, the Canik.

25 Q Now, No. 20, which is SLED 5, the County said that

1 it was stove-piped. When you look at the casings, is
2 there any evidence that it had been stove-piped? Is it
3 bent or anything like that?

4 A I would have to refer to my notes to see if there
5 was any damage or look at the cartridge.

6 Q And I'll show you the casing. That might be
7 helpful. Here's 20. I mean, it looks bent to me, but
8 you're the expert.

9 A Yes, ma'am. There does appear to be some damage at
10 the case mouth. And that's the area here at the bottom of
11 the cartridge case, if I can get it positioned here. You
12 can see there's damage where it's been compressed or
13 squished possibly right there at the bottom of the
14 cartridge case.

15 Q Thank you.

16 So, the Canik and the two other group of shell
17 casings, the .45 and the 9, am I correct that they are the
18 blue, the gray, and the red; is that correct?

19 A That are 9mm Luger.

20 Q And the .45?

21 A And the .45, yes, ma'am.

22 Q Okay. And the other ones fired by the GLOCK are
23 going to be in the lime green; is that correct?

24 A Yes, ma'am. They're that lime green color that were
25 fired by the SLED Item 9 GLOCK.

1 Q Okay. Mr. Wilson was asking earlier about how a
2 shell casing ejects back and to the right is what he
3 asked. Is that correct for every firearm?

4 A The way a cartridge case ejects from a firearm, it
5 kind of depends on the type of firearm. In a semi-auto
6 pistol, the way that is going to work is it's going to use
7 those pressures from firing to cycle the action of that
8 firearm. Depending on what type of firearm you have, the
9 ejection port for that cartridge or cartridge case may be
10 located on a particular side of the firearm.

11 In my experience, we do not test those ejection
12 patterns at SLED, and we do not have a procedure to test
13 that. And we typically test-fire the firearms in a
14 controlled environment, and we're going to shoot into our
15 water tank. We're shooting into a net apparatus, if you
16 will, so the cartridge case is captured immediately.

17 Those cartridge cases can go kind of anywhere, if
18 you will. They may go to the right. They may go in a
19 more upwards direction or to the left. I can't tell you
20 which direction they'll go every time.

21 Q Okay. So, the gun sitting in the victim's lap,
22 which is 27 -- am I right? GLOCK Gen 4, that's SLED
23 No. 9?

24 A Yes, ma'am.

25 Q Okay. And that clearly fired some shots; correct?

1 A Yes, ma'am. The Item 9 pistol did fire several of
2 those cartridge cases.

3 Q Okay. Is there any doubt -- do you have any doubt
4 at all that there were also three other firearms out there
5 firing -- three other separate firearms?

6 A Based on my comparisons of those 20 cartridge cases,
7 several of those were -- I was able to determine were
8 fired by this Canik pistol and that GLOCK pistol, and then
9 based on differences in class or individual
10 characteristics on those cartridge cases, I determined
11 that there were additionally two other firearms present or
12 recognized within those cartridge cases.

13 Those were the conclusions that I reached as well as
14 my micro -- or another examiner that looked at the
15 evidence as well.

16 Q And so, three other guns, without a doubt, were
17 fired in addition to the one that the victim had?

18 A Yes, ma'am. There were four firearms that were
19 fired within those 20 cartridge cases.

20 Q Okay. If you don't mind, Mr. Greer, you have
21 already seen this sketch?

22 A Yes, ma'am, I have.

23 Q Okay. And the way these are categorized, the
24 casings, you looked at it and is that correct?

25 A Yes, ma'am. I did review it, and that is a

1 representation of my results.

2 Q Okay. And the four different firearms?

3 A Yes, ma'am.

4 Q Okay. If you don't mind, have a seat, Mr. Greer. I
5 do have more questions.

6 A Yes, ma'am.

7 Q Thank you.

8 Now, did you also receive fragments from the autopsy
9 of Kalik Conn?

10 A Yes, ma'am. Per my submission paperwork and
11 packaging, I did receive projectiles or fragments from the
12 autopsy.

13 Q Okay. And they submitted what appears to be a
14 description from a fired bullet jacket from back of neck
15 and one fired bullet jacket, one bullet jacket fragment,
16 one bullet core, and one piece of lead listed also from
17 the back -- is that correct -- Kalik Conn?

18 A Yes, ma'am.

19 Q Okay. And one piece of lead listed as from brain of
20 Kalik Conn. Was all of that submitted?

21 A Yes, ma'am.

22 Q And did you examine those items?

23 A I did.

24 Q And were you able to determine what caliber fired
25 those fragments?

1 A Yes, ma'am. I was able to determine several of
2 those fragments, the caliber in which they were most
3 consistent with.

4 Q I'm sorry?

5 A I was able to determine, with several of those
6 fragments, the caliber in which they were consistent with.

7 Q Okay. And what caliber were you -- are you able to
8 say those fragments came from?

9 A And I believe you are referring to SLED Item 29?

10 Q Yes, sir.

11 A Okay. And SLED Item 30?

12 Q Yes, sir.

13 A Based on those observable characteristics on that
14 item and based on measurements I took of the weight of
15 that fragment or that projectile and the diameter, I
16 determined that the Item 29 fired bullet fragment, which
17 was listed on our submission paperwork as from the back of
18 neck of Kalik Conn at autopsy, that it was most consistent
19 with bullets loaded in some .45 auto caliber cartridges.

20 Additionally, SLED Item 30, particularly the one
21 fired bullet jacket, I determined that it was most
22 consistent with being the jacket portion of a jacketed
23 bullet from a .45 auto caliber cartridge.

24 Q Okay. So, the fragments that came from the victim
25 were not some random caliber?

1 A No, ma'am. I was able to determine that those two
2 fragments or jackets were most consistent with being the
3 .45 auto caliber.

4 Q Okay. And let me ask you this: Earlier,
5 Mr. Galmore was asking a witness about hollow point
6 bullets, regular bullets. There is a difference; correct?

7 A Yes, ma'am. That's just simply the construction of
8 that bullet.

9 Q Okay. And could you tell whether or not the .45 was
10 a hollow point?

11 A Yes, ma'am. And I would have notated that in my
12 notes if I was able to determine that.

13 Q Okay. And was it a hollow point?

14 A The SLED Item 29, the fired bullet fragment, was
15 most consistent with being a hollow point-style bullet.
16 And the SLED Item 30, fired bullet jacket, I believe was
17 -- yes, ma'am, was also consistent with being a jacketed
18 hollow point bullet.

19 Q Okay. So, the .45 fragment was consistent with the
20 hollow point bullet; is that correct?

21 A Yes, ma'am.

22 Q So, if there was some hollow points in the gun of
23 the GLOCK, it certainly wasn't the only hollow point out
24 there; is that correct?

25 A I'm sorry; I don't understand the question.

1 Q Were the bullets in the GLOCK hollow points, in SLED
2 No. 9?

3 A I did not receive any cartridges with SLED Item 9.

4 Q Okay. So, you don't know if they were hollow points
5 or not?

6 A No, ma'am. I did not receive any to examine.

7 Q Okay. But the .45s that came from the autopsy of
8 the victim were consistent with the hollow point bullet?

9 A Yes, ma'am.

10 Q Did you get bullet fragments pretty consistently
11 from autopsies to look at to try to determine whether or
12 not it was fired from this gun or whether or not it was
13 fired from a certain caliber?

14 A Yes, ma'am, I do.

15 Q Okay. And is every one you receive from an autopsy,
16 is it a hollow point?

17 A No, ma'am, it's not.

18 Q Okay. So, not just a hollow point can kill
19 somebody; is that correct?

20 A We receive bullets of different constructions and
21 shapes, whether that's a round nose, a flat nose, a hollow
22 point. We receive many bullets of all those varieties.

23 Q So, they're all deadly; correct?

24 A Potentially or possibly I suppose, yes, ma'am.

25 MS. LIVESAY: Nothing further from this witness,

1 Your Honor.

2 THE COURT: All right. Mr. Wilson?

3 CROSS-EXAMINATION

4 BY MR. WILSON:

5 Q Let me start out by asking you -- if you would, just
6 come down for me for a second, please.

7 MR. WILSON: No, no, no.

8 MS. LIVESAY: You want me to push it forward?

9 MR. WILSON: No, no, I'm good.

10 May he, Your Honor?

11 THE COURT: Go ahead.

12 BY MR. WILSON:

13 Q The solicitor was asking you earlier about these red
14 marks here being .45 caliber shell casings?

15 A Yes, sir.

16 Q Is that right?

17 A Yes, sir.

18 Q But you don't know that to be true; right?

19 A I do believe that was head stamped on the
20 information on the cartridge case itself.

21 Q My question is, did you see these cartridges here to
22 know that these are the cartridges and this is where they
23 came from?

24 A Oh, no, sir. I don't know the location. I was just
25 able to just match up my SLED item numbers with the Horry

1 County numbers. I don't know any information about the
2 location, as I was not at the scene.

3 Q And while you're down here, in regards to these
4 shell casings being in this order, when shell casings hit
5 a cement surface, is it likely that they can bounce and
6 move around to different places?

7 A Yes, sir, that would be possible, I would imagine.

8 Q All right. And so, in regards to the -- I think it
9 was the Canik pistol.

10 You can take back the stand. I just wanted to ask
11 you about these shell casings and where they were.

12 Now, my understanding is you're saying that you were
13 provided with two guns. One is the Canik 9mm; the other
14 one is the GLOCK 9. Right? And you have identified, as I
15 understand it, from the GLOCK -- I think your Item No. 14,
16 37, 22, 25, 24, 23; is that correct?

17 A Fired from the SLED Item 9 GLOCK?

18 Q Yes, sir.

19 A No, sir. That was SLED Items 2, 3, 11, 18, 19.

20 Q Hold on a second. Going too fast.

21 A Yes, sir.

22 Q Give me the numbers again.

23 A That was SLED Items 2, 3, 11, 18, 19, and 22 through
24 25.

25 Q 22 through 25?

1 A Yes, sir.

2 Q So, all of those were fired by the GLOCK. There's
3 no question about that in your mind; right?

4 A Yes, sir, that's my opinion.

5 Q And that's the GLOCK that Mr. Conn had?

6 A I don't know who the firearm belonged to.

7 Q So, that's one, two, three, four, five, six, seven,
8 eight, nine shell casings or at least nine firings, based
9 on what you're saying; right?

10 A Yes, sir, that's nine cartridge cases.

11 Q All right. And there was only -- how many shots
12 were fired by the Canik?

13 A Yes, sir, I had four fired cartridge cases that I
14 was able to determine were fired by the Canik pistol.

15 Q Okay. So, we got nine, we got four. All right.
16 And then you had three from a .45 caliber is what you're
17 saying; right?

18 A Yes, sir.

19 Q All right. And you had some more shells from
20 another 9mm Luger?

21 A That's correct. I determined --

22 Q How many did you have from that?

23 A That would have been four fired cartridge cases.

24 Q Four.

25 So, you got four, three, and four. So, you got 11,

1 and then you got nine from the one gun, which would have
2 been Mr. Conn's gun.

3 Let me ask you this: In regards to guns -- 9mms,
4 .45s -- can a .45 fire a 9mm shell casing or vice versa?

5 A I would not expect a .45 auto caliber cartridge to
6 be fired in a 9mm caliber firearm just due to differences
7 in those cartridge dimensions.

8 In regards to a 9mm Luger being fired in a .45 auto
9 caliber, that may have the opportunity to be able to fit
10 and chamber in there or fit within that chamber. I would
11 imagine it may not function properly. That's not
12 something that I have ever really attempted or tried.

13 Q Now, in regards to the .45 caliber shell casings,
14 you weren't provided a weapon, so you had nothing to try
15 to match that to; right?

16 A Yes, sir. I only received the two firearms.

17 Q All right. Were you provided State's Exhibit
18 No. 30? Let me show you this and have you look at it, and
19 see if you ever had that before.

20 A No, sir, I don't recognize this item.

21 Q If you had a serial number for a weapon -- if you
22 had a serial number for a weapon, would you be able to
23 determine the type of weapon it is and whether it's
24 capable of firing certain kinds of bullets?

25 A It's possible, if we had a serial number, we may

1 have been able to determine, you know, what make and model
2 that is related to. Based on those manufacturer
3 specifications, it's possible that you may could do some
4 of that type of work. But, again, it would be dependent
5 on if that firearm was in the same condition as when it
6 left the manufacturer and they could tell us those
7 specifications.

8 That's not something that I have ever tracked down
9 or tried to do. In order to determine if a specific
10 cartridge case or bullets fired from a firearm, we have to
11 have the firearm.

12 Q All right. And does it even help to get the serial
13 number to figure it out, other than to know that it's a
14 9mm or a .45 or a .38 or whatever?

15 A In my opinion, having the serial number, it would
16 not help us with any type of identification. Again, if we
17 were trying to compare those cartridge cases and determine
18 if it could have been fired by that gun, we would need the
19 firearm.

20 Q Okay. Now, I know there's been some talk about
21 hollow points versus regular cartridges, and what your
22 answer was, look, both of them are deadly; right?

23 A Yes, sir.

24 Q Or can be?

25 A Yes, sir, it's possible.

1 Q All right. And my understanding is you found or you
2 had or you examined a -- which I think is your No. 29; is
3 that correct, which is a piece of metal or a piece of
4 fragment of a projectile. 29 and 30.

5 A Yes, sir. There were multiple components within
6 those items.

7 Q Okay. Now, when you got the item, it would have
8 been damaged; right? Because it had already been fired,
9 entered the body, did some damage, and now you got it; is
10 that fair?

11 A Yes, sir, that's fair.

12 Q All right. So, tell us how you come to the
13 conclusion -- because it's now damaged and fragmented, how
14 you come to the conclusion that it's a .45 versus a .38 or
15 whatever?

16 A Yes, sir. So, when we're trying to determine the
17 caliber of a fired bullet or a projectile or a jacket
18 component, we're going to take into several different --
19 several things into consideration.

20 One, just being its overall physical observable
21 characteristics we can see. Additionally, we're going to
22 use the weight of that projectile if we're able. But
23 also, very importantly, we're going to use the diameter of
24 the base of that projectile. That diameter specifically
25 is going to correlate to -- along with the weight

1 potentially -- what that caliber of that cartridge or that
2 bullet is most consistent with.

3 Q Now, let me ask you about your No. 9. Now, what is
4 that?

5 A I determined SLED Item 9 to be one GLOCK model 19
6 Gen 4 semi-automatic pistol and 9mm Luger caliber, with a
7 serial number of [REDACTED].

8 Q Okay. And is that --

9 A There.

10 Q And I don't know which one's which one.

11 Is that one of these two weapons?

12 A Yes, sir.

13 Q All right. Can you show me which one it is?

14 A Yes, sir. I believe it's the firearm there on the
15 left.

16 Q This one?

17 A Yes, sir. I believe so.

18 Q Now, is that the GLOCK or is that the Canik?

19 A This is the SLED Item No. 9 GLOCK pistol.

20 Q Okay. And what I wanted to ask you is, when you
21 received that pistol, did you get ammunition with it ---

22 A No, sir, I did not.

23 Q --- that was found at the scene?

24 A No, sir.

25 Q So, you were never provided ammunition from the

1 scene that matched for that particular gun?

2 A No, sir, I did not receive any ammunition.

3 Q All right. I don't think I have any other
4 questions. Thank you.

5 A Yes, sir.

6 MR. WILSON: Oh, let me put this back.

7 THE COURT: Mr. Galmore?

8 CROSS-EXAMINATION

9 BY MR. GALMORE:

10 Q Agent Greer, very briefly. I'm going to hand you
11 what's been marked as State's Exhibit 30 and ask if you
12 recognize that.

13 A No, sir, I do not.

14 Q Okay. Well, that is a box for a GLOCK 9mm that was
15 collected in evidence in this case and it has a serial
16 number on the side of it. Based on that serial number,
17 could you say if any of these casings you have identified
18 were fired by that GLOCK?

19 A No, sir, not just by the serial number.

20 Q Okay. Is there anything pertaining to this box that
21 you can use to identify whether any of these were fired by
22 the firearm identified by the serial number?

23 A There are certain characteristics that would be --
24 possibly that we could attribute to certain manufacturers.
25 Again, I would need to test-fire the GLOCK and look at the

1 GLOCK to see the characteristics, if that were to be a
2 GLOCK in there.

3 Q Okay. So, you can't do anything with this box?

4 A No, sir, not to compare it.

5 Q And I think you identified three of the casings as
6 having been fired by a .45 caliber handgun; is that
7 correct?

8 A Yes, sir, that's correct.

9 Q All right. Were you given any live rounds of .45
10 caliber ammunition and asked to compare them to these
11 casings?

12 A No, sir, I did not receive any unfired cartridges.

13 Q Regarding State's Exhibits 19 -- I guess these
14 are -- 19-P, 19-J, 19-G, 19-R, 19-A, 19-O, 19-L, 19-D,
15 19-E, I'll hand you those exhibits.

16 A Yes, sir.

17 Q And I believe you stated that those were fired by
18 the GLOCK; is that correct?

19 A I'm just going to confirm these item numbers real
20 quickly.

21 Q Yes, sir. Please do.

22 A Yes, sir. That's correct.

23 Q And how many casings do you have there, sir?

24 A I determined there were nine fired cartridge cases
25 fired by the GLOCK.

1 Q So, the GLOCK fired nine rounds; is that correct?

2 A Yes, sir, that's correct.

3 Q Are any of those hollow point, can you tell?

4 A No, sir, I cannot tell. The bullet that was loaded
5 into these has already exited. This is just the fired
6 cartridge case, the cylindrical component.

7 Q So, from the cartridge case, you cannot tell whether
8 these were hollow point rounds or not?

9 A No, sir, you cannot.

10 Q All right. No further questions. Thank you, Agent
11 Greer.

12 A Yes, sir.

13 THE COURT: Redirect?

14 MS. LIVESAY: Just a couple, Judge.

15 REDIRECT EXAMINATION

16 BY MS. LIVESAY:

17 Q Okay. Now, I think I got this batch straight. So,
18 they asked some questions about the gun box.

19 A Yes, ma'am.

20 Q Okay. So, can you look at the Item 30, the gun box,
21 and tell me if its serial number matches either one of
22 these firearms: the Canik or the one that was found on
23 the victim?

24 A If the serial number on this box of the pistol that
25 would have been inside -- I believe would be [REDACTED], if

1 that is the correct serial number of that firearm, that is
2 not the serial number of either of the two firearms that
3 we had there.

4 Q So, let me ask you something.

5 MS. LIVESAY: Hey, do you know where the ATF trace
6 is, Ms. Bobbi? I apologize.

7 One second, Judge.

8 (Pause in the proceedings.)

9 MS. LIVESAY: Didn't we put the ATF trace into
10 evidence?

11 MR. WILSON: I don't think so.

12 MS. LIVESAY: You don't think so?

13 MR. WILSON: I don't think.

14 MS. LIVESAY: One second, Judge.

15 (Pause in the proceedings.)

16 MS. LIVESAY: Oh, I got it right here.

17 MR. GALMORE: Objection, Your Honor. This exhibit's
18 going into new matters.

19 THE COURT: Sustained. I'm not going to let y'all
20 do that again, put in new exhibits on redirect.

21 MS. LIVESAY: I know. All I want to do is -- well,
22 the redirect is about the gun box. That is the document
23 that goes with the gun box.

24 THE COURT: Still, you should have put it in
25 earlier. Because I'm not allowing them recross, so we're

1 not putting in any more exhibits on redirect.

2 MS. LIVESAY: But the gun box was only brought
3 up ---

4 THE COURT: I have made my ruling.

5 MS. LIVESAY: --- on their cross-examination.

6 BY MS. LIVESAY:

7 Q So, this let me ask you this: If this gun box
8 belonged to a 9mm, would that be consistent with the third
9 gun that fired the four 9mms from the scene? Would that
10 be the same caliber?

11 A The caliber would be consistent.

12 Q Okay. But you wouldn't be able to determine that
13 this box for sure goes with these casings?

14 A No, ma'am. We would need the firearm to compare and
15 test-fire in order to identify those were fired by that
16 specific firearm.

17 Q Okay. But if the box was for a 9mm, these were
18 fired by a 9mm; correct?

19 A They were determined to be 9mm Luger caliber, so
20 it's most likely they were fired by a 9mm Luger caliber
21 firearm.

22 Q Okay. And there is no doubt that three other guns
23 were fired in addition to the one in the victim's lap?

24 A That would be SLED Item No. 9 GLOCK?

25 Q Yes.

1 A Yes, ma'am, there were three additional firearms.

2 Q Okay. And between the three other firearms, 11
3 shots were fired?

4 A That's correct.

5 Q Okay. And as to the other three guns and the
6 casings, they are spread out all amongst outside the Acura
7 and inside the Acura. If these item numbers and SLED
8 numbers are correct, then the other casings are spread out
9 in the backseat of the Acura and outside the Acura?

10 A That's how it appears on that diagram.

11 Q I'm sorry?

12 A That's how it appears on that diagram, yes, ma'am.

13 Q Okay. So, one is here and then it appears these
14 casings are here; correct? They belong to a separate gun?

15 A The casings in gray, yes, ma'am, belong to a
16 separate firearm.

17 Q Okay. And definitely a second gun belongs to these
18 three casings outside the Acura?

19 A Yes, ma'am. The casings represented in red
20 represent the .45 auto caliber cartridge cases.

21 Q Okay. And the Canik is out here and that also was
22 fired?

23 MR. GALMORE: Objection, Your Honor. I'm going to
24 ask for recross if she's going to redirect and just go
25 over the same matters over and over again.

1 THE COURT: Let's move on. You have already
2 addressed it in direct. Let's move on. If you've
3 addressed it in direct one time, you don't need to do it
4 again in redirect.

5 MS. LIVESAY: I understand.

6 THE COURT: All right.

7 BY MS. LIVESAY:

8 Q Mr. Greer, is this accurate?

9 A Yes, ma'am. Those SLED item numbers do correspond
10 with the Horry County numbers based on the submission
11 document submitted to the SLED lab.

12 Q Okay. And two guns were fired that we were never
13 able to submit guns to match up to, a .45 and a 9?

14 A Yes, ma'am, that's correct.

15 MS. LIVESAY: No further questions.

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

17 MS. LIVESAY: Your Honor, can we approach?

18 THE COURT: All right.

19 BENCH CONFERENCE

20 (The following bench conference was held outside of
21 the hearing of the jury and others:)

22 MS. LIVESAY: So, just so I'm clear, the redirect is
23 to address any new information that they get in
24 cross-examination that I did not hit on in direct?

25 THE COURT: Exactly. That's right. You can address

1 on redirect anything they brought up that you did not
2 address in your direct examination.

3 MS. LIVESAY: Okay. The gun box was new. That's
4 all I'm saying. I never touched the gun box, and they
5 brought it up. And then when I went to address it, it
6 was...

7 THE COURT: Well, you're not to bring in any new
8 exhibits without giving them recross.

9 MS. MARTIN: Wait, y'all real quick. I am so sorry
10 to ask. Can I have a two-minute break?

11 THE COURT: We're getting ready to break for the
12 weekend.

13 MS. MARTIN: Now?

14 THE COURT: Yeah. It's 10 until 5 on a Friday.

15 MS. MARTIN: He wants to break -- yes, sir.

16 MS. LIVESAY: You're breaking for the day at 5:00?

17 THE COURT: Yeah.

18 MS. LIVESAY: Let me ask y'all something: I'll do
19 whatever you want to do. The only thing we have left --

20 MS. MARTIN: Is the fingerprints.

21 MS. LIVESAY: The only thing we have left today is
22 the fingerprint guy.

23 MR. WILSON: Yeah, but it's Friday, and that's going
24 to take a minute.

25 MR. GALMORE: Yeah, there's a lot of items that were

1 tested.

2 MS. LIVESAY: If y'all think it's not going to be
3 quick, then --

4 MR. WILSON: It's not, because he tested a lot of
5 stuff.

6 MS. LIVESAY: We're fine with that.

7 MR. WILSON: He tested a lot of stuff, so it's going
8 to take some time.

9 MS. LIVESAY: Okay.

10 THE COURT: All right.

11 (Open court resumes as follows:)

12 THE COURT: All right. Ladies and gentlemen, it's a
13 little bit before 5:00. We're going to go ahead and break
14 for the weekend.

15 Leave your notepads in the jury box. I hope
16 everybody has a great weekend. Do not discuss the case
17 with anyone. Don't discuss it among yourselves. Don't
18 discuss it with any family or friends or anyone. Don't go
19 looking through the newspapers. Don't watch any news
20 accounts, if there are any.

21 I hope everybody has a good weekend, and we'll see
22 you back. Please be back Monday at 9:15, and we'll see
23 you then. Thank you.

24 (The jury exited the courtroom at 4:55 p.m.)

25 THE COURT: All right. Anything from the State

1 before we recess?

2 MS. MARTIN: Your Honor, we're just going to need to
3 make the gun safe before -- if that's okay with Your
4 Honor, zip tie them back.

5 THE COURT: Let's go ahead and do that.

6 All right. Mr. Wilson, anything from the defense?

7 MR. WILSON: Nothing from us.

8 THE COURT: Mr. Galmore?

9 MR. GALMORE: No, sir.

10 THE COURT: I'll be taking the bench at 9:30 Monday
11 morning.

12 (The trial adjourned for the day at 5:56 p.m.)

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CERTIFICATE OF COURT REPORTER

CASE NAME/NUMBER: State v. Grate and Grate

DATE OF HEARING: August 23, 2024 (Trial Day 4)

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.



_ /s/ Bobbi Fisher _____

Bobbi Fisher, RPR, Court Reporter III

Date Submitted: 12/16/24

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

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

-----X
STATE OF SOUTH CAROLINA, *
State, *
vs. * Case No. 2023-GS-26-00424
2023-GS-26-00425
2023-GS-26-00452
NASIREA BREWNOPLIS JEROME *
GRATE, *
Defendant. *

-----X
August 19-28, 2024

TRIAL - VOLUME 5
Monday, August 26, 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

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

I N D E X

WITNESS/DESCRIPTION

PAGE

JASON FISHER

Direct Examination By Ms. Livesay 860

Cross-Examination By Mr. Galmore 862

SERAPHIM "SAMMY" HAFTOGLOU

Direct Examination By Ms. Martin 865

Cross-Examination By Mr. Wilson 869

Cross-Examination By Mr. Galmore 870

THOMAS DARNELL

Direct Examination By Ms. Martin 872

Cross-Examination By Mr. Wilson 891

Cross-Examination By Mr. Galmore 896

Redirect Examination By Ms. Martin 902

DETECTIVE KEN MARCUS

Direct Examination By Ms. Martin 905

Voir Dire Examination By Mr. Wilson 925

Voir Dire Examination By Mr. Galmore 930

Continuing Direct Examination By Ms. Martin 935

Stipulation 947

Cross-Examination By Mr. Wilson 990

Cross-Examination By Mr. Galmore 1014

Redirect Examination By Ms. Martin 1035

ROBERT GRAHAM

Direct Examination By Ms. Livesay 1044

		855
1	Cross-Examination By Mr. Wilson	1060
2	Cross-Examination By Mr. Galmore	1062
3	INVESTIGATOR STEVE BROWN	
4	Direct Examination By Ms. Livesay	1063
5	Cross-Examination By Mr. Wilson	1073
6	Cross-Examination By Mr. Galmore	1079
7	Redirect Examination By Ms. Livesay	1085
8	Recross-Examination By Mr. Galmore	1093
9	Motion/Matter of Law	1094
10		
11		
12		
13		
14		
15		
16		
17		
18		
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20		
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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
4	Black Facemask		909
24	Apple iPhone		909
28	SC Driver's License - N. Grate		909
196	Photo of Grate with Face Mask/Hat		987
197	Photo of Grate with Face Mask/Hat		987
199	ID ONLY - Cell Phone Presentation	858	--
	Disc		
199A	Redacted Cell Phone Presentation	950	952
200	K. Conn Phone Records	858	920
201	N. Grate's Phone Records/Disc	858	920
202	J. Dicker's Phone Records/Disc	858	920
203	087 iPhone Gray/Orange Case	858	937
204	073 iPhone from Jeans/J. Dicker	858	937
205	054 iPhone from K. Conn	858	937
206	033 iPhone from D. Grate	858	937
207	Photograph from Trailer	858	908
208	Photograph from Trailer	858	908
209	Photograph from Trailer	858	908
210	Photograph from Trailer	858	908
211	Photograph from Trailer	858	908
212	Photograph from Trailer	858	908

			857	
1	213	Photograph from Trailer	858	908
2	214	Photograph from Trailer	858	908
3	215	ID ONLY - Swabs	858	---
4	216	ID ONLY - Bullets	858	---
5	217	ID ONLY - HCPD Evidence Record	861	---
6	218	ID ONLY - Fingerprint Card	868	---
7	219	ID ONLY - Fingerprint Card	868	---
8	220	ID ONLY - Fingerprint Card	868	---
9	221	ID ONLY - Fingerprint Card	868	---
10	222	ID ONLY - Fingerprint Card	868	---
11	223	SLED Items of Evidence	872	883
12	224	ID ONLY - Brown Statement	1053	---
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P R O C E E D I N G S

(9:32 a.m.)

(State's Exhibit No. 199, Cell Phone Presentation Disc, was marked for identification only.)

(State's Exhibit No. 200, K. Conn's Phone Records, was marked for identification.)

(State's Exhibit No. 201, N. Grate's Phone Records/Disc, was marked for identification.)

(State's Exhibit No. 202, J. Dicker's Phone Records/Disc was marked for identification.)

(State's Exhibit No. 203, 087 iPhone Gray/Orange Case, was marked for identification.)

(State's Exhibit No. 204, 073 iPhone from Jeans/J. Dicker, was marked for identification.)

(State's Exhibit No. 205, 054 iPhone from K. Conn, was marked for identification.)

(State's Exhibit No. 206, 033 iPhone from D. Grate, was marked for identification.)

(State's Exhibit No. 207 through 214, Photos of Trailer and Bedroom/Phone in Dishwasher, was marked for identification.)

(State's Exhibit No. 215, Swabs, was marked for identification only.)

(State's Exhibit No. 216, Bullets from Conn and Dicker, was marked for identification only.)

1 THE COURT: Anything before we bring the jury in?

2 MS. LIVESAY: Nothing other than we just need to
3 wait for Ms. Martin to get back in.

4 THE COURT: Mr. Wilson?

5 MR. WILSON: No, sir.

6 THE COURT: Mr. Galmore?

7 MR. GALMORE: No, sir.

8 MS. LIVESAY: All right. We're ready now, Judge.

9 THE COURT: Let's go ahead and bring the jury in.
10 (The jury entered the courtroom at 9:37 a.m.)

11 THE COURT: All right, ladies and gentlemen.
12 Welcome back. I hope everyone had a good weekend. I want
13 to thank you for your promptness again this morning.
14 That's of great assistance to the Court.

15 We're ready to resume with the trial of this case.
16 Please make sure you have your own notepads and no one
17 else's notepads.

18 All right. The State can call your next witness.

19 MS. LIVESAY: Thank you, Judge. At this time, the
20 State calls Jason Fisher.

21 JASON FISHER,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: State your name and spell it for the
25 Court.

1 THE WITNESS: Jason Fisher, F-i-s-h-e-r.

2 DIRECT EXAMINATION

3 BY MS. LIVESAY:

4 Q And, Mr. Fisher, where are you currently employed?

5 A Horry County Police Department.

6 Q And how long have you been working there?

7 A Approximately 4-1/2 months.

8 Q And what are your job responsibilities?

9 A I'm a crime scene technician. So, it involves
10 assisting and processing of crime scenes and also
11 transporting evidence to and from SLED.

12 Q Okay. And are you familiar with the case that we're
13 here for today?

14 A Only in the capacity I had of transporting.

15 Q Okay. Only as to transporting evidence to SLED?

16 A Yes.

17 Q And when you transport evidence to SLED, do you sign
18 something saying, "Hey, this has been dropped off at the
19 South Carolina Law Enforcement Division"?

20 A Yes. There's an evidence record that's filled out
21 each time.

22 Q Okay. And does it include your signature?

23 A Signature and date and the item numbers that are
24 taken.

25 Q Okay. And would you recognize that document if I

1 showed it to you?

2 **A** I would.

3 (State's Exhibit No. 217, HCPD Evidence Record, was
4 marked for identification.)

5 BY MS. LIVESAY:

6 **Q** Mr. Fisher, I'm going to show you what's been marked
7 as State's Exhibit No. 217. Do you recognize that
8 document?

9 **A** I do.

10 **Q** And what is it?

11 **A** It's the evidence record for Horry County Police
12 Department for transporting Items 127, 128, and 129 to
13 SLED on June 13th of this year.

14 **Q** Okay. And does that document show what you took to
15 the South Carolina Law Enforcement Division?

16 **A** Yes.

17 **Q** Okay. And does the last page have your signature
18 saying, "Hey, this is what I dropped off from Horry County
19 to SLED"?

20 **A** It does.

21 **Q** Okay. And if you don't mind, tell these jurors what
22 you took to South Carolina Law Enforcement Division.

23 **A** I took a sealed envelope with three latent lifts,
24 one being a latent lift from the lower ejection side of
25 the magazine. And then there's a latent lift from lower

1 magazine release side and another latent lift from
2 magazine release side.

3 Q And when you took those items to SLED, were they
4 sealed?

5 A Yes.

6 Q And, at any point, did you unseal them or tamper
7 with them in any form or fashion?

8 A No.

9 Q And when they were dropped off at SLED, were they
10 still sealed?

11 A Yes.

12 Q And when they were dropped off, were they either
13 dropped off with a technician or placed in a locked box?

14 A Placed in an evidence locker.

15 Q Okay. So, nobody could tamper with it once it's
16 placed in the locker?

17 A No.

18 MS. LIVESAY: No further questions for this witness,
19 Your Honor.

20 THE COURT: Mr. Wilson?

21 MR. WILSON: I don't have any questions.

22 THE COURT: Mr. Galmore?

23 CROSS-EXAMINATION

24 BY MR. GALMORE:

25 Q So your role in this case is that you transported

1 fingerprints to SLED; is that correct?

2 A Correct.

3 Q You did not take those fingerprints, did you?

4 A I did not.

5 Q Okay. And you did not tamper with the fingerprints
6 during the transportation?

7 A No.

8 Q Did you take any evidence to any other departments
9 at SLED?

10 A Not usually. I mean, there will be several cases
11 we'd take up at one time, and either sealed envelopes,
12 heat-sealed bags or sealed boxes. So, I'm sure I brought
13 other evidence with me that day, but I don't believe to
14 any other units.

15 Q I mean, any other evidence on this particular case?

16 A I believe I brought back a bunch of evidence from
17 here, but that had already been taken to SLED by someone
18 else.

19 Q Okay. Well, what evidence did you bring back from
20 SLED back to Horry County?

21 A It's another evidence record. I don't have it here
22 in front of me as part of this exhibit, but it had several
23 items listed on there.

24 Q Okay. And it would have been evidence on this case?

25 A Yes.

1 Q Because I know you're just transporting it back and
2 forth?

3 A Yes, yep.

4 Q All right. And you said your job was not to collect
5 any of these fingerprints?

6 A No, sir, just transporting the sealed envelope.

7 Q All right. Thank you very much. No further
8 questions.

9 THE COURT: All right. Redirect?

10 MS. LIVESAY: No, sir, Your Honor.

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

12 MS. MARTIN: May he be excused?

13 MR. WILSON: No objection.

14 MR. GALMORE: No objection.

15 THE COURT: He's free to go. Thank you very much.

16 The State can call your next witness.

17 SERAPHIM "SAMMY" HAFTOGLOU,

18 after having been duly sworn, was examined and
19 testified to as follows:

20 THE CLERK: State your full name and spell your name
21 for the Court.

22 THE WITNESS: My name is Seraphim Haftoglou. That's
23 S-e-r-a-p-h-i-m H-a-f-t-o-g-l-o-u.

24 THE COURT: I'm sorry. Could you spell your last
25 name again?

1 THE WITNESS: Yes. It's H-a-f-t-o-g-l-o-u.

2 DIRECT EXAMINATION

3 BY MS. MARTIN:

4 Q Now, do people regularly call you "Sammy"?

5 A Yes.

6 Q Is it okay if I call you Sammy here?

7 A That's fine.

8 Q Perfect. Okay.

9 Where are you currently employed, Sammy?

10 A I work for the South Carolina Law Enforcement
11 Division, also called SLED.

12 Q And how long have you been employed with SLED?

13 A I have been employed with SLED for 17 years now.

14 Q And what do you do at SLED?

15 A I am the AFIS supervisor. And AFIS is our Automated
16 Fingerprint Identification System.

17 Q Can you explain to the jury -- I mean, I know we
18 just spelled it out, but can you tell them what AFIS is
19 exactly?

20 A Yeah. So, AFIS is our repository or a database that
21 stores all fingerprints, palm fingerprints, and we store
22 mug shots into our database storage to be searched against
23 -- to identify individuals.

24 Q And so how -- kind of how does AFIS work?

25 A So, fingerprints are submitted to us from all across

1 the state. We receive them from detention centers. We
2 receive them from vendors like Identogo and other law
3 enforcement agencies. So, we receive a lot of criminal
4 applicant prints that come through our system daily.

5 Q Okay. So, now with these fingerprints, are they
6 assigned an identification number?

7 A Yes. Every fingerprint card that comes in to our
8 system, that individual gets created a state ID number,
9 also known as SID. And they will be created one SID
10 number. If they have other fingerprints that come in for
11 the same exact reason, they'll just get added to that same
12 state ID number. But each fingerprint also has a unique
13 transaction number, so unique, like, receipt number for
14 that fingerprint card.

15 Q Do any two fingerprint cards or persons have -- do
16 any two persons have the same SID number?

17 A No. Each person --

18 Q So, it's unique ---

19 A To that individual.

20 Q --- to that individual.

21 A Yes.

22 Q And do you maintain these records -- all the records
23 in AFIS?

24 A Yes.

25 Q And the records in AFIS, are they completed in the

1 regular course of your business?

2 A Yes, they are.

3 Q Okay. And how do you maintain the integrity of
4 these records that are kept in AFIS?

5 A As we submitted them to us, we key them as they are.
6 We don't alter. We don't change anything, any of the
7 fingerprints information. It stays as they are.

8 To have access to our system, you have to pass
9 security, all these other fun things, fingerprint,
10 background check. Only SLED employees plus latent
11 examiners out across the state have access to our system.
12 Now, only SLED employees have access to review some of the
13 stuff that latent examiners can't. They can only see the
14 prints and print out the cards.

15 Q So, to the best of your knowledge, have any of the
16 records in AFIS been tampered with in any way?

17 A No, not at all.

18 Q Okay. And did you receive a subpoena to be here in
19 court today?

20 A Yes, I did.

21 Q Is that why you're here?

22 A Absolutely.

23 Q And did you pull some records for us today?

24 A Yes, I did.

25 Q Okay. Let me get these marked.

1 And what exactly did you -- did you pull
2 fingerprints for us?

3 A Yes. I was requested to pull these -- was it five
4 fingerprint cards?

5 Q Yes. Hold on one second. Let me get these marked.

6 (State's Exhibit Nos. 218 through 222, Fingerprint
7 Cards, were marked for identification.)

8 BY MS. MARTIN:

9 Q Showing State's Exhibit what's been marked for
10 identification purposes only as 218, 219, 220, 221, and
11 222 to the witness. Can you tell me whose fingerprint
12 cards you brought here today?

13 A Just start in order?

14 Q Yeah, just start in order.

15 A So, for 218, is a fingerprint card for a Dajon Malik
16 Grate.

17 Q Okay. And then what about 219?

18 A 219 belongs to a Todd Allen Fry.

19 Q Okay. 220?

20 A Sorry, I'm going to butcher this name. Nasirea
21 Brewnoplis Grate.

22 Q Okay.

23 A 221, a Jeremiah Zachariah Dicker. And 222 is Kalik
24 Isaiah Conn.

25 Q And where were those pulled from?

1 A They were pulled from our AFIS database system.

2 Q Okay. And have they been altered with, tampered
3 with, or manipulated in any way?

4 A No. They are as they were submitted to us.

5 Q Okay. Give me one second.

6 MS. MARTIN: Your Honor, at this time, the State has
7 no further questions of this witness.

8 If you'll answer anything the defense may have.

9 THE COURT: All right. Mr. Wilson?

10 CROSS-EXAMINATION

11 BY MR. WILSON:

12 Q Just a couple of questions. How did you come in to
13 possession of these latent prints?

14 A Oh, these are not latent prints. These are
15 considered TIN (ph) prints. So they're rolled
16 fingerprints that were submitted to us.

17 Q All right. How did you come in to possession of
18 them?

19 A Okay. They were submitted to us by certain areas.
20 So, some of them were submitted by Horry County, Richland
21 County, or mailed in to us for a security job.

22 Q Okay. And you're not suggesting to this jury in any
23 way, are you, that those fingerprints came from the crime
24 scene?

25 A Correct.

1 Q You are not?

2 A I'm not doing that, no. I'm just stating these were
3 in our database.

4 Q All right. In fact, these prints were taken from
5 individuals either when they're arrested or if they're
6 dead then they do it when the coroner or whoever takes
7 them takes them; is that fair?

8 A Yes, sir. From either a resident or applicant card
9 sent to us.

10 Q All right. So, in no way are you suggesting that
11 Mr. Grate, Nasirea or Dajon, that their prints were found
12 at the crime scene?

13 A Correct, sir.

14 MR. WILSON: I don't have any other questions.

15 THE COURT: Mr. Galmore?

16 CROSS-EXAMINATION

17 BY MR. GALMORE:

18 Q Is it my understanding that these fingerprint cards
19 that you have, those prints were taken by local police
20 officers?

21 A Yes.

22 Q Okay. I mean, you didn't personally roll their
23 fingers and take their fingerprints?

24 A Correct. They're all submitted electronically to
25 us.

1 Q Okay. And once they're submitted, are they reviewed
2 for accuracy?

3 A Yes. So, depending on the quality of print. So, if
4 it's a good quality print, it will go through our system,
5 be identified and go through. If it has a low-quality
6 print, then it'll stop for an examiner to review.

7 Q Okay. What would be an example of a low-quality
8 print?

9 A If it's really dark, smudged, you know, just poor
10 quality, I guess. You can see a lot of imperfections.
11 You can't see the detail of the prints. So, if you can't
12 see good quality in the prints, then it will go through a
13 queue for an examiner to identify.

14 Q So, the five fingerprint cards that you have, have
15 passed that basic test?

16 A Yes.

17 Q Okay. So, they're what you would call accurate?

18 A Accurate and of good quality.

19 Q All right. Good quality. Yes, sir. Thank you very
20 much.

21 THE COURT: Redirect?

22 MS. MARTIN: Nothing from the State.

23 THE COURT: You may step down.

24 MS. MARTIN: May he be released as well?

25 MR. WILSON: Without objection.

1 MR. GALMORE: No objection, sir.

2 THE COURT: He's free to go. Thank you.

3 The State can call your next witness.

4 MS. MARTIN: The State calls Thomas Darnell.

5 THOMAS DARNELL,

6 after having been duly sworn, was examined and
7 testified to as follows:

8 THE CLERK: Please state your full name and spell it
9 for the Court.

10 THE WITNESS: My name is Thomas Edward Darnell. The
11 last name is spelled D-a-r-n-e-l-l.

12 MS. MARTIN: Give me one second. I'm going to mark
13 this.

14 (State's Exhibit No. 223, SLED Items of Evidence,
15 was marked for identification.)

16 MS. MARTIN: 223, showing to defense counsel.

17 DIRECT EXAMINATION

18 BY MS. MARTIN:

19 Q Where are you currently employed?

20 A I work at the State Law Enforcement Division, most
21 commonly referred to as SLED.

22 Q What do you do at SLED?

23 A I am a latent print or a fingerprint examiner within
24 the Forensic Services Laboratory.

25 Q And how long have you been there?

1 A Total of about 30 years. I actually worked there
2 for a period of time, retired, and went back.

3 Q And can you tell the jury what all you have done at
4 SLED.

5 A Well, the majority of my time at SLED has been in
6 the area of latent fingerprints. I processed major crime
7 scenes across the state. I was promoted to lieutenant
8 over the laboratory or over the crime scene and
9 fingerprint laboratory in 1998.

10 And just -- like I said, the bulk of my time at SLED
11 has been in the area of anything to do with forensics,
12 crime scene, with a heavy focus on latent fingerprints.

13 Q So, what is your title currently?

14 A I think they call me a forensic examiner. I guess,
15 I'm a retired forensic examiner. So, I guess just -- and
16 then some people call it special agent, is typically what
17 they usually call us.

18 Q Can you tell the jury a little bit about your
19 educational background?

20 A Sure. I have a bachelor of science degree in
21 criminal justice from the University of South Carolina
22 where I graduated in 1982. I started working at the
23 Richland County Sheriff's Office in Columbia where I was
24 employed for about eight years. And then I started my
25 career at SLED in 1990.

1 When I first started at SLED, I had to take an
2 in-house training program under court-qualified, trained
3 examiners to be able to do what I'm doing today. I took a
4 number of courses at our state law enforcement academy
5 there in Columbia in the area of forensic science. Again,
6 crime scene, latent print work.

7 And I have also trained in some places out of state
8 as well. I have attended a number of conferences and
9 seminars across the country, and I have also trained at
10 the Federal Bureau of Investigation or the FBI academy in
11 Quantico, Virginia. And I have also trained other
12 examiners to do what I have done for these years.

13 Q And can you tell the jury, what is a latent print?

14 A A latent print is spelled l-a-t-e-n-t. A latent
15 print is -- basically, the word "latent" means hidden or
16 invisible. A latent print is a print that someone might
17 leave behind when you touch a surface and there are a
18 number of variables as to whether or not you might leave a
19 print. But a latent print is sometimes referred to as a
20 chance imprint or chance print or a chance impression that
21 might be left behind on a surface once someone touches it.

22 Q So, is a latent print or a fingerprint, is that
23 distinct? Is it unique? I mean, tell me about that.

24 A Well, what makes a print unique is the individual
25 characteristics within the print itself. A latent print

1 is an unknown print until such time as we develop an
2 individual to compare it to. Once we have someone that we
3 can compare it to, whether it be determined through
4 investigative work or whether it be determined through
5 automated computer work, then we can do a comparison of
6 the latent print or the unknown print to a known
7 individual, and we're looking for the detail within the
8 print. That's what makes it unique.

9 In fact, there are no two individuals have ever been
10 found to have the same fingerprint. Even identical twins
11 have different fingerprints.

12 Q Now, every person has a different print, but are
13 they permanently unique? Are they permanently different?

14 So, if I put my fingerprint on your water glass
15 right there or the jug right there, is it going to be the
16 same print that I had when I was in high school?

17 A Absolutely. The two basic factors when it comes to
18 comparing fingerprints to the each other is that (A)
19 they're permanent and (B) they're unique, permanent in
20 that fingerprints are formed while you're inside your
21 mother's womb, and the fingerprints remain the same
22 throughout your entire life.

23 As we get older, obviously, you might get some
24 wrinkles in your skin, that sort of thing, and so it might
25 distort it just a little bit just from wrinkles. But the

1 print remains yours until decomposition sets in, quite
2 frankly. So it is very permanent.

3 Q So, how is a fingerprint analyzed?

4 A Well, when I first started, we didn't have automated
5 search computers out there to do this kind of work but we
6 do now. We have automated computers that will do the
7 searches for us, similar to what you see on the television
8 shows that we all like to watch.

9 But even though you have automated systems that do
10 the searching for you, the automated system simply gives
11 you a list of candidates. It will not tell us exactly who
12 is the person is. The computer gives us a list of
13 candidates, and then the examiner -- that would be me --
14 has to actually look at the print with our eyes. And then
15 that's how we determine whether a print is made by a
16 certain individual or not.

17 So, we don't rely on the computer itself. The human
18 eye still has to make the comparison and then has to make
19 the call whether or not that print was made by a certain
20 person.

21 Q So, when you get a fingerprint, what's the first
22 thing that you're going to do?

23 A Well, when I get a print -- if I'm starting the
24 comparisons, is what you're saying?

25 Q Yes, sir.

1 A I'm going to look to see if it's the same pattern,
2 to see if it's even in the right ballpark, so to speak.

3 You know, consider this: There are three basic
4 patterns of fingerprints. We call them loops or arches
5 and whirls. Whirl is simply a circle basically. So, in
6 other words, if I'm looking at a fingerprint card and the
7 person doesn't have any patterns that make a circle,
8 obviously, it's not going to be that person. So, I'm
9 going to eliminate him based on the pattern alone.

10 If I find someone that has a whirl pattern or a
11 circle pattern, I will then start to look at that card as
12 an individual and as a possibility, and then I would do a
13 comparison.

14 These days, what we do is we can scan the image and
15 put it up on a computer screen to enlarge it to help us be
16 able to see it more better. Again, when I started doing
17 that in 1990, we didn't have that. We had just a
18 magnifier -- a little small magnifying glass that we would
19 use.

20 So, we have a lot of different tools at our disposal
21 now. So, basically, I'm enlarging the print to be able to
22 look at the detail to see if the points of identification
23 are present in both. If they're present in both and
24 they're in the same position, then I can determine that it
25 was made by that person.

1 Q And can you still use a microscope or -- can you
2 still use a microscope sometimes to compare prints?

3 A Well, we don't like to call it a microscope in our
4 department such as -- for example, in the Firearms
5 Department, they use microscopes. In the latent print
6 department, we typically don't use -- we don't refer it to
7 as the microscope. It's just a -- basically, it's a
8 computer software that will enlarge it to where we can see
9 it better.

10 We actually have about a 40-inch monitor that we can
11 look at, too, that I wish I had back in 1990. But we have
12 lots of tools at our disposal. You know, think about the
13 fact that fingerprints are -- I mean, it's -- the detail
14 is minute. I mean, it's small. So, we can't just use the
15 naked eye. We have to have some sort of way to magnify
16 it.

17 Q Have you ever testified as an expert before?

18 A I have.

19 Q Okay. Approximately how many times?

20 A I typically say about 250 times all over this great
21 state, and I have also testified some out of state,
22 primarily in circuit court. I have testified in some
23 federal courts as well. And I primarily testify for the
24 prosecution or the State. I have also -- but I have had
25 several occasions to come in and testify for the defense

1 as well on various cases.

2 MS. MARTIN: Okay. Your Honor, at this time, the
3 State moves to qualify Thomas Darnell as an expert in
4 latent fingerprint analysis.

5 MR. WILSON: No objection, Your Honor.

6 MR. GALMORE: No objection.

7 THE COURT: All right. I find this witness to be an
8 expert in the field of fingerprint analysis.

9 BY MS. MARTIN:

10 Q Now, Tom, every time you touch a surface, are you
11 going to leave a fingerprint?

12 A Not necessarily.

13 Q Okay. If I touch my dress right now, am I going to
14 leave a fingerprint?

15 A Most likely not.

16 Q Okay. But when you do, is that the latent print?

17 A Yes. If a print is left behind on a surface,
18 something that you might handle, that's what -- that print
19 that's left behind is what I refer to as a latent print or
20 the unknown print.

21 Q And are those what's sent to you by agencies to
22 analyze?

23 A Yes, ma'am.

24 Q Okay. What's a patent print?

25 A A patent print would be basically -- it's spelled

1 p-a-t-e-n-t. A patent print is simply a print that's left
2 behind in dirt, blood, oil, something that you can
3 actually see. Keep in mind, the word "latent" means
4 hidden or invisible. The word "patent" basically is
5 visible. And, so, that's kind of the difference. But
6 that's what a patent print would be.

7 Q So, there are different types of fingerprints?

8 A Yes, ma'am.

9 Q Okay. And, in this case, did you -- when you
10 receive a latent print, are you able to compare it to a
11 known print?

12 A Yes, ma'am.

13 Q What is a known print?

14 A Well, a known print is a -- basically, the person
15 who is having their fingerprints placed on this card, you
16 know who the person is. You typically have the person in
17 front of you. You're able to get their information,
18 you're able to get their names or the name, their date of
19 birth, social security number, those kind of things.

20 So, basically, a known print is -- you know who the
21 person is, whereas a latent is the unknown print. And I'm
22 comparing the unknown print to the known print, is what
23 I'm doing.

24 Q And did you receive any latent prints in this case?

25 A I did.

1 Q Okay. And did you receive any -- and once you
2 received those, what did you do with them?

3 A Once I received them, I would open up -- well, first
4 of all, it came in a sealed envelope when I got them.
5 They were sealed. In fact, our laboratory won't even
6 accept them if they're not sealed.

7 So I open up the envelope, examine each latent lift,
8 and determine if -- first of all, I want to determine
9 their value. If they're not of value, then there's no
10 need for me to go any further.

11 And so, once I determine if they are of value, then
12 I can start to compare them to individuals that I was
13 requested to compare to.

14 MS. MARTIN: I'm approaching the witness with what's
15 already been introduced into evidence as State's Exhibit
16 20 and then what's been marked for identification purposes
17 as State's 223.

18 BY MS. MARTIN:

19 Q I'll ask you about State's Exhibit 20. Is that what
20 you received?

21 A It does appear to be, yes, ma'am.

22 Q Okay. So, can you tell the jury what it is that you
23 received?

24 A This is the sealed envelope that I received. This
25 is marked State's 20. This is what I received from our

1 evidence vault once it came up to our department. And
2 this contains the three latent lifts that I actually
3 looked at and compared to.

4 Q Okay. And when you do an analysis, do you create a
5 report after you do your analysis?

6 A I do.

7 Q Okay. And would that report assist you in your
8 testimony here today?

9 A Yes, ma'am. I actually have a copy of it here with
10 me today.

11 Q Oh, perfect. Okay.

12 A Which is a copy of State's 223, which is my report
13 dated June 18th, 2024, and it has my signature on the
14 back.

15 Q Has it been altered, manipulated, or tampered with
16 in any way since you created that report?

17 A No, ma'am.

18 MS. MARTIN: Your Honor, at this time, the State
19 seeks to admit State's Exhibit 223 into evidence.

20 THE COURT: Mr. Wilson?

21 MR. WILSON: He's testifying. I don't understand --
22 it's cumulative. He's already testifying to what he says
23 is in it. I don't have any real objections other than it
24 just doesn't make any sense to add it.

25 THE COURT: Mr. Galmore?

1 MR. GALMORE: No objection, sir.

2 THE COURT: All right. State's Exhibit 223 admitted
3 into evidence without objection.

4 (State's Exhibit No. 223 was received into
5 evidence.)

6 BY MS. MARTIN:

7 Q Going back to what you received in this case, SLED
8 Item 54, what was that?

9 A Did you want me to open up the envelope?

10 Q Yeah, I would love that, actually. That sounds
11 great.

12 A I'll rip the bottom off, if that's okay.

13 Q That sounds good.

14 So, what did you just open up?

15 A I just opened up the envelope, which was still
16 sealed, in fact. In fact, when I finish with the
17 evidence, I sealed it up with the evidence tape, put the
18 date on it and initialled, and it was returned to Horry
19 County. It was sealed up until just now when I opened it
20 up.

21 So, that envelope contains the three latent lifts
22 that I examined back in June. And my Item 54, which I
23 believe you asked me about, is now -- is a latent lift
24 that's marked that it came from lower ejection side of the
25 magazine.

1 Q Okay. What about your Item 55?

2 A Item 55 is a latent lift. And if I might add, each
3 latent lift has been identified with my laboratory number,
4 item number, and my initials.

5 Item 55, which is the SLED item number, is a latent
6 lift marked "lower magazine release side."

7 Q Okay. And then, on your report, we have an Item
8 55.1. What does that mean?

9 A Item 55 is the whole number. It basically refers to
10 this card. On that -- within that card is a fingerprint
11 that I'm looking at, and so I gave it a sub item.

12 So, 55.1 simply signifies where the fingerprint is
13 that I looked at.

14 Q And Item 56?

15 A Item 56 is a latent lift that says it came from the
16 lower magazine release side, second lift. And normally
17 what that means is that, whoever developed these prints
18 and lifted them, lifted it twice. In other words, this is
19 the first lift and this is the second lift of the same
20 area from the previous lift.

21 Q Okay. And then, again, we have got a 56.1. What is
22 the point one?

23 A The point one is the print that I looked at. I just
24 gave you the sub item to be able to signify where it was.

25 Q Now, did you have any known fingerprints to compare

1 in this case to those latent lifts?

2 A Yes, ma'am. I was able to receive several
3 fingerprint cards to look at.

4 Q Okay. And without going into too much detail, can
5 you tell the jury what database you used to get those
6 known fingerprints from?

7 A I received them from the automated fingerprint
8 database.

9 Q Is that also known as AFIS?

10 A Yes, ma'am.

11 Q Okay. And so, whose fingerprint cards -- known
12 cards did you obtain in this case?

13 A Do you want me to list all five?

14 Q If you will, please.

15 A The first one was Kalik Isaiah Conn. The second one
16 was Jeremiah Zachariah Dicker. The third one was Dajon
17 Malik Grate. The fourth card was Nasirea Brewnoplis
18 Grate. And the fifth card was Todd Allen Fry.

19 Q And I'm showing you what has been marked for
20 identification purposes as 218, 219, 220, 221, and 222.
21 Are those representations of the cards that you pulled the
22 finger -- the known standards that you pulled from AFIS?

23 A They appear to be, yes, ma'am.

24 Q Okay. I'm going to take those back so we don't --
25 so I don't lose them, because I will.

1 Now, when you get known prints and latent prints
2 like you did in this case, what did you first do? What
3 did you do?

4 A The -- keep in mind, at this point, I have already
5 looked at the latent lift. I have already determined
6 which -- what is of value and what's not. I have already
7 created sub items. I have got a 55.1 and a 56.1. And I
8 can tell you that the pattern of the print I was looking
9 at was the whirl pattern that I just talked to you about,
10 the circle pattern.

11 So, at that point, I start looking at the very first
12 card that I had entered into our system. I looked at that
13 first card to see if anything matched up or could
14 potentially match up to that card. And that card was
15 Kalik Conn, was the first card that I looked at. And the
16 print in question was not identified or not made by Kalik
17 Conn.

18 Q Okay. And this would be for a latent lift lifted
19 off of a lower magazine release side; is that right? So,
20 off of a gun?

21 A Correct.

22 Q Okay. And so, after you found that Kalik Conn was
23 not a match to the latent lift off that gun or off that
24 magazine -- excuse me; let me be very clear, magazine --
25 what did you do next?

1 A I looked at the second card, and I'm just simply
2 going in the order that I had them entered in my system.
3 There's no real reason for the order. It's just how I
4 chose to put them in.

5 The second card I looked at was Jeremiah Zachariah
6 Dicker. That was the second card that I did look at.

7 Q And did you make a comparison?

8 A I did.

9 Q Okay. And what did you find when you made your
10 comparison with that latent lift?

11 A The whirl pattern identified -- where I had marked
12 55.1 was, in fact, identified to Jeremiah Zachariah
13 Dicker.

14 Q So, once you have a match from a latent lift, once
15 you have determined that that's the same as the known
16 standard, what do you do? Do you test anything else or
17 what do you do?

18 A Well, at that point, once I identified it, there was
19 really no need to go any further because it was identified
20 to Mr. Jeremiah Dicker in this case.

21 And so, the remaining three cards -- I entered them
22 into the system as evidence, but they were not looked at.
23 They were not examined because of the fact that I had
24 identified to Jeremiah Dicker.

25 Q So, if you have identified Jeremiah Dicker as being

1 the person with the latent print on the magazine, is there
2 any need to go any further to test Nasirea Grate, Dajon
3 Grate, or Todd Fry?

4 A No, ma'am.

5 Q Okay. And are all of those -- are those findings --
6 are those on your report that has been introduced as
7 State's Exhibit 223?

8 A Yes, ma'am.

9 Q Okay. And when you receive items to SLED, do you
10 test what you received?

11 A Yes, ma'am. Whatever I get in -- you know, SLED, we
12 process literally thousands of pieces of evidence. And
13 whatever we get in from outside agencies, we would process
14 whatever they're asking for, basically. You know,
15 sometimes we might make phone calls back and forth talking
16 about the evidence and that sort of thing. Yeah, whatever
17 we get in to process, we would do that.

18 Q Okay. And so, if you were given other latent
19 prints, would you have tested them?

20 A Yes, ma'am.

21 Q And in this case, were you given anything else other
22 than the Items 54, 55, and 56?

23 A That was the only thing that I received.

24 Q Okay. And then let me talk to you real quick about
25 cartridge casings. So a gun, the bullets, the casing --

1 the casing around the bullet after the bullet is fired?

2 A Correct.

3 Q Okay. So, after -- can you test those?

4 A Yes, ma'am.

5 Q What's the probability -- what's the chance that
6 you're going to get a fingerprint off of a fired cartridge
7 casing?

8 A Well, I can tell you, I have processed probably
9 thousands of cartridge cases in my career, and I have
10 gotten very, very few identifiable prints on cartridge
11 cases. It's possible that you can get prints on cartridge
12 cases, but it's very unlikely to get anything with any
13 quality. So, I will say that the chance of getting an
14 identifiable print on a cartridge case is very low.

15 Q And does heat play a role with that?

16 A Actually, there are several factors that come in to
17 play. One thing to keep in mind is that a fingerprint --
18 when you leave a fingerprint on the surface, what you're
19 leaving behind is moisture, is perspiration, sweat, or
20 whatever you want to call it. That's what you're leaving
21 behind when you touch something.

22 Everybody sweats differently. Everybody perspires
23 differently. There's some folks that may not, believe it
24 or not, may not even perspire during the summertime. You
25 know, we're all made differently. So, it just depends on

1 how you touch it, how you -- how much you're perspiring,
2 that sort of thing.

3 In going back to the cartridge cases, cartridge
4 cases are cycled through a magazine, they're cycling
5 through a pistol. They're stacked in on top of other
6 cartridges once you load the magazine. So, you've got
7 heat -- well, once it's fired, you've got some heat that
8 it's exposed to.

9 So, heat is having an effect on it. Friction is
10 having an effect on it. And then once it lands on the --
11 it may land on a highway. It may land in a driveway or in
12 the grass. It might get stepped on. So, there's a number
13 of things that come in to play as to whether or not you
14 can develop prints on court and jury cases. But just keep
15 in mind about the perspiration part of it. Everybody is
16 different. We're all made different.

17 Q Now, we talked about the uniqueness of a
18 fingerprint.

19 A Yes, ma'am.

20 Q So, you can tell the difference between me and any
21 member of the jury, our fingerprints?

22 A If I had two fingerprint cards, I can tell the
23 difference, yes, ma'am.

24 Q But can you tell the time in which that fingerprint
25 was made?

1 A Not typically. There's no real way to age the
2 print. Obviously, if I -- you know, if someone can come
3 in here and tell me that they cleaned a glass countertop
4 at a certain time before they closed up the business for
5 the day and I came in there and there was a print left
6 behind, I might could give you some sort of guess as to
7 how old the print might be. But, as a general rule,
8 there's no way to age a fingerprint. There's just no way
9 to do it.

10 MS. MARTIN: Beg the Court's indulgence.

11 THE COURT: All right.

12 MS. MARTIN: I have no further questions. If you'll
13 answer any the defense may have.

14 CROSS-EXAMINATION

15 BY MR. WILSON:

16 Q Agent Darnell?

17 A Yes, sir.

18 Q There is no question about it, you did not find the
19 prints of Nasirea Grate on anything that you tested, did
20 you?

21 A That would be correct, yes, sir.

22 Q That is correct.

23 And let me also ask you, in regards to these prints
24 that were taken, you had a card -- and I think you
25 described it as rolling their prints; that someone rolled

1 their prints on it; right?

2 A Yes, sir.

3 Q And you, with that card, would be able to match any
4 fingerprint that belonged to, say, Nasirea Grate to that
5 card if you had a print or a latent -- let me rephrase
6 that -- a latent with significant detail -- sufficient
7 detail?

8 A Yes.

9 Q Ridge detail, I'm speaking of.

10 A Yes, sir.

11 Q And you said that everybody's prints are different;
12 right?

13 A Yes, sir.

14 Q And -- but if you have my print and then you find a
15 latent, then you can take the two, compare them, and then
16 tell us whether it's mine or whether it's not mine?

17 A Yes, sir. If I have got the right quality, the
18 right clarity that I need an examiner, yes, sir, I sure
19 could.

20 Q All right. And let me ask you: Were you sent any
21 latent lifts from a silver Cadillac?

22 A No, sir.

23 Q You never received any from a silver Cadillac?

24 A No, sir.

25 Q Did you receive any latent lifts from the interior

1 of a white Acura?

2 A No, sir.

3 Q None?

4 A No, sir.

5 Q What about from the outside of a white Acura?

6 A No, sir.

7 Q None?

8 A No, sir.

9 Q If you had been sent latent lifts from either the
10 white Acura or the silver Cadillac, you would have been
11 willing to review them at least to determine if there's
12 sufficient ridge detail for you to make some kind of
13 comparison, would you not have?

14 A Yes, sir.

15 Q But you were not given that opportunity?

16 A That's right.

17 Q In addition to that, you weren't given the
18 opportunity to examine any bullet or shell casing which
19 may or may not have sufficient ridge detail for you to
20 examine?

21 A That's correct.

22 Q All right. And had you been sent such shell casing,
23 you would have been more than willing to examine it and
24 make a determination as to whether or not there is
25 sufficient ridge detail of any latent for you to examine?

1 A Yes, sir.

2 Q But that didn't happen either, did it?

3 A That's correct.

4 Q Okay. Now, in addition, were you sent prints from a
5 second 9mm pistol or gun, or just the one?

6 A The only ones that I received are the three that I
7 just testified to, that's correct, sir.

8 Q All right. And where were those three from?

9 A According to what was written on the back of the
10 card, it indicates to me that it came off of a pistol
11 magazine.

12 Q Off of one pistol magazine?

13 A Yes, sir. And I'm assuming that they all came from
14 the same magazine, but I can't really tell that from what
15 I have got. One says first lift; one says second lift.
16 So, I'm assuming that came from the same magazine. And
17 then the one that's of no value, I can't say for sure if
18 it came from the same magazine. I'm going to assume that
19 it did.

20 Q Okay. All right. And the magazine that we're
21 talking about, do we know which weapon that magazine came
22 from?

23 A I do not, no, sir.

24 Q You do not know?

25 A No, sir.

1 Q But there's no question that you were not sent lifts
2 from two separate magazines?

3 A That's correct.

4 Q Let me ask you, if you had been sent a second
5 magazine -- and let me back up and even more than that.
6 When a latent is taken by law enforcement, say the Horry
7 County Police is in this case, and those latents are sent
8 to you, they actually have to lift it from the item;
9 right?

10 A Yes, sir.

11 Q And then put it on a card and then send that card to
12 you along with a known card?

13 A Well, sometimes they send us known cards. In this
14 case, they did not. I actually was able to receive them
15 from the AFIS system. But sometimes they do send in known
16 cards, yes, sir.

17 Q All right. And when they send you these lifts that
18 they have taken themselves, is that better than if they
19 actually send you the item on which the print is to be
20 lifted from?

21 A Well, it's kind of hard for me to say which is
22 better. I mean, we typically -- well, we get both. I
23 mean, we get evidence to process ourselves and then we get
24 latent lifts that have already been developed by other
25 agencies. It just depends on what that agency is trying

1 to do and if they have got someone there that knows how to
2 process evidence, and it appears there's someone there
3 that who knows how to do that in this case based on what
4 they sent me. So, I don't know. I can't really say which
5 is better.

6 Q I understand.

7 Last thing: In regards to Nasirea Grate, is there
8 any question in your mind that that print that was found
9 on whatever those items were that they sent to you, does
10 not belong to him?

11 A There's no question that the print belongs to
12 Mr. Jeremiah Dicker.

13 Q Thank you, sir.

14 THE COURT: Mr. Galmore, cross-examination.

15 CROSS-EXAMINATION

16 BY MR. GALMORE:

17 Q Just to try to simplify this a little bit, Agent
18 Darnell --

19 A Yes, sir.

20 Q -- you would be given a set of standard prints, and
21 you would be given latent prints and asked to compare
22 them; is that basically correct?

23 A Well, in this case, I received the latent lift cards
24 and then I was given some names to check, and I got cards
25 and I was asked to compare them to those individuals.

1 Q Okay. And the standard print cards -- do you have
2 those?

3 A I believe -- the ones that are in evidence, I
4 believe, are up there somewhere.

5 Q That would be 218, 219, 220, 221 and 222. Let me
6 hand you these State's exhibits. And you said those would
7 be the standard cards; is that correct?

8 A Yes, sir.

9 Q Okay. And you have a standard card for Dajon Grate?

10 A Yes, sir, I do.

11 Q All right. And are those prints for Dajon Grate,
12 are they in good quality and good condition?

13 A They do appear to be in good quality, yes, sir.

14 Q Okay. Now, if they were not in good quality, what
15 would you do?

16 A Well, in this case, having identified the print to
17 Mr. Dicker, it really would not have mattered whether his
18 card was in real good quality or not, as long as I was
19 able to eliminate it. If I needed a better card, I would
20 typically ask for a better card.

21 Q Okay. So, you would ask the local officer or
22 arresting officer to roll his prints again?

23 A Yes, sir.

24 Q Okay. Do you have an occasion where you roll the
25 prints yourself?

1 A Very many.

2 Q Okay. But, in this case, it didn't matter because
3 it didn't match Dajon Grate anyway?

4 A Well, yes, sir, that's correct. I was able to --
5 the quality was such that I was able to -- well, like I
6 said, once I identified Jeremiah Dicker, I didn't really
7 need to go any further to look at Mr. Grate.

8 Q Okay. But you do have a good set of prints for
9 Dajon Grate?

10 A I do, yes, sir.

11 Q All right. And the latent prints that you received
12 did not match Dajon Grate?

13 A That's correct. That is correct.

14 Q Now, in making that determination, you do a -- I
15 guess, a computer analysis?

16 A Well, I do a human eye ---

17 Q Yes, sir.

18 A --- comparison.

19 Q So you do both?

20 A Well, where we would use the automated computer
21 search is if I did not have a known person to compare it
22 to. If I had a latent print or an unknown print and I
23 don't have anybody to compare it to, then I'm going to --
24 if the print is of good quality, I'm going to search
25 through the computer to see if I can get a list of

1 candidates.

2 I don't know if I have answered your question or
3 not.

4 Q Yes, sir, you have answered my question, sir.

5 So, in this case, like I say, you did a visual
6 impression, and your conclusion was that the latent print
7 matched Jeremiah Dicker?

8 A Yes, sir, that is correct.

9 Q All right. And so, you got the latent prints off
10 of -- I guess Item 54 would be the lower ejection side of
11 magazine. So, to make a long story short, we're saying
12 that Jeremiah Dicker's fingerprint was on that magazine?

13 A Yes, sir, that's correct.

14 Q Okay. And then Item 55 says, "Lower magazine
15 release side," and Item 56 is "lower magazine release
16 side, second lift"?

17 A Yes, sir.

18 Q Those two prints would also have been Jeremiah
19 Dicker's prints?

20 A Yes, sir. And it's actually -- if I can back up, my
21 Item 54, the result of that one was no value for
22 comparison. But then on Item 55.1 and 56.1, it was
23 identified to Mr. Jeremiah Dicker. Again, that was a
24 first and the second lift. So, essentially, it was the
25 same print. It was just lifted twice.

1 Q Okay. Now, when you say the first print was not
2 identified for comparison, are you talking about, like,
3 levels of accuracy?

4 A Well, not necessarily accuracy, but -- and I assume
5 you're referring to the no value for comparison result?

6 Q Yes, sir.

7 A Yes, sir. The no value for comparison result is a
8 result that we use any time I evaluate a latent print, and
9 if I determine there's not enough quality in the print,
10 there's not enough clarity, just there's not enough detail
11 there compared to anyone -- and that's why we report out
12 there's no value for comparison. In other words, once I
13 make that call, I don't look at anybody at that point
14 because that print could be anybody. It could be somebody
15 we don't even know about, but I have no way of knowing.

16 Q But, in this case, you were able to make an
17 identification, a comparison that matched to Mr. Dicker?

18 A Yes, sir. Absolutely.

19 Q Did you find Dajon Grate's fingerprints on any
20 firearms in this case?

21 A I did not receive any firearms.

22 Q Could you have checked firearms for comparison?

23 A Yes, sir, I could have.

24 Q Did you receive -- did you find Dajon Grate's
25 fingerprints on any magazines in this case?

1 A No, sir, I did not.

2 Q And, in this case, you were given some magazines of
3 latent prints off of some magazines to compare?

4 A Yes, sir, I was.

5 Q And the magazines that you received -- the latent
6 prints that you received off the magazines did not match
7 Mr. Grate?

8 A That's correct.

9 Q Okay. Did you find Dajon Grate's fingerprints on
10 any ammunition in this case?

11 A I did not receive any ammunition to process.

12 Q Could you have tested latent prints off of
13 ammunition if they were submitted to you?

14 A Yes, I could.

15 Q Okay. Lastly, I want to ask you about this box,
16 State's Exhibit No. 30. And this is a box for a GLOCK
17 handgun. Were you asked to identify any latent prints off
18 of that box, or Item 30?

19 A No, sir.

20 Q Okay. So, it would be fair to say that you do not
21 have Dajon Grate's fingerprints on Item 30?

22 A On State's 30, which I do not -- I have never seen
23 that box until just now.

24 Q Okay. So, you do not have Dajon Grate's
25 fingerprints on that black box?

1 A I never -- I didn't -- I never got it to process it.
2 Had I gotten it to process it, it's possible that I could.

3 Q Yes, sir.

4 A But I did not get it to process it.

5 Q The box was not submitted to you to process?

6 A That's right, yes, sir.

7 Q All right. Thank you, Agent Darnell. No further
8 questions.

9 A Yes, sir.

10 THE COURT: Redirect?

11 MS. MARTIN: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MS. MARTIN:

14 Q Are you aware that four guns have been identified in
15 this case?

16 A No, ma'am.

17 Q Okay. And so, you were asked a lot about this one
18 gun that you did a fingerprint analysis on and then you
19 were asked -- is that right?

20 A Yes. It's the lift off a magazine.

21 Q And then you were also asked by Mr. Wilson and
22 Mr. Galmore about another gun at the scene and whether or
23 not you did any analysis on that. Did you do any analysis
24 on that?

25 A No, ma'am.

1 Q Now, of the other two guns that were never
2 recovered, would it also have also been helpful for you if
3 you had been able to do an analysis -- do lifts off of
4 those two guns that were not recovered?

5 A Yes, ma'am, I could have processed those as well.
6 Yes, ma'am, absolutely.

7 Q Okay. But if they're not recovered, you can't do
8 that?

9 A Of course not.

10 Q Okay. Now, let's talk about -- Mr. Wilson asked you
11 about cars. If the defendants are seen getting -- on
12 video -- getting in and out of a Cadillac, opening the
13 door, could you possibly have gotten latent lifts to test
14 there?

15 A Possibly.

16 Q Okay. Possibly.

17 And if another video shows multiple people going in
18 and out of the doors, putting their fingerprints on and
19 off of that same door handle, could that possibly degrade
20 fingerprints?

21 A Absolutely, it could. And that's a very common
22 thing that we -- obviously, if you're processing doorknobs
23 and things that are handled by more than one person, or
24 could be handled by more than one person. Keep in mind,
25 fingerprints are fragile. They're fragile. It doesn't

1 take a lot to destroy a fingerprint. Even the mere stroke
2 of a fingerprint brush, when you're trying to develop a
3 print, could destroy a print if you're not careful.

4 So, to answer your question, yes. If someone came
5 back on top of a door handle that someone else had handled
6 prior to that, it's possible that it could destroy the
7 print or it could make it to where I couldn't identify it.
8 It might make it to where it was no value for comparison.

9 Q Now, would a video of defendants opening and closing
10 the doors of a car right before a crime occurred be just
11 as useful as getting latent prints off those door handles?

12 A You mean as far as helping me out?

13 MR. WILSON: I object to the question. It's asking
14 for his opinion about what things may or may not have
15 happened.

16 THE COURT: Sustained.

17 MS. MARTIN: I have no further questions.

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

19 THE WITNESS: Thank you, sir.

20 THE COURT: State can call your next witness.

21 MS. MARTIN: The State calls Ken Marcus.

22 DETECTIVE KEN MARCUS,

23 after having been duly sworn, was examined and
24 testified to as follows:

25 THE CLERK: Please state your name and spell it for

1 the Court.

2 THE WITNESS: Sergeant Ken Marcus. And that's K-e-n
3 M-a-r-c-u-s.

4 DIRECT EXAMINATION

5 BY MS. MARTIN:

6 Q Where are you currently employed?

7 A The Horry County Police Department.

8 Q And how long have you been there?

9 A I have been there approximately 17 years now.

10 Q Tell me a little bit about your training in law
11 enforcement. Tell me a little bit about your background,
12 educational training. Tell the jury.

13 A So, when you start off hired at the police
14 department, you go through basic training through the
15 South Carolina Criminal Justice Academy. When I went
16 through, it was nine weeks. Apparently, now it's 12.

17 Throughout your career as a law enforcement officer,
18 you have to go through continuous training every year to
19 keep certification so you can be a basic law enforcement
20 officer.

21 I was a patrol officer for five years, a school
22 resource officer for two. I've had to get additional
23 training to be a school resource officer. I was promoted
24 to a supervisor or assistant shift supervisor. I was a
25 road corporal for three years, and then I've been in Major

1 Crimes Investigations for the remainder of my time.

2 Q And so, can you tell the jury what type of cases,
3 just as a whole, that you have worked throughout your many
4 years in law enforcement?

5 A I have worked and been a part of pretty much every
6 type of criminal complaint you can think of. From petty
7 thefts and trespassing complaints to homicides, missing
8 persons, sexual assaults involving both adults and minors.
9 Financial crimes, frauds.

10 Q And, in this case, you have done a lot; right?

11 A Yes.

12 Q Okay. So, can we start -- did you participate in a
13 search warrant of [REDACTED] Road?

14 A Yes. Back in 2022, I was assigned to our Major
15 Crimes Division. I was working with our Robbery/Homicide
16 Unit, at that time specifically tasked with cold case
17 investigations, but I was called and asked to obtain a
18 search warrant for that particular address.

19 Q Okay. And while you were there, what all was your
20 role and responsibility while you were at [REDACTED]
21 Road?

22 A So, I was informed that a defendant in this case had
23 been arrested at that particular address, and I was
24 contacted by the on-duty sergeant at the time asking me to
25 obtain a search warrant to search the address for evidence

1 that could further this investigation. I went in front of
2 the magistrate, presented the facts of the case to a
3 judge, obtained the search warrant, and then responded to
4 the address to execute the search warrant.

5 Now, there were other people already on-scene at the
6 time I arrived. My job was to photograph the scene, to
7 kind of scribe the area, and then whatever evidence that
8 we collected, I took photographs of it and collected that
9 evidence to turn in to the police department.

10 Q And I'm showing you what's been marked for
11 identification as State's Exhibits 207 through 214. And
12 they've previously been shown to defense counsel.

13 Detective Marcus, do you recognize those photos?

14 A Yes, I do.

15 Q And did you take those photos?

16 A Yes, I did.

17 Q Okay. Are those true and accurate copies of the
18 photos that you took? Are they true and accurate copies
19 of the photos that you took?

20 A Yes, ma'am.

21 MR. WILSON: I have no objections, Your Honor.

22 MR. GALMORE: No objection, sir.

23 THE COURT: Wait a minute. He's testified to one.
24 And she just showed you something else. Let's hold up for
25 a second.

1 MS. MARTIN: Sorry. Got ahead of myself. Okay. At
2 this time, the State seeks to admit State's Exhibits 207
3 through 214.

4 THE COURT: Any objection?

5 MR. WILSON: No objection.

6 MR. GALMORE: No objection.

7 THE COURT: State's Exhibits 207 through 214 are
8 admitted into evidence without objection.

9 (State's Exhibit Nos. 207 through 214 were received
10 into evidence.)

11 BY MS. MARTIN:

12 Q And before I show this to the jury, let me talk
13 about a couple of other things. Did you collect any
14 evidence?

15 A Yes, I did.

16 Q Okay. I'm showing you State's Exhibit 4, State's
17 Exhibit 28, and State's Exhibit 24, previously shown to
18 defense counsel. And once you're ready, will you tell me
19 what those are?

20 A All of these items are items that I collected from
21 that search of [REDACTED] Road, the residence.

22 Q And have they been altered, manipulated, tampered
23 with in any way since you got them? Are those the items?

24 A These are the items, yes, ma'am. This one appears
25 to have been sent to SLED and processed; I recognize the

1 SLED processing sticker on this one. The envelope here,
2 these two items, no, they have not been tampered with.
3 And yes, they are items that I collected from the scene.

4 MS. MARTIN: Your Honor, at this time, the State
5 seeks to admit State's Exhibits 28, 4, and 24.

6 THE COURT: Mr. Wilson?

7 MR. WILSON: I have no objection.

8 THE COURT: Mr. Galmore?

9 MR. GALMORE: No objection, sir.

10 THE COURT: State's Exhibit 4, 24, and 28 are
11 admitted into evidence without objection.

12 (State's Exhibit Nos. 4, 24, and 28 were received
13 into evidence.)

14 BY MS. MARTIN:

15 Q Now, do you remember who you were going to look for
16 at the [REDACTED] Road address?

17 A I personally did not go to [REDACTED] Road to
18 look for anybody at that time; however, the unit, I
19 believe, was going to look for Nasiree Grate.

20 Q Okay. And will you publish to the jury State's
21 Exhibit 27 through 14, please. I'll let you hold those,
22 and we'll talk about them together.

23 Okay. Can you tell the jury what we're looking at
24 with this photo, which I believe is State's Exhibit 208?

25 A This is State's Exhibit 207.

1 Q 207.

2 A And this is a photograph I took from the roadway of
3 [REDACTED] facing the residence of [REDACTED],
4 the property that we were getting ready to search.

5 Q And why did you take that photo?

6 A To show the overall picture of the residence that we
7 were getting ready to search. It's one of the first
8 things we do any time we go to collect evidence from a
9 scene.

10 Q Okay. And then what do we have next?

11 A This particular photo, which has been marked as
12 State's Exhibit 208, this is a picture from one of the
13 bedrooms inside of that residence.

14 Q Okay. Is this the same room in this picture?

15 A Yes, ma'am.

16 Q Okay.

17 A These are what we would call overall photos.

18 Q Do you do that with that every room?

19 A Yes, ma'am.

20 Q Okay. So, would this be a full representation of
21 all of the photos that you took?

22 A This is one photo right here?

23 Q No, just the ones that I handed you. Did you take
24 more than that?

25 A I did take more than that, yes.

1 Q All right. Keep going. So, why did you take this
2 photo?

3 A This particular bag here that we found on the floor,
4 we found items of evidence inside of. And this is State's
5 Exhibit 210.

6 Q Okay. And what are we looking at here?

7 A A wallet that contained South Carolina
8 identification cards inside of it in the name of Nasirea
9 Grate. And this was inside of the backpack that was
10 pictured on the previous slide or the previous photo.

11 Q And so all four -- excuse me, all three of those --
12 and then would that correlate with State's Exhibit 28?

13 A Yes. State's Exhibit 28 are the items pictured in
14 this photograph right here, or the South Carolina
15 identification cards, I should say, pictured in the photo
16 right here.

17 Q And whose IDs are those?

18 A Those are in the name of Nasirea Grate.

19 Q Okay. Now, this is a little blurry but what are we
20 looking at?

21 A That is actually a hooded -- some call it a mask, a
22 gator neck. It's a hat of some sort, something that you
23 would put on top of your head to stay warm or stay out of
24 the sun.

25 Q Okay. And I'm showing you what's already been

1 introduced as State's Exhibit 4. Is that what's
2 identified in that photo?

3 A Yes, ma'am, it is.

4 Q Okay. Next photo? Okay. So, what is this photo
5 of?

6 A This is a photo of the dishwasher in the kitchen of
7 the residence, and on the top rack -- I believe it's the
8 top rack; the angle of the photo is -- inside the
9 dishwasher is a cell phone that we collected.

10 Q Okay. And do you typically find cell phones in a
11 dishwasher?

12 A On occasion, yes.

13 Q Okay. Do you put your cell phone in a dishwasher?

14 A No, ma'am.

15 Q State's Exhibit 24?

16 A Yes, that is the cell phone that we found inside the
17 dishwasher.

18 Q And is that, again, a picture of that phone?

19 A Yes, ma'am.

20 Q Okay. And that would be -- would that be State's
21 Exhibit 24?

22 A Yes, ma'am.

23 Q Okay. Now, other than doing this search warrant and
24 collecting Nasirea Grate's IDs, a black mask, and a cell
25 phone, did you do anything else in this case?

1 A Yes, ma'am, I did.

2 Q Okay. Let's go back to some of your qualifications.
3 Let's talk about this. Are you on any task force?

4 A I am. I'm a part of the United States Secret
5 Services Cyber Fraud Task Force.

6 Q Okay. And this cyber task force with the Secret
7 Service, what does that mean? What do you do with that?

8 A We process digital evidence or conduct analysis of
9 digital records. That could be everything from social
10 media records, records from web servers, platforms, or it
11 could be records from -- that we physically pull from
12 digital devices -- computers, cell phones, vehicle
13 infotainment centers, DVR, things along those lines.

14 Q So, do you work with cell phones?

15 A I do.

16 Q Okay. And what type of work do you do with cell
17 phones?

18 A So, I forensically process cell phones for our
19 department and for other departments who have a request
20 for them.

21 Q And do you have any training in this?

22 A I do. I'm currently certified using specific tools,
23 and I have gone through several classes at the National
24 Computer Forensic Institute run by the United States
25 Secret Service in Hoover, Alabama.

1 Q So, some of the tools that you work with, are you
2 familiar with Cellebrite?

3 A Yes, ma'am.

4 Q Okay. Can you tell the jury what -- what Cellebrite
5 does?

6 A Cellebrite is a forensic tool that will access the
7 stored memory inside of a phone, make an image or a copy
8 of that memory, and then turn around and allow us to
9 process it and sort through the vast amounts of
10 information that could be contained on a cell phone.

11 Q So, when we hear things like cellphone extraction or
12 cell dump, which is commonly heard on television shows, is
13 that kind of what Cellebrite does?

14 A Those are terms that are used in this forensic
15 processing; however, it's a little bit of a disclaimer.
16 We don't actually dump the information off the phone.
17 We're not removing the information from the phone. We're
18 copying the information from the phone. So, if someone
19 went back and took a look at that phone today, they would
20 find the information on the phone as well as the image
21 that we obtained.

22 Q So, if you get a cell phone, how does that work?
23 Can you tell the jury how a cell phone imaging or cell
24 phone extraction works?

25 A Typically, we would take a look at the phone and

1 make sure it's in working order. We would look for
2 visible signs of damage on the outside of it. Make sure
3 that the ports on the bottom, the data transfer and
4 charging ports are working correctly, and if need to and
5 if possible, correct any damage there.

6 We would power up the device, and then we would
7 connect the device to a Cellebrite tool to start that
8 extraction or, I'm sorry, image.

9 Q Okay. And so, are you certified to use Cellebrite?

10 A Yes, ma'am.

11 Q Okay. And did you take classes to use Cellebrite?

12 A Yes, ma'am.

13 Q And is Cellebrite an accepted tool -- a forensic
14 tool in the -- in courts across the country?

15 A Yes, ma'am.

16 Q Okay. Is it an accepted tool that is used through
17 law enforcement?

18 A Yes, ma'am.

19 Q Okay. Once a phone is extracted -- I'm sorry,
20 imaged with Cellebrite, what are you able to do with it?

21 A The image or the copy of the data on the phone will
22 run through an analyzing tool, and it will break down all
23 of the databases on the phone. We're able to go through
24 them systematically, kind of organizes everything for us
25 as far as where it would be found on the phone, and we're

1 able to go through different parts of it to look at
2 different things. For instance, we'd be able to look at
3 someone's call log or a device's text message
4 conversations, pictures, videos, geo location, if the
5 phone is recording it. We'd be able to look at certain
6 interactions at different times; if the phone was powered
7 on or powered off, when exactly those events were.

8 Some phones record information from the user, for
9 instance, steps or distance traveled. It just all depends
10 on the make and model of the phone and what capabilities
11 it has.

12 Q And so, if I have a text -- if I text on my phone
13 and you get an image of my phone from Cellebrite, can you
14 look at those text message conversations?

15 A Yes, ma'am.

16 Q What about my locational history? Can you see my
17 locational data?

18 A There is some location history saved on phones, but,
19 again, it depends on what type of make and model of phone
20 it is.

21 Q Okay. Now, are you able -- with location or text
22 messages or anything of that nature, are you able to
23 determine reliability? Can you do a reliability analysis
24 on that?

25 A Typically when we take a look at digital evidence,

1 we find other ways of validating that information.
2 Sometimes it's at a very granular level when we're looking
3 at the actual code itself to make sure the binary and
4 whatever the phone says the same thing we're reading on
5 the screen. Sometimes we'll use cell phone records if
6 we're trying to validate information that's found on the
7 actual cell phone.

8 So, these records would be from the provider.
9 Occasionally, we can use other records that come from
10 social media platforms if we're looking for Facebook or at
11 Facebook messages or Snapchat, if any of those of
12 communications still exist from a provider.

13 Occasionally, we're able to go out to different
14 locations and find video that might, you know, corroborate
15 some of the information. There's several different ways
16 of doing it.

17 Q Okay. And without going into too much detail at
18 this point in time, in this case, were you able to test
19 the reliability of the information that you obtained?

20 A Some of the information, yes, ma'am.

21 Q Okay. Now, is it common for forensic examiners to
22 utilize multiple tools when examining cell phone records
23 or cell phones in general?

24 A Yes, ma'am.

25 Q Okay. And do you know what a call detail record is?

1 A Yes.

2 Q Okay. What is a call detail record?

3 A So, a call detail record is a record produced by a
4 cellular network provider, like AT&T or T-Mobile.
5 Essentially, it is a record that shows, at this particular
6 date and time, your cell phone made a connection to the
7 network. It shows the tower that it connected to, how
8 long that connection was, and what type of connection that
9 was, whether it was a phone call or a text message, or if
10 you were accessing data. For instance, you were perusing
11 something on Facebook that shows the data connection and
12 call detail records.

13 Q And now, do you use any type of program -- like when
14 you get this data, is it -- I mean, is it easily -- can
15 you read it easily?

16 A Both cell phone records or image and network
17 provider records that we would get are very large amounts
18 of data. Several thousands and thousands of pages, if we
19 ever decided to stick it on something like Excel or a PDF.
20 So, we would use tools like Cellebrite physical analyzer
21 to help us look at cell phone data. And for network
22 provider records, we use a tool called CellHawk, which is
23 an analysis and graphical program.

24 Q Tell the jury about CellHawk. What does it do?

25 A CellHawk is nothing more than, say, a fancy

1 calculator. We take that information that we get from the
2 network providers, as far as date, time, and location; the
3 type of calls and direction of calls; and we're able to
4 import it into the system, and all it does is it analyzes
5 those records very quickly and then displays them on the
6 screen for us.

7 Q So, I'm showing you what's been marked as State's
8 Exhibits 200, 201, and 202 -- or I'm going to as soon as I
9 show defense counsel.

10 Approaching the witness.

11 What am I showing you?

12 A These are storage media, either CDs or a thumb
13 drive, that contain cell records that I looked at during
14 this investigation.

15 Q Okay. And how do you know that that's what those
16 are?

17 A My initials are on the envelope. I reviewed them.

18 Q So, you reviewed them?

19 A Yes, ma'am.

20 Q Are they true and accurate copies?

21 A Yes, ma'am.

22 Q Did you alter, change them, or manipulate them in
23 any way?

24 A No, ma'am.

25 Q And are they certified as true and accurate through

1 the providers?

2 A So, when we receive records from the providers, they
3 send letters of authenticity with them that are signed by
4 the clerk that sent us those records. They are kept in
5 the normal course of their business, and that's what that
6 record or that letter would state.

7 Q And did you get those in this case?

8 A I did.

9 MS. MARTIN: Okay. Your Honor, at this time, the
10 State seeks to admit State's Exhibit 200, 201, and 202.

11 MR. WILSON: I have no objection, Your Honor.

12 MR. GALMORE: No objection.

13 THE COURT: All right. State's Exhibits 200, 201,
14 and 202 are admitted into evidence without objection.

15 (State's Exhibit Nos. 200, 201, and 202 were
16 received into evidence.)

17 BY MS. MARTIN:

18 Q And can you tell me, based on those, whose phone
19 records is 200?

20 A State's Exhibit 200 should be the cell phone records
21 for Kalik Conn.

22 Q Okay. And 201?

23 A 201 would be the cell phone records for Nasirea
24 Grate. And 202 were the phone records associated with
25 Jeremiah Dicker.

1 Q Okay. Now, when you look at those, are they -- when
2 you look at those records, are they given to you in Excel?

3 A They will give us them in either a text document
4 format, Excel or AT&T prefers to give it to us in a PDF.

5 Q And how large are these, typically?

6 A Thousands and thousands of pages.

7 Q Thousands and thousands of pages?

8 A Depending on the time frame of the records that we
9 requested.

10 Q Can you tell the jury what a cell tower is?

11 A A cell tower is a physical structure scattered
12 across the land that our cell phones connect to. The
13 network providers use them for these connections. And our
14 cell phones are nothing more than just fancy radios. The
15 cell towers have the antennas on them that receive or send
16 the information to our cell phones, and they are connected
17 back to the computers, the base stations, the networking
18 that the providers use to send the signal from one phone
19 to its destination, kind of like a very fancy switchboard.

20 Q And so, when you get these CDRs, or call detail
21 records, what's the first thing that you do? If you have
22 got Nasirea's, Kalik's, Jeremiah Dicker's phone -- I mean,
23 phone records, what's the first thing that you're going to
24 do?

25 A So, any of the phone records that we receive and are

1 asked to take a look at, we try to validate if the records
2 belong to a particular person in an investigation.
3 Sometimes we're told, hey, these phone numbers belong to a
4 particular person, and we'll look at subscriber
5 information and device information to see if that lines up
6 with it.

7 Q Did you do that in this case?

8 A I did.

9 Q Okay. And were you able to verify?

10 A I was able to associate these sets of phone records
11 to -- one to Kalik Conn, one to Nasirea Grate, and one to
12 Jeremiah Dicker.

13 Q All right. Let's go back to that cell tower
14 information. Who provides you with the cell tower
15 locational data or the cell tower location?

16 A All of that information would come from the cellular
17 network providers.

18 Q So, after you receive all of this information, what
19 do you do next?

20 A As far as the analysis for call detail?

21 Q As far as the analysis goes.

22 A We'll take a look at some of the case facts,
23 particularly date, time, and location, things along those
24 lines, and see if these records show connection with the
25 devices either in the area during that time or not in the

1 area during that time or what their activity was during
2 that particular date and time.

3 Q And is CellHawk -- is this an industry standard?

4 A Is it an industry standard? It's commonly used by
5 many law enforcement agencies across the United States.

6 Q Has it been used in courts throughout South
7 Carolina?

8 A Yes, ma'am.

9 Q Okay. Has it been used in courts throughout the
10 United States?

11 A As far as I know, yes, ma'am.

12 Q And has law enforcement -- does law enforcement
13 regularly use this as a tool?

14 A I know several agencies that use this as a tool,
15 yes, ma'am.

16 Q Okay. So, are you able to map locational data of a
17 cell phone?

18 A One of the primary functions of CellHawk is, again,
19 a graphical aid. We'll take the information about where a
20 tower is located at during a date and time of a connection
21 and then are able to graph it on a map so we can make a
22 visual to assist in the investigation.

23 Q And so, when you're plotting cellular locations, I
24 mean, does CellHawk just basically save you hours of time?

25 A It does. We could go through line by line and take

1 each individual tower and plot it by hand on a map. And,
2 in fact, we do do that spot check, our validation, to
3 ensure that what we're seeing on CellHawk is actually
4 correct by another means, but yes, it does save a lot of
5 time being able to do it that way.

6 Q So, with thousands of pages of data, you were still
7 able to go in and do it by hand?

8 A Yes, ma'am.

9 Q Okay. And so, you're able to plot this locational
10 data during a specific time?

11 A Yes, ma'am.

12 Q Okay. And are you able to cross-reference
13 information in CellHawk -- sorry; I got side-tracked with
14 the screen -- with the cell phone records? So, using cell
15 phone records and cell phone data?

16 A Yes, ma'am.

17 Q Okay.

18 MS. MARTIN: Your Honor, at this point in time, I
19 move to qualify Ken Marcus as an expert in cell phone
20 record analysis, including geolocational analysis and cell
21 phone extraction analysis.

22 THE COURT: All right.

23 MR. WILSON: Subject to cross-examination, Your
24 Honor.

25 THE COURT: All right. I'll allow -- I mean, if you

1 want to challenge it, I'll allow you to cross-examine him
2 now on his qualifications.

3 MR. WILSON: I just have a few questions.

4 THE COURT: All right.

5 VOIR DIRE EXAMINATION

6 BY MR. WILSON:

7 Q I just want to ask you a few questions. You're
8 saying you're an expert in what field?

9 A Cellular record and geolocation analysis.

10 Q Okay. And are you telling us that that's an exact
11 science?

12 A It is a science, yes.

13 Q No, that's not my question. My question was: Are
14 you telling us that that's an exact science?

15 A We're analyzing records that are derived from
16 scientific methods, yes.

17 Q The truth of the matter is is that, in that field
18 that you're discussing and you're saying that you're
19 claiming to be an expert, the problem is that, even when
20 you have all the information from Cellebrite, you can't
21 take that information and do anything with it without
22 using a computer to put that information in and then have
23 the computer give you back whatever it is that you're
24 trying to come up with?

25 A No, sir, that's not what I'm saying.

1 Q All right. Well, then tell me what you're saying.

2 A The computer does aid us by cutting down the amount
3 of time and resources needed to do all of that. In
4 cellular record analysis, we can take the information
5 that's given to us by the network provider, plot it by
6 hand, and do all of that without the aid of a computer,
7 but a computer, you know, can go through, say, several
8 thousand pages and put that into the machine within nine
9 minutes and allow me to pull up each individual point and
10 review it much quicker than it would be if I scrolled out
11 a map on the table and used a protractor and a compass to
12 plot each individual line.

13 Q But the information that you received from the cell
14 provider -- you received, you say, information from the
15 cell provider. You say you don't want to call it a dump;
16 you call it -- what was your word?

17 A They're call detail records.

18 Q So, you get these records from the cell company, but
19 you then take that information and, according to you, you
20 put it in a computer, and then the computer gives you
21 information in return. What I'm asking, I guess, is tell
22 me how the computer system works, which you put these --
23 you plug into this information. How does it come up with
24 -- how does that program -- how does that computer program
25 come up with the coordinates or information that you're

1 bringing in here to us?

2 A So, CellHawk is nothing more than a fancy
3 calculator. Every bit of information that I'm putting
4 into it is something that I can read on a spreadsheet and
5 I can do by hand. All it is doing is mapping that out on
6 a computer-generated map already. So, instead of me
7 mapping it out by hand, I'm using a computer to map it.

8 The process is still the same. The cell tower
9 location information has a latitude and longitude on that
10 particular form. The date and time is on the particular
11 form. The antenna that's being used, the type of
12 connection, where it is going, all of that is on that
13 form, and I can see and all I'm using is this mapping
14 software to generate it on a map, much quicker than I
15 could possibly do it by hand.

16 Q So, if you put in the information that you get from
17 Cellebrite or whoever the provider is, you're putting that
18 information in the computer. Once you put it in there, if
19 you put it in there incorrectly or if the information that
20 you got from the cell phone company is incorrect, then
21 you're going to get the wrong information; fair?

22 A So it displays the information that we have put in
23 and organizes this for us, and then we go back and
24 individually validate every point of information that we
25 use during an investigation.

1 Q How do you validate it? That's my --

2 A It depends on the particular information. For
3 instance, if we're looking for -- at a cell phone
4 connection, one of the ways that we'll validate the
5 information is to see if the tower actually exists. We
6 can do that either by going out to the location, but most
7 of the time, we're using historical records, so it's kind
8 of hard for us to go out to a location five, six, eight
9 months ago when we're looking at things. So what we'll
10 use, we'll use historical video or photographs from, say,
11 Google Earth or Google Maps to validate or verify that a
12 locational tower did exist at that point in time, or close
13 to it.

14 Q And my first question to you was: Is this an exact
15 science?

16 A Yes, sir.

17 Q And, in fact, even when you get the information,
18 depending on where the cell towers are, you can't tell
19 where an individual is based on his cell phone records;
20 fair?

21 A Call detail records give us a general location of a
22 where a device is at. It tells us the location of the
23 tower that's being used, the antenna that's being used,
24 the direction the antenna exists or is pointing, and in
25 some sort of -- excuse me, in some of the records, we'll

1 get a distance from the tower, which is based off of the
2 amount of time it takes for the signal to go from the
3 phone to the tower and back, and that is a scientific
4 measurement based on the speed of light.

5 Q Well, but that's not always correct either, is it?
6 In fact, when -- depending on where the cell tower is, you
7 would have such an influx of calls that that cell tower
8 that's closest to the individual does not receive the
9 call. It actually goes to another cell tower somewhere
10 else. Isn't that possible as well?

11 A But that's also displayed on the records itself.
12 So, when we look at the records, we're looking at the
13 tower that's actually being used, the date and the time,
14 the location of the tower, the direction of the antenna,
15 and then, in some instances, we have the information that
16 shows how far away from the tower the device is believed
17 to be at the time of that connection.

18 Q Then if the towers, say, in a rural area are far
19 apart, then there's no way for you to tell -- if it's off
20 of one tower and I live within a half a mile or a mile of
21 the area and that's my tower, no matter where I am within
22 that mile or two-mile radius, that's where I'm going to
23 ping; right?

24 A It depends on the amount of data that we actually
25 get from the network providers and how much was captured

1 at the time of the incident.

2 MR. WILSON: I don't have any other questions,
3 Judge.

4 THE COURT: Mr. Galmore, any challenges?

5 MR. GALMORE: Yes, sir, Your Honor.

6 VOIR DIRE EXAMINATION

7 BY MR. GALMORE:

8 Q Detective Marcus, you do not work for Verizon, do
9 you?

10 A No, I do not.

11 Q You do not work for AT&T?

12 A No, sir.

13 Q You do not work for T-Mobile?

14 A No, sir.

15 Q Have you ever worked for any of these cell phone
16 companies?

17 A No, sir.

18 Q Have you had any training from any of these cell
19 phone companies?

20 A No, sir.

21 Q Have you published any articles about cell phones?

22 A No, sir.

23 Q Have you taught any classes about cell phones?

24 A No, sir.

25 Q Can you vouch for the accuracy of the records that

1 were provided to you from the cell phone companies?

2 A In this particular case?

3 Q In general.

4 A In general? I have examined used cellular records
5 approximately -- I have examined 545 sets of records over
6 the course of 156 assigned cases from July of 2019 when I
7 first started my career analyzing these records to date,
8 and I have seen and have been able to validate the
9 majority of them.

10 Q How do you validate the accuracy of records from,
11 say, AT&T?

12 A From AT&T?

13 Q Mm-hmm.

14 A It depends on the data points you're looking at.
15 For instance, we will look for other sources of data to
16 help validate that the information we're getting from
17 those phone records are correct. A lot of times what
18 we'll do in our field is we will take a look at the cell
19 phone connection records, the tower that's being used, the
20 distance from the tower, the direction of that antenna,
21 and then we will look at information we can get from the
22 cell phone itself, if we have got both sets of data.

23 For instance, in a particular case, we had a tower
24 connection that showed a distance of approximately like
25 1.3 miles in a direction, and then when we looked at the

1 actual device itself, at the exact same date and time or
2 very close to it, the device was showing a 4 meter hit GPS
3 location that it received from receiving GPS signals in
4 space that put it right there in that same area where the
5 cell phones records were pointing. So, we were able to
6 validate the accuracy of the cell phone records using an
7 independent source of data, which, in this instance, was a
8 GPS location from a device.

9 Q So, do you repair cell phone towers?

10 A Do I repair them?

11 Q Yes.

12 A No, sir, I do not.

13 Q Do you change the location or direction of the
14 antennas on cell phone towers?

15 A No, sir, I do not.

16 Q So, although you don't work for AT&T, you can verify
17 the accuracy of AT&T's records?

18 A We use other data sets to help show the validity of
19 their records, yes, in our investigation.

20 Q And I think you said you took some class that put
21 you on a task force. What class was that?

22 A I've taken several classes throughout the years. So
23 I am a part of the United States Secret Service Cyber
24 Fraud Task Force. But I have taken approximately 146
25 hours of training in cellular record analysis.

1 Q Okay. And none of those classes were sponsored by
2 any cell phone providers?

3 A All of them were sponsored by third-party analysis
4 tools and firms or through law enforcement.

5 Q Speaking of tools and firms, you said that in
6 using -- in analyzing these records, you used Cellebrite
7 and CellHawk. Do you work for Cellebrite?

8 A I do not.

9 Q Do you work for CellHawk?

10 A I do not.

11 Q You just use their equipment?

12 A I use their equipment.

13 MR. GALMORE: No further questions, Your Honor. I
14 do not believe that Detective Marcus is qualified in the
15 specified area.

16 THE COURT: All right. I find this witness to be an
17 expert in the field of cell phone extraction and analysis.

18 Let's go ahead, before we start in to your direct
19 examination on this issue, we'll take a break. The jury's
20 been at it for a little while.

21 All right. Ladies and gentlemen, we're going to
22 take our morning break. Leave your notepads in the jury
23 box. Do not discuss the case. And we'll take about a 10-
24 or 15-minute break and come back in just a minute.

25 (The jury exited the courtroom at 11:18 a.m.)

1 THE COURT: Detective Marcus, we're still in the
2 middle of your testimony, so you cannot discuss your
3 testimony with anyone, whether that be what you have
4 testified to thus far or what you anticipate testifying to
5 in the future. Okay?

6 THE WITNESS: Yes, sir.

7 THE COURT: Anything from the State before we take a
8 recess?

9 MS. LIVESAY: No, sir.

10 MR. WILSON: No, sir.

11 MR. GALMORE: No, sir.

12 THE COURT: All right. Let's take about a 10- or
13 15-minute break.

14 (A recess was taken from 11:18 a.m. to 11:38 a.m.)

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

17 MS. MARTIN: Nothing from the State.

18 THE COURT: Mr. Wilson?

19 MR. WILSON: No, sir, Your Honor.

20 THE COURT: Mr. Galmore?

21 MR. GALMORE: No, sir.

22 THE COURT: All right. Let's bring the jury in.

23 (The jury entered the courtroom at 11:41 a.m.)

24 THE COURT: All right. Ladies and gentlemen of the
25 jury, welcome back. Make sure you have your own notepads

1 and no one else's notepads.

2 All right. Ms. Martin, ready for examination.

3 MS. MARTIN: I'm going to go ahead and hand up
4 State's Exhibits 23, 24, 25, and 26, and the clicker.

5 CONTINUING DIRECT EXAMINATION

6 BY MS. MARTIN:

7 Q Detective Marcus, what am I showing you?

8 A These are USB drives that contain the -- or the
9 report generated by me on analyzing the image from four
10 different cell phones that I looked at in this case.

11 Q Okay. And whose cell phones?

12 A One was associated with Nasirea Grate. One was
13 associated with Jeremiah Dicker. One was associated with
14 Kalik Conn. One, with Dajon Grate.

15 Q Okay. And are those true and accurate copies of the
16 images that you received from those cell phones?

17 A They're true and accurate copies of the report that
18 I generated from the image.

19 Q The report that you generated from the image?

20 A Yes.

21 Q Altered, tampered with, manipulated in any way?

22 A No.

23 MS. MARTIN: And, Your Honor, at this time, the
24 State seeks to admit State's Exhibits 203 for Nasirea
25 Grate, 204 for Jeremiah Dicker, 205 for Kalik Conn, 206

1 for Dajon Grate, phone extractions, into evidence.

2 THE COURT: Mr. Wilson?

3 MR. WILSON: Your Honor, the only objection I have
4 is based on the cross-examination we did with the
5 qualifications of this officer. That being my position, I
6 object based on that.

7 THE COURT: All right. Mr. Galmore?

8 MR. GALMORE: May we approach, Your Honor?

9 THE COURT: All right.

10 BENCH CONFERENCE

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

13 MR. GALMORE: I guess the State, in discovery,
14 turned over a PowerPoint presentation for Nasirea Grate's
15 phone, and on that presentation, they have a picture with
16 Mr. Grate standing there with firearms. And I think that
17 picture is highly prejudicial, and there's no connection
18 between the firearm that's in the photo and any of the
19 firearms alleged in this case, and I think it's designed
20 to inflame the jury. They can identify the phone as being
21 Mr. Dajon Grate's phone without using that photograph.

22 MS. LIVESAY: So, the photograph is Dajon Grate on
23 Snapchat, and what his Snapchat name was, like, LIL HOT or
24 something like that, and the phone is connected to that
25 name. The other ones are more like Nasirea Grate, the

1 name of his phone is Nasirea Grate.

2 MS. MARTIN: The association.

3 THE COURT: He's talking about you introducing a
4 photograph with him holding a gun.

5 MS. LIVESAY: I know, but that's what he posted of
6 himself with that name on it. The name is the name on the
7 phone.

8 THE COURT: Well, you have got your objection on the
9 record. I'm going to go ahead and overrule it and allow
10 them to use it.

11 MR. GALMORE: Yes, sir.

12 (Open court resumes as follows:)

13 THE COURT: All right. State's Exhibit 203, 204,
14 205, and 206 are admitted into evidence over defendants'
15 objections.

16 (State's Exhibit Nos. 203, 204, 205, and 206 were
17 received into evidence.)

18 BY MS. MARTIN:

19 Q Okay. And when you did your extractions and made
20 your report of these cell phones, at that point -- did you
21 also -- were you able to create a presentation for the
22 jury in this case?

23 A I was. I was able to take the cellular records that
24 I looked at, the images from the cell phones that I
25 analyzed, as well as some video footage that was recovered

1 from the gas station during the course of this
2 investigation and create a presentation to help share the
3 results of my analysis.

4 Q So, you used videos, cell phone detail records, and
5 the cell phone imaging?

6 A Yes.

7 Q Okay. And what am I showing --

8 MS. MARTIN: State's Exhibit 199. Sorry.

9 BY MS. MARTIN:

10 Q State's Exhibit 199. What am I showing you?

11 A This is a USB drive containing the presentation that
12 I created that shows my analysis of everything.

13 Q And how do you know that that's your presentation on
14 the thumb drive?

15 A I reviewed it personally.

16 Q And has it been altered, manipulated, or changed in
17 any way?

18 A No.

19 Q That is what you created for this case?

20 A Yes, ma'am.

21 MS. MARTIN: Okay. Your Honor, the State seeks to
22 admit State's Exhibit 199 into evidence.

23 THE COURT: All right. Mr. Wilson?

24 MR. WILSON: Subject to our previous objection.

25 THE COURT: Mr. Galmore?

1 MR. GALMORE: No objection, sir.

2 THE COURT: All right. State's Exhibit 199 admitted
3 into evidence over Defendant Nasirea Grate's objection.

4 (State's Exhibit No. 199 was received into evidence;
5 withdrawn and replaced with 199-A on page 950.)

6 MS. MARTIN: Permission to publish?

7 THE COURT: All right.

8 MS. MARTIN: And, Your Honor, I have provided
9 Detective Marcus with a clicker just for the Court -- just
10 so the Court is aware.

11 THE COURT: All right.

12 THE WITNESS: I don't think it's going to work from
13 the stand.

14 MS. MARTIN: Would you like to come over here?

15 As long as we have a microphone, would that be okay?

16 THE COURT: As long as his testimony is picked up by
17 the court reporter, we're okay.

18 MS. MARTIN: Yes, sir. Why don't we put you where
19 it's going to work. Can you move to where you need to be,
20 and I can get you a seat if you want one.

21 THE WITNESS: There's a stand over here. I can set
22 the laptop on it.

23 MS. MARTIN: Absolutely. Beg the Court's indulgence
24 while we set up the courtroom.

25 THE COURT: All right.

1 MS. MARTIN: Madam Court Reporter, can you hear us
2 over here?

3 COURT STENOGRAPHER: Yes, ma'am.

4 BY MS. MARTIN:

5 Q So, we talked a lot of overview before we get to
6 this presentation. So, now let's get into the
7 nitty-gritty. Can you tell us what this is?

8 A This is an example of a what a cellular tower looks
9 like. This is the antenna -- the large array of antennas
10 that are scattered throughout the country in different
11 areas, just depending on how populated they are, that
12 connect to a cell phone. So, any time you make any phone
13 call, any text message, you were doing a data connection
14 for some reason, perusing your phone, searching the
15 internet, your phone is making a connection with a tower.
16 That's how you get your service. And this is what they
17 look like.

18 Q And what do we have next?

19 A This is an example of what they look like when we
20 map them out using mapping software. This is an example
21 of the tower location and information when we're using
22 CellHawk.

23 The image on the left here is a generic plotting of
24 the tower. Typically, each tower is separated into three
25 sets of antennas, and the shaded area that you see -- for

1 instance, on the left, you see the blue, red, and green --
2 they are representations of the direction that antenna is
3 pointing in.

4 The image on the right is just a little bit more
5 granular. So you're when we're looking at a particular
6 connection, you're going to see where the tower is located
7 at, which is at the pinnacle of that wedge. The graphical
8 aid there, that shaded area, points in the direction that
9 that antenna is facing, and the device using that tower is
10 generally located in that direction from the tower.

11 Now, some records we get what's called per-call
12 measurement data. This is the distance from the tower
13 during a particular connection. So, the tower, again, is
14 located at the pinnacle of that wedge. The shaded area
15 shows the general direction from that tower when that
16 connection is made based on where the antenna is being
17 used. And then the outermost arcing line is the distance
18 from the tower that the device is at the time of that
19 connection.

20 Q Let me just real quick. Well, let's see. The
21 outermost line?

22 A Yes.

23 Q Is that which is the per-call measurement data?

24 A Yes. That distance from the tower is what's called
25 the per-call measurement data.

1 Q And what do we have next?

2 A So, when we look at geolocation information, or GPS
3 data coordinates, this is what it would look like on a 2D
4 map. You would get a small circle. The location of the
5 device is inside of that circle. And the level of
6 accuracy is based off of how large the circle is. For
7 instance, in this particular map, it's a 35-meter
8 accuracy, so it could be anywhere inside of that circle
9 right there.

10 Q When you say "it," what do you mean "it"?

11 A The device that's collecting the GPS or receiving
12 the GPS signals.

13 Q Okay. Would be in that 35-meter radius?

14 A Yes. It would be inside of that circle.

15 Q Okay.

16 A So, during my review of all of these records, we
17 were able to associate these particular phone numbers with
18 the parties displayed on the screen. That 609 number in
19 blue was associated with Kalik Conn, when we subpoenaed --
20 or when those records were subpoenaed from T-Mobile. The
21 actually subscriber information shows that that number was
22 registered to Kalik himself.

23 The yellow number for Nasirea Grate, we were able to
24 look at his phone and saw that this number was programmed
25 into his phone.

1 The 803 number below it in pink for Jeremiah Dicker,
2 we were able to also obtain that number from his phone
3 during a forensic exam.

4 And Dajon Grate, the number in red, the same thing.

5 So, most of those phone numbers -- all of those
6 phone numbers, I should say, were reviewed and found
7 programmed inside of each individual device.

8 Q Detective Marcus, before you move on, can you tell
9 me why we have got different colors?

10 A So, we have got several different parties'
11 information that we're going to display or displayed in
12 these mappings, and just to help keep everything
13 organized, we have assigned a color to each individual
14 party or each individual device that it's associated with.

15 Another part of my analysis was actually looking at
16 the individual phones and associating them with who they
17 belonged to. This particular phone here that's displayed
18 on the screen is associated with Kalik Conn. This
19 particular phone was found right there where his deceased
20 body was found by Crime Scene.

21 The IMEI number, or the serial number for the radio,
22 inside of the phone and the phone number that's programmed
23 into the phone, which is the information you see on the
24 right-hand side in white, is also specific to the
25 information recovered from the -- or obtained from the

1 network provider that has that number subscribed to Kalik
2 Conn. So, we were able to match up that information.

3 Q And would that also be what's already been
4 introduced into evidence as State's Exhibit 26?

5 A Yes, that is it.

6 Now, this is association for the cell phone that we
7 were able to identify belonging to Jeremiah Dicker.
8 Cellular records -- again, we had information pulled from
9 the phone match up between the two, and when we did an
10 exam of this particular phone, we found numerous photos of
11 Mr. Dickers located throughout the phone. And these were
12 in places on the phone that suggest user attribution.
13 Selfies, I guess, is an easy way to put it.

14 This particular phone that you see here and the file
15 system information next to it shows this actually came out
16 of his Snapchat on that phone.

17 Q And can you review what's already been introduced
18 into evidence as State's 27?

19 A This would be that phone right there. And this
20 phone was also found on Mr. Dicker's deceased body by
21 crime scene investigators.

22 So, this phone right here, which I examined, we were
23 able to associate it with Dajon Grate. This particular
24 phone was located in the backseat of an Acura at the crime
25 scene location by crime scene investigators.

1 When we looked at the information inside of the
2 phone, we were able to find that, in the user account on
3 the phone, in the medical emergency information, that
4 Dajon Grate's name and photo were programmed into that
5 phone.

6 MR. GALMORE: Your Honor, may we approach?

7 THE COURT: All right.

8 BENCH CONFERENCE

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

11 MR. GALMORE: Your Honor, this screen indicates that
12 they're able to identify the phone as belonging to Dajon
13 Grate without the use of that Snapchat photo with the gun
14 on it. It has his medical ID and it has --

15 THE COURT: Okay. Are you still going to use the
16 other photo?

17 MS. LIVESAY: So this is, yes, a medical ID, but it
18 doesn't say who the owner of the phone is. You can have
19 medical identification --

20 THE COURT: Yeah, but still, I think you have got it
21 in that it's his phone, so I don't know that you need the
22 gun anymore.

23 MS. LIVESAY: Then will Mr. Galmore stipulate this
24 is Dajon Grate's phone?

25 THE COURT: I think that's what you have testified

1 to thus far.

2 MS. LIVESAY: No, he said this is health information
3 for Dajon Grate.

4 MR. GALMORE: And the jury can draw the conclusion
5 that that's his phone.

6 THE COURT: Well, let's do this then. Ask the
7 question: Is this Dajon Grate's phone? And if he says,
8 "No, it's not," then you can use the other photograph.

9 MS. LIVESAY: Here's what I wanted to ask: Does
10 this information right here tell you that that's Dajon
11 Grate's phone? If he says yes, okay. If he says no, then
12 we'll need Step B.

13 THE COURT: Probably, yeah, because the fact of the
14 matter is, now that you have got this in, the prejudicial
15 effect outweighs the probative value. The probative value
16 far outweighs the prejudicial effect. But now that you
17 have got this in here, the probative value of that other
18 photograph has gone down.

19 MS. LIVESAY: I understand that, but this is just
20 saying -- we can ask him, "Does this identify who the
21 phone belongs to?"

22 MR. GALMORE: I can stipulate that it's Dajon
23 Grate's phone.

24 THE COURT: He'll stipulate that it's Dajon Grate's
25 phone.

1 MS. LIVESAY: Then can we put that on the record now
2 and then we can handle the next picture?

3 THE COURT: That will be fine.

4 MS. MARTIN: We're going to have to -- if it's in
5 evidence, we're going to have to take it out.

6 MS. LIVESAY: We'll have to make a blank screen and
7 go to the next slide.

8 MS. MARTIN: Then we might need a five-minute little
9 break to do that. Can we stipulate first and then take
10 five minutes?

11 THE COURT: Yes.

12 (Open court resumes as follows:)

13 STIPULATION

14 THE COURT: All right. As I understand from the
15 sidebar, Mr. Galmore, you -- your client, Dajon Grate,
16 stipulates that this phone -- and I'm looking for the
17 phone number. Where is it? Is this it?

18 THE WITNESS: I'm sorry. Yes, sir.

19 MS. MARTIN: Cell phone number.

20 THE WITNESS: Yes. The very bottom.

21 THE COURT: All right. This phone with that phone
22 number, you stipulate that that is your client's phone?

23 MR. GALMORE: Yes, sir.

24 MS. MARTIN: Which would also be State's Exhibit 25.

25 MR. GALMORE: Yes, sir.

1 THE COURT: All right. So, that's a stipulation.

2 Ladies and gentlemen, I'll give you some law on
3 stipulations when I charge you on the law. Basically,
4 what it means is that is a fact that both the State and
5 the defense stipulate to, so you must accept that as a
6 fact. So, the fact in this case is that phone is Dajon
7 Grate's phone.

8 Now, that's changing the presentation a little bit,
9 so what we're going to have do is take a short break.
10 Leave your notepads here in the jury box while we do what
11 we need to do, and we'll bring you back in just a minute.
12 Okay?

13 (The jury exited the courtroom at 12:01 p.m.)

14 THE COURT: All right. Before we go, did you get
15 all of the sidebar? Did you get all the sidebar?

16 COURT STENOGRAPHER: Yes, sir.

17 THE COURT: Okay. All right.

18 To clarify my ruling -- and she did get it on the
19 record on the sidebar -- there was an objection to the
20 State using a photograph with the defendant Dajon Grate
21 holding a firearm. They're saying it was irrelevant and
22 it was too prejudicial. I found that the probative value
23 outweighed the prejudicial effect. However, with this
24 exhibit, it established -- and with the defendant's
25 stipulation -- it establishes that this is the defendant

1 Dajon Grate's phone, so now I find that the prejudicial
2 effect of using a photograph with him holding a gun that's
3 not involved in this case, the prejudicial effect
4 outweighs any probative value, so I sustain the objection
5 to exclude the photograph.

6 I understand now you need to change your
7 presentation.

8 MS. LIVESAY: Yes, sir. Just take that out and then
9 re-burn it and we'll be ready.

10 THE COURT: Okay. How long do we need?

11 MS. LIVESAY: Five minutes.

12 THE COURT: All right. We can just sit tight for
13 about five minutes.

14 As I understand, State's Exhibit 199 contains the
15 photograph of the defendant Dajon Grate holding the phone
16 and the gun that I had just ruled is inadmissible. They
17 are going to redact that out of State's Exhibit 199, and
18 we're going to put that into evidence as State's Exhibit
19 199-A, and that would be what would go back to the jury.
20 Is that correct?

21 MS. MARTIN: That -- if they agree, that's how I
22 would like to do it, if that's okay with everyone.

23 MR. WILSON: I don't have any objections.

24 MR. GALMORE: No objection, Your Honor.

25 THE COURT: All right. We'll handle it that way

1 then.

2 MS. MARTIN: Yes, sir. Thank you.

3 (State's Exhibit No. 199-A, Redacted Cell Phone
4 Presentation, was marked for dentification.)

5 THE COURT: What the clerk has told me is that lunch
6 will be here in the next ten minutes. Do we want to go
7 ahead and break for lunch and then that will give y'all
8 time to get everything squared away and we'll come back
9 and get started?

10 MR. GALMORE: That's fine, sir.

11 MR. WILSON: That's fine with me, Your Honor.

12 MS. LIVESAY: That's fine.

13 THE COURT: We'll go ahead and break for lunch.
14 I'll try to take the bench back at 1:20 to give us an
15 hour. Well, it depends on when lunch gets here. Let's
16 say 1:30. Lunch will be here for the jury within the next
17 ten minutes. So, we'll go ahead break for lunch until
18 1:30.

19 Anything from the State?

20 MS. LIVESAY: No, sir.

21 THE COURT: Mr. Wilson?

22 MR. WILSON: No, sir.

23 THE COURT: Mr. Galmore?

24 MR. GALMORE: No, sir.

25 THE COURT: All right. We'll be in recess until

1 1:30.

2 Yes, ma'am?

3 MS. MARTIN: Obviously, we cannot speak with him
4 about his presentation of course --

5 THE COURT: Right.

6 MS. MARTIN: -- but would you allow us to speak with
7 him about getting the new presentation put on the disc?

8 MR. WILSON: I have no objections to that. I
9 certainly understand.

10 THE COURT: Well, wait a minute. We're going to
11 need to wait for Mr. Galmore to come back in.

12 (Pause in the proceedings.)

13 THE COURT: Any objection to the State and this
14 witness discussing -- not the content of his testimony but
15 just making sure the exhibit is fine?

16 MR. GALMORE: No objection, sir.

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

18 All right. Thank you. We'll be in recess.

19 (A lunch recess was taken from 12:20 p.m. to 1:34 p.m.)

20 THE COURT: Anything from the State before we bring
21 the jury in?

22 MS. MARTIN: Yes, Your Honor.

23 THE COURT: All right.

24 MS. MARTIN: Your Honor, at this time, the State --
25 I believe we can do this without the jury -- without the

1 presence of the jury, the State moves to introduce State's
2 Exhibit 199-A into evidence and publish to the jury.

3 MR. WILSON: There's no objections.

4 MR. GALMORE: No objection, sir.

5 THE COURT: All right. State's Exhibit 199-A is
6 admitted into evidence without objection.

7 Because, Mr. Galmore, your objection to 199 was the
8 photograph that's now been redacted?

9 MR. GALMORE: Yes, sir.

10 THE COURT: All right.

11 (State's Exhibit No. 199-A was received into
12 evidence.)

13 THE COURT: Can we go ahead and bring the jury in?
14 Let's go ahead and get them.

15 MS. MARTIN: Your Honor, we're having minor
16 technical difficulties.

17 (The jury entered the courtroom at 1:37 p.m.)

18 THE COURT: All right, ladies and gentlemen. Hope
19 everybody had a good lunch. Make sure you have your own
20 notepads and no one else's. We're ready to resume the
21 trial of this case.

22 The State can continue with your direct examination.

23 MS. MARTIN: Detective Marcus, do you want to come
24 down?

25 BY MS. MARTIN:

1 Q Let's refresh the memory of the jury. So let's go
2 ahead and why don't we go -- I think everybody understands
3 what a cell tower is so let's keep going. I think
4 everybody understands there's three sectors typically in a
5 cell tower. Keep going. Geolocation. Keep going.

6 Okay. Why don't we start here. Okay. So,
7 Detective Marcus, we're on Slide 6. Can you tell the jury
8 what we're looking at here?

9 A Again, this is the phone number association that I
10 did during my review of all of the records. We were able
11 to associate each of the phone numbers displayed on this
12 screen with the individual parties associated with this
13 case.

14 For instance, Mr. Kalik Conn up in the left corner
15 in the blue text, we were able to confirm this phone
16 number both through a forensic exam of this phone and the
17 T-Mobile subscriber records that were obtained by a search
18 warrant of the investigators.

19 Again, with Mr. Nasirea Grate, Dajon Grate, and
20 Jeremiah Dicker's we were able to confirm that these
21 numbers belonged to them through a forensic review of
22 their cell phones.

23 Q And then what about Jeremiah Dicker's? Where was
24 his phone seized?

25 A His phone was actually found on his person.

1 Q Okay. Nasirea Grate?

2 A It was seized from his -- or a residence that he was
3 staying at on I believe it was June 3rd on [REDACTED]
4 Road.

5 Q Okay. And State's Exhibit 213?

6 A That is the cell phone from the dishwasher.

7 Q From the dishwasher. Okay.

8 And then Dajon Grate?

9 A That particular phone was found by crime scene
10 investigators, and it was found in the vehicle belonging
11 to Kalik Conn.

12 Q Okay. Keep going.

13 Okay. So, we have got State's Exhibit 26. Were you
14 able to associate that with Kalik Conn?

15 A Yes, ma'am.

16 Q Okay. How were you able to do that?

17 A We were able to -- again, during a forensic review
18 of his phone, we were able to find matching serial number
19 and phone numbers programmed into the phone itself that
20 were validated through the phone records, and of course,
21 this phone was found by crime scene investigators just
22 below Mr. Conn's body.

23 Q State's Exhibit 26. Okay. Who do we have next?

24 A This was our phone association with Jeremiah Dicker.
25 Again, we were able to do a forensic exam of his phone.

1 He found numerous photos -- selfies, I guess, is an easier
2 way of putting it -- throughout the phone indicating the
3 user attribution associating it with him. Also, we were
4 able to corroborate the phone number, the radio ID of the
5 phone, and this particular phone was found on his deceased
6 body at the crime scene.

7 Q State's Exhibit 27; is that right?

8 A Yes, ma'am.

9 Q Okay. Next up.

10 A This is the phone association with Dajon Grate. The
11 phone that was recovered from the backseat of the --
12 Mr. Conn's vehicle. When we did an exam of it, we were
13 able to find his name and a photograph of Mr. Grate
14 programmed into the phone in the medical ID section of the
15 phone. So, if there was an emergency, you'd flipped
16 through and click on that information, and that was the
17 information programmed into the phone.

18 Q Is that State's Exhibit 25?

19 A Yes, ma'am.

20 Q Is that what was stipulated to by the defendant?

21 A Yes, ma'am.

22 Q Okay.

23 A And the last phone association I did in this
24 particular case was for Mr. Nasirea Grate. When we did a
25 forensic -- or exam of the phone that was found in the

1 dishwasher at [REDACTED] Road, the device name is
2 actually programmed with his name in it. The phone number
3 and radio ID also match up with the phone records that
4 were obtained through the use of a search warrant, and
5 numerous photos were found throughout this phone, again,
6 in that selfie format showing user attribution on that
7 phone.

8 Q State's Exhibit 24?

9 A And this would be the device that I was speaking of
10 right now.

11 Q All right. What do we have next?

12 A So, one of the first things in our review was trying
13 to look at these records and associate where a device
14 could be at a particular point in time. The Sunhouse gas
15 station on May 31st, 2022, was a location that all the
16 parties were eventually at.

17 At 12:25 p.m. that day was the first time that Kalik
18 Conn's device showed it was in the area of the gas
19 station. On the left-hand side of the screen, you see the
20 cellular records that I explained earlier in the example
21 of where the tower being used is right here. The distance
22 line for that connection shows that it would be consistent
23 within the area of the Sunhouse gas station. And then all
24 these records right here on the right-hand side of the
25 screen are GPS location information that we were able to

1 obtain from the exam of this phone. Two out of these
2 three hits right here are 4 meter accuracy hits between
3 12:24 and 12:25 p.m. on the 31st.

4 And then in an attempt to further validate this
5 information, we reviewed or I reviewed the security
6 surveillance footage that was obtained during this
7 investigation, and this white vehicle over here on the
8 very right side of the screen is Mr. Conn's Acura pulling
9 in to the gas station. This is a small clip pulled from
10 one of the video clips obtained.

11 Mr. Conn didn't immediately exit his vehicle by
12 observing the video surveillance, but at 1:28 p.m., here's
13 an image of him standing outside of his vehicle on the
14 outside of the gas station from the video camera clip I
15 just showed a second ago with the cellular records and
16 geolocation from his phone.

17 So, here's three independent points of data all
18 showing that this device and Mr. Conn are at the Sunhouse
19 gas station at 12:28 p.m. on May 31st, 2022.

20 Q Now, what's in that red bubble?

21 A That red bubble is actually the cell phone that is
22 making those connections with the cellular tower and also
23 the cellphone that we pulled the geolocation data from.

24 Q Is that one of the ways that you're able to verify?

25 A Yes, ma'am, that is one of the ways that we would

1 validate these records.

2 Q What do we have next?

3 A So, at 1:25 p.m. on May 31st, 2022, and this is one
4 of the points in time where all the parties start arriving
5 at the Sunhouse gas station. This slide here shows again
6 cellular record connections and geolocation information
7 pulled from Mr. Conn's phone showing that it is in the
8 area of the Sunhouse gas station at 1:25 p.m.

9 And then this particular slide shows, around the
10 time of 2:04 p.m. on May 31st, 2022, which is moments
11 before this incident is believed to have occurred --
12 between 2:06 and 2:10 p.m., this is showing the cellular
13 network connection and some geolocation information
14 placing Mr. Conn's device in the area of the crime scene
15 at 2:04 p.m.

16 You'll notice on the right side of the screen that
17 there are a few very small blue dots with timestamps.
18 These are geolocation points as they are tracking into
19 that location right there.

20 Q Because those points are so small, would that be --
21 why are they so small?

22 A They are so small because the accuracy on those
23 points is very, very, very high. Those are a 4 meter hit
24 as far as accuracy goes. So, that device is located
25 within 4 meters of the center of that point during those

1 times.

2 Q And what about the rest? What about everybody else?

3 A So, like I mentioned, at 1:25 p.m. on May 31st,
4 2022, all the parties start arriving at the gas station.
5 This is a small video clip from the gas station, again,
6 showing other individuals arriving.

7 The vehicle that just pulled up to the pump is the
8 silver Cadillac that is being operated by Todd Fry. And
9 you can see in the foreground here Dajon Grate, Nasirea
10 Grate right behind him, and then Todd Fry exiting the
11 vehicle at 1:25 p.m. on May 31st, 2022.

12 When reviewing the geolocation data from
13 Mr. Dicker's phone for 1:25 p.m. on May 31st, we have two
14 location hits that we were able to pull from the image of
15 his phone. They are 40-meter levels of accuracy for these
16 geolocation hits, but they are right there in the area of
17 the Sunhouse gas station again at 1:25 p.m.

18 This is a still image pulled from the security
19 camera footage that I played just a second ago, a little
20 further in time at 1:32 p.m. This is a still image of
21 Mr. Dickers [sic] exiting the Cadillac that was pulled up
22 to the pumps, driven by Mr. Fry.

23 Q And is that consistent with the previous slide
24 showing his geolocational data at the 35 meters?

25 A Actually, it is. So, at 1:32 p.m., this is a

1 geolocation hit showing an accuracy of 44 meters, but
2 again, consistent with the level of accuracy we were
3 getting from all the hits on this phone at the Sunhouse on
4 May 31st, 2022.

5 Q And what do we have here?

6 A This is, again, another clip from the Sunhouse
7 video. Mr. Dickers [sic] is walking up to Mr. Conn's car,
8 who, at this time, is actually inside of the car.

9 And this is occurring at 13 -- or, I'm sorry,
10 1:32 p.m. on May 31st, 2022. Again, at the Sunhouse gas
11 station.

12 Now, Mr. Dickers [sic] is walking back to the car.
13 The two views -- just the view to the right is the
14 previous view that showed you where the pumps are, with
15 the intersection in the background.

16 Q So, what do we have next with Mr. Dicker?

17 A So, the first time that his phone arrives in the
18 area of the crime scene is at 1:47 p.m. on May 31st, 2022.
19 You can see cellular records on the left-hand side of the
20 screen showing a cellular connection during that time and
21 then the geolocation data pulled from his phone during the
22 forensic exam of it showing that device was in the area of
23 the crime scene at that time.

24 The cellular record connection on the left is
25 actually an outgoing phone call from the number associated

1 with Mr. Dickers [sic] to the number associated with Kalik
2 Conn.

3 Q And what time was that?

4 A That was at 1:47 p.m.

5 MS. LIVESAY: Can you say that again? Do what now?

6 THE WITNESS: It was at 1:47 p.m.

7 MS. LIVESAY: And who was the phone connected to? I
8 didn't hear that.

9 THE COURT: Wait a minute, wait a minute. Now,
10 we're only having one person -- direct examination.

11 MS. LIVESAY: I just didn't hear.

12 THE COURT: Yeah.

13 BY MS. MARTIN:

14 Q Who was that phone call to?

15 A That was to Kalik Conn.

16 Q From who?

17 A From Mr. Dickers [sic]. The phone number associated
18 with Mr. Dickers is making a phone call to the number
19 associated with Kalik Conn.

20 Q Okay. And so, those phone -- that phone call, were
21 there any text messages to go along with phone calls?

22 A There was. This was the other information that we
23 had obtained during the forensic exam of Mr. Conn's phone
24 and confirmed it with Mr. Dicker's phone as well. This is
25 a small string of text messages sent -- or a conversation

1 between the two of them. The bubbles in the blue on the
2 left are from Mr. Dicker's phone or the phone number
3 associated with Mr. Dickers [sic]. The green bubble on
4 the right is associated with Mr. Conn. This occurred at
5 1:49 p.m. on May 31st, 2022, and that address that is
6 being sent right there is actually the address for the
7 crime scene location.

8 Q Okay. And then let me get that real quick. We'll
9 come back to this.

10 Okay. So, what does this say? Just tell the jury
11 what this says. I know that they can read, but let's just
12 go through it anyways for the record.

13 A The first bubble here on the left at the very top
14 says 539 -- I'm sorry, [REDACTED], or [REDACTED] Road [REDACTED],
15 [REDACTED], Loris, South Carolina 29569, United States.

16 Q And what does Kalik respond to Dicker?

17 A So, the phone on the right, coming down the road --
18 coming down the street now, that's at 2:02 p.m. and then
19 the response is at 2:02 p.m. as well on the left-hand
20 side.

21 Q And what does "ite" mean?

22 A "Okay."

23 Q Like "all right"?

24 A Yes.

25 Q Okay. And the timestamp on that?

1 A It's 5/31/2022 at 2:02 p.m.

2 Q So that would be right after the
3 coming-down-the-street text?

4 A Yes, ma'am.

5 Q What do we have after that?

6 A May 31st, 2022, at 2.06 p.m., where we believe the
7 incident occurred. This is cellular records and
8 geolocation showing Mr. Dicker's device is in the area of
9 the crime scene.

10 Again, the cellular records, the call detail
11 records, were on the left-hand side of the screen. And on
12 the right-hand side of the screen is the geolocation
13 information that we were able to obtain from that phone.
14 One hits from 2:06 p.m. One hits actually from 2:08 p.m.

15 Q And where was that -- after everything is said and
16 done, where was that phone found anyways?

17 A When police responded to the scene, that phone was
18 found with Mr. Dicker's body.

19 Q At the crime scene?

20 A At the crime scene.

21 Q And then -- keep going.

22 A I apologize. I forgot to mention: These call
23 detail records on the left-hand side right here, they're
24 actually an incoming phone call from Mr. Conn's phone to
25 Mr. Dicker's phone. So, at 2:04 p.m., there is a

1 16-second incoming phone call at that time.

2 Q What about Dajon Grate? Did you do any mapping for
3 Dajon Grate?

4 A I did. So, due to the amount of time that had
5 occurred between this incident and then us eventually
6 being able to identify the phone number associated with
7 him, there, unfortunately, but no longer -- there were no
8 longer any cellular records. Verizon only holds them for
9 a period of time and that time had expired. But we were
10 able to recover geolocation data from the phone itself
11 during my forensic exam of it.

12 This particular slide shows, at 1:25 p.m., on
13 May 31st, 2022, that the geolocation location information
14 from that device shows it's in the area of the Sunhouse.
15 Again, it's a 35- and 40-meter radius or level of
16 accuracy.

17 Q What else were you able to tell us?

18 A So, again, going back through and trying to validate
19 that information, we see Mr. Dajon Grate walking around
20 the store at 1:25 p.m. on camera. And as we go through,
21 we can actually see that he appears to be on a cell phone
22 while he is walking throughout the store in the black
23 shorts and red slides that he is wearing.

24 This is 1:27. Several still images of Mr. Grate in
25 the store with his cellphone.

1 Now, May 31st, 2022, 1:55 p.m., we have several
2 geolocation hits that show this device is now in the
3 device of the crime scene. There's three hits here all
4 within about 30 seconds of each other, 40 seconds of each
5 other. 35 meters, 50 meters, and then, again, another
6 35-meter radius of accuracy.

7 Q And what are -- will you go back and tell me those
8 times?

9 A Sorry. That would be 1:55 and 20 seconds, 1:55 and
10 32 seconds, and then 1:56 and 6 seconds.

11 Now, when I was doing an exam of Mr. Dajon Grate's
12 phone, I came across this particular image. This image
13 was taken by the phone and was sent out through the
14 Snapchat account that is associated with Mr. Dajon Grate's
15 phone. And, in this image, you see the red slides that he
16 was wearing at the time that he is inside the gas station.

17 Q What about the time stamp? What's the time stamp on
18 this?

19 A So, this is -- it says 1:54 and 21 seconds. The
20 geolocation hits were at 1:55. And I believe 6 seconds
21 was the -- so they are very close in time with each other.

22 Q And the date?

23 A May 31st, 2022.

24 Q Is that the same date as why we're here today?

25 A Yes, ma'am.

1 Q Okay. Close in time?

2 A Yes, ma'am.

3 Q Okay. Keep going.

4 A And then, again, at 2:06 p.m. on May 31st, 2022,
5 here is a geolocation hit pulled from his phone showing a
6 35-meter level of accuracy; again, showing that the device
7 is in the area of the crime scene.

8 Q And what about Nasirea Grate? What do we have for
9 him?

10 A So, when I reviewed Mr. Nasirea Grate's phone, we
11 were able to obtain call detail records; however, at the
12 time of the forensic exam, there were no longer any
13 geolocation data to go with the phone.

14 Q Okay.

15 A This particular mapping shows, at 1:25 p.m., there
16 is a cellular connection. You can see the per-call
17 measurement data. The distancing from the tower would be
18 consistent if the device is in the area of the Sunhouse
19 gas station.

20 And, again, this is at 1:25 p.m., which, at
21 1:25 p.m., we have the video surveillance from the store
22 showing Mr. Grate at the store. And these are still shots
23 pulled from the surveillance camera in the store.

24 Q And the timestamp?

25 A This is at 1:30 p.m. on May 31st, 2022. The

1 previous one was from, like, 1:27, 1:25.

2 Okay. Now, between 1:47 and 2:06 p.m., we have 18
3 cellular connections between the cellular network and
4 Mr. Nasirea Grate's device. You can see these lines. I
5 overlapped all of the hits, and when we get what's called
6 a -- sometimes called a waffle effect. You see these
7 three lines right here. It is showing or indicates to us
8 there's no movement in the device. The device is standing
9 still.

10 Often, when you see a device traveling down the road
11 or traveling from Point A to Point B, you'll see different
12 towers and different distance lines. So, this is an
13 indication that the device is not moving.

14 And 2:06 p.m., again, the tower information hasn't
15 changed any. It's still using the same tower, same
16 distance from the tower, and would be consistent if the
17 device is in the area of the crime scene at 2:06 p.m.

18 Q And what do we have next?

19 A So, to help explain some of the movements of these
20 devices during this time, this is a small animated map of
21 these devices, the location hits and -- now, again, you'll
22 see the blue is Mr. Kalik Conn. The pink is Jeremiah
23 Dicker. The phone associated with Dajon Grate is going to
24 show up in red, and then the CDRs, or call detail records,
25 in orange are going to be Nasirea Grate's.

1 Now, the pink, red, and orange hits that were all
2 kind of populating in the [REDACTED] Road area are starting
3 to travel south on Highway [REDACTED] -- no, [REDACTED] Road. I
4 apologize. And they all appear to be moving with each
5 other, which is consistent -- oops, I apologize. And
6 you'll start to see those devices moving.

7 Again, those records moving like they are, all three
8 of the devices moving seem to be in the same area at the
9 same time, which is an indication that they're traveling
10 together or very close to each other.

11 We know that is actually the case because, at
12 1:25 p.m., which is what this last little image is
13 showing, again, is everybody at the gas station.

14 And between 1:25 and 1:34 p.m. on May 31st, 2022,
15 all four parties were at the gas station, as their call
16 detail records and as their geolocation information is
17 showing.

18 Q Did you do anymore?

19 A Yes. So, this is an animated map that shows
20 movement of the phones away from the Sunhouse gas station
21 and then to the crime scene location.

22 And, again, the red is Mr. Dajon Grate. The blue is
23 Kalik Conn. The pink is a device associated with Jeremiah
24 Dickers, and then you're going to see the orange call
25 detail records here in a moment, which is the device

1 associated with Nasirea Grate. That was approximately
2 1:45 -- 1:43 p.m. is when the devices are starting to now
3 appear in the area of the crime scene location.

4 1:47 p.m.

5 That was 1:51, that particular connection right
6 there.

7 1:54.

8 Again, those are those three devices, again, being
9 consistent with being in the area of the crime scene.

10 1:57, 1:58.

11 Now, this long line of blue text that you're seeing
12 moving down the road, those are actually geolocation hits
13 from Kalik Conn's phone. And there are so many of them
14 and they are so accurate that they are very small, and
15 that's why you see a line. There was one almost every
16 second for several minutes as it tracked from one location
17 to the area of the crime scene where it finally came to
18 rest at 2:04 p.m.

19 After the incident, or approximately 2:06,
20 2:08 p.m., there was some movement in the devices but only
21 one, and those were the call detail records associated
22 with Nasirea Grate. That is 2:06 p.m.

23 Now, that's 2:09 p.m. The distance line is much
24 further away from the last 30 minutes of hits. And now
25 this is 2:11 p.m., and the distance lines and the towers

1 being used are consistent with the device being in the
2 area of [REDACTED] Road.

3 And, again, all four devices were in the area of the
4 crime scene between 2:04 and 2:07 p.m.

5 Q So, can we go back?

6 A Sure.

7 Q Can we break down a few things real quick?

8 So, if you don't care, I'm going to come over there
9 and take over for two seconds.

10 Let's see. Okay. So, before we get to the slides
11 and the animated -- where we track everybody, so we first
12 start --

13 A With Mr. Dicker's phone.

14 Q Okay. But did you also associate all of their
15 phones being at the gas station?

16 A Yes, ma'am.

17 Q Okay. And can you play that for me real quick?

18 MR. GALMORE: Objection, Your Honor. This
19 information has already been testified to ad nauseam by
20 this defendant.

21 THE COURT: Well, I'm going to let her go over it
22 one more time.

23 But you have already covered this.

24 MS. MARTIN: Yes, sir.

25 BY MS. MARTIN:

1 Q And, so the first two that we see get out?

2 A That would be Dajon Grate in the foreground with the
3 black pants.

4 Q Okay. And what did he have in his hand?

5 A His cell phone or a cell phone.

6 Q Okay. And then who do we have in the black shirt
7 with the black mask/hat on?

8 A That would be Mr. Nasirea Grate.

9 Q Okay. And then in the car, who do we see later
10 getting out?

11 A Todd Fry is exiting the car right now from the
12 driver's side, but in a few moments, you see Mr. Dickers
13 -- Jeremiah Dicker leave the vehicle.

14 Q Okay. And then so, let's go on to -- okay. Let me
15 go on to...

16 All right. So we have a per-call measurement data.

17 A Yes, ma'am.

18 Q Okay. Is this -- where is that represented on
19 Slide -- we're on Slide 32. Where is that represented?

20 A That's 33.

21 Q Is that 33?

22 A Yes, ma'am.

23 Q Oops. Slide 33. Where is that represented?

24 A This slide shows a mapping of a cellular network
25 connection with the number associated with Nasirea Grate.

1 This tower is located just to the west of Highway 22 near
2 the intersection of 905. The tower, again, is the
3 pinnacle of this wedge right here.

4 Q Okay.

5 A The antenna is pointing in this general direction,
6 so it could be anywhere in between these lines. And then
7 the distance lines are showing that the device should be
8 along this distance line right here.

9 Q And at -- I think that this date, May 31st, 2022, at
10 1:28 -- between 1:25 and 1:28:35 p.m., where does that
11 distance line put Nasirea Grate's phone?

12 A So, the device would be along this line, and it
13 would be -- these records would be consistent if the
14 device was at the Sunhouse gas station, which, again, when
15 we reviewed the video at that same time, Mr. Grate was at
16 the gas station.

17 Q Will you go to 39 for me. So, these lines again,
18 not just the pie wedge lines but the -- are those also the
19 per-call measurement data?

20 A Yes. Those outermost rings that you see right here,
21 these are the distance lines for all of these connections.
22 And like I mentioned earlier, there's 18 connections
23 overlapping each other.

24 Q Okay. So, that goes from 1:47 p.m. until 2:06 p.m.?

25 A Yes, ma'am. There were 18 cellular connections all

1 using this tower, all showing roughly the same distance.

2 Q Slide 30 or no, Slide 40, the next slide. Using
3 this per-call measurement data, where is Nasirea Grate's
4 phone consistent -- where is it located or where is it
5 consistent with?

6 A So, these records right here show, again at
7 2:06 p.m., it's using the same tower, same general
8 location as the last 18 connections or the same direction
9 as the last 18 connections, and the distance from that
10 tower are consistent if the device was located at the
11 crime scene.

12 Q Okay. Next slide. We went really quick with this.
13 Can we break this down real quick. If you'll play it and
14 let's break it down. Okay. Pause it.

15 What time are we starting?

16 A Approximately 1:20 p.m.

17 Q At 1:20 p.m. And so, would that be before the gas
18 station videos?

19 A Yes, ma'am.

20 Q Okay. And you have it up here, but also on State's
21 Exhibit 8, can you show the jury approximately where the
22 defendant's phones would be, if you looked right there?

23 A So, this is Highway 22 and this is Highway 905. The
24 Sunhouse gas station is where Mr. Kalik Conn's phone
25 should be hitting at this moment in time. And then the

1 other three devices were in the area of [REDACTED] Road
2 right here.

3 Q Okay. And speaking of [REDACTED] Road, you collected
4 State's Exhibit 28; right?

5 A Yes.

6 Q And what is the address on those licenses belonging
7 to Nasirea Grate?

8 A All three of them say [REDACTED] Road, Longs, South
9 Carolina.

10 Q Okay. Is this consistent with what we have on this
11 board?

12 A That says [REDACTED] Road, Longs, South Carolina,
13 yes, ma'am.

14 Q Keep going. Let's break it down.

15 MR. GALMORE: Objection, Your Honor. The State is
16 just repeating themselves at this point.

17 THE COURT: I was fixing to say, we have already
18 covered this, I believe. What is the purpose of going
19 over it again?

20 MS. MARTIN: Your Honor, we really didn't get to the
21 timestamps of where everything is going.

22 THE COURT: All right. Go ahead.

23 MS. MARTIN: And I do think we need to clear that
24 up.

25 THE COURT: Okay.

1 BY MS. MARTIN:

2 Q Okay. And I wish that I had a pointer, but I don't.

3 So, we're coming down and we have got multiple
4 different defendants, multiple different geolocational
5 data as well as CDR records right here; right?

6 A That's correct.

7 Q Okay. So up in -- near off of [REDACTED] Road,
8 what is the timestamp at this point?

9 A That is 1:23 p.m.

10 Q Would this indicate to you that they're traveling
11 down [REDACTED] Road to get onto 905, which is near the
12 Sunhouse gas station?

13 A The devices appeared between the 1:20 and 1:25 p.m.
14 to travel south from [REDACTED] Road, down [REDACTED], onto
15 Highway 905 and to the gas station.

16 Q Okay. Keep going. Until right here.

17 A 1:25 p.m.

18 Q Okay. And does that have -- does this -- where we
19 paused right here, does this have everybody's information?

20 A Yes, ma'am.

21 Q In this one --

22 A Some of the information is so tight, it's
23 overlapping each other, but yes, all four of the devices
24 are listed on this particular map.

25 Q So, when they're that minute, when the per-call

1 measurement data and the geolocational data, when it's
2 that precise, is it hard to read sometimes?

3 A It can be, yes.

4 Q Okay. And so, they do overlap?

5 A Yes, ma'am.

6 Q But this would show -- would this show everybody
7 that we're talking about today in the same general
8 location?

9 A That's also an indicator of them being in the same
10 general location at the same time if their information was
11 overlapping each other.

12 Q Will you go to the next one? One more. Okay.

13 So, with Slide No. 44 -- is that Slide 44?

14 A 43.

15 Q 43. Okay. So, what time do we start Slide 43?

16 A Approximately 1:30 p.m. I believe that's the
17 timestamp right there is 1:31.

18 Q And will you press play for me. Okay. Will you
19 stop that, please.

20 Are you able -- we have got a lot of overlapping
21 data with pinks and oranges and blues and everything else.
22 So, can you tell me -- we know that the blue is Kalik
23 Conn; correct?

24 A Yes, ma'am, correct.

25 Q Okay. So, the overlapping data, can you tell me

1 what time that is?

2 A That is 1:34:51 p.m.

3 Q Okay. And does it appear to be retracing steps?

4 A I'm sorry?

5 Q It going back up [REDACTED] Road?

6 A It is traveling away from -- two of the devices
7 displayed on this image right here at this moment in time
8 appear to be traveling away from the Sunhouse gas station.

9 Q Okay. Will you press play. Okay. Stop real quick.
10 Oh, lord.

11 So, what time -- we have got overlapping data again?

12 A Yes, ma'am.

13 Q Okay. And who are we looking at? Orange?

14 A The orange call detail records are the phone number
15 associated with Nasirea Grate.

16 Q Red?

17 A The red is Dajon Grate's phone.

18 Geolocation information in the pink is the
19 geolocation information for Jeremiah Dickers.

20 Q Okay. And what time are we looking at here?

21 A This is 1:36:41.

22 Q Okay. And what time did they leave the gas station;
23 do you recall?

24 A Started seeing movement about 1:33 p.m.

25 Q Okay. So, about three minutes later, we're over

1 here on Sandpiper?

2 A I believe that's the road, yes, ma'am.

3 Q Okay. So -- and we have the per -- is that per-call
4 measurement data?

5 A Yes, ma'am. That shows the distance arc. So, that
6 should be the distance between the tower and the device at
7 the time of the connection.

8 Q Is that also consistent with the pink and the red?

9 A It is.

10 Q Okay. So, Jeremiah Dicker, Dajon Grate as well as
11 Nasirea Grate?

12 A All three of those devices are believed to be in the
13 same area.

14 Q Okay. Keep playing. All right. The next time we
15 get a hit -- okay. So right here.

16 A That's 1:43 p.m.

17 Q 1:43 or 1:41?

18 A I'm sorry, 1:41.

19 Q Okay. So, 1:41 p.m. And we have a -- is that a
20 geolocational --

21 A This is a geolocational hit from Mr. Dajon Grate's
22 phone.

23 Q Okay. That appears to be a pretty small bubble.
24 What does that mean?

25 A That is a small or tight radius as far as the GPS

1 location goes.

2 Q Okay. So, at 1:41 p.m., where is that geolocational
3 data putting Mr. Dajon Grate's phone?

4 A At the crime scene location.

5 Q Okay. Keep going. Okay. And then we have -- and
6 the next bubble, will you pause it for me? Let's get
7 Mr. Dicker and Mr. Nasirea Grate's up there so we can do a
8 timestamp.

9 A That is 1:46 p.m., and those are call detail records
10 with the phone number associated with Mr. Nasirea Grate.

11 Q Okay. And is that per-call measurement data, would
12 that be consistent with the crime scene?

13 A Yes, ma'am.

14 Q Okay. And is that also consistent with the
15 geolocational data from Mr. Dicker's phone and Mr. Dajon
16 Grate's phone?

17 A Yes.

18 Q Okay. If you'll keep going.

19 A That was 1:53 p.m.

20 Q Okay. So -- and based on your Slide 22, the text
21 message conversations, the address was sent -- will you
22 pause it real quick?

23 A It's paused.

24 Q Okay. The text with the location from Mr. Dicker's
25 phone to Mr. Conn, what time was that sent?

- 1 A I believe that was 1:49 p.m.
- 2 Q Okay. And then, at 2:02, did Mr. Conn respond?
- 3 A Yes, he did.
- 4 Q All right. Let's go to -- are we on --
- 5 A We're still on 43. I paused it in the middle.
- 6 Q Keep going. I'm sorry. Have we gotten to 2:02 yet?
- 7 A No.
- 8 Q Okay.
- 9 A That is 2 p.m.
- 10 Q At 2 p.m., who are we looking at with the blue that
- 11 appears to be coming down [REDACTED] Road?
- 12 A That is the geolocation for Kalik Conn's phone.
- 13 Q Okay. And that's at what time?
- 14 A That is 2 p.m. 2 p.m. and 32 seconds.
- 15 Q Okay. Will you keep playing. Okay. Pause it.
- 16 At 2:02 --
- 17 A 2:02:52 p.m. is being displayed right now.
- 18 Q Okay. 2:02:52. And who do we see on the scene?
- 19 A So, those are the call detail records on the left in
- 20 orange for the device associated with Nasirea Grate, and
- 21 the blue -- the lines of blue GPS location hits are for
- 22 Kalik Conn's device.
- 23 Q Okay. And, at 2:02, was there a text conversation?
- 24 A Yes, at 2:02 -- I'm sorry; can you repeat the
- 25 question?

1 Q Was there a text conversation at 2:02?

2 A Yes. Mr. Conn was replying to Mr. Dicker's message
3 saying that he was coming down the road.

4 Q Okay. Keep going.

5 What time -- right here, what time does Mr. Conn get
6 to the crime -- get to the crime scene?

7 A That is 2:04 p.m.

8 Q Okay. But it wasn't a crime scene then.

9 A No. The location that was sent to him. That is the
10 geolocation location hit at the time that Mr. Dickers
11 arrived in the area of the crime scene.

12 Q Okay. And keep going.

13 A That's the end of the video.

14 Q That's the end of it?

15 Will you go to the next one? Let's do the timing on
16 this.

17 A Start playing it?

18 Q Yes, please. And when do we start?

19 A That is 2:06 p.m.

20 Q And we are on Slide forty ---

21 A -- four.

22 Q --- four. Okay. So, at 2:06 p.m., what do we have
23 on the screen? We have orange? We have pink? So what is
24 that?

25 A Those are call detail records from the device

1 associated with Mr. Nasirea Grate and the geolocation
2 location information from Mr. Jeremiah Dicker's device.

3 Q Okay. And so, if you'll play. Okay. Pause it.

4 Is there a way to go back to that one spot? Okay.

5 Now, this is at what time?

6 A 2:09 p.m.

7 Q 2:09 p.m. And what is indicated on this image with
8 the orange?

9 A So, this is the call detail records for Nasirea
10 Grate. The tower, the antenna being used is still the
11 same one from the previous network connections; however,
12 the distance line is much further. And this indicates
13 movement in the device during my analysis.

14 Q Okay. If a phone is left in the crime scene and a
15 victim's pocket or on the floorboard of a vehicle, would
16 movement be indicated on that?

17 A No.

18 Q Is it because the phones are stationary?

19 A Yes.

20 Q At the crime scene?

21 A Yes.

22 Q Okay. But what does this indicate to you?

23 A This indicates to me that the device has moved away
24 from the area of the crime scene.

25 Q Okay. Will you keep going?

1 Okay. So, we just saw that. We don't even need to
2 go back. I'm just going to...

3 That last per-call measurement --

4 A Yes, ma'am.

5 Q -- okay. Can you show the jury on this map where
6 Nasirea Grate's -- where that would be consistent with?

7 A So, that last hit, the tower would be located right
8 here where my right index finger is. I'll use my left
9 index finger for the tower location. And that per-call
10 measurement data was cutting right across here.

11 Q Okay. And would that be consistent with [REDACTED] Road?

12 A Yes, ma'am.

13 Q And that's --

14 A [REDACTED] Road.

15 Q [REDACTED] Road?

16 A If the device was located at [REDACTED] Road, those
17 would be the type of records I would see.

18 Q And what address is located on Nasirea Grate's --

19 A [REDACTED] Road.

20 Q His ID. Sorry.

21 A Yes, ma'am. You were pointing at it.

22 Q Thank you.

23 Okay. Now, your last slide. What is this telling
24 us? Give me the times.

25 A Between 2:04 p.m. and 2:07 p.m., there were location

1 information pulled from three of the devices, geolocation
2 data from three of the devices, and then the per-call
3 measurement data from the fourth device belonging to
4 Mr. Nasirea Grate, all consistent with -- all four of
5 those devices being in the area of the crime scene.

6 Q And the top right corner, the first one that we
7 have, what color is that?

8 A That's blue. That belongs to -- that is data from
9 Mr. Kalik Conn's phone.

10 Q And would that be the bubble overshadowing --

11 A The other two, yes.

12 Q And let me see if we can get back -- that would be
13 very helpful.

14 A This one.

15 Q Okay. And then right below that, what do we have?

16 A That is the data set for Dajon Grate's phone.

17 Q And is that the red?

18 A Yes, ma'am.

19 Q Okay. And where would that be? Where would that be
20 on this?

21 A Right here.

22 Q Okay. And what's the time stamp on that?

23 A 2:05 p.m.

24 Q And right below that, the pink one?

25 A That is the data set for the device associated with

1 Jeremiah Dickers.

2 Q Okay. And where would that be located?

3 A Same area, right there at the crime scene where the
4 little pointer is at.

5 Q On the bottom left corner ---

6 A Yes, ma'am.

7 Q --- what do we have?

8 A That is the tower information for the connection,
9 the call detail records for the device associated with
10 Nasirea Grate.

11 Q And what time is that?

12 A That is at 2:06 p.m.

13 Q And what is that consistent with?

14 A With the device being in the area of the crime
15 scene.

16 Q If you can -- hold on one second, let me --

17 MS. MARTIN: Beg the Court's indulgence.

18 THE COURT: All right.

19 BY MS. MARTIN:

20 Q If you'll have a seat, I'm going to put this up real
21 quick. Actually, stay down. I'm just trying to make you
22 get in your steps.

23 MS. MARTIN: Nancy, will you come and handle this
24 real quick for me while I pull this out?

25 MS. LIVESAY: Do you mind, Judge?

1 THE COURT: No, that will be fine.

2 THE WITNESS: Where would you like me to stand?

3 BY MS. MARTIN:

4 Q Now, when you were -- when you did an image of
5 Nasirea Grate's phone, did you find images?

6 A Yes, I found a lot of images.

7 Q Okay. And I'm showing you what's been marked as
8 State's Exhibit 196 and 197.

9 A Okay.

10 Q Let me show defense real quick.

11 Where did you get these from?

12 A This is a still image that was pulled from a video
13 clip found on Nasirea Grate's phone from the day after
14 this incident from June 1st.

15 Q Did you alter, manipulate, or change that in any
16 way?

17 A No. The context of the photo is the correct.

18 Q Okay.

19 MS. MARTIN: Your Honor, at this time, the State
20 seeks to admit Exhibits 196 and 197 into evidence.

21 THE COURT: All right.

22 MR. WILSON: I have no objection.

23 THE COURT: Mr. Galmore?

24 MR. GALMORE: I object. What is the relevance of
25 those photos?

1 THE COURT: State's Exhibit 196 and 197 are admitted
2 into evidence over Defendant Dajon Grate's objection.

3 (State's Exhibit Nos. 196 and 197 were received into
4 evidence.)

5 BY MS. MARTIN:

6 Q Okay. Now, let me show this to the jury real quick,
7 and then I want you to look at that mask, which has
8 already been introduced into evidence as State's
9 Exhibit 4. Okay?

10 Now, is there -- I'm going to give you some gloves.

11 A Thank you.

12 Q And my hair band, apparently.

13 Put those on and let's talk about this mask that you
14 collected.

15 A Bear with me. You gave me a small set of gloves.

16 MS. MARTIN: As I'm choking [coughing].

17 Beg the Court's indulgence.

18 THE COURT: Do you need to take a break?

19 MS. MARTIN: I'm almost done. [Coughing].

20 BY MS. MARTIN:

21 Q Do those fit better?

22 A Yes.

23 Q If I give you some scissors, will you open that mask
24 that you collected from --

25 A I'll open the packaging, yes, ma'am.

1 Q And then let's -- all right. Okay. Now, is this a
2 face mask?

3 A Yes. It looks like one.

4 Q Is there a logo on that face mask?

5 A There is.

6 Q Okay. And would you mind putting that face mask on
7 there? Will you tell the jury what that logo says?

8 A That logo says, "RedHead Brand Co."

9 Q Okay. Can that face mask be pulled down?

10 A Yes.

11 Q Okay. Will you show them?

12 A (Indicating).

13 Q Can that face mask be pulled up?

14 A (Indicating).

15 Q Can it be worn as a hat?

16 A Yes, it can. Okay. And I believe this particular
17 type of mask is sometimes referred to as a gator neck or
18 something that has three or four or five different ways
19 that you can particularly wear it, just depending on the
20 user's preference.

21 Q Okay. So you can wear it up as a hat?

22 A You can wear it up, you can wear it down, or you
23 could wear it just like a little band.

24 Q Could you wear it to where just your eyes are
25 showing?

1 A Yes, ma'am.

2 Q Could you wear it to where just everything below
3 your eyes is not showing?

4 A Yes, ma'am.

5 Q Okay. And can you wear it where your entire face is
6 out but your head is covered?

7 A Yes, ma'am.

8 Q If you will take a seat.

9 A Repackage it?

10 Q Yeah. That's fine. That will be fine.

11 MS. MARTIN: Hand sanitizer?

12 THE CLERK: I have got some, Liz.

13 MS. MARTIN: Beg the Court's indulgence.

14 THE COURT: All right.

15 BY MS. MARTIN:

16 Q So, in these pictures, pictures on the screen,
17 what's the name of that hat?

18 A It appears to be RedHead Brand Company.

19 Q And on that mask, what's the brand logo on the
20 bottom of that?

21 A RedHead Brand Company.

22 Q Okay. Does that appear to be the same thing?

23 A It appears to be very similar, yes.

24 Q Okay. I have no further questions. If you'll
25 answer any questions the defense may have. Excuse me.

1 THE COURT: All right. Mr. Wilson?

2 MR. WILSON: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. WILSON:

5 Q All right. Let's go back to Slide No. 6, if we can.
6 Who has slide No. 6?

7 MS. MARTIN: I do. Let me put it back in. I'm
8 sorry. I just took it out. Mr. Marcus or Detective...

9 THE WITNESS: May I --

10 MR. WILSON: Yes, sir.

11 May he come down? Is it all right, Your Honor, for
12 him to come down and find Slide No. 6 for me?

13 THE COURT: Yes, sir, that will be fine.

14 THE WITNESS: This one, sir?

15 MR. WILSON: Yes.

16 BY MR. WILSON:

17 Q Now, I see that you have four numbers there; is that
18 fair?

19 A Yes, sir.

20 Q And do you have the number for Todd Fry?

21 A No, I do not.

22 Q Did you do the coordinates on his phone to determine
23 where he was at the time this occurred?

24 A No, I do not believe any records were obtained for
25 Todd Fry.

1 Q No records were obtained for Todd Fry?

2 A I believe they were expired by the time someone had
3 searched for those records.

4 Q Well, you were aware, were you not, that he was
5 allegedly the driver of the car?

6 A I was made aware of that, yes, sir.

7 Q But -- so, how long did you wait before you tried to
8 get the information from his phone?

9 A For his phone records or his phone itself?

10 Q Either one.

11 A So, the phone for Mr. Fry at the time was taken to
12 the Myrtle Beach Police Department, and an examiner there
13 had conducted the exam on that particular phone. I did
14 not. At the time, I did not have the equipment needed to
15 do that particular phone. Myrtle Beach did.

16 As far as cellular records go, I did not seek any
17 records for them. That would have been a different
18 investigator at the time.

19 Q Okay. But -- and help me if I'm incorrect here, but
20 are you saying that the information on Mr. Fry's phone had
21 expired so that you couldn't get anything from it? Is
22 that what you're saying?

23 A The cellular network companies keep their records
24 for a certain period of time. From what I understand,
25 whenever the detective who was tasked with that job or at

1 whatever point in time they reached out to the network
2 provider for those records after that number was
3 identified, it had already passed their retention period,
4 so those records no longer existed.

5 Q So, how long is the retention period?

6 A It depends on the carrier. AT&T usually keeps
7 records for about five to seven years. Verizon, maybe a
8 year.

9 Q So, when was Mr. Fry -- when did he become a
10 suspect?

11 A That, I couldn't tell you. I was not the case
12 agent. My portion of this incident or part of this
13 investigation at the time when it first started was simply
14 the search at [REDACTED] Road. My analysis of the
15 phones and phone records started almost a year later, is
16 when I was asked to do that particular part of everything.

17 Q So, were you the one who asked for a search warrant
18 for Mr. Todd's records?

19 A No, not for Mr. Fry's records.

20 Q Who asked for it? Who asked for his records so that
21 they could be --

22 A That information, I'm not 100 percent certain of. I
23 believe Detective Kelly was looking into phone record
24 information at the time this first started, but I would
25 have to review that.

1 Q Okay. And this all happened in, what, '22?

2 A '22, yes, sir.

3 Q May 31st of '22. And you're telling me that this
4 silver car, which Mr. Todd owned, was known at the very
5 outset of this case; was it not?

6 A From my understanding, yes.

7 Q Yeah. In fact, that was supposed to be the getaway
8 car; right? And you're telling me that you never got
9 his -- did you even get his phone number to try to see if
10 you could get the information?

11 A Again, that was not a task of mine during the
12 investigation at that time.

13 Q But that wasn't my question. My question was: You
14 put this together, and you brought it in here to us, and
15 I'm simply asking you: Did you do the same thing for
16 Mr. Fry?

17 A So, when I was asked to do this association and then
18 the analysis of these records, I did ask about Mr. Fry's
19 records, and Mr. Fry's records were not available at the
20 time.

21 Q Not available?

22 A That's correct.

23 Q All right. Now, let's go to screen -- I think it
24 was No. -- let's go to 22 first. Slide 22.

25 A This one?

1 Q Okay. Is that 22?

2 A This is listed as 22, yes.

3 Q Okay. That's not the one I want. So, let's go to
4 44.

5 A 44.

6 Q Okay. Now, what I want you to do is point out to me
7 where Mr. Nasirea Grate's phone is showing on your project
8 here.

9 A So, this is an animated slide. I'd have to play it
10 and allow it to play out.

11 Q That's fine.

12 A Is there a particular point in time you'd like me
13 to...

14 Q I want you to show me where he is and where his
15 movement is.

16 A So, at 2:06 p.m. when this starts, Mr. -- it is my
17 opinion that Mr. Grate's -- Nasirea Grate's phone was in
18 the area of the crime scene. This is just after -- this
19 is right at 2:08 p.m., and that particular hit right there
20 is belonging to Jeremiah Dicker.

21 Q Well, that's not what I asked you. What I asked you
22 was to show me on this schedule where Mr. Nasirea Grate's
23 phone moved from one location to another.

24 A Okay.

25 Q First of all, if you would, just point out to us

1 where he is, where it is on your graph there that you're
2 saying Mr. Grate's phone is located.

3 A In looking at everything, the totality of everything
4 as a whole, I believe Mr. Grate's phone is in the area of
5 the crime scene.

6 Q Well, you say you believe?

7 A Yes.

8 Q But I'm asking you to show it to me. Show it to me
9 on the counter.

10 A Right there, in the area of the crime scene.

11 Q Where?

12 A Where that little pin is that says, "crime scene,"
13 in that area of the crime scene, or that area of the map
14 is where the crime scene is located, and I'm saying that
15 the device is located in the area of the crime scene.

16 Q Okay. And when you say "in the area" -- because you
17 said that over and over again, "in the area," "in the
18 area." How big is the area? Is it a half mile? Is it
19 three-quarters of a mile? It is 8/10ths of a mile? How
20 big is the area when you say it's consistent with being in
21 the area? How big is the area?

22 A All of the devices -- the records are showing that
23 all of the devices are moving together. The devices --

24 Q That's not what I asked you.

25 MS. MARTIN: Your Honor, I'd ask that he let --

1 THE COURT: Well, he needs to answer the question
2 first, and then he can explain his answer. But he needs
3 to answer the question asked first, and then he can
4 explain it after that.

5 MR. WILSON: Thank you.

6 BY MR. WILSON:

7 Q My question was: How big is the area that we're
8 speaking of?

9 A 35, 40 meters.

10 Q 35, 40 meters?

11 A Yes, sir.

12 Q So, this whole area -- you're telling me that this
13 whole area is 35, 40 meters?

14 A No, sir, I'm not.

15 Q Then what are you saying?

16 A I'm saying that your client's phone, Mr. Nasirea
17 Grate's phone is the area of the crime scene, and I would
18 say that would be about 35 to 40 meters.

19 Q Okay. Now, what is that circle around this area?
20 The red circle here. And I'll point it out to you. This
21 circle, what is this?

22 A You're talking about that arc?

23 Q Yes, sir.

24 A That is the per-call measurement distance line.

25 That is the line that is the distance -- showing the

1 distance from the tower to the device.

2 Q Okay.

3 A And looking at per-call measurement data by itself,
4 that would be the line that that phone would be on.

5 Q So, the phone would be in this area; right?

6 A The phone could be --

7 Q Anywhere within that circle?

8 A No, sir. Anywhere along this line. And when you
9 look at all of the data together as a whole, I am saying
10 that I believe it is at the crime scene location.

11 Q Okay. So, what data are we speaking of? Because I
12 don't see it on this map. So, what data are we talking
13 about that puts it there?

14 A All of the locational information from all of the
15 phones.

16 Q Okay. So, you're saying, because Mr. Dicker's phone
17 and Mr. Conn's phone and Mr. Dajon Grate's phone was in
18 this area, then it must mean that he's in this area too,
19 with his phone?

20 A At several other locations during this time frame,
21 I'm able to say that those records were consistent with
22 traveling them together. So, yes, because all of them are
23 traveling together, my conclusion was that there is a
24 great likelihood that the phone is right there in the area
25 of the crime scene.

1 Q In one of your reports, did you write that
2 Mr. Nasirea Grate's phone never changed locations the
3 entire time? Did you put that in a report?

4 A I do not recall putting that in any report.

5 Q You don't recall that?

6 A No, sir.

7 Q You're not saying you didn't say it. You're just
8 saying you don't recall it?

9 A Outside of this presentation, I don't believe I have
10 authored any paperwork for this report or for this
11 investigation that said that this phone was...

12 Q All right. So, this is your extrapolation and this
13 is what you believe, based on what everybody else was
14 doing, that it must be true that it was --

15 A This was my belief based off of my analysis of all
16 the information, yes, sir.

17 Q All right. But, one of the key factors would be the
18 driver of the car; right? Because whoever is driving the
19 car is certainly in control of the direction in which
20 you're going; right?

21 A Can you repeat the question?

22 Q The question is: The driver of the car -- if your
23 statement is is that all these people were together, then
24 the driver of the car would be the one carrying them in
25 that one direction. And so, everybody would be together.

1 They wouldn't be split up and separate; right? They would
2 all be together because they're all in the same vehicle
3 going in the same direction?

4 A Okay. I would agree with that.

5 Q All right. All right.

6 So now, where is [REDACTED] Road in comparison to
7 where you're saying this is, the crime scene? How far is
8 the distance?

9 A The distance? I do not know the exact measurement
10 between these two points off the top of my head.

11 Q Well, wouldn't it be important to know -- because
12 you're looking -- you're looking for the area. So,
13 wouldn't it be important to know, if he lives at [REDACTED]
14 Road and that's only -- that's within the radius of the
15 tower, that he might be -- very well be home?

16 A No, sir. Those records right there do not say
17 anything or give me any information to believe that his
18 phone would be at [REDACTED] Road at this very moment in
19 time.

20 Q Okay.

21 A The distance between the crime scene location and
22 [REDACTED] Road is well over a half a mile away from each
23 other in a straight line. The exact distance, I could not
24 give you.

25 Q What about [REDACTED] Road?

1 A [REDACTED] Road?

2 Q Yeah. How far away is that?

3 A Are you talking about this particular road right
4 here?

5 Q Yes, sir.

6 A How far is it from where?

7 Q From the crime scene.

8 A It would be about the same distance if I went in a
9 straight line from here to here. Approximately half a
10 mile, at a minimum.

11 Q All right. And what about the Sunhouse? Because
12 you said that they were originally at the Sunhouse, and
13 that's how you started to track everybody, by putting them
14 together; right?

15 A Yes, sir.

16 Q All right. And then you said, well, based on that,
17 then they must have traveled this direction, so now
18 they're at this location where the crime scene is. And
19 you're basing that on phone records from Mr. Dicker, from
20 Mr. Conn, and from Dajon Grate?

21 A And Mr. Nasirea Grate as well. All four of them.

22 Q All right. You can come back to the stand. Thank
23 you.

24 A Would you like me to leave this up or --

25 Q Yes, sir, because I may have another question.

1 So, let me ask you: The solicitor asked you -- and
2 I'll come back to the map in just a minute, but I wanted
3 to just clear this up with this mask. Is this a COVID
4 mask?

5 A A COVID mask?

6 Q Yes, sir.

7 A Not your typical COVID medical mask.

8 Q Okay. Did you conduct a search at the home where
9 Nasirea Grate lives? Did you do that?

10 A I conducted a search of [REDACTED] Road.

11 Q Okay. And whose address is that?

12 A I actually don't know who owns that particular
13 house. When I arrived there, everybody had been removed
14 from the house. The scene had already been secured, and I
15 did not speak with any of the residents. They had all
16 left at the time.

17 Q Okay. Going back to -- going back to your testimony
18 about these cell phones, [REDACTED] Highway [REDACTED] [sic], that's
19 the area where this event took place; right?

20 A I believe that's correct.

21 Q All right. And where would that be on this map?

22 A That would be where that little pin is that says
23 "crime scene."

24 Q Okay. And you would agree with me that the
25 Sunhouse, [REDACTED], [REDACTED] Road, all within less than a mile of

1 each other?

2 A I'd say that's a fair assessment, yes, sir.

3 Q And what is the radius of the tower for which you
4 are a tracking? What is the radius? What radius does
5 that tower receive phone calls or phone pinging or
6 information from? What is the radius of that tower?

7 A Unfortunately, I can't give you the exact radius of
8 that tower. The actual network coverage of each
9 individual tower is not information that we get.

10 Q Well, but isn't that important? Isn't it important
11 to know what the radius of the tower is because the
12 information that you're using has to come from the tower?

13 A It's important to know the tower location and the
14 date and time of the connection, and you'll get the
15 information with some of the records on the distance that
16 the device is from the tower, but knowing the overall
17 coverage area of the tower is not important in our
18 analysis.

19 Q So --

20 A Or in this particular analysis, I should say.

21 Q So, if the tower coverage is, say, a quarter of a
22 mile and you're saying that the event took place at
23 three-quarters of a mile, then you're saying that the
24 tower just ain't able to give you any information
25 whatsoever about that?

1 A If the tower radius or coverage area was only a
2 quarter of the mile and the event occurred three-quarters
3 of a mile away, there would be no record that was recorded
4 during that date and time on that tower.

5 Q Okay. And let me ask you this: Generally, if a
6 vehicle is moving in a direction and they're using their
7 cell phones, then, as they pass from one tower to the
8 next, you're able to track that particular cell phone as
9 it moves from one tower to the next; right?

10 A Depends on the carrier. AT&T will give us that
11 hand-off information where it transfers from one tower to
12 the next; however, Verizon does not.

13 Q Well, but that wasn't my question. My question is:
14 Isn't that something that can be done?

15 A Again, depending on the records that you get, but
16 yes, it can be done.

17 Q Yeah. And so, if that had been done in this case,
18 then you would have the records showing that, each time
19 one of those phones were used, it moved from this tower to
20 the next tower to the next tower, showing a direct
21 movement of each of these phones?

22 A So Verizon does not give us the hand-off
23 information. They just give us the very first tower used
24 during a connection. So, we would not be able to see that
25 hand-off information examining Verizon records. And I

1 believe Mr. Nasirea Grate's records were Verizon.

2 Q How many cell towers are there between the Sunhouse
3 gas station and where [REDACTED] is and where the crime scene is
4 at [REDACTED]?

5 A There are no cell towers located between those three
6 points.

7 Q There are no cell towers?

8 A No, sir. No Verizon or T-Mobile cell towers.

9 Q Well, if there are no cell towers, then how did you
10 get the information?

11 A The towers are located outside and around those
12 points.

13 Q So, show me where the towers are.

14 A There's roughly -- in this area, right here is one
15 tower. The tower that is being displayed on the map right
16 now is right here. There is a tower that is just
17 off-screen further up in this direction. And I believe
18 there is a tower much further north several miles away.

19 Q Okay. And let's just talk about this tower. Where
20 is this tower located? Where the Coca-Cola Bottling
21 Company it says up there; right?

22 A It's a small cutoff road right here on the east side
23 -- or, I'm sorry, the west side of 22 and 905.

24 Q Okay. And even though you have that circle out
25 there, you're saying that you don't know the radius of

1 that tower?

2 A The total coverage of the tower? No, I do not know
3 the total radius coverage.

4 Q All right. So, how would we know if the total
5 radius is -- this line that you have got here, whether or
6 not someone's over here?

7 A So, that line right there that's being displayed is
8 the distance from the tower to the device at the time of
9 the connection. That line does not indicate coverage
10 area.

11 Q All right. Okay. Then what is -- I thought you
12 said that the orange was -- where is the orange on here?

13 A The orange is the per-call measurement data right
14 here.

15 Q No, no, no. You said earlier in talking to the
16 solicitor that you had each of these individuals
17 designated with a color.

18 A Yes.

19 Q And I think you said orange was Mr. ---

20 A Nasirea Grate?

21 Q --- Mr. Nasirea Grate.

22 Show me the orange that refers to Mr. Nasirea Grate.

23 A It would be this right here. It's a dull orange.

24 Q Where?

25 A This cellular connection, this tower connection

1 right here, this is -- on the left-hand side of the
2 screen, the wedge, the shaded area, and the distance, that
3 is the network connection for Mr. Nasirea Grate's phone at
4 2:06 p.m.

5 Q Okay. So, then if all of this is Mr. Nasirea Grate,
6 where is the other three people?

7 A At this particular moment in time, you can see the
8 small red circle right there at the base of the crime
9 scene pin. That is the geolocation data for Dajon [sic]
10 Grate's phone at 2:06 p.m. But this is not a still map.
11 This is an animated map. So, the other information is not
12 displayed at this very moment.

13 Q So, at 2:06, you're saying that he's here; right?

14 A No, sir. That's the location of the tower. The
15 tower is located here. He is using the antenna that's
16 pointing in this general direction, and that distance line
17 is the distance from the tower to where the phone is at.

18 Q Okay. So, this red signal up here that you have
19 got, that's supposed to be the crime scene; right?

20 A The pin right there with the star in the center of
21 it, yes, that is the crime scene location, and the red
22 circle that's around the base of it is actually
23 geolocation data for another device.

24 Q Okay. What I want you to do is show me -- show me
25 how the phone moved from Sunhouse to this location.

1 A May I?

2 Q Yes, sir. Please.

3 A This is Slide 44. This is the animated map, the
4 moment in time from about 1:30 p.m. until about 2:04 p.m.

5 So, right here where you see this pin, this is where
6 the Sunhouse is located at, and you're going to start
7 seeing different location hits pop up for the different
8 parties involved.

9 That's all geolocation data from Mr. Dicker's phone,
10 Mr. Conn's phone, and Mr. Grate's phone. And you start to
11 see the geolocation data for Mr. Grate's phone and
12 Mr. Dicker's phone -- I'm sorry, Dajon Grate's phone and
13 Mr. Dicker's phone traveling now east away from the
14 Sunhouse.

15 Q Got it. But --

16 A Hold up. I'll get to it.

17 So, this is the very first network connection for
18 Mr. Nasirea Grate's phone after 1:30 p.m. This is
19 1:36 p.m. The cell tower being used is located right
20 here. This is the outermost width of that antenna, which
21 faces this direction, which is what that shaded area kind
22 of gives you, is just showing it's facing this direction.

23 The distance line, that phone is going to be along
24 this distance line. So, at this very moment in time, my
25 conclusion from all of the data is that Mr. Nasirea

1 Grate's phone is at that location where the little red
2 laser pointer is at this moment in time.

3 Q Now, at that point, he is actually closer to [REDACTED]
4 [REDACTED] Road, which is where he lives, than he is to the
5 crime scene; right?

6 A At 1:36 p.m., yes, I would say that.

7 Q Okay. All right.

8 A Would you like me to continue, sir?

9 Q No, that's good. I'm good. You can come back to
10 the stand.

11 MS. LIVESAY: Your Honor, Mr. Marcus wasn't allowed
12 to finish the question.

13 MR. GALMORE: Objection, Your Honor. One attorney.

14 THE COURT: Asked and answered.

15 Go ahead.

16 MR. WILSON: Thank you.

17 BY MR. WILSON:

18 Q Let me ask you: The reason that you use the words
19 "consistent with" is because you can't tell us exactly; is
20 that fair?

21 A These records are only so granular or so detailed.

22 Q My question again: Is the reason that you use the
23 word "consistent with" is because you cannot tell us,
24 based on the data, exactly where it is?

25 A If you look at the per-call measurement data by

1 itself, I could not tell you where exactly on that line
2 the device is at.

3 Q Right.

4 A However, in looking at all of it as a whole with
5 multiple data sets, which we use different independent
6 sources to try and corroborate the location information,
7 we can make a much more accurate conclusion on the
8 device's location.

9 Q And the line that we're referring to runs between
10 [REDACTED], his home, and what you say is the crime scene; right?

11 A That's correct. And in a few moments later, you'll
12 see a much closer per-call measurement data hit to the
13 crime scene. As this animated map shows -- it's paused in
14 this moment in time at 1:36, but as it continues and gets
15 closer to 2:04 p.m., you'll actually see the devices the
16 travel along Red Bluff, up to that little road just to the
17 north of it and across, and those distance lines for
18 Mr. Nasirea Grate's phone track consistently with those
19 devices closer and closer to the crime scene location.

20 Q Okay. Now, the phone that you say you found at
21 Mr. Grate's home, prior to finding it there, do you know
22 where it was?

23 A The phone that I found for Mr. Grate was actually at
24 [REDACTED] Road. I do not believe that's his
25 residence, but he was found there by whichever task force

1 was out looking for him for his arrest at that time.

2 Q So, you did not find it at [REDACTED]; right -- is what
3 you're saying now; right?

4 A No, I did not find it at [REDACTED] Road. I found it
5 at [REDACTED] Road.

6 Q But you're aware that he actually lived at [REDACTED]
7 because you got his identification; right?

8 A That's correct.

9 Q All right. Did you find out who lived at [REDACTED]
10 [REDACTED] Road?

11 A No, sir. That was not part of my portion of the
12 investigation.

13 Q Did you find out how his phone ended up at [REDACTED]
14 [REDACTED] Road? Or when it got there, for that matter?

15 A Yes. Phone records much later in the day after the
16 time frame that I have displayed here in my presentation
17 are consistent with it traveling to [REDACTED] Road
18 several hours later.

19 Q Show me where on this map [REDACTED] Road is in
20 comparison to where you say the crime scene happened.

21 A May I approach the...

22 Q Sure, yes, sir.

23 I believe this would be the easiest way to do that.

24 And [REDACTED] Road is roughly up here.

25 Q Okay. And how far would that be? Maybe

1 three-quarters of a mile from where you say the crime
2 scene is?

3 A Over half a mile but less than a mile in a straight
4 line, yes, sir.

5 Q Okay. So, [REDACTED] is less than a half mile or half
6 mile, and then [REDACTED] Road is less than a mile, all
7 within that --

8 A I would say all four points are located at least a
9 half a mile but less than a mile from each other from the
10 crime scene location.

11 Q Okay. In leaving the Sunhouse and going to [REDACTED]
12 [REDACTED] Road, is that a direct route, one road straight
13 through?

14 A If you were to leave the Sunhouse, the most direct
15 route would be traveling east on Highway 905 and then
16 turning left onto [REDACTED] and heading straight to
17 it.

18 Q And then if you wanted to go to where the crime
19 scene is, you'd have to actually make a left turn? Is
20 that what you're saying?

21 A Yes, sir, on that little -- I believe it's Sandpiper
22 Lane.

23 Q And then go across and over there?

24 A Yes. You'd have to go across the Red Bluff -- north
25 on Red Bluff, across, and back around.

1 Q And if you left the Sunhouse and you took -- what's
2 this road? What is this road here? Highway 331 east.

3 A Yes, sir.

4 Q And if you took that road and you went straight
5 towards the crime scene, you'd have to cut across to go to
6 [REDACTED] Road?

7 A That's actually Highway [REDACTED], but yes, there is a
8 direct route from Highway [REDACTED] straight up to the crime
9 scene location, but you have to go north again and then
10 across, back down.

11 Q If you would come down for me, again, please. I
12 want to show you what's marked as State's Exhibit No. 8,
13 which is a map of some type. I want you to show this jury
14 how close in proximity all of these places are that we
15 have been discussing: [REDACTED] Road and the
16 Sunhouse.

17 A So, this particular dot right here is the Sunhouse.
18 This is at the intersection of 905 and Red Bluff Road.
19 [REDACTED] is the -- Highway [REDACTED] is the crime scene location.
20 And then [REDACTED] Road and [REDACTED] Road are
21 right there.

22 Q Thank you so much.

23 Now, just so I'm clear, you're not -- well, let me
24 rephrase that and ask it this way: You weren't present at
25 the crime scene; right? You weren't present there when

1 whatever happened happened?

2 A No, sir, I was not.

3 Q And -- so, you didn't see anybody there, let alone
4 Nasirea Grate?

5 A I did not witness the incident, no, sir.

6 Q Okay. All right.

7 Let me ask you: When you went to -- you went to
8 [REDACTED] Road, is that where you did your search
9 warrant?

10 A Yes, sir. [REDACTED].

11 Q All right. And when you went there to execute the
12 search warrant, who was there at that time?

13 A May I refer to my notes?

14 Q Yes, sir. Please.

15 A Detectives Fogle, Kelly, Jackson, Clauder, Dulina,
16 and Edward were the detectives that I recall being there
17 assisting me with the search.

18 Q Who was home at the house?

19 A That, I don't know. I do not recall the resident
20 being there by the time I arrived.

21 Q Okay. Was Nasirea Grate there?

22 A I do not believe so. No, I did not see him present
23 at the time of the search. From my understanding, he was
24 arrested at that location, which was the basis for the
25 probable cause of the search.

1 Q So, if he had been arrested, then he wouldn't be
2 there; right?

3 A By the time I got there, no, sir. He would have
4 been transported by that time.

5 Q All right. A lot of your conjecture here is based
6 on the fact that you saw a video of them at the Sunhouse
7 gas station 30, 45 minutes earlier; right?

8 A It was one of the sources of data we were able to
9 use to validate other records, yes.

10 Q And the assumption is, if they were all together at
11 the Sunhouse, then they must be all together when they do
12 that when something else happens; right?

13 A That's my inference at that moment in time.

14 Q Well -- and sometimes inferences aren't always
15 correct, are they?

16 A No, sir.

17 Q I don't have any other questions. Thank you.

18 THE COURT: Mr. Galtmore, cross-examination.

19 MR. GALTMORE: Y'all can take this down now.

20 MS. MARTIN: Yes, sir. I will. Give me one second.

21 CROSS-EXAMINATION

22 BY MR. GALTMORE:

23 Q So, Detective Marcus, are you the lead investigator
24 in this case?

25 A No, sir, I am not.

1 Q Okay. Who is the lead investigator on this case?

2 A That was Detective Tysheena May.

3 Q And where is Detective May?

4 A She's sitting in the courtroom.

5 Q Sitting behind the solicitor's table?

6 A Yes, sir.

7 Q African-American lady?

8 A Yes, sir.

9 Q Were you in charge of any evidence collection other
10 than what you pointed out at [REDACTED] Road?

11 A Physical evidence I collected at [REDACTED] Road,
12 I believe I was responsible for searching the -- I did the
13 forensic exam of all four phones: One from Mr. Conn, for
14 Dajon Grate, Nasirea Grate, and Mr. Dicker's. And then I
15 also obtained the search warrant for Nasirea Grate's phone
16 records, I believe, is all I'm responsible for as far as
17 evidence goes.

18 Q All right. So, any other evidence collection, would
19 Detective May be in charge of that?

20 A She's the case agent, so she would be responsible
21 for making sure items of evidence are collected. She
22 would direct the overall course of the investigation.

23 Now, she has several detectives that go out and do
24 different things that would process different scenes or
25 whatnot. That's what case agents do.

1 Q But as far as this case, she's the person in charge?

2 A She is the case agent, yes, sir.

3 Q What about witness interviews? Are you responsible
4 for those?

5 A My sole responsibility for this particular case was
6 just what I mentioned previously: the search for evidence
7 at [REDACTED] Road, the analysis of those phone
8 records, the examination of those cell phones. I reviewed
9 some of the DVR footage from the Sunhouse.

10 Q Okay. So, you didn't interview any witnesses?

11 A No, sir.

12 Q The person in charge of interviewing witnesses would
13 have been Detective May?

14 A She was in charge of the entire investigation.

15 Q Let me hand you what's been marked for
16 identification as State's Exhibits 207 through 214 and ask
17 you if you recognize these.

18 A Yes, sir. These are some of the photographs that I
19 took during my search of the [REDACTED] Road address.

20 Q Okay. You said some of them. That's not all of
21 them?

22 A No, sir, not all of them.

23 Q Did you take a photograph of any firearms at [REDACTED]
24 [REDACTED]?

25 A No firearms.

1 Q Okay. Does that mean you did not recover a firearm
2 over on [REDACTED] Road?

3 A We did not recover a firearm from [REDACTED]
4 Road.

5 Q Because, if you did, you would have took a picture
6 of it?

7 A Absolutely.

8 Q Okay. So as far as this .45 caliber handgun that we
9 heard reference to, you did not collect it?

10 A I have not collected a .45 caliber handgun, no, sir.

11 Q Or a 9mm?

12 A I did not collect any firearms during the course of
13 this investigation.

14 Q Okay. You did collect a hat/ski mask that has been
15 marked as State's Exhibit No. 4; is that correct?

16 A Yes, sir.

17 Q Okay. So, you didn't recover any weapons, but you
18 did recover a ski mask and you recovered a telephone that
19 was in the washing machine; is that correct? Dishwasher?

20 A It was a dishwasher, yes, sir.

21 Q Had it been washed?

22 A It appeared dry at the time of my collection.

23 Q Let me hand you what's been marked for
24 identification as State's Exhibit No. 28. Do you
25 recognize those?

1 A Yes. These are South Carolina identification cards
2 for Nasirea Grate.

3 Q Are those the same cards that are depicted in
4 State's Exhibit 211?

5 A Yes, sir.

6 Q Okay. Now, when you took this picture, State's
7 Exhibit 211, were these cards just simply laying on the
8 bed next to each other?

9 A No, sir. They were found in a wallet that was
10 inside of a backpack found inside of one of the rooms in
11 the house.

12 Q Would that be the wallet that's displayed in this
13 picture, State's Exhibit 211?

14 A Yes, sir.

15 Q So, how did the IDs end up laying next to each other
16 on the bed?

17 A We pulled the IDs out of the wallet and laid them
18 down so we could take a picture of all the items from that
19 wallet. There are two or three financial transaction
20 cards in there as well.

21 Q When you say "we," you're talking about you; right?

22 A Yes, sir.

23 Q So, you took these IDs out of the wallet and lined
24 them up on the bed and took a picture of them?

25 A Yes, sir.

1 Q Okay. So, this evidence has been manually adjusted
2 from its found location?

3 A It was found in the wallet. The wallet was
4 collected. We do an inventory of the wallet before we
5 turn it in to Property and Evidence. So, I took the time
6 to take that stuff out at that time and take a picture of
7 it to show that it was found at that house.

8 Q So, you posed those identification cards?

9 A I simply laid them out so I could take a picture of
10 them.

11 Q Okay. Because that was not how they were found?

12 A No. They were found inside the wallet. And I
13 believe the wallet is a bifold or trifold wallet, and it
14 was closed up and inside of a bag.

15 Q Let me hand you what's been marked as State's
16 Identification 212. Do you recognize that?

17 A Yes, I do.

18 Q And what is that?

19 A That is the ski mask -- mask/hat being held up so I
20 could take a picture of it as well.

21 Q Okay. And who is that holding the mask up?

22 A That should be Detective Blake Clauder.

23 Q Okay. Was that the original location where this
24 mask was found?

25 A It came from the backpack that should be on the

1 floor right below the mask or right at his feet. The same
2 backpack that the wallet and ID were found in.

3 Q Much like the identification, it has been moved by a
4 detective and then a picture was taken of it?

5 A It was picked up so someone could clearly see it,
6 and then the picture was taken. Yes, sir.

7 Q Okay. Because this is not the original condition it
8 was found. It was not found in someone's hand?

9 A It was not found like this, no, sir. It was found
10 inside of a backpack.

11 Q It was posed if for a picture?

12 A Yes.

13 Q Now, in State's Exhibit 212, we see some money. Is
14 there any indication that this money belongs to Kalik
15 Conn?

16 A The money was found in the backpack, as well as the
17 mask and the wallet, we were -- we believed that there was
18 money missing from Mr. Conn. So the money was collected
19 and turned in to Property and Evidence.

20 Q Okay. First, the money was moved, and it was not
21 originally found in the chair; is that correct?

22 A No, sir. It was found in the backpack.

23 Q Okay. So, much like the face mask and the ID, it
24 was moved by police officers?

25 A We would have to pick it up out of the backpack and

1 put it on a flat surface to take a picture of it, yes.

2 Q And then you took a picture of it after you moved
3 it?

4 A Yes, sir, so we could clearly document what we
5 think.

6 Q All right. Now, in clearly documenting, did you
7 determine whether that money was Kalik Conn's money?

8 A My job was to collect the evidence; not to determine
9 where it belonged. So I collected it. It was counted,
10 turned in, and packaged and turned in to Property and
11 Evidence.

12 Q Did you attempt to lift any latent prints off of the
13 money?

14 A No, sir.

15 Q Did you attempt to swab it for any DNA?

16 A No, sir.

17 Q Do you have any indication that that money belonged
18 to Kalik Conn?

19 A Again, that's not a part of my particular role in
20 this investigation. All of that processing would have
21 been conducted by crime scene investigators if it was
22 something that could be done.

23 Q Would the lead investigator be able to tell us if
24 that money belonged to Kalik Conn?

25 A I have no idea, sir. I'm not her.

1 Q But she is here?

2 A She is here.

3 Q Okay. Now, before lunch, I asked you if you worked
4 for Verizon or AT&T or T-Mobile. Do you now work for
5 Verizon or AT&T or T-Mobile?

6 A No, sir. I work for the Horry County Police
7 Department.

8 Q Okay. And, before lunch, I asked you if you
9 received any training from any of those service providers.
10 Have you received any training from AT&T, T-Mobile, or
11 Verizon?

12 A No, sir. All of my training comes from either
13 third-party forensic examining tool providers or from law
14 enforcement.

15 Q So Cellebrite gives you the equipment, and
16 Cellebrite tells you how to operate it?

17 A Yes. That is a forensic tool we use for phones.

18 Q Okay. What version of Cellbrite did you use in this
19 case?

20 A That, I could not tell you without having a copy of
21 the report in front of me.

22 Q Do you have a copy of your report?

23 A The Cellebrite report is several thousand pages
24 long, so no, I did not print that.

25 Q Okay. You didn't bring it with you?

1 A No, sir.

2 Q Okay. What version of Cellebrite is used by law
3 enforcement today?

4 A I believe Cellebrite Inseyets, which is the latest
5 version of their tool, is at Version 10.3.

6 Q Okay. And you couldn't tell us what version you
7 used to get all this information off of these phones?

8 A Two years ago? No, sir. They publish updates on an
9 infrequent basis. At that point in time, I couldn't tell
10 you where it was at. I do know that it was Software
11 Version 7, but what version of Software Version 7, I
12 couldn't tell you.

13 Q So, it is possible that the information you're
14 giving us is based on outdated Cellebrite material?

15 A No. At that time, it was current.

16 Q Today, it's outdated; correct?

17 A Today? Yes. They use a much more current version
18 of things, but at the time, it was current.

19 Q And you have the ability to go back and check all of
20 your Cellebrite data right now if you needed to; correct?

21 A I could go back and reparse the image if -- yes,
22 sir.

23 Q However, what you have done is brought us the
24 material based on the information from 2022; is that
25 correct?

1 A It was actually 2023 when I conducted my analysis.

2 Q Okay. Now, you extracted data from several
3 different phones. What kind of extraction did you use?

4 A I used a tool called Magnet's Graykey to conduct the
5 actual imaging of the phones, and then I took that image
6 and parsed it through Cellebrite's physical analyzer.

7 Q So, there are different types of extractions; is
8 that correct?

9 A There are different levels and it just depends on
10 how much information you would get.

11 Q And what are those levels called?

12 A So, you could get what's called a partial BFU, which
13 is the most secure level or the most encrypted level. You
14 would get the least amount of information that you could
15 actually parse out and read.

16 You could get something called a partial AFU, or
17 After First Unlock, which is about 80 or 90 percent of the
18 information that you could parse out and actually read.
19 Some of it is encrypted with passcode if the device wasn't
20 able to obtain.

21 And then you would -- the next level up would be a
22 full file system, which is all of the available
23 information that is on that phone.

24 And then the most accurate that you could get is
25 called a physical image of the device.

1 In this particular instance, I was able to get full
2 file system images on all four of these phones.

3 Q So, you did Level 3 but not the physical extraction?

4 A It was called a physical image. And when you have
5 phones that have a file-based encryption, you can't
6 necessarily do a physical image of the device. It would
7 have to be an older phone to be able to do a physical
8 image of the device.

9 Q So, these things are like cups of coffee; they come
10 in small, medium, and large?

11 A Depending on the type of tool being used and the
12 type of phone that you're examining, you could get certain
13 levels of information.

14 Q And you gave us Level 3 out of 4; would that be fair
15 to say?

16 A I collected the most information available at that
17 time. It would also be the most information available
18 today.

19 Q Okay. So, you gave us a full file extraction.
20 That's the term you used; correct?

21 A Yes, sir.

22 Q Okay. And but there is still a physical image
23 extraction that you did not perform on these phones?

24 A Could not perform on these phones. iPhones -- the
25 forensic tools that we use have not figured out how to be

1 able to conduct a full physical image of the memory on the
2 phone.

3 The only difference between a full file system
4 extraction and a physical extraction is just the
5 unallocated space that's left over. So it has pulled all
6 of the files or it has examined all the files on the
7 phone, all the space that's being used, but any space
8 that's available, it did not pull anything from it.

9 Q The difference is that you didn't do it.

10 A Could not do it.

11 Q Could not do it.

12 A A forensic tool is not available to do that. Most
13 data that is accessible on these phones, I pulled or
14 imaged off of these phones.

15 Q Okay. Now, you identified my client's phone based
16 on information on the phone about his medical records?

17 A And other user attribution information, yes. There
18 were numerous photos, again, in that selfie-style format
19 on his phone. One of several things that I remember off
20 the top of my head.

21 Q Okay. Now, you showed us surveillance video of
22 Mr. Dicker at Mr. Conn's car at 1:32 p.m.; is that
23 correct?

24 A That's about the right time frame, yes, sir.

25 Q All right. Do you have any audio recordings of that

1 meeting between Mr. Dicker and Mr. Conn?

2 A No, sir.

3 Q Can you tell us what was said in that transaction
4 between Mr. Dicker and Mr. Conn?

5 A No, sir.

6 Q You couldn't get that off the cell phones, could
7 you?

8 A No. That information came from the surveillance
9 video from the store, not from a cell phone.

10 Q Now, you indicated that, at approximately 1:47,
11 Mr. Dicker called Mr. Conn's cell phone; is that correct?

12 A There was a network connection between Mr. Dicker's
13 phone and Mr. Conn's phone, yes, sir.

14 Q Okay. So, did Dicker call Conn, or did Conn call
15 Dicker?

16 A I would have to see my particular slide to be able
17 to tell you. I believe it was an outgoing phone call at
18 1:47 p.m.

19 Q Outgoing from who?

20 A Mr. Dicker to Mr. Conn, I believe is what my slide
21 said.

22 Q Okay. Do you have any recording of the conversation
23 between Mr. Dicker and Mr. Conn?

24 A No, sir. These were historical records. That type
25 of information is not stored by the phone companies

1 themselves.

2 Q Okay. So, for all of the extractions you have done
3 on all these phones, you do not have telephone recordings
4 of their conversations?

5 A No. Most cell phones do not record the actual
6 conversations that one person would have with another
7 during any connection. You would have to have a special
8 app and physically set that up for you to record that
9 information. In its normal format, audio recordings don't
10 normally occur.

11 Q That's right. So, none of these phones, you don't
12 have any audio conversations?

13 A I don't have any audio conversations from that point
14 in time, no, sir.

15 Q And, generally speaking, for the ladies and
16 gentlemen at home with a cell phone, nobody is recording
17 their conversations; is that correct?

18 A To my knowledge, no, sir.

19 Q Were you able to find any evidence that Dajon Grate
20 called Kalik Conn?

21 A No, I did not see any connections -- phone
22 connections between Dajon Grate's phone and Kalik Conn's.

23 Q Did you have any evidence of Dajon Grate calling any
24 of these people?

25 A During that particular time frame? No. During

1 other time frames on that -- in the phone, yes, there were
2 connections between the different phones. Let me be a
3 little bit more accurate: There was connections between
4 Nasirea Grate's phone and Mr. Dajon Grate's phone and
5 Mr. Dicker's phone, not during that time, but at other
6 points in time in the information pulled from the phones.

7 Q At other points in time?

8 A Yes. For instance, like a day or two before, you
9 know, several weeks before, things like that. It was
10 obvious that those phones had communicated with each other
11 before.

12 Q So, your best evidence is, a day or two before, my
13 client might have been in contact with one of these other
14 three gentlemen?

15 A I don't understand the question.

16 Q Okay. You don't have to.

17 Were you able to find any text messages between my
18 client's phone and any of these other phones?

19 A I do not recall if there were text messages, but
20 there were, I believe, social media messages.

21 Q Well, if there were, you would have shown them to
22 us; correct?

23 A I believe those messages were outside of the date
24 and time in question today.

25 Q Okay. We're back on that again.

1 So, did you have any messages -- any text messages
2 between my client and Kalik Conn?

3 A No.

4 Q Okay. Did you have any text messages between my
5 client and either Dicker or Nasirea Grate?

6 A Again, I don't recall if there were specific text
7 messages or if they were social media messages, say, for
8 instance through Snapchat. I do recall that Snapchat was
9 heavily used on that phone.

10 Q Did you show us any Snapchat messages between my
11 client and Mr. Grate or Mr. Conn or Mr. Dicker?

12 A No, sir.

13 Q Now, the only message you did show us was a message
14 between Mr. Conn and Mr. Dicker at approximately
15 2:02 p.m.; is that correct?

16 A I believe the first one was at 1:49 p.m. and then
17 2:02.

18 Q Okay. Who sent the message at 1:49 p.m.?

19 A That came from Mr. Dicker's phone.

20 Q And that was a message to Mr. Conn?

21 A Yes, sir.

22 Q And what was that message?

23 A I believe it was the address for the crime scene
24 location.

25 Q Okay. Did Dajon Grate send a message to Mr. Conn

1 with the address of the crime scene location?

2 A I'm sorry. Can you say that again?

3 Q I said, did Dajon Grate send a message to Mr. Conn
4 with the address of the crime scene location?

5 A So the information came from Mr. Dicker's phone.

6 Q Mr. Dicker's phone?

7 A Yes, sir.

8 Q Is there any message between Mr. Dicker's phone and
9 Dajon Grate's phone regarding the crime scene location?

10 A No, sir.

11 Q Is there any message between Dajon Grate's phone and
12 Mr. Dicker's phone regarding a potential robbery?

13 A No, sir, none that I saw.

14 Q So, at best, what you presented to this jury was
15 evidence between Dicker and Conn and nothing between Dajon
16 Grate and Conn?

17 A The communication between Mr. Conn and the
18 parties -- Mr. Grate, Mr. Grate, and Mr. Dicker appeared
19 to all have been through Mr. Dicker's phone.

20 Q So, that's a nice way of saying Dicker was in
21 contact with Conn, not Dajon Grate?

22 A The evidence I saw showed that Mr. Dicker and
23 Mr. Conn were in communication with each other.

24 Q Okay. And had you had evidence that Dajon Grate was
25 in communication with Mr. Conn, you would have presented

1 it to this jury today?

2 A Yes, sir.

3 Q Now, I believe Conn had some kind of alias or code
4 name or something on his phone. What was he called? Hood
5 Rich Leak (ph) maybe?

6 A Something along those lines, yes, sir. I don't have
7 information that directly in front of me right now. That
8 would be on my slide presentation.

9 Q Okay. But just to be clear, that Hood Rich (ph)
10 person is not Dajon Grate, is it?

11 A No.

12 Q Now, you have given us Dajon Grate's phone, Nasirea
13 Grate's phone, Jeremiah Dicker's phone, and Kalik Conn's
14 phone. Where is Todd Fry's phone?

15 A I don't know if it's in the courtroom today or if
16 it's at Property and Evidence. One of the two. But I do
17 know that it was collected during the course of this
18 investigation.

19 Q It was collected in evidence?

20 A Yes, sir.

21 Q Was his phone extracted or downloaded like these
22 others were?

23 A So, back in 2022, I was tasked with transporting it
24 to Myrtle Beach Police Department where I believe it was
25 Master Corporal Andrew Curry conducted an exam of that

1 phone.

2 Q Myrtle Beach got the Graykey; right?

3 A At the time, Myrtle Beach had the tools needed to do
4 the phone, yes.

5 Q Because Graykey is more powerful than Cellebrite?

6 A It depends on the make and model of the phone.

7 Q His phone was specifically supposed to have been
8 downloaded by Myrtle Beach with their Graykey software?

9 A At the time, Mr. Dicker's phone, Mr. Gray -- or
10 Dajon Grate's phone and Kalik Conn's phone were also
11 transported to Myrtle Beach City; however, Mr. Fry's phone
12 was the only one that could be downloaded at the time
13 because the software the other three phones had on it were
14 much more up to date and Graykey could not access the
15 phones at that time.

16 Q So, Graykey did access Mr. Todd Fry's phone?

17 A Yes, sir.

18 Q And you were not responsible for accessing Mr. Todd
19 Fry's phone?

20 A No. At the time, my job was just to transport the
21 phones to Myrtle Beach City and have them do that exam.
22 At the time, when I returned them to Property and
23 Evidence, I was informed that Mr. Fry's phone was the only
24 one out of the four phones that could be accessed.

25 Q So, who has the results of Mr. Todd Fry's

1 extractions?

2 A I imagine that would be the case agent.

3 Q That would be Detective May, the lead investigator?

4 A Yes, sir.

5 MR. GALMORE: No further questions. Thank you, sir.

6 THE COURT: All right. Before redirect, we're going
7 to take a break. We have been at it a little over two
8 hours.

9 Ladies and gentlemen, we're going take a break, 10
10 or 15 minutes, give you an opportunity to stretch your
11 legs, get something to drink, whatever the case may be.

12 Leave your notepads in the jury box. Do not discuss
13 the case even among yourselves. We'll bring you back in
14 about 10 or 15 minutes.

15 (The jury exited the courtroom at 3:41 p.m.)

16 THE COURT: All right. Officer Marcus, we're still
17 in your testimony, so you cannot discuss your testimony
18 with anyone.

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: Anything from the State before we
21 recess?

22 MS. MARTIN: Nothing from the State.

23 THE COURT: Mr. Wilson?

24 MR. WILSON: No, sir.

25 MR. GALMORE: No, sir.

1 THE COURT: All right. Let's take about a 15-minute
2 break and we'll come back.

3 (A recess was taken from 3:42 p.m. to 4:01 p.m.)

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

6 MS. MARTIN: Nothing from the State.

7 MR. WILSON: Nothing, Your Honor.

8 MR. GALMORE: No, sir.

9 THE COURT: All right. Let's bring the jury in.

10 (The jury entered the courtroom at 4:04 p.m.)

11 THE COURT: All right, ladies and gentlemen.
12 Welcome back. Please make sure you have your own notepads
13 and no one else's.

14 All right. Ms. Martin, redirect?

15 MS. MARTIN: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MS. MARTIN:

18 Q I believe Mr. Wilson asked you about Slide No. 44.

19 And of course...

20 Let's see. Did I do it right?

21 About showing his client Nasirea Grate's phone
22 moving. Do you recall that?

23 A Yes, I do.

24 Q And you didn't really get to finish your answer; is
25 that right?

1 A Honestly, I don't recall.

2 Q Did you get to show the full movement of the
3 per-call measurement data?

4 A From the Sunhouse to the crime scene, no.

5 Q No? Okay.

6 A I believe that would be Slide 43.

7 Q 43. Okay. Let's see if I can get this to play
8 because I don't know how. Well, it looks like it's
9 playing now.

10 A Yes, ma'am.

11 Q Will you explain to the jury, when you see it, how
12 you can tell that the phone is moving, that Mr. Nasirea
13 Grate's phone is moving?

14 A Prior to this particular slide starting, the
15 per-call measurement data was showing distance line that
16 was marking across what's labeled the Sunhouse.

17 Just a moment ago, you saw the tower connections
18 that showed the distance like marking in the area above --
19 in between the crime scene and the location that says [REDACTED]

20 [REDACTED] Road because --

21 Q I started moving.

22 A That's okay.

23 Right about in here. Those distance lines are much
24 further apart from where they were previously. That
25 indicates movement of that device.

1 Q And do those distance lines continue to move for
2 this slide?

3 A Yes. So, as they continue on, you'll see that this
4 last distance line is in between the area where the crime
5 scene pin is and the pin for [REDACTED] Road. In a moment,
6 you'll see the distance line cut right across the area of
7 the crime scene, or where the pin is at where it says,
8 "crime scene."

9 And then, from there, you see those connections.
10 They are pretty much the same tower, direction, and
11 distance for the next several moments. So there's
12 approximately 18 connections between I believe it was 1:47
13 and 2:06 p.m., if I recall my slide correctly.

14 Q But now it's kind of staying still -- is that right?
15 -- at this point?

16 A The tower -- the antenna being used, the distance
17 lines, they're all consistently the same, so that
18 indicates to us that the device is not moving and it could
19 be stagnant.

20 Q And would that be consistently the same within the
21 area of the crime scene?

22 A Yes. Those distance lines are cutting across the
23 exact distance that it would be from the tower to the
24 crime scene.

25 Q I'm just going to switch and go to the last slide on

1 your...

2 Now, going back to Mr. Wilson's questions to you, I
3 think his last question was about assumptions. Does that
4 sound about right to you?

5 A Inference.

6 Q About inferences. Okay.

7 Is it an assumption -- are you assuming the sector
8 or is that given to you?

9 A No, the sector is given to me.

10 Q Okay. And is --

11 MS. MARTIN: Lacey, get me on the line.

12 Beg the Court's indulgence.

13 THE COURT: All right.

14 MS. MARTIN: Okay. Now, Lacey, go up to the crime
15 scene please, ma'am. Okay.

16 BY MS. MARTIN:

17 Q And that orange line that's running directly through
18 the crime scene, are we making an inference with the
19 per-call measurement data there?

20 A The per-call measurement data that's displayed on
21 this screen shows that the distance from the tower to
22 Mr. Nasirea Grate's phone cuts through the crime scene.
23 It is that far from the tower.

24 Q Okay. And on State's Exhibit 7, that per-call
25 measurement data, is the line cutting across [REDACTED]

1 Road?

2 A No.

3 Q Okay. Would be the line be cutting across [REDACTED]

4 [REDACTED] Road?

5 A No.

6 Q Okay. Where is it cutting across?

7 A The area of the crime scene.

8 Q Okay. Based on your expert opinion as a totality,
9 does this put Nasirea Grate's phone at the crime scene at
10 the time of the crime?

11 A In looking at all of the records that I looked at
12 for this particular phone, this device as well as all the
13 other devices, it's my opinion that that phone would be at
14 the crime scene. These call detail records are consistent
15 with the device being at the crime scene.

16 Q Okay. Now, we had some talk about -- from
17 Mr. Galmore -- about texts being -- coming from -- excuse
18 me -- about there being, if there were any texts, between
19 Kalik and Mr. Dajon Grate or Mr. Nasirea Grate; is that
20 right?

21 A I remember the conversation, yes.

22 Q Okay. And were there any texts?

23 A Between?

24 Q Between Dajon Grate and Kalik Conn?

25 A No.

1 Q Nasirea Grate and Kalik Conn?

2 A No.

3 Q And at the time of the -- at the time that this
4 presentation covers, that's a pretty limited time?

5 A From about 12:25 p.m. till just after the incident
6 which was about-- the incident occurred around 2:06 p.m.
7 My presentation ends at about 2:15 p.m. at the latest.

8 Q And what about text messages between these two
9 defendants, Dajon Grate and Nasirea Grate?

10 A I don't recall seeing any messages between the two
11 of them during that time frame.

12 Q And Mr. Dicker and Nasirea Grate?

13 A Don't recall seeing any messages between Mr. Dicker
14 or Nasirea Grate during that time.

15 Q And then Dajon and Mr. Dicker?

16 A I don't recall seeing any messages between Dajon
17 Grate and Mr. Dicker.

18 Q What about with Todd Fry?

19 A Again, no, not during that time frame.

20 Q And if you're sitting in a car with somebody, are
21 you typically texting each other in the car together?

22 A Not usually, no.

23 Q Okay. Is that because you can look at somebody
24 face-to-face and talk with them?

25 A Yes, ma'am.

1 Q Now, you were also asked about identifying Dajon
2 Grate's phone. Do you recall that question?

3 A Yes.

4 Q And the question, I believe, was that you used
5 medical identification to identify Dajon Grate's phone as
6 being the phone of Dajon Grate.

7 A Yes. Some of the user attribution found in the
8 phone, things specific to a person using a phone, was in
9 that medical ID section of the phone. In case of an
10 emergency, you know, this is who I am, this is a picture
11 of me. iPhones and some Android's have that feature on
12 them.

13 Q Is that also the phone that Dajon Grate has
14 stipulated to being Dajon Grate's cell phone?

15 A Yes.

16 Q Okay. And where was that cell phone found?

17 A In the backseat of Kalik Conn's car by crime scene
18 investigators after their response to the scene.

19 Q And at the time that the crime occurred, where was
20 that phone?

21 A At the crime scene.

22 Q One other question about Cellebrite real quick: You
23 said that you used Cellebrite in 2023 to extract these
24 phones?

25 A I used Magnet's Graykey to conduct the imaging of

1 the phone but I used Cellebrite's physical analyzer to
2 take the data and make it in to a readable format where it
3 could be processed through and examined.

4 Q Is the data still reliable here today in 2024 as it
5 was in 2023?

6 A Yes, ma'am.

7 MS. MARTIN: Okay. Hold on one second, beg the
8 Court's indulgence.

9 THE COURT: All right.

10 MS. MARTIN: No further questions.

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

12 MS. MARTIN: May he be released from his subpoena?

13 THE COURT: Any objections?

14 MR. WILSON: Yes, sir. There -- may we approach?

15 BENCH CONFERENCE

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

18 MR. WILSON: Judge, I want him to stay because what
19 he said when I was on cross to me was is that he couldn't
20 get anything from the cell phone of Todd Fry. When
21 Mr. Galmore was questioning him, he told him that he did
22 get stuff from there but they haven't turned it over to us
23 or at least I haven't gotten it.

24 THE COURT: Okay. So, what is it you're wanting to
25 do?

1 MR. WILSON: Well, I may need to recall him, but I
2 want to check with the court reporter to make sure that
3 I'm right first. Not right now because I'll do that
4 before I call him.

5 THE COURT: Well, we'll go ahead -- I'm not going to
6 release him from his subpoena and he'll be subject to
7 being called back if we need him. Okay?

8 MS. MARTIN: But he doesn't need to be here.

9 MR. WILSON: He can leave.

10 MS. MARTIN: Thank you.

11 (Open court resumes as follows:)

12 THE COURT: All right. He's still subject to his
13 subpoena upon recall, but he's free to go. But you need
14 to come back. You're still subject to your subpoena.
15 Okay?

16 THE WITNESS: Yes, Your Honor.

17 THE COURT: The State can call your next witness.

18 MS. LIVESAY: Thank you, Judge. Robert Graham.

19 ROBERT GRAHAM,

20 after having been duly sworn, was examined and
21 testified to as follows:

22 THE CLERK: Please state your name and spell it for
23 the Court.

24 THE WITNESS: Robert Graham. R-o-b-e-r-t
25 G-r-a-h-a-m.

1 THE COURT: Sorry. Could you spell your last name
2 again?

3 THE WITNESS: G-r-a-h-a-m. Graham.

4 DIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Mr. Robert, if you don't mind, tell these folks
7 where you live.

8 A Red Bluff.

9 Q What's your exact address?

10 A Excuse me?

11 Q What's your exact address in Red Bluff?

12 A [REDACTED] Road.

13 Q And these folks can't hear you, Mr. Robert.

14 A [REDACTED] Road.

15 Q Okay. And how long have you lived there?

16 A About 18 years.

17 Q 18?

18 A Yeah.

19 Q Okay. And who else has lived in the house with you?

20 A Who lives in there now?

21 Q Who lived in it in May of 2022?

22 A My girlfriend, her grandchildren.

23 Q Okay. Who is your girlfriend?

24 A Gail Grate.

25 Q I'm sorry? What's that first name?

1 A Gail Burson (ph).

2 Q And the last name, Grate?

3 A Burson.

4 Q Okay. And who are the grandchildren?

5 A Dajon and Nasirea.

6 Q And those are the two defendants?

7 A Yes.

8 Q Okay. And are they your grandchildren or her
9 grandchildren?

10 A Her grandchildren.

11 Q Okay. And they were living at the house in [REDACTED]
12 Road in May of 2022 with y'all; is that correct?

13 A Yeah, I would say so.

14 Q Okay. And another boy has been mentioned in here,
15 Todd Fry. Does that name ring a bell to you?

16 A No.

17 Q Okay. Did they ever have any boys staying around
18 there?

19 A There's quite a few, but I don't know none of them
20 name. I didn't know them. I didn't associate with none
21 of them. Didn't bother them.

22 Q Okay. Okay. And, at that time, did either Dajon or
23 Nasirea have a car?

24 A Not as I know.

25 Q Didn't have no kind of vehicle?

1 A No.

2 Q Now, do you remember the day that Dajon was shot and
3 come back to the house?

4 A Yeah, I think I do.

5 Q I'm sorry?

6 A I think I do.

7 Q Okay. You think you do. Good.

8 A I was...

9 Q When you woke up that day, was Nasirea and Dajon at
10 home?

11 A It was a yard full of them.

12 Q It was a yard full of them?

13 A Yeah, but I don't know them.

14 Q Who all was there?

15 A I don't know. I don't know who they was. I was in
16 my bed.

17 Q Okay. But do you remember seeing Dajon shot,
18 injured, out there in the yard?

19 A I can't say. I mean, they was talking and hollering
20 just like they normally do.

21 Q Okay. So, who was out there talking and hollering?

22 A Like I say, I don't recall who they was.

23 Q You didn't know -- did you see Dajon Grate shot?

24 A I seen -- yeah.

25 Q You did see him shot?

1 A Yeah. I seen him lay -- I didn't see him shot, but
2 I seen him on the ground.

3 Q You saw him on the ground. Was he bleeding?

4 A I don't know. I didn't go all the way out there.

5 Q You just saw him on the ground?

6 A Yeah.

7 Q Did you call 911?

8 A No, ma'am.

9 Q Why didn't you call 911?

10 A Because it wasn't none of my business.

11 Q Okay. So, you saw Dajon Grate that day on the
12 ground. At [REDACTED] Road?

13 A That's where I live at.

14 Q Okay. And that's where you saw him out there on the
15 ground?

16 A Yes.

17 Q Okay. And did you see Nasirea Grate out there with
18 him?

19 A I don't know. Like I said, it was a bunch of fellas
20 out there. I don't bother them fellas. If they're making
21 a lot of noise, I go out the door and say, "Calm it down"
22 and go back in my house.

23 Q Okay. Do you remember -- Nasirea Grate was living
24 with you at the time; correct?

25 A Yeah.

1 Q Okay. Was he out there when Dajon Grate was out
2 there laying on the ground?

3 A I don't know. Like I say, it was a bunch of them
4 little fellas around in there. And when I get up in the
5 morning time, I can't -- my eyesight don't be -- because I
6 got cataracts on my eyes, I can't --

7 Q Okay. Do you remember that man in the back of the
8 courtroom, Investigator Steve Brown? Do you remember
9 talking to him?

10 A Which one?

11 MS. LIVESAY: Will you stand up, Mr. Brown.

12 BY MS. LIVESAY:

13 Q Do you remember talking to him, him coming to your
14 house and talking to him?

15 A Along with y'all?

16 Q Do you remember him?

17 A I remember a man coming there, yeah, I do. But I
18 don't know whether it was him or not.

19 Q Okay. And do you remember telling him that you saw
20 Dajon Grate out there in the yard, shot?

21 A No, I didn't say he was shot because I didn't know.
22 My thing I told you I was just getting up out of the bed.

23 Q Okay.

24 A And I don't know what was going on. He could have
25 been out there just -- just playing around. I don't know.

1 All I wanted him to do was calm that noise down.

2 Q Okay. So, he was out there on the ground,
3 hollering. That's what you told Steve Brown?

4 A Not hollering. He sounded like he was talking to
5 somebody but I didn't know who. I still don't know who.

6 Q Do you remember telling Steve Brown that --

7 MR. WILSON: Your Honor -- Your Honor --

8 THE COURT: Hold, please.

9 MR. WILSON: This is her witness, and now she's
10 attempting to impeach him. And I think there is a process
11 for that, if that's what she intends to do. This is her
12 witness.

13 THE COURT: Well, I don't know that she's exceeded
14 that yet. I'm going to allow the questioning.

15 Go ahead.

16 BY MS. LIVESAY:

17 Q Do you remember somebody coming out and interviewing
18 you; correct?

19 A Yeah, I remember you and the lady right there.

20 Q That's right.

21 And do you remember a White male, too?

22 A Yeah.

23 Q So, all three of us were out there talking to you;
24 correct?

25 A Yeah.

1 Q Okay. And do you remember telling us at that time
2 that Nasirea Grate and Dajon Grate were staying in the
3 house on May 31st when Dajon had been shot? Do you
4 remember that?

5 A Yes, they was there. They stayed there.

6 Q Okay. And you remember telling us that Todd Fry had
7 also spent the night over there? Do you remember that?

8 A Don't remember that now. I can't tell you that
9 because, like I said, it was so many of them little fellas
10 around up over there. I don't know who was who.

11 Q Okay. Do you remember telling us that, the night
12 before, Todd Fry had spent the night?

13 A No, I don't know that.

14 Q Okay. Do you remember telling us, when Dajon got
15 back, it was Dajon Grate, Nasirea Grate, and Todd Fry out
16 there in the yard? Do you remember that? Do you remember
17 telling us that?

18 A I remember the car y'all was talking about. The
19 Cadillac.

20 Q Yes.

21 A I remember that part.

22 Q Okay. And so, you remember telling us that Dajon
23 Grate, Nasirea Grate, Todd Fry, and the Cadillac were all
24 out there? That's what you told us?

25 A Well, if you say I did, I did.

1 Q Okay. And where were you sitting earlier before you
2 took the stand? Were you in here?

3 A Yeah.

4 Q Okay. Where were you sitting?

5 A Back over there.

6 Q Okay. Behind Dajon Grate and Nasirea Grate?

7 A Behind both of them.

8 Q Okay. And do you remember me and Mr. Brown came out
9 there again; do you remember that -- a second time to meet
10 with you? Do you remember that?

11 A I remember you and your other lady there.

12 Q Okay.

13 A But the other lady wasn't with y'all the last time
14 you come out. Am I right?

15 Q That's right. So, you remember that?

16 A Yeah. But just like I say, I don't know whether it
17 was that gentleman there or not. But you did have a
18 gentleman with you.

19 Q Okay. And, on that day, you told us, on the morning
20 of the incident when you woke up, the boys had already --

21 MR. WILSON: Your Honor --

22 THE COURT: Sustain the objection. You can't get in
23 -- you ask him what he said and then you can give him
24 something to refresh his memory.

25 MS. LIVESAY: Certainly.

1 THE COURT: But you can't testify to the jury as to
2 what he said or as to what you're saying he told you. You
3 can't do that.

4 MS. LIVESAY: I can impeach my own witness, though;
5 correct?

6 THE COURT: You can impeach your own witness if you
7 have a statement from him that shows what he says and he
8 gives -- you have to ask him what he said or did he say
9 this. And if he denies it, then you show him the
10 statement that he gave.

11 MS. LIVESAY: Certainly.

12 Can you mark this, Ms. Bobbi?

13 MR. GALMORE: Your Honor, that's not his statement.

14 THE COURT: If that's not his statement -- you can't
15 use something you prepared to impeach him.

16 MS. LIVESAY: That was the statement he gave us.

17 THE COURT: Yeah. But you can't -- unless he
18 prepared that, you can't use it to impeach his testimony.

19 MS. LIVESAY: But I can call Mr. Brown to impeach
20 him.

21 MR. GALMORE: She can be a fact witness, Your Honor.

22 THE COURT: Just ask --

23 MS. LIVESAY: For now, Ms. Bobbi, can you mark this
24 for us?

25 THE COURT: All right. What is that? State's

1 exhibit what?

2 COURT STENOGRAPHER: 224.

3 (State's Exhibit No. 224, Brown Statement, was
4 marked for identification.)

5 BY MS. LIVESAY:

6 Q Mr. Brown, you remember us coming out to your house?

7 A Yeah.

8 Q You remember that?

9 A Mm-hmm.

10 Q And do you remember a White male as well with us?
11 Do you remember that?

12 A Right, yeah.

13 Q And you remember him taking notes?

14 A Excuse me?

15 Q You remember him out there writing things down,
16 taking notes?

17 A I don't know. You was taking notes too. You and
18 her. All three of y'all was taking notes.

19 Q Okay. And do you remember telling us that, when you
20 woke up, you didn't see those boys until they came back
21 and Dajon had been injured?

22 A No. I didn't say that because I don't even know
23 when they left or nothing. I thought everybody was in the
24 house or outside. That's where they usually be when I get
25 up.

1 Q Okay. You get up that day and what do you see?

2 A What did I see?

3 Q Yes.

4 A Just like I say, a bunch of little fellas out there
5 in the yard.

6 Q Okay. And do you remember telling us that it was
7 Dajon Grate, Nasirea Grate, and Todd Fry out there? Do
8 you remember telling us that?

9 A I remember telling you there was a bunch of guys
10 outside. And I went out there and asked them to calm the
11 noise down. That's what I went to do.

12 Q Do you remember saying --

13 A And I didn't say what boys. I didn't say what -- I
14 didn't say whether it was Nasirea or them two there. I
15 didn't say that.

16 Q So, you don't remember telling us Dajon was laying
17 on the ground and said he was shot?

18 A I didn't say he was shot. I don't know what was
19 wrong with him.

20 Q And do you remember telling us that Dajon was
21 outside with his brother, Nasirea?

22 A No.

23 Q Do you remember telling us that?

24 A No, ma'am.

25 Q Do you remember telling us that Todd Fry was with

1 them and that he was driving the four-door Cadillac? Do
2 you remember that?

3 A I remember saying I seen the Cadillac. It was in
4 the yard. I know it was in there because that Cadillac
5 was there.

6 Q I'm sorry?

7 A Because that Cadillac was -- I know it was in the
8 yard, but I don't know who was driving it or nothing.

9 Q Do you remember telling us that you knew that
10 someone carried Dajon to the fire station?

11 A No. I don't know who carried who. I went back in
12 my house. I don't even know when they left.

13 Q So, you, at this time, are denying telling us that
14 on May 17th of 2024?

15 A Say that again.

16 Q So, you, at this time, are denying that you told us
17 that information on May 17th of 2024?

18 A I ain't denying -- I didn't tell y'all all of that.
19 I'm not denying it.

20 Q Okay?

21 A I'm saying some of it, what you're saying, but I
22 know the part that what you're talking about. I didn't
23 say all of that.

24 Q You didn't say that Dajon Grate, Nasirea Grate, and
25 Todd Fry were out there with a Cadillac?

1 A I said there was a bunch of fellas out there. A
2 bunch of young men. As a matter of fact, I don't -- I
3 think all of them was in the house when my wife left and
4 went to work.

5 Q So, now you're saying you didn't recognize any of
6 those young men?

7 A From my recollection -- listen, ma'am, it be a bunch
8 of them little fellas out there in that yard. I don't
9 know, when I'm just waking up, who was out there.

10 Q So, you're denying now telling us that Dajon,
11 Nasirea, and Todd Fry were out there with the Cadillac?

12 A No, I'm not denying that, but I don't know who they
13 was. That's what I'm saying. I mean, it was -- I don't
14 know how many of them it was out there.

15 Q Are you still living at [REDACTED] Road?

16 A Yes, ma'am.

17 Q And are you still living with Dajon Grate and
18 Nasirea's grandma?

19 A Yes, ma'am.

20 Q Okay. Does their dad still come around, hang out at
21 the house, come visit?

22 A Yeah.

23 Q So, just so I'm clear, are you denying that that's
24 what you told us, that Dajon, Nasirea, and Todd Fry were
25 out there with the Cadillac?

1 A I'm saying what I seen, and I seen the Cadillac and
2 I seen the gentlemen out there.

3 Q Okay.

4 A A bunch of little gentlemen out there.

5 Q Okay.

6 A That's every -- that would be every day.

7 Q So, you're denying saying that the guys who were out
8 there --

9 A If you're saying I'm denying it, I'm denying it.

10 Q Where was Grandma that day?

11 A At work.

12 Q So, you were the only one there?

13 A I guess I was. When I got up, it wasn't nobody
14 there. Not inside my house.

15 Q But you -- no doubt, you're not denying that myself
16 and Ms. Martin and another gentleman came out there and
17 took a statement from you and were taking notes?

18 A Say that again.

19 Q You are not denying that I came to your house,
20 Ms. Martin came to your house, and an investigator came to
21 your house?

22 A I ain't denying that. I remember y'all three. I
23 mean, that was up in the day.

24 Q And you remember us sitting there taking notes;
25 correct?

1 A Yeah, I guess all three of you was taking notes.

2 Q Okay. And at times -- do you remember us sometimes
3 us saying, "So, we're clear, this is what you're saying,"
4 do you remember that -- to make sure that we understood
5 what you were telling us?

6 A I might have did. I might have didn't. I don't
7 think so. I really don't think so.

8 Q Okay. So, you don't remember us sitting there
9 asking you about the Cadillac?

10 A Both of y'all was asking me about that car. All
11 three of y'all.

12 Q Okay. And all three of us were asking you about
13 Dajon Grate, Nasirea Grate, and Todd Fry; correct?

14 A I think so.

15 Q Okay. And you have told all three of us that day
16 that they were there, and Dajon was saying he had been
17 shot. That's what you told us that day; correct?

18 A I told y'all that he had been shot -- I couldn't
19 tell. I couldn't tell because I was on my porch, just
20 walking through my front door.

21 Q You told us --

22 A And all I asked was to please be quiet, I'm trying
23 to sleep. Then I turned around and made a U-turn, went
24 back in my house, went back in there, took my medicine
25 that morning, and laid back down. That's every morning.

1 Q But no doubt you saw Dajon Grate out there? Or you
2 don't remember?

3 A As far as I know he was out there.

4 Q You know he was out there?

5 A As far as I know.

6 Q Okay. Are you denying that or not remembering that
7 now?

8 A I mean, I can't remember that. Just like I say, all
9 I seen was a bunch of fellas.

10 Q So, now you're uncertain if Dajon Grate was out
11 there, shot?

12 A You keep saying shot, ma'am. I can't answer that
13 because I don't know. I cannot answer that. I mean, I
14 didn't go out there and look at that man.

15 Q Was Dajon Grate out there?

16 A I told you, they was all out there, a bunch of
17 little fellas. That's every morning.

18 Q I'm asking you specifically, was Dajon Grate out
19 there?

20 A Yes.

21 Q Okay. Was Nasirea Grate out there?

22 A I told you, I couldn't answer that because it was so
23 many of them little fellas out there.

24 Q But you were denying telling us that. You're
25 denying that you told us Nasirea Grate --

1 A If you're saying I'm denying it, then I'm denying
2 it. Ain't no use in me keep going back and forth with it.

3 Q So, you are denying it? Yes?

4 A Yeah.

5 Q Okay. And you're denying that you told us that Todd
6 Fry was out there?

7 A I don't know Todd Fry.

8 Q Are you denying telling us that the Cadillac was out
9 there?

10 A No. I seen the Cadillac. That was too big for me
11 to deny and I say I didn't see it. That was a car. And
12 my truck was out there, so...

13 Q That house on [REDACTED] Road, who owns that?

14 A Excuse me?

15 Q Who owns the house on [REDACTED] Road?

16 A Who owns it? My girlfriend.

17 Q Okay. She owns it. So you're sitting there living
18 with her?

19 A Yes.

20 Q And these are her grandchildren on trial?

21 A Yes.

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

23 THE COURT: Mr. Wilson?

24 CROSS-EXAMINATION

25

1 BY MR. WILSON:

2 Q Mr. Graham?

3 A Yes, sir.

4 Q When you said it was this solicitor and Mr. Brown --
5 where is he at? Back there in the corner -- and this
6 Officer May, are those the people that came to your house?

7 A These two ladies here?

8 Q Yes, sir.

9 A Yes. Now, the gentleman, I can't say that was him
10 back there.

11 Q Okay.

12 A Because before that, two more gentlemen had been
13 there.

14 Q All right. So, they sent a bunch of people out
15 there to see you one time or another?

16 A Right.

17 Q And did they ever bring a tape recorder so they
18 could take down what you were saying?

19 A I ain't talked to no tape recorder.

20 Q All right. And did they ever have you write out a
21 statement saying whatever it is --

22 A I never wrote nothing.

23 Q Never did write anything, did you?

24 A Ain't never wrote nothing.

25 Q All right. No, they took it down themselves, so

1 that they could say whatever it is they wanted to say?

2 A I guess so.

3 Q Regardless of what you said?

4 A I didn't write nothing. I know that. And I ain't
5 talk on no tape recorder.

6 Q And they didn't come one time. They came at least
7 twice?

8 A Yes, sir.

9 MR. WILSON: I don't have any other questions.

10 THE COURT: Mr. Galmore?

11 CROSS-EXAMINATION

12 BY MR. GALMORE:

13 Q Mr. Graham, at any time, did me or Mr. Ralph Wilson
14 here try to get you to give any particular answers in this
15 case?

16 A No, sir.

17 Q All right. Thank you, sir. No further questions.

18 THE COURT: All right. Redirect?

19 MS. LIVESAY: No, sir.

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

21 Let me see the attorneys for a second.

22 BENCH CONFERENCE

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

25 THE COURT: How long is your next witness?

1 MS. LIVESAY: It's going to be Steve Brown.

2 THE COURT: How long?

3 MS. LIVESAY: It shouldn't take long, just to clear
4 that up.

5 MR. WILSON: Going down that rabbit hole?

6 THE COURT: Okay. All right. Sounds good.

7 (Open court resumes as follows:)

8 THE COURT: All right. You can call your next
9 witness.

10 MS. LIVESAY: Thank you, Your Honor. At this time,
11 the State calls Investigator Steve Brown.

12 INVESTIGATOR STEVE BROWN,

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

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

17 THE WITNESS: Stephen Brown. B-r-o-w-n. First
18 name, S-t-e-p-h-e-n.

19 DIRECT EXAMINATION

20 BY MS. LIVESAY:

21 Q And, Mr. Brown, where are you currently employed?

22 A I work here at the 15th Circuit Solicitor's Office.

23 Q And how long have you been employed at the
24 Solicitor's Office?

25 A 24 years.

1 Q And what kind of training have you undergone as an
2 investigator?

3 A Like most officers, you know, your career starts at
4 the South Carolina Criminal Justice Academy. After that,
5 every officer is required to complete so many hours --
6 every officer is required to complete so many hours per
7 year and that sort of thing. I have been to cell phone
8 classes, interview interrogation classes, stuff like that.

9 Q Have you attended the FBI Academy?

10 A I have. I did complete a 12-week course at the FBI
11 National Academy, yes.

12 Q Okay. And what are your responsibilities with the
13 Solicitor's Office?

14 A I'm the chief investigator at the Solicitor's
15 Office, which is kind of a wide range of stuff. The
16 prosecutors send in investigative requests, and I delegate
17 those things out to other investigators in our office and
18 jump in and handle some of them myself.

19 Q So, by the time you're working on the case, an
20 arrest has already been made?

21 A Absolutely.

22 Q You're not the person that goes out and investigates
23 and makes any kind of arrest, normally?

24 A Normally, no.

25 Q Okay. And so, you're normally here to assist in

1 trial preparation?

2 A Yes.

3 Q And that consists of an array of things, sometimes
4 interviewing witnesses?

5 A Yes, that's correct.

6 Q Okay. And did you, on this case, talk with Robert
7 Graham, the guy that just testified?

8 A Yes, I did.

9 Q And who was present when you talked to Robert
10 Graham?

11 A We went out there twice. The first time I went out
12 there, I was with Ms. Nancy and Ms. Martin. The second
13 time, me and you -- I was out there with just Ms. Livesay,
14 and we were only there for about a minute.

15 Q Okay. And do you remember the first time that we
16 went out there? And when you say we went out there, where
17 did we go?

18 A We went to [REDACTED] Street. I guess at [REDACTED] -- we went
19 to his residence [REDACTED] Street. And I don't know if it's
20 wife or his girlfriend. I believe the defendant's
21 grandmother was there as well.

22 Q And, at that time, did you interview or speak with
23 Robert Graham?

24 A Yes, we did.

25 Q Okay. And it was right there at his house; correct?

1 A Correct.

2 Q Was he in custody? arrested? anything like that?

3 A No. We were just sitting on his front porch,
4 talking.

5 Q Okay. And was Grandma present, sitting right there
6 as well?

7 A She was.

8 Q Okay. So, we were all sitting out on the porch,
9 talking; correct?

10 A That's correct.

11 Q Okay. And if you don't mind, what did Robert Graham
12 at that time tell us as to what he saw when Dajon Grate
13 showed up at the house?

14 A Can I refer to my report?

15 Q Certainly.

16 A So what I put in quotations in my report -- and my
17 report is kind of a summary of what we talked about. But
18 what I put in quotations, I believe these words came out
19 of his mouth. It was, "I was back there asleep. There
20 was a lot of them in the yard. Three cars pulled up.
21 There was so much noise. I came outside and asked what
22 was going on. Dajon was laying on the ground and said
23 that he was shot." That's what I had in quotations there.

24 Q Okay. And when you go out there and interview
25 people, do you read back the things they say to ensure

1 that you got it down correctly?

2 A Well, I don't necessarily read it back, but we may
3 ask them the same thing a couple of times to make sure
4 we're accurate, yes.

5 Q Okay. And did he tell you or did he tell us that
6 day when Dajon came back and said -- am I reading it
7 correct, "Dajon was laying on the ground, said that he was
8 shot"?

9 A Yes.

10 Q Okay. Did he tell us who else was out there that
11 day?

12 A Yes.

13 Q And who did he tell us?

14 A Well, the names -- now, first, he said there was a
15 lot of them in the yard. He says there were three cars.
16 But the names that we specifically talked about was Todd
17 Fry and Nasirea Grate and as well as Dajon.

18 Q And so, that day, he said Dajon Grate was out there
19 saying that he was shot. Along with him was Nasirea Grate
20 and Todd Fry; is that correct?

21 A Well, you know, again, that part is not in
22 quotations, so I'm sure that those are the folks he was
23 referring to. Like, I don't know that he knew Todd Fry's
24 name off the top of his head, but I'm sure, once we talked
25 about the kid who drove the Cadillac and that sort of

1 thing and he said, "Oh, they looked like this" or
2 whatever, and we say that's Todd Fry, that sort of thing.

3 But I know he definitely talked about Dajon's
4 brother which -- whether he said the name Nasirea or if
5 used a couple of street names, you know, I'm not sure. I
6 know maybe Grandma used the street names, but yeah, he was
7 referring to those two guys for sure.

8 Q Okay. And with regards to Fry, did he say that he
9 would come around the house with Dajon and Nasirea?

10 A Yeah, let me just look at that. Yes, because we
11 were trying to really --

12 Q And did he tell us that Fry had stayed at the house
13 the same week of the incident?

14 A Let me see. He stated that Fry would come around
15 the house with Dajon and Nasirea but that he put a stop to
16 that. Fry did stay at the house some the week of the
17 incident, but Fry wasn't allowed in the house by himself.

18 Q And --

19 A And that he was never left there alone.

20 Q Okay. So, when we talked to Robert Graham, were you
21 taking notes?

22 A I was.

23 Q Okay. And is this report a reflection of your
24 notes?

25 A Yes.

1 Q Okay. And he, that day, clearly said that it was
2 Dajon Grate, Nasirea Grate, and Todd Fry out there?

3 A Yes.

4 Q And have you seen Mr. Graham sitting in the
5 courtroom today?

6 A Yes.

7 Q And where has he been sitting?

8 A He's sitting over there on the left side of the
9 courtroom about three rows back on the left where he's at
10 right now.

11 Q Okay. And we went out and met with Mr. Graham again
12 a second time; correct?

13 A That's correct.

14 Q And do you remember who was at the house that time?

15 A Yeah, we went out there at that time -- and, again,
16 I'm not sure of the names. I believe -- so Mr. Graham was
17 there, and I believe the defendants' grandmother. I'm not
18 exactly sure what her name is. She was there as well.
19 And I believe it was the defendant's father was there as
20 well. Father, stepfather. She introduced me as something
21 to that effect. All three of them were there.

22 Q Okay. And so, at that time, we didn't sit down with
23 Mr. Graham and take any kind of statement and take notes
24 or do anything like that; correct?

25 A No.

1 Q And when you meet with witnesses, is it the ordinary
2 course of business to take notes and do a supplemental?

3 A Yes.

4 Q And when you went to the FBI academy, is that how
5 the federal agents do it?

6 A That's how they did it for a long, long time. I
7 think our state law enforcement agency didn't tape-record
8 statements for a long, long time. I'm not sure if they do
9 today or not. It may be up to the individual
10 investigator. I'm not sure about the FBI, if they do it.
11 They may still not do them. I'm not positive. But if I
12 would have known I was testifying today, I would have
13 researched that a little bit and I could have given you a
14 better answer.

15 Q And, for your purposes, do you take notes and then
16 do an investigative report?

17 A I do that all the time.

18 Q And is the investigative report done close in time?

19 A Yes.

20 Q And is it your practice during the interview at
21 times to ask follow-up questions to make sure what you
22 take down is accurate as to what the witness is saying?

23 A Yes.

24 Q And during that time, was -- when we were out there
25 meeting with Robert Graham, at that time, was Nasirea

1 Grate or Dajon Grate in the home?

2 A No, not that I'm aware of.

3 Q And were they anywhere around?

4 A Not that I'm aware of.

5 Q So, this is the first time when they're in the room
6 that Mr. Graham has said, "I don't know" and denied that
7 he gave that statement; correct?

8 MR. GALMORE: Your Honor, may I approach?

9 THE COURT: All right.

10 BENCH CONFERENCE

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

13 MR. GALMORE: Your Honor, I'm going to move to
14 strike this testimony. Steve Brown is not listed on the
15 witness list.

16 MS. LIVESAY: That's because he was not a potential
17 witness until the impeachment matter came up.

18 THE COURT: All right. He's already been called and
19 he's already testifying.

20 MR. GALMORE: Yes, sir.

21 (Open court resumes as follows:)

22 THE COURT: All right. Go ahead.

23 BY MS. LIVESAY:

24 Q Again, Investigator Brown, is it your normal
25 practice to take notes and do a supplemental request?

1 A Yes, I do that all the time.

2 Q Okay. And is that the normal course of business?

3 A For something like this, it would be. You know, if
4 I was anticipating -- I mean, there would be certain
5 scenarios I wasn't anticipating, for instance, a long
6 proffered interview that I know was going to be several
7 hours long with a co-defendant or something like that,
8 then I might turn on a tape recorder just so I wouldn't
9 have to take extensive notes for hours and hours.

10 Q And being an investigator for the Solicitor's
11 Office, is your job, when you interview witnesses, just to
12 collect the facts from them?

13 A Yes.

14 Q The good, the bad, the ugly, whatever they say?

15 A I want to be as accurate as I can, yes.

16 Q And do you have any personal interest at all in this
17 case?

18 A No.

19 Q Do you know Kalik Conn?

20 A No.

21 Q Do you know Dajon Grate?

22 A No.

23 Q Do you know Nasirea Grate?

24 A No.

25 Q Do you know Robert Graham?

1 A No.

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

3 CROSS-EXAMINATION

4 BY MR. WILSON:

5 Q 24 years; right?

6 A Yes, sir.

7 Q Working for her office, the office that she is an
8 attorney in -- prosecutor in; right?

9 A Yes, sir.

10 Q And not only that, when you went out there, you went
11 with her, the prosecutor herself; right?

12 A That's correct.

13 Q Being in law enforcement for 24 years, you know how
14 to take an audio statement; do you not?

15 A Absolutely.

16 Q All right. And if you take an audio statement,
17 there is no way to deny what's on the audio tape
18 statement; right?

19 A I'd agree with that.

20 Q But -- but if you take a written statement, a
21 summary of what you say you heard, there is no way to
22 impeach that because I have absolutely no way of knowing
23 what you wrote and why you wrote it, do I?

24 A I guess that's accurate, yeah, you would have no way
25 of knowing that. You could speak to Mr. Graham.

1 Q Well, you could have had Mr. Graham write out what
2 he said; right? But instead, you didn't do that either,
3 did you?

4 A No, sir.

5 Q No. You didn't have him write it out. You didn't
6 have him write down and sign his name to whatever it is
7 you're saying he said?

8 A That's correct.

9 Q And you certainly could have done that?

10 A I could have.

11 Q All right. But you didn't; right?

12 A That's correct.

13 Q Because it's more convenient to bring what you say
14 and what she says happened and put it in your summary and
15 then there's no way to contest it?

16 A I don't know if I agree with that. I don't think
17 it's more convenient. I think when you're talking to
18 somebody in these sort of situations and things are
19 flowing well, you know, if you stop and you say, "Hey, I
20 want you to write this down," they may be a little less
21 likely to be as forthcoming. Same thing as when you stick
22 a camera in their face or a tape recorder.

23 Q And that's a good point.

24 A We talked to him. We had a nice conversation, and I
25 wanted to keep it going.

1 Q That's a good point. So, after you had this
2 conversation with him, then why not say, "How about
3 writing it down for me? We've had this conversation. How
4 about write it down here so I'll have it in your
5 handwriting with your signature and it's dated"? Why not?

6 A I could have but I didn't.

7 Q Right. That's right. You didn't.

8 And not only did you do it one time, you went out
9 there twice, and you didn't do it either time?

10 A I didn't really speak to him a second time.

11 Q No. And, that way, the solicitor can get up here
12 and say, "Oh, well, didn't he tell us this? Didn't he
13 tell us that?" And we have no way of knowing; right?

14 A Is that a question?

15 Q That is a question.

16 A What is it?

17 Q How in the world would we know what he told you when
18 you -- all you give us is a summary of what you say he
19 said? How do we know?

20 A Well, I guess you have to --

21 Q Have to take your word for it; right?

22 A Yeah.

23 Q And take the solicitor's word for it?

24 A Right.

25 Q Yeah. Because that's what you would want, is for

1 us -- that is, the defense -- to take your word for what
2 you say happened; right?

3 A Yes, sir.

4 Q Yeah.

5 Y'all got any audio equipment over at the
6 Solicitor's Office?

7 A We do.

8 Q Yeah. You got tape recorders maybe over there
9 somewhere?

10 A We do.

11 Q All right. Got cell phones that can record
12 somewhere over there?

13 A We do.

14 Q Yeah. But then we would know what was said.

15 A I'm telling you what was said in this report.

16 Q I know. You have given us your version.

17 In fact, this ain't even the whole version because
18 you're saying this is a summary of what you said he told
19 you; right?

20 A It is what he told me.

21 MS. LIVESAY: Can Mr. Brown see what he's showing so
22 he knows whether or not it's his summary or not that he
23 took down?

24 THE COURT: I think what's that you had earlier, but
25 go ahead.

1 MR. WILSON: It is.

2 BY MR. WILSON:

3 Q Let's be clear: There's absolutely no reason that
4 you didn't record this statement; right?

5 A It's a --

6 Q Audio record it.

7 MS. LIVESAY: Can he answer the question?

8 A There's no reason why I didn't, but I can tell you
9 it's a common practice in law enforcement. SLED does it
10 all the time and so does the FBI.

11 BY MR. WILSON:

12 Q Do you know how many videos we have watched in here
13 this week? All video recorded; right? But not you. And
14 not this solicitor. Not one recording.

15 Let me ask you this: Do you have the capability of
16 recording conversations between witnesses and yourself?

17 A Yes.

18 Q All right. You do have that capacity?

19 A Yes, sir.

20 Q All right. And you had that capacity two years ago
21 when you went out there, and you had it in May of 2024?

22 A Yes, sir. I did have it. I talked to him this
23 year.

24 Q All right. And you knew, when you went out there,
25 that Mr. Brown was in a relationship with the grandmother

1 of these young men?

2 A Mr. Graham.

3 Q Mr. Graham. Right.

4 A Yes.

5 Q You knew that?

6 A Yes.

7 Q All right. And in spite of that, you decided not to
8 record it, not to have him sign it, just write down what
9 you say he said?

10 A That's correct.

11 Q And not only that, you had three of you -- three
12 different folks: Solicitor -- and who is the third
13 person?

14 A Ms. Martin.

15 Q And Ms. Martin.

16 So you had the solicitor, Ms. Martin -- well, both
17 of them are assistant solicitors. So, you had two
18 assistant solicitors, who are both lawyers, right, and
19 yourself, a 24-year investigator, and between the three of
20 y'all, y'all couldn't have him write a statement?

21 A We could have. We didn't.

22 Q You sure didn't. There's no question. Thank you.

23 A It's a common practice.

24 MR. WILSON: Thank you.

25 THE COURT: All right. Mr. Galmore,

1 cross-examination?

2 CROSS-EXAMINATION

3 BY MR. GALMORE:

4 Q Mr. Brown, you said you went out to interview
5 Mr. Graham on two occasions?

6 A I have been out there a couple of times. I went out
7 there on this particular occasion. That's the first time
8 we really spoke.

9 Q Well, what's the date that you interviewed him that
10 you did your summary?

11 A May 17th, 2024.

12 Q May 17th, 2024?

13 A Yes. I believe that's what this says. Yes.

14 Q Three months ago?

15 A Yes, sir.

16 Q And what was the other time that you went out to
17 interview?

18 A I think I went out there to maybe serve him a
19 subpoena and then I went out there one more time with
20 Ms. Livesay, and we did not really interview him. I spoke
21 to -- I believe it was the defendant's father for just a
22 little bit, and she showed him a couple of pictures.

23 Q So, you didn't interview him a second time. What
24 was the date?

25 A I don't recall. It was recent.

1 Q Did you make a summary of that?

2 A No.

3 Q Okay. So, we have got two interviews. One done
4 three months ago?

5 A We have got one interview. I told you, I didn't
6 interview him a second time around.

7 Q Okay. How many times did you and Ms. Livesay go to
8 speak to Mr. Graham?

9 A We have been to the house together twice. The first
10 time --

11 Q Okay. And you went on a third occasion to serve a
12 subpoena?

13 A I believe that was in the middle, yes.

14 Q And one date, you don't know the date that you went
15 out there, and the other date was three months ago, May
16 17th?

17 A Yeah, that date was recent.

18 Q Okay. On either of these dates, did you video
19 record the interview?

20 A No, I did not.

21 Q Okay. On either of these dates, did you audio
22 record the interview?

23 A I did not.

24 Q On either of these dates, did you ask Mr. Graham to
25 make a written statement?

1 A I did not.

2 Q On either of these dates, did you ask Mr. Graham to
3 sign your statement?

4 A No, sir.

5 Q And on one date, you did not even make a
6 statement -- a summary; is that correct?

7 A That's correct, because I didn't need to speak to
8 him.

9 Q And you said, on one occasion, one prosecutor was
10 with you, and on the other occasion, both prosecutors were
11 with you?

12 A That's correct.

13 Q Was Ms. Martin pregnant?

14 A In May of 2024?

15 Q Yes.

16 A Yes.

17 Q So, the baby was there too?

18 A That's correct.

19 Q Was Detective May with you?

20 A No, sir.

21 Q Was any Horry County police officer there with you?

22 A No, sir.

23 Q Was any State Law Enforcement Division agent with
24 you?

25 A No, sir.

1 Q Wouldn't it have been a better practice to take
2 Mr. Graham to the police station for an interview where
3 you can control the environment?

4 A I don't know if that would have been a better
5 practice.

6 Q Would it have been a better practice to take him to
7 the police station where you could record the interview?

8 A I don't know if that would have been a better
9 practice, no.

10 Q Do they record interviews at the police headquarters
11 there in Horry County?

12 A They do at the police headquarters in Horry County,
13 yes.

14 Q If you had an Horry County police officer with you,
15 would you have recorded the interview in that instance?

16 A I would not have.

17 Q Do Horry County police officers wear body cameras?

18 A They do.

19 Q And are their body cameras active when they're on
20 duty?

21 A I don't really want to speak to Horry County's
22 policies. I don't know -- you know, I say they do. I'm
23 sure their patrolmen do. The detectives, I don't know
24 that they wear body cameras.

25 Q Do the sheriff deputies in this courtroom wear body

1 cameras?

2 A I see one on that deputy right there.

3 Q Is his camera on right now?

4 A I don't know.

5 Q You don't know?

6 A I don't know.

7 Q Do you want to see yourself?

8 A No.

9 Q Did you interview any eyewitnesses to this alleged
10 offense?

11 A I spoke to Berenice and Isidro. Those would be the
12 only two that I would be aware of.

13 Q Did you take a statement from Berenice?

14 A I did not take a statement from her, no.

15 Q Did you take a statement is from Isidro?

16 A No.

17 Q Did you video record Berenice?

18 A No.

19 Q Did you video record Isidro?

20 A I did not.

21 Q Did you have Berenice to write a written statement?

22 A No.

23 Q Did you have Isidro to make a written statement?

24 A I did not.

25 Q Did you have Berenice to sign your notes?

1 A I did not.

2 Q Did you have Isidro to sign your notes?

3 A No, I did not --

4 Q Okay. Did you interview Berenise in the presence of
5 Horry County police officers?

6 A No, I did not.

7 Q Did you interview Isidro in the presence of an Horry
8 County police officer?

9 A No, I did not. Again, these weren't interviews as
10 much as what they, what we call pretrial conferences.
11 This is where we get with these folks --

12 Q So, they're not interviews?

13 A And we go over the statements that they have already
14 given the police.

15 Q Did you identify anyone in these three carloads of
16 people?

17 A Did I identify anyone?

18 Q Yes. You have received a statement that there were
19 three carloads of people. Did you find them?

20 A No.

21 Q Did you identify any of them?

22 A Well, Mr. Graham told me that Mr. Fry and Nasirea
23 and Dajon Grate were there.

24 Q Okay. And he told you that on the recording that we
25 don't have -- or, excuse me, you didn't record?

1 A That's correct.

2 Q And he told you that there were three carloads of
3 people?

4 A He did.

5 Q Did you identify any of the three carloads of
6 people?

7 A Only the names that he gave, which was Todd Fry,
8 Nasirea Grate, and Dajon Grate.

9 MR. GALMORE: I'm done with this witness, Your
10 Honor.

11 THE COURT: All right. Redirect?

12 MS. LIVESAY: Thank you, Your Honor. Just very
13 briefly.

14 REDIRECT EXAMINATION

15 BY MS. LIVESAY:

16 Q Mr. Wilson and Mr. Galmore made a big deal about
17 wouldn't it be a better practice to take these people to
18 the police department.

19 A Yes.

20 Q Do you remember that?

21 A I do.

22 Q Do you make it a practice -- tell these folks, do
23 you make it a practice to take people that have done
24 nothing wrong, that are not any kind of suspect, not in
25 any kind of trouble, do you make it a practice to take

1 those people to the police department?

2 A No, I don't.

3 Q So, maybe it's not the best practice to take
4 innocent people to the police department; correct?

5 A I didn't agree with him that it was the best
6 practice. I said maybe it's not the best practice.

7 Q Okay. Now, you were trying to answer a question
8 earlier to Mr. Wilson and Mr. Galmore saying that it was a
9 nice conversation?

10 A Yes, ma'am.

11 Q Where were you when you talked to Mr. Graham?

12 A Sitting on his front porch.

13 Q Did you drive a county vehicle to Mr. Graham?

14 A Yes, I did.

15 Q Okay. Because that's what the county vehicle is
16 for; correct?

17 A Among other things, yes. So, we can get around and
18 talk to people.

19 Q Right. So, it's free, essentially, for us -- it's
20 not our gas; it's the county gas -- to go out and talk to
21 people; correct?

22 A That's correct.

23 Q Right. And that's what county vehicles are for;
24 correct?

25 A Among other things, yes.

1 Q Right. And did, in any way, you try to
2 inconvenience Mr. Graham?

3 A No.

4 Q You went to his house; correct?

5 A Correct.

6 Q Didn't ask him to go to the police department, did
7 you?

8 A No, I did not.

9 Q Did you ask him to use his gas to drive from Longs
10 to Conway to the police department?

11 A I did not.

12 Q Did you cuff him?

13 A I did not.

14 Q Did you in any way do anything to detain him at his
15 home?

16 A No.

17 Q Did you talk to him where he wanted to talk?

18 A Yes.

19 Q Did you let Grandma sit right there while the whole
20 conversation went on?

21 A I did.

22 Q Was she ever detained?

23 A No.

24 Q Was she ever taken to the police department?

25 A No.

1 Q Would you take her to the police department just to
2 talk with her?

3 A Well, I mean, I can't make them go to the police
4 department to talk to me. They're witnesses. If she
5 would have been more comfortable talking there and needed
6 a ride, I would have taken her, but, no, we're not --
7 commonly, no. I'd go to them to speak to them.

8 Q And did either one of those folks say that they
9 didn't want to talk to you?

10 A No.

11 Q Did either one of those folks ask you to leave?

12 A No.

13 Q Did either one of those folks at all appear
14 uncomfortable while you were talking to them?

15 A No.

16 Q And you were sitting there taking notes as they were
17 talking; correct?

18 A That's correct.

19 Q Did they have any problem with that?

20 A No.

21 Q Did they know that you were taking the notes?

22 A I'm assuming they did. I was taking them right in
23 front of them.

24 Q Okay. And were you in here when Mr. Graham
25 testified?

1 A I was.

2 Q So you heard him, "I saw y'all taking notes";
3 correct?

4 A I did hear him say that.

5 Q Okay. And a lot of times -- every time, you do a
6 supplemental; correct?

7 A Correct. Well, not every time, but yes.

8 Q Okay. And, in fact, what Mr. Wilson had in his hand
9 up here waving around was your supplemental; correct?

10 A That's correct.

11 Q And we do the supplemental to turn over to
12 Mr. Wilson and Mr. Galmore; correct?

13 A That's correct.

14 Q Okay. So, even though the statement wasn't
15 recorded, you do the supplemental and it gets turned over
16 to the defense; correct?

17 A That's correct.

18 MR. GALMORE: Judge, she's leading her own witness.

19 THE COURT: Sustained.

20 BY MS. LIVESAY:

21 Q And at that time when you were talking to Mr. Graham
22 and Grandma, at that time, was Nasirea Grate or Dajon
23 Grate anywhere around?

24 A Not that I'm aware of, no.

25 Q Okay. And, at that point, did he have any problem

1 talking to you and telling you who was out there that day?

2 A No, he did not.

3 Q And was he reluctant at all?

4 A No, he was not.

5 Q And did he give you any indication that he was going
6 to come in here and change his story today?

7 A No, he did not.

8 Q And if you felt like maybe there was some
9 indication, would you have thought about recording it at
10 that point?

11 A If I thought he was going to back up on his -- yeah,
12 it would have been nice to have it recorded if I thought
13 he was going to back up on us, but I would have had no way
14 of knowing that. We had a nice conversation. I just did
15 a supplemental and that was it.

16 Q And he didn't give any indication that he had any
17 problem talking to you?

18 A No.

19 Q Any reluctance at all?

20 A No.

21 Q And how about the second time when we went out there
22 and met with him? Did he have any reluctance then?

23 A I didn't really talk to him a second time. I think
24 you showed him a couple of pictures. I was talking to the
25 dad, so I don't even know that I spoke to him the second

1 time we were out there.

2 Q Okay. But did they invite you into their home?

3 A Yes.

4 Q Did they show like they had any issues that you were
5 there?

6 A They had no issues. I had been communicating with
7 them earlier about a time to meet up with him. He was
8 busy that morning. He had to run out and do an errand
9 that morning, and he basically told me to come back at
10 4:00 or whatever. So, he knew we were coming, and he
11 invited us in.

12 Q So, was there any indication at any time you were
13 around Mr. Graham that he was going to change his story?

14 A No.

15 Q But you were in here when Mr. Graham testified;
16 correct?

17 A I was.

18 Q And there's no doubt his story did change when he
19 was in the same room with Nasirea Grate and Dajon Grate?

20 A He definitely seemed less forthcoming. You know, in
21 one breath he would say, "Nasirea was on the ground; I
22 don't know if he was shot or not," and then, in the next
23 breath, he would say, "I don't know if they were out there
24 or not." So, he clearly was not as forthcoming when he
25 was testifying as he was when I was talking to him on the

1 phone -- we were talking to him on the porch, rather.

2 Q And do you have any reason to put anything in those
3 supplemental reports other than the facts that you
4 gathered from the witness?

5 A No. I try to make them as accurate as I can.

6 MS. LIVESAY: No further questions.

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

8 MR. GALMORE: Your Honor, permission to recross the
9 witness. New evidence came out on redirect; specifically,
10 Mr. Brown stated that Ms. Livesay showed some pictures.

11 MS. MARTIN: Your Honor, I do believe --

12 MR. GALMORE: I'm sorry; I thought it was one
13 attorney, Your Honor.

14 THE COURT: Yeah, one attorney.

15 MS. MARTIN: I apologize.

16 MS. LIVESAY: I don't think there's anything new.

17 THE COURT: Well, I mean, if you brought -- when did
18 that -- what was -- do you remember the question? I'm
19 trying to think about the pictures.

20 MR. GALMORE: I don't remember the question now.

21 THE COURT: Well, and that this witness wasn't on
22 the witness list, I'll allow recross.

23 Anything from you first, Mr. Wilson?

24 MR. WILSON: No, I was just --

25 THE COURT: All right. Mr. Galmore, I'll allow it.

RECROSS-EXAMINATION

BY MR. GALMORE:

Q You testified that Mrs. Livesay showed some pictures to Mr. Graham?

A I believe that's correct.

Q Okay. Do you have copies of those pictures?

A I don't.

Q Does Ms. Livesay have copies of those pictures?

A I don't know.

Q Did you mark those pictures as they were shown to
Mr. Graham?

A No. I don't really know anything about them. I think she was going to show him a couple of pictures to see if he could ID the three folks, but I'm not positive because I wasn't over there when they were speaking, and I didn't have those photos.

Q And so, they had the conversation about the pictures outside of your presence?

A They weren't outside the presence, but I was speaking with her father or with the kids' father while she was speaking to them -- speaking to her.

Q Did you have a discussion with Ms. Livesay about showing any pictures to Mr. Graham?

A No -- well, other than I think that's why we wanted to go back out there, because she wanted to show him a

1 couple of pictures, but we didn't really get into what
2 they were or why, other than maybe it was just to make
3 sure that she could identify the folks, you know, that
4 this is who we're talking about or something like that,
5 but I don't know.

MOTION/MATTER OF LAW

6
7 MR. GALMORE: Your Honor, I'm requesting permission
8 to examine Ms. Livesay as a fact witness at this point,
9 sir.

10 THE COURT: Finish your redirect -- I mean, your
11 recross.

12 MR. GALMORE: I'm finished with the recross, sir.

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

14 All right, ladies and gentlemen. It's at 5:00. We
15 have had a long day. We're going to go ahead and break
16 for the day.

17 Leave your notepads in the jury box. Do not discuss
18 the case even among yourselves. Don't conduct any
19 independent investigations. I'm going to ask that you
20 please be back tomorrow morning at 9:15.

21 I hope you have a good evening, and we'll see you
22 tomorrow morning.

23 (The jury exited the courtroom at 5:13 p.m.)

24 THE COURT: All right, Mr. Galmore. Let me hear
25 from you.

1 MR. GALMORE: Yes, Your Honor.

2 Your Honor just told the jury do not conduct any
3 independent investigation, and it appears that that's
4 exactly what Ms. Livesay has done.

5 THE COURT: Well, she can do it.

6 MR. WILSON: Well, she did. The statement was that
7 she was showing Mr. Graham some pictures. They did not
8 come up in Mr. Graham's testimony. And she did not need
9 to call Steve Brown as a witness.

10 THE COURT: I mean, what are you asking? What are
11 you asking me to do?

12 MR. GALMORE: I'm asking you to have her removed
13 from this case as a prosecutor, to declare a mistrial in
14 this case, and to allow us to cross-examine her as a
15 witness when the case is called for retrial.

16 THE COURT: All right.

17 MR. WILSON: And, Your Honor, just briefly. And I
18 understand that Ms. Livesay, apparently, was there with
19 Mr. Brown and -- but my concern is we were never -- this
20 is a first today when he's on this stand, the first time
21 that I have heard that she was showing pictures to this
22 witness. And that's my first concern.

23 My second concern is, it also is the reason that you
24 do audiotape statements or signed statements or something
25 so that this kind of thing does not happen, especially

1 from the prosecutor. And I'm not -- again, I don't know
2 what their procedures are, but I can tell you that we
3 haven't gotten any pictures. And they gave us a statement
4 which is -- she called it a supplemental statement.
5 That's all we have.

6 And there's no indication anywhere in this document
7 that she talked to this witness about statements and got
8 him to try to identify somebody. Suppose he says, "No, I
9 don't know any of those people. I don't have that. I
10 don't even know what she showed him.

11 And so, we are deprived of that. And they said they
12 gave us discovery. Well, no, they have not complied.

13 And I agree with Mr. Galmore. She's either got to
14 become a witness -- a fact witness, because we now have
15 the right to cross-examine her about the pictures and
16 about the things, because she's made a big production here
17 about what Mr. Robert Graham said or didn't say based on
18 some statement that she, along with her investigator,
19 took.

20 And now, you know, we're stuck because we don't have
21 access to any of that stuff. I don't even know what he
22 said, and I don't know what these pictures that he showed
23 her. I don't know if they're pictures of my defendant or
24 pictures of some third party or some -- I have no earthly
25 idea.

1 So, I agree with Mr. Galmore. I think that, at this
2 stage, I don't know what else we can do. She is a fact
3 witness in this case.

4 That's the problem when solicitors go out to the
5 crime scene or when they go to the home of witnesses to
6 interrogate those witnesses. That's what law
7 enforcement's job is. And when you take it upon yourself
8 to become an investigator, then this is what happens, and
9 that's where we are now with this.

10 THE COURT: All right. Ms. Livesay?

11 MS. LIVESAY: Just very briefly, Your Honor. As
12 Mr. Wilson told you and has already held up, we handed
13 over the statement that Mr. Graham gave.

14 THE COURT: Well, I understand that. My concern is
15 the pictures. Did you show Mr. Graham pictures, for what
16 purpose, and was that information relayed to the defense
17 and were those pictures turned over to the defense?

18 MS. LIVESAY: They were pictures of Nasirea Grate
19 and Dajon Grate.

20 THE COURT: Okay. Were they given to the defense?

21 MS. LIVESAY: Everything that I showed him was given
22 to the defense. The pictures would have been whatever was
23 off the surveillance footage, whatever's already been
24 entered. They have every picture I have.

25 THE COURT: And what was Mr. Graham's response?

1 MS. LIVESAY: "Yes, that's him."

2 THE COURT: I see.

3 MS. LIVESAY: And the only -- we were there and the
4 dad was there and Grandma was there. And so, we were in
5 kind of a peculiar situation then. So, I didn't really
6 say much to Mr. Graham and neither did Mr. Brown. And all
7 I did was I was sitting there, and I had some pictures. I
8 said, "Hey, this is them?" And he said yes.

9 And there was nothing -- if he had said no, I would
10 have turned it over because it would have been
11 exculpatory. But I mean, there's no doubt he knows them.
12 They live in the home with him. So, it's not like a
13 six-pack identification.

14 THE COURT: All right. Anything in reply?

15 MR. GALMORE: Yes, very briefly, Your Honor. The
16 fact that they claim they handed over those photos, we
17 don't even know what photos were shown to Mr. Graham. And
18 to say "we handed them over," that's kind of hiding the
19 ball. They have given us a thousand pieces of evidence
20 and one of them is in there, it's just being a little
21 disingenuous.

22 Also, Your Honor, surveillance has been made a major
23 issue by the Solicitor's Office. They showed that
24 surveillance tape three or four times per witness per day.
25 We have seen it repeatedly. We have seen it ad nauseam.

1 And now, it becomes an issue where Mr. Brown's testimony
2 was they went out there for the second time specifically
3 for the purpose of showing surveillance video or showing
4 the pictures to Mr. Graham.

5 Now, we have not cross-examined Mr. Graham about
6 what he saw on these surveillance photos, whether they
7 influenced his testimony one way or the other. All I can
8 say is that surveillance is a major issue in this case,
9 and now it appears that it was -- that this investigation
10 was conducted directly by the solicitor herself, and we
11 have not had an opportunity to cross-examine the witness,
12 Mr. Graham, about these surveillance photos.

13 So, therefore, we would ask for a mistrial. We
14 would ask for the Solicitor's Office, or, at a minimum,
15 Ms. Livesay to be relieved from this case.

16 Thank you, sir.

17 THE COURT: All right. I'm going to deny the motion
18 for a mistrial. I'm going to deny the motion to recuse
19 Ms. Livesay, declare her a fact witness, and subject her
20 to cross-examination. I'm denying those motions.

21 All right. Anything else from the State before we
22 recess?

23 MS. LIVESAY: No, sir.

24 THE COURT: Mr. Wilson?

25 MR. WILSON: Nothing else, Your Honor.

1 THE COURT: Mr. Galmore?

2 MR. GALMORE: Your Honor, do we get to call
3 Mr. Graham back to the stand and ask him about these
4 surveillance photos?

5 THE COURT: When it comes time. If the defense
6 wants to present a case, yes.

7 MR. GALMORE: No, sir. They put up the witness, and
8 after the witness testimony, new evidence came out.

9 THE COURT: No. You can do it when it comes time --

10 MR. GALMORE: Well, then you're forcing me to put up
11 a case.

12 THE COURT: I have made my ruling, Mr. Galmore. All
13 right?

14 MR. GALMORE: Yes, sir.

15 THE COURT: Anything further from the State before
16 we recess?

17 MS. LIVESAY: No, sir.

18 MR. WILSON: No, sir.

19 THE COURT: Anything further, Mr. Galmore?

20 MR. GALMORE: No, sir.

21 THE COURT: All right. We'll be in recess until
22 9:30 tomorrow morning.

23 MS. LIVESAY: Thank you, Judge.

24 (The trial adjourned for the day at 5:21 p.m.)

25 * * * *

CERTIFICATE OF COURT REPORTER

CASE NAME/NUMBER: State v. Grate and Grate

DATE OF HEARING: August 26, 2024 (Trial Day 5)

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.



_ /s/ Bobbi Fisher _____

Bobbi Fisher, RPR, Court Reporter III

Date Submitted: 12/16/24

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

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

-----X
STATE OF SOUTH CAROLINA, *
State, *
vs. * Case No. 2023-GS-26-00424
2023-GS-26-00425
2023-GS-26-00452
NASIREA BREWNOPLIS JEROME *
GRATE, *
Defendant. *

-----X
August 19-28, 2024

TRIAL - VOLUME 6
Tuesday, August 27, 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

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

2 Nancy Livesay, Esq.

3 Liz Martin, Esq.

4 Assistant Solicitors for the State

5 James Galmore, Esq.

6 Attorney for Defendant Dajon Grate

7 Ralph Wilson, Sr., Esq.

8 Attorney for Defendant Nasirea Grate

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I N D E X

WITNESS/DESCRIPTION

PAGE

ISIDRO MARTINEZ

Direct Examination By Ms. Livesay 1110

Cross-Examination By Mr. Wilson 1126

Cross-Examination By Mr. Galmore 1133

Redirect Examination By Ms. Livesay 1134

SGT. CHRISTIAN FLETCHER

Direct Examination By Ms. Livesay 1139

Cross-Examination By Mr. Galmore 1145

DR. ANGELINA PHILLIPS

Direct Examination By Ms. Livesay 1147

Cross-Examination By Mr. Wilson 1166

Cross-Examination By Mr. Galmore 1174

Redirect Examination By Ms. Livesay 1177

DET. TYSHEENA MAY

Direct Examination By Ms. Livesay 1181

Cross-Examination By Mr. Wilson 1186

Cross-Examination By Mr. Galmore 1197

Redirect Examination By Ms. Livesay 1202

Motion/Matter of Law

1212

JENSEN BROWN

Direct Examination By Ms. Livesay 1218

Cross-Examination By Mr. Wilson 1220

Cross-Examination By Mr. Galmore 1221

1 CAMERON WISNIEWSKI

2 Direct Examination By Ms. Livesay 1222

3 Cross-Examination By Mr. Wilson 1228

4 Cross-Examination By Mr. Galmore 1231

5 SAMUEL STEWART

6 Direct Examination By Ms. Martin 1234

7 Cross-Examination By Mr. Wilson 1276

8 Cross-Examination By Mr. Galmore 1282

9

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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
225	Ring Video from Neighbor	1143	1144
226	Enlarged Diagram of Body	1164	1165
227	9-14-24 SLED Document	1233	1243
228	6-10-24 SLED Document	1233	1243

Defendant's Exhibit

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

P R O C E E D I N G S

(9:56 a.m.)

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

MS. LIVESAY: No, sir.

THE COURT: Mr. Wilson?

MR. WILSON: Nothing, Your Honor.

THE COURT: Mr. Galmore?

MR. GALMORE: No, sir.

MS. LIVESAY: Hold on, I do have something.

THE COURT: Hold for a second.

MS. LIVESAY: Ms. Miller went downstairs. After or during Ken Marcus's testimony, there was some issue regarding the phone dump of Todd Fry. At that time, we came up to the bench, and I believe -- I can't remember if it was Mr. Galmore or Mr. Wilson, but there was an issue as to whether or not that phone dump had been turned over to the defense attorney.

The Solicitor's Office does have documentation where the phone dump was turned over twice to both Mr. Wilson and Mr. Galmore, so I just want to mark that for purposes of the record.

THE COURT: All right. Mr. Wilson?

MR. WILSON: Well, my understanding was the witness testified that he didn't -- he weren't able to retrieve

1 the information because the time had run out and that he
2 could not do it. That's what he testified to on the
3 witness stand.

4 And then when Mr. Galtmore cross-examined him, he
5 changed his story, and then that's when he said that,
6 yeah, he did do it, but he went to Myrtle Beach to have it
7 done and that Myrtle Beach did it or something. That was
8 my understanding of what was said.

9 MS. MARTIN: Those were two separate things. One,
10 we were talking about the phone extraction or the phone
11 imaging versus the CDR records with the phone company.
12 So, when he testified on the stand, it was the CDRs that
13 the time limit had run out. It was the phone extraction
14 that he took to Andrew Curry.

15 So, it was two separate things, Mr. Wilson.

16 MR. WILSON: Okay. And that may very well be, but
17 based on what he said to me on the stand, that was my
18 understanding when I left; that he did not get anything
19 from the Todd Fry phone, because that was my question to
20 him.

21 THE COURT: All right.

22 MR. GALTMORE: Your Honor, actually, I think it was
23 two separate issues on all of the phones. And I think, as
24 far as Nasirea Grate's phone, they weren't able to get the
25 geolocation location information, but they got the call

1 details.

2 And, on the other phones, it was the exact opposite.
3 They got the geolocation location information and they
4 were not able to get the phone details.

5 So, yeah, I agree with Mr. Wilson that the testimony
6 was that the phone dump wasn't possible because it had
7 expired, and then when I cross-examined Detective Marcus,
8 it became clear that it was downloaded by the Myrtle Beach
9 Police.

10 Thank you.

11 THE COURT: All right. Anything else anybody wants
12 to put on the record?

13 MR. WILSON: No, sir.

14 THE COURT: All right. You can bring the jury in.

15 (The jury entered the courtroom at 10:02 a.m.)

16 THE COURT: All right, ladies and gentlemen.
17 Welcome back. Hope everyone had a good evening. Again, I
18 remind you: Make sure you have your own notepads and no
19 one else's notepads. We are ready to resume the trial of
20 the case.

21 The State can call your next witness.

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

24 (The interpreter was duly sworn.)

25 THE CLERK: Please raise your right hand and place

1 your left hand on the Bible.

2 ISIDRO MARTINEZ,

3 after having been duly sworn, was examined and
4 testified to as follows:

5 THE CLERK: Thank you. State your first name and
6 spell your last name for the Court.

7 THE WITNESS: I-s-d -- I'm sorry. I-s-i-d-r-o
8 M-a-r-t-i-n-e-z.

9 DIRECT EXAMINATION

10 BY MS. LIVESAY:

11 Q Mr. Martinez, how old are you?

12 A 39.

13 Q Okay. And do you live in Horry County?

14 A Yes.

15 Q And how long have you lived in Horry County?

16 A I think 19 years exactly. Yes, maybe 19 years.

17 MS. LIVESAY: Okay. And what address did he live at
18 in 2022 -- May of 2022?

19 THE COURT: Excuse me. You just need to ask like
20 you're asking him and then she'll do the interpretation.

21 BY MS. LIVESAY:

22 Q Mr. Martinez, what address did you live at in May of
23 2022?

24 A Highway -- I don't remember. I'm kind of nervous.
25 It's on Highway [REDACTED].

1 Q Okay. And did anybody live at that address with you
2 at that time?

3 A Yes. My partner.

4 Q Who?

5 A My ex-partner.

6 Q And who was that in relation to you?

7 A Like my friend. Like my girlfriend, my wife.

8 Q Okay. And do you remember a day when Berenice
9 called the police?

10 A Yes.

11 Q And do you remember what you saw and heard that day?

12 A Yes.

13 Q And how long had he lived at that -- how long had
14 you lived at that address?

15 A 19 years.

16 Q Okay. And, Mr. Martinez, can you tell these folks
17 what you remember happened that day, what you saw and what
18 you heard?

19 A Okay.

20 THE INTERPRETER: Judge, do you want me to do it
21 simultaneously or shall I wait every time he says?

22 THE COURT: What is -- you can do whatever you need.

23 A Okay. We were inside at our house, and I hear some
24 gunshots. I was going to go out, but then I decide to
25 just peek out of the little window next to the door. And

1 I saw somebody who was, like, walking but faster than
2 walking.

3 BY MS. LIVESAY:

4 Q And was that person saying anything or doing
5 anything?

6 THE INTERPRETER: Okay. But in English say --
7 because he's saying it in Spanish.

8 THE WITNESS (In English): "Oh, shit. Oh, shit."

9 THE INTERPRETER: Okay. Yes, he was like --

10 MS. LIVESAY: I understood that one word, but go
11 ahead.

12 [Courtroom laughter.]

13 THE INTERPRETER: Yes, because he was saying -- he
14 was grabbing her stomach -- his stomach and saying, like,
15 "Shit, shit."

16 BY MS. LIVESAY:

17 Q "Shit, shit, shit." Okay.

18 Can you describe what that individual looked like?
19 Was he Black? White? Hispanic? What did he look like?

20 A He was, like, a Black person.

21 Q Okay. Do you remember what he had on? What kind of
22 clothing, if he had on clothing?

23 A Yes.

24 Q Okay. Tell me what you remember him having on.

25 A Was shirtless. Underwear, green. And, like, some

1 pants. Black pants.

2 Q Would you recognize a picture of the person you saw?

3 A Like, if I see exactly the face, I don't know.

4 MS. LIVESAY: Ultimately, where did he see that
5 person?

6 THE WITNESS (Through interpreter): Okay. Again, I
7 saw him, like, laying in the floor with her [sic] face
8 down.

9 BY MS. LIVESAY:

10 Q And would he -- would you recognize a picture of him
11 face down?

12 A Yes.

13 THE INTERPRETER: Say the words.

14 I'm sorry; telling him to say the words.

15 MS. LIVESAY: I'm showing him State's Evidence No.
16 60.

17 BY MS. LIVESAY:

18 Q Do you recognize that as the person you saw?

19 A Yes.

20 Q Is that the person you saw walking fast, holding his
21 stomach saying, "Shit, shit, shit"?

22 A Yes.

23 Q Okay. And after you saw that, what did you see
24 next?

25 A Okay. After that, I went to my room, and I saw a

1 person walking fast, kind of running.

2 Q What did that person -- first, let me clear up this.
3 Is that a second different person than the one in the
4 picture?

5 A Yes.

6 Q Okay. Tell me what you saw that person looked like.

7 A They had a face cover. He was, like, covering his
8 face. I couldn't tell if it was, like, a mask something
9 or a black thing on the head.

10 Q Okay. Could you see anything on his face? Could
11 you see nose? mouth? eyes?

12 THE INTERPRETER: I'm sorry, my mistake. He only
13 saw the eyes first.

14 BY MS. LIVESAY:

15 Q Okay. So, was it a mask that covered everything
16 other than the eyes?

17 A Yes.

18 Q It's okay. And could you tell from that if that
19 individual was White? Hispanic? Black? Could you tell
20 anything about the color of that person?

21 A He was Black.

22 Q What now?

23 THE INTERPRETER: He was a black person?

24 BY MS. LIVESAY:

25 Q Okay. And can you remember -- and you may have said

1 it and I missed it; I apologize. What color was the mask
2 that that person was wearing?

3 A Black.

4 Q Okay. And does he -- do you remember what that
5 person was wearing, if anything?

6 A No.

7 MS. LIVESAY: Okay. Did he say that into the
8 microphone?

9 A No.

10 BY MS. LIVESAY:

11 Q So, the second person you saw, all you saw was that
12 it was a black --

13 MS. LIVESAY: Could he tell if it was a male or
14 female?

15 A I think with exactly, like, precisely, it was a
16 male.

17 BY MS. LIVESAY:

18 Q And was the man -- could you tell if the man was
19 fat? Skinny?

20 THE WITNESS: Skinny.

21 BY MS. LIVESAY:

22 Q I knew that one. I got that one.

23 So, the second person you saw, the only thing you
24 could tell was it was a Black male wearing a black mask
25 only showing the eyes; is that correct?

1 A Yes.

2 Q Okay. Now, you saw him from inside your apartment;
3 is that correct?

4 THE INTERPRETER: Say that again.

5 MS. LIVESAY: He saw that both people when he was
6 inside his apartment, looking out the window; is that
7 correct?

8 A Yes.

9 BY MS. LIVESAY:

10 Q Did you see anybody else when you were looking out
11 the window of your apartment?

12 A No.

13 Q Okay. At some point, did you come outside of your
14 apartment?

15 A Yes.

16 Q And when you came out of the apartment, what did you
17 see?

18 A I saw blood on the floor.

19 Q You saw what now?

20 A Blood on the floor.

21 Q Okay.

22 A And when I went out, I saw, like, a young boy, like,
23 on the floor.

24 Q Okay. And the man on the floor that you saw, was it
25 this man?

1 A Yes.

2 Q Okay. So, am I correct that, when he came out of
3 the apartment and looked, this was the man you saw laying
4 on the ground?

5 A Yes.

6 Q Now, Mr. Martinez, you walk out the door. You see
7 the man in the picture laying down to the left. What do
8 you see -- you see blood on the ground; is that correct?

9 A Yes.

10 MS. LIVESAY: What else did he see?

11 THE WITNESS (Through interpreter:) I went to see,
12 like, other car, and there was, like, another young person
13 laying on the wheel of the car. The car wheel.

14 MS. LIVESAY: Does he remember what color that car
15 was?

16 BY MS. LIVESAY:

17 Q Do you remember what color the car was?

18 A Well, I don't know -- what I saw, it was white.

19 Q Would you recognize a picture of that car at that
20 location if I showed it to you?

21 A Yes.

22 Q I'm showing State's Exhibit 55. Do you recognize
23 this car?

24 A Yes, it was, like, parking in front.

25 Q It's -- go ahead.

1 A It was in front of the Apartment No. 1.

2 Q And is this the car you saw out there that day when
3 you came out your apartment and the guy was laying dead to
4 the left?

5 A Yes.

6 Q And is that how it appeared when you saw it that
7 day?

8 A Yes.

9 Q Showing the jury State's Exhibit No. 55.
10 Mr. Martinez, did you see anybody in that white car?

11 A Yes.

12 Q Describe that person. Was he White? Hispanic?
13 Black?

14 A Black.

15 Q And where was he sitting in the car when you saw
16 him?

17 A In the driver's side.

18 Q And how did he appear?

19 A He was, like, laying, from what I can see. I didn't
20 see the face.

21 Q Was he talking? making any sounds? Was there any
22 signs of life when you saw him?

23 A No.

24 Q Would you recognize a picture of him in the white
25 car if I showed it to you?

1 A Yes.

2 MS. LIVESAY: Showing him State's Evidence No. 57.

3 THE WITNESS: Yes.

4 BY MS. LIVESAY:

5 Q Is that the person you saw in the car that day?

6 A Yes.

7 Q And is that how he appeared when you saw him?

8 A Yes.

9 MS. LIVESAY: Showing the jury State's 57.

10 BY MS. LIVESAY:

11 Q What else did you see out there?

12 A Well, that's it. That's everything I saw.

13 Q Did you -- did you see any guns out there?

14 A Yes. Yes, now I remember.

15 Q And where was the gun you saw?

16 A Like, next to the co-pilot place on the floor.

17 Q When you say "floor," do you mean ground?

18 A Yes, in the concrete. When I say "the floor," it's
19 the concrete.

20 Q And was the gun on the passenger side of the white
21 car?

22 A Yes.

23 Q And would you recognize the gun outside of the car
24 if I showed you a picture?

25 A Yes.

1 Q I'm showing State's Evidence No. 58.

2 A Yes. That's the gun.

3 Q Is that what you saw that day?

4 A Yes.

5 Q And did you, at any point, touch the gun?

6 A No.

7 Q At any point, did you touch the white little SUV?

8 A No.

9 Q Did, at any point, you touch the two people that
10 were deceased?

11 A No.

12 Q So, the pictures that I have shown you are exactly
13 how you saw it when you walked out of the apartment; is
14 that correct?

15 A Yes.

16 Q And were you the first person to come out and look
17 around?

18 A Yes.

19 Q Showing the jury State's 58.

20 Am I correct that, when you walked out, the only two
21 people you saw were the two deceased people: the one
22 outside your apartment and the one in the white Acura --
23 white car?

24 A Yes.

25 Q Do you know where the man with the mask went?

1 A No.

2 Q But he was not out there when you walked outside the
3 apartment?

4 A No.

5 Q Okay. So, were there any other vehicles out there
6 other than the white Acura, other than the ones that are
7 normally out there?

8 A No, I didn't see any.

9 Q Okay. And so, you never saw where the guy with the
10 black mask went?

11 A No.

12 Q But he definitely was not out there when you came
13 out of the apartment?

14 A No.

15 Q Had you ever seen the white SUV out there before?

16 A No.

17 Q And how long had you lived there prior to that day?

18 A 19 years.

19 MS. LIVESAY: How many?

20 THE INTERPRETER: Nineteen.

21 MS. LIVESAY: 19 years.

22 THE INTERPRETER: Yes. One-nine.

23 BY MS. LIVESAY:

24 Q And never have seen the Acura before?

25 A No.

1 Q Now, how many apartments are out there?

2 A Four.

3 Q So, do you see the same cars over and over?

4 A Yes.

5 MS. LIVESAY: When he looked out the window, were
6 there still shots -- could he still hear shots being
7 fired?

8 THE WITNESS (Through interpreter): No, no more.

9 MS. LIVESAY: Okay. So, when he looked out the
10 window, the shooting had stopped?

11 THE WITNESS (Through interpreter): Yes, I didn't
12 hear any.

13 MS. LIVESAY: Okay. And was Berenice the only other
14 person living in the apartment with him at that time?

15 THE WITNESS (Through interpreter): Yes.

16 MS. LIVESAY: And did she call the police?

17 THE WITNESS (Through interpreter): Yes.

18 MS. LIVESAY: And at some point -- so, they were
19 both in the apartment together when the shots were fired?

20 THE WITNESS (Through interpreter): Yes.

21 MS. LIVESAY: And, at some point, did she look out
22 the window?

23 THE WITNESS (Through interpreter): I don't remember.

24 MS. LIVESAY: Okay. And where was he -- what window
25 was he looking out of?

1 THE WITNESS (Through interpreter): From my room
2 window. The window in my room.

3 BY MS. LIVESAY:

4 Q Showing State's Evidence 59. Can you show me on
5 this picture which window you were looking out?

6 A (Indicating).

7 Q So, that was the window you were looking out?

8 A Yes. That was the second window. The first one was
9 the one close to the door.

10 Q Okay. So, which window did you look out first?

11 A The one that is on the side of the door.

12 MS. LIVESAY: Okay. And then did he move to the
13 bedroom? What happened?

14 THE WITNESS (Through interpreter): Okay. First, I
15 saw the person through the little window, the one who was,
16 like, walking. And then I moved to the room. I looked
17 through the other window and ready to get to the floor in
18 case we keep hearing the gunshots.

19 MS. LIVESAY: Okay. So, what window was he looking
20 out when he saw the guy with the mask?

21 THE WITNESS (Through interpreter): In the one in my
22 room.

23 MS. LIVESAY: And did he hear that guy --

24 BY MS. LIVESAY:

25 Q So, did you hear that person say anything?

1 A No.

2 Q Okay. And did you hear any yelling, screaming,
3 arguing, anything during that time?

4 A No.

5 MS. LIVESAY: Did he hear any screaming or yelling,
6 fighting, arguing, anything prior to hearing the gunshots?

7 THE WITNESS (Through interpreter): No.

8 MS. LIVESAY: And the only person he saw that lived
9 was the guy with the mask?

10 THE WITNESS (Through interpreter): Well, the one
11 that I saw from the window in my room, I didn't see that
12 person anymore.

13 MS. LIVESAY: Okay. Okay. How -- where was the guy
14 with the mask standing when he saw him?

15 THE WITNESS (Through interpreter): No, I don't saw
16 him standing. I saw him, like, walking.

17 MS. LIVESAY: Okay. So, he just saw him walking
18 past the window?

19 THE WITNESS (Through interpreter): Yes. Well, I
20 don't know how you say the sidewalk.

21 MS. LIVESAY: Okay. Okay. So, he saw him walking
22 on the sidewalk?

23 THE WITNESS (Through interpreter): Yes.

24 MS. LIVESAY: Okay. And can he point out in this
25 picture what sidewalk, if it's in the picture?

1 THE WITNESS (Through interpreter): (Indicating)
2 yes, in that.

3 MS. LIVESAY: Right here?

4 THE WITNESS (Through interpreter): Yes.

5 MS. LIVESAY: So, the same portion -- he saw him
6 walking on the same portion of the sidewalk that is close
7 to where the other guy was found deceased; is that
8 correct?

9 THE WITNESS (Through interpreter): Yes.

10 MS. LIVESAY: And Berenice is the one that called
11 the police?

12 THE WITNESS (Through interpreter): Yes.

13 MS. LIVESAY: And did the police come?

14 THE WITNESS (Through interpreter): Yes.

15 MS. LIVESAY: And did the police talk to him and
16 Ms. Berenice?

17 THE WITNESS (Through interpreter): Yes.

18 MS. LIVESAY: And did they have any kind of
19 interpreter out there when they spoke with him and
20 Ms. Berenice?

21 THE WITNESS (Through interpreter): No. She does
22 speak English.

23 MS. LIVESAY: I'm sorry? What?

24 THE INTERPRETER: She does speak English.

25 MS. LIVESAY: Ms. Berenice?

1 THE WITNESS (Through interpreter): Yes.

2 MS. LIVESAY: And does she also speak Spanish?

3 THE WITNESS (Through interpreter): Yes.

4 MS. LIVESAY: And does he know which is her first
5 language?

6 THE WITNESS (Through interpreter): Spanish.

7 MS. LIVESAY: And when they were in the apartment
8 together, did they converse in Spanish or English?

9 THE WITNESS (Through interpreter): Spanish.

10 MS. LIVESAY: Did he tell the police the information
11 that he's telling us today?

12 THE WITNESS (Through interpreter): Yes.

13 MS. LIVESAY: And was he ever taken to the police
14 station?

15 THE WITNESS (Through interpreter): No.

16 MS. LIVESAY: No further questions.

17 THE COURT: Mr. Wilson, cross-examination?

18 MR. WILSON: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. WILSON:

21 Q Mr. Martinez, will you agree with me that you don't
22 know who was shooting out there that day?

23 A Yes, I didn't know. I don't know.

24 Q Would you agree with me that you cannot identify any
25 person as being there other than the two dead people?

1 A Yeah. Like other people that were doing the
2 gunshot, no.

3 Q I'm sorry. I don't understand.

4 MR. WILSON: Repeat for me what he said.

5 THE INTERPRETER: "No, for the people that were
6 doing the gunshots, I don't know."

7 BY MR. WILSON:

8 Q So, the answer is no?

9 THE INTERPRETER: No, but he's agreeing with you.
10 You know what I mean? You asked him if he was agreed with
11 you, and he said yes.

12 BY MR. WILSON:

13 Q So, you agree with me that you cannot identify any
14 person other than the two dead people: one on the ground
15 and one in the car?

16 THE WITNESS (In English): No.

17 BY MR. WILSON:

18 Q In fact, you told the solicitor that you can't even
19 tell us what the man who had the mask on was wearing.

20 A Can you ask me the question again?

21 MR. WILSON: Did he know what the man was wearing
22 who had the mask on?

23 THE WITNESS (Through interpreter): No.

24 MR. WILSON: Now, ask him if -- well, let me ask
25 him.

1 BY MR. WILSON:

2 Q Mr. Martinez, do you know who fired the first shot
3 out there, whether it came from the white car or from some
4 other place?

5 A No, I don't know.

6 Q When you went to the white car, you told the
7 solicitor that you came outside and you went to the white
8 car but you didn't touch it.

9 A Yes, that's correct.

10 Q Did you see a gun -- a pistol with an extended clip
11 in the lap of Mr. Conn, the gentleman that was in the
12 white car?

13 A No.

14 Q You did not see the gun?

15 A No, I didn't.

16 Q Did you see a gun of any type on the body of the man
17 who was laying close to the porch?

18 A No.

19 Q So, the only gun that you saw would have been the
20 gun that was laying on the ground near the white car?

21 A Yes.

22 Q How long would it have been from the time you heard
23 the first shot until -- well, let me back up and ask you
24 this. How many shots did you hear?

25 THE INTERPRETER: Ask me -- I want to ask you, like,

1 when did you hear the first shot. Oh, no, let me
2 rephrase. When do you hear the first shot? How many
3 shots?

4 THE WITNESS (In English): Spanish.

5 THE INTERPRETER: I'm sorry.

6 THE COURT: That's all right.

7 A I don't remember. I know they were, like, multiple,
8 but I don't know how many. I couldn't tell.

9 MR. WILSON: Ask him if he thought it was more than
10 ten.

11 THE WITNESS (Through interpreter): I cannot tell
12 you. I really don't know.

13 MR. WILSON: Okay. Ask him how or what time period
14 were these shots fired. Was it a minute? 30 seconds? 30
15 minutes? Ask him if he has any idea of the length of time
16 that these shots went on.

17 THE WITNESS (Through interpreter): No, I don't
18 know.

19 MR. WILSON: Okay. And let me ask him if he would
20 agree with me that he is not telling this Court that
21 either of these defendants --

22 THE INTERPRETER: Excuse me. You're asking me?
23 That's why I'm getting confused. Can you please ask him,
24 so...

25 MR. WILSON: I am asking him.

1 THE INTERPRETER: Okay.

2 MR. WILSON: I am asking him.

3 THE INTERPRETER: I'm sorry.

4 MR. WILSON: I'm asking him to tell me whether or
5 not he can tell this jury that he recognizes either of
6 these defendants and that they were present at the time of
7 the shooting.

8 THE WITNESS (Through interpreter): No, I don't
9 understand very well.

10 MR. WILSON: Let me rephrase it and ask you this
11 one. Did he identify any person alive as being one of the
12 perpetrators?

13 THE WITNESS (Through interpreter): No.

14 MR. WILSON: All right. Ask him if he met -- well,
15 let me rephrase that.

16 BY MR. WILSON:

17 Q Mr. Martinez, did you meet with the solicitor to
18 discuss your testimony?

19 A No.

20 Q Okay. So, this is your first time meeting with them
21 today?

22 A Well, I don't know. Twice, but...

23 Q Twice? I'm sorry; I didn't understand the answer.

24 A Yes, I did meet with them.

25 Q Okay. How many times?

1 A Twice.

2 Q Twice. All right.

3 And did they show you these pictures that you
4 identified here today?

5 A Yes.

6 Q All right. And did they show you pictures of any
7 individuals that they said they thought might have
8 committed this crime?

9 A No.

10 Q Okay. One last question: The man that you say that
11 you saw -- and let me rephrase that.

12 Is it my understanding, Mr. Martinez, that you saw
13 the man who was ultimately on the ground dead near the
14 door?

15 A Like, I don't understand.

16 Q I'm asking -- my understanding is --

17 MR. WILSON: And you can repeat this to him. My
18 understanding is that he saw two individuals outside of
19 the white car. One of the individuals was later
20 identified by him as laying on the ground. The second
21 individual was a Black male that he says had on a mask.
22 And I'm asking him, was there any other person that he saw
23 other than that?

24 THE WITNESS (Through interpreter): No. No, nobody
25 else.

1 MR. WILSON: All right. Ask him did he ever see a
2 silver Cadillac vehicle.

3 THE WITNESS (Through interpreter): No.

4 BY MR. WILSON:

5 Q Okay. So, if there was a silver Cadillac there, you
6 didn't see it?

7 A No.

8 MR. WILSON: Ask him who was the first person out of
9 the house: Him or Ms. Berenice.

10 THE WITNESS (Through interpreter): Me.

11 BY MR. WILSON:

12 Q So, you were the first person to come out of the
13 apartment that you and Ms. Berenice was in?

14 A Yes.

15 Q And you came out first. How long after you --

16 MR. WILSON: I apologize. Go ahead.

17 THE INTERPRETER: No, go ahead.

18 BY MR. WILSON:

19 Q How long after you came out before Ms. Berenice came
20 out?

21 A Like, I don't know. 20 seconds, 30 seconds.

22 Q And when you came out, did you see any man running?

23 A No.

24 Q Did you see a silver Cadillac?

25 A No.

1 MR. WILSON: No other questions.

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

3 CROSS-EXAMINATION

4 BY MR. GALMORE:

5 Q Mr. Martinez, did you see the shooting?

6 A No.

7 Q Do you know who was firing any guns?

8 A No.

9 Q Did you see who fired first?

10 A No.

11 Q Did you have a gun?

12 A No.

13 Q Did you have a BB gun?

14 A No.

15 Q Did the police show you any pictures and ask you to
16 identify anyone?

17 A The police? The police did?

18 Q Yes, the police.

19 A No.

20 Q Did you give a written statement to the police?

21 A No.

22 Q Do you know if the police tape-recorded your
23 statement?

24 A No, I don't know.

25 Q Were you ever asked to sign a document indicating

1 that it was your statement?

2 A No.

3 Q Can you identify either of these young men as being
4 out there that day?

5 A No.

6 MR. GALMORE: No further questions.

7 THE COURT: Redirect?

8 MS. LIVESAY: Yes, sir.

9 REDIRECT EXAMINATION

10 BY MS. LIVESAY:

11 Q Mr. Martinez, was the victim in the white Acura --
12 you remember seeing him slumped over --

13 MS. LIVESAY: Does he remember seeing the victim in
14 the white car slumped over?

15 THE WITNESS (Through interpreter): What do you mean
16 like is if I have seen him before?

17 MS. LIVESAY: I'm sorry. One more time.

18 THE INTERPRETER: What do you mean if I have seen
19 him before?

20 MS. LIVESAY: No, if he remembers seeing him that
21 day, that picture. Is that exactly how he saw him?

22 THE WITNESS (Through interpreter): Yes. Yes.

23 MS. LIVESAY: This is exactly how you saw him?

24 THE WITNESS (Through interpreter): Yes.

25 BY MS. LIVESAY:

1 Q And were you the first one to see him?

2 A Yes.

3 Q Okay. So, you didn't see him with a mask on, did
4 you?

5 A No.

6 MS. LIVESAY: Ask him can he identify that this is
7 the guy, because he did not have a mask on, he could
8 clearly see his face?

9 THE WITNESS (Through interpreter): To be honest,
10 his face there, I didn't see it. He was just like in that
11 position.

12 BY MS. LIVESAY:

13 Q Okay. So, he was just slumped over?

14 A Yes.

15 Q But did he have a mask on?

16 A No.

17 Q Okay. So, you could see his face if you got over
18 there and looked?

19 A Yes, I think. I don't...

20 Q Okay. But he didn't have a mask on?

21 A No.

22 Q The guy that had the mask on, what portion of his
23 face could you see?

24 A Only the eyes.

25 MS. LIVESAY: Would there be any way for him to be

1 able to identify that guy when all he could see was the
2 eyes?

3 THE WITNESS (Through interpreter): No.

4 BY MS. LIVESAY:

5 Q Because the mask was concealing everything else;
6 correct?

7 MR. WILSON: Your Honor, she's testifying now.

8 THE COURT: I sustain. Don't testify. Ask your
9 questions.

10 BY MS. LIVESAY:

11 Q Could you see any other portion of his face other
12 than the mask?

13 A No.

14 Q Did the mask cover the person's hair?

15 A I don't remember.

16 MS. LIVESAY: Okay. He just remembers all he could
17 see was the eyes.

18 THE WITNESS (Through interpreter): Yeah, it was
19 like kind of fast.

20 MS. LIVESAY: Okay. And would there be any way to
21 be able to identify -- would he be able to identify the
22 guy wearing the mask? Could he see that guy good enough
23 to be able to identify him?

24 THE WITNESS (Through interpreter): No.

25 MS. LIVESAY: Okay. So, the mask kept him from

1 being able to identify that guy?

2 THE WITNESS (Through interpreter): No.

3 MS. LIVESAY: Okay. So, he doesn't know if these
4 two guys were out there or not?

5 THE WITNESS (Through interpreter): No.

6 MS. LIVESAY: Okay. So, he can't say yes or no
7 because whoever it was had on a mask?

8 THE WITNESS (Through interpreter): Yes. He was,
9 like, covered with the mask, so I don't know who he was.

10 MS. LIVESAY: There was some questions earlier about
11 Ms. Berenice and a silver Cadillac. Do you remember that?

12 THE WITNESS (Through interpreter): No, I don't
13 remember.

14 MS. LIVESAY: Okay. During the time he was in the
15 apartment, was Berenice in the apartment?

16 THE WITNESS (Through interpreter): Yes.

17 MS. LIVESAY: Could there have been times she was
18 looking out one window, and he was --

19 MR. WILSON: I object to the form of the question.

20 THE COURT: Sustained.

21 MS. LIVESAY: Was Berenice with him the entire time
22 he was looking out the window?

23 THE WITNESS (Through interpreter): No. When I
24 heard the shots, I was going to go out, but then I went
25 back and looked in the window, and then I went to the

1 door -- to the room where she was.

2 MS. LIVESAY: Okay. And does he know where Berenice
3 was the entire time when he was looking out these two
4 windows?

5 THE WITNESS (Through interpreter): No, I don't
6 remember.

7 MS. LIVESAY: Okay. So, he doesn't know if or when
8 she was looking out a window?

9 THE WITNESS (Through interpreter): No.

10 MS. LIVESAY: Okay. So, he doesn't know or I should
11 ask it this way: Does he know what Berenice saw, if
12 anything?

13 MR. WILSON: Your Honor, I object to the question.
14 First of all, the only way he would possibly know what she
15 knows is if she would told him, and that would be hearsay.

16 THE COURT: Sustain the objection.

17 THE WITNESS (Through interpreter): Yes, I don't
18 know. I don't know what she saw.

19 MS. LIVESAY: No further questions.

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

21 COURT STENOGRAPHER: Your Honor, can we get the
22 interpreter's name?

23 THE COURT: Oh, yes.

24 THE INTERPRETER: Maria, M-a-r-i-a. Rivera,
25 R-i-v-e-r-a.

1 THE COURT: All right. You may step down.
2 The State can call your next witness.

3 MS. LIVESAY: At this time, the State calls
4 Christian Fletcher.

5 SGT. CHRISTIAN FLETCHER
6 after having been duly sworn, was examined and
7 testified to as follows:

8 THE WITNESS: Sergeant Christian Fletcher.
9 F-l-e-t-c-h-e-r.

10 DIRECT EXAMINATION

11 BY MS. LIVESAY:

12 Q Where are you employed?

13 A I'm employed with the Horry County Police
14 Department.

15 Q And how long have you been with the police
16 department?

17 A I have been with this specific police department for
18 seven years.

19 Q And what were your -- what are your current
20 responsibilities?

21 A I'm currently a sergeant, and I'm assigned to a
22 special operation element.

23 Q And what were your responsibilities in May and June
24 of 2022?

25 A I was a homicide detective for the Horry County

1 Police Department.

2 Q Okay. And did you, at that time, assist on the case
3 that we're here today for?

4 A I did.

5 Q And, if you don't mind, tell these folks kind of
6 what your job was on this case.

7 A I responded to the incident location, and I was
8 tasked with canvassing the area for potential witnesses
9 and/or video or audio surveillance of the instance or
10 aftermath thereof.

11 Q And, at any point, did you find any video
12 surveillance along the area of where the crime occurred?

13 A I did.

14 Q And what did you find?

15 A It was a house just north of the incident location
16 also on Highway [REDACTED]. I have the exact address on my
17 notes, if you'd like me to refer to them.

18 Q If I showed you the map, could you show us about
19 where that house was located?

20 A I can show you generally, yes.

21 Q I'm showing State's Evidence No. 8.

22 A So, the incident location, and it was just north of
23 that on the left-hand or west side of the roadway several
24 houses or lots up. I'm not exactly sure on distance but
25 very, very close.

1 Q So, it was -- if you came out of the incident
2 location and took a right, you would go in front of that
3 surveillance camera that you found?

4 A So, if you were parked in the incident location,
5 like backed in, and, yes, you would turn right onto
6 Highway [REDACTED] and then the location I located was on the
7 left-hand side of Highway [REDACTED] just north of the incident
8 location.

9 Q Okay. And how close are we talking to the incident
10 location was that particular camera?

11 A Very. I mean, less than a half mile. Probably a
12 quarter mile. I don't recall precisely, but I would say
13 it's a neighbor.

14 Q Okay. And what was the video surveillance?

15 A I can't speak to all the cameras on the home. The
16 one that we noticed visually, which drew us to the
17 address, was posted on a -- kind of like a column-like
18 structure that would separate, like, the driveway from the
19 road.

20 Q Okay. And did you ultimately meet with the
21 person -- the owner of that residence?

22 A I did.

23 Q And when you met with that person, did you find out
24 whether or not that camera was in working order and
25 capturing whatever it was showing?

1 A There was at least a camera that was in working
2 order on the residence.

3 Q Okay. And did you look at the footage right there
4 with the homeowner?

5 A I did.

6 Q And what did you see?

7 A The footage that we observed was a light-in-color
8 sedan-like vehicle traveling away from the area.

9 Q Okay. And was that the vehicle that y'all were
10 looking for?

11 A At the time of our arrival, we were given a vehicle
12 of interest that, I believe, the verbiage at the time was
13 a light-colored sedan.

14 Q Okay. And did it match that description?

15 A Yes.

16 Q And, at that time, did you obtain that surveillance
17 footage from the owner of that home?

18 A I did.

19 Q And did the surveillance footage have a date and
20 time on it?

21 A It does.

22 Q And when you looked down at it, was the date and
23 time correct when you collected it?

24 A Yes.

25 Q I'm going to show you now...

1 COURT STENOGRAPHER: 225.

2 (State's Exhibit No. 225, Ring Video from Neighbor,
3 was marked for identification.)

4 BY MS. LIVESAY:

5 Q Do you recognize what I'm showing you now, Sergeant
6 Fletcher?

7 A I do.

8 Q And did you initial it?

9 A I did.

10 Q And did you initial it to show that that indeed was
11 the footage that you collected from the residence close to
12 the crime scene?

13 A Yes, ma'am.

14 Q And that has the correct date and timestamp?

15 A Yes.

16 MS. LIVESAY: At this time, Your Honor, the State
17 wishes to put 225 into evidence and publish it at the
18 appropriate time.

19 THE COURT: Mr. Wilson?

20 MR. WILSON: I have no objections, Your Honor.

21 THE COURT: Mr. Galmore?

22 MR. GALMORE: No objection.

23 THE COURT: All right. State's Exhibit 225 admitted
24 into evidence without objection.

25 (State's Exhibit No. 225 was received into

1 evidence.)

2 BY MS. LIVESAY:

3 Q Now, Mr. Fletcher, while she's gearing that up, was
4 that the only piece of evidence you collected?

5 A Yes.

6 Q Okay. So, there was not any video surveillance at
7 the actual location?

8 A Not that -- well, not that I'm aware of or that I
9 collected, no.

10 Q Okay. And when you canvassed the area, this was the
11 only location that you were able to recover any kind of
12 surveillance?

13 A Again, me directly, yes. We typically break the
14 canvassing element into several units to cover a vast
15 majority of the area in question quickly. So, my direct
16 involvement, yes.

17 Q So, this is the only thing you collected?

18 A Correct.

19 Q Okay. And was this your only involvement in this
20 particular case?

21 A Yes.

22 Q Okay.

23 (Video plays.)

24 And is that the surveillance capturing the vehicle
25 leaving the area of the crime scene?

1 A Yes.

2 MS. LIVESAY: Play it one more time and hit pause.

3 BY MS. LIVESAY:

4 Q And is this residence a neighbor close enough to
5 call a neighbor to the crime scene?

6 A Yes, this is the house that I described previously.

7 Q Okay. And is the timestamp of May 31st, 2022, is
8 that timestamp date; correct?

9 A Yes. The date is correct.

10 Q And what is the time?

11 A The time, as I understand it, reads as 14:07:57,
12 which is the military time of 2:07 p.m.

13 Q So, it's May 31st, 2:07 p.m.?

14 A Correct.

15 MS. LIVESAY: No further questions for this witness,
16 Your Honor.

17 THE COURT: All right. Mr. Wilson?

18 MR. WILSON: I don't think I have any questions.

19 THE COURT: Mr. Galmore?

20 CROSS-EXAMINATION

21 BY MR. GALMORE:

22 Q Were you tasked with interviewing any witnesses at
23 the location on Highway [REDACTED]?

24 A Which location? This one or the incident location?

25 Q Either one.

1 A No.

2 Q Did you collect any physical evidence while you were
3 at that location other than this video?

4 A No.

5 Q Did you collect any fingerprints?

6 A No.

7 Q Did you see the shooting?

8 A No.

9 Q Do you know the sequence of the shots that were
10 fired?

11 A No.

12 Q Are you able to identify any individuals in that car
13 on the video?

14 A No.

15 Q Could you identify the driver of that car?

16 A No.

17 Q Could you identify if there were passengers in the
18 car?

19 A No.

20 Q No further questions. Thank you.

21 THE COURT: All right. Redirect?

22 MS. LIVESAY: No, sir, Your Honor.

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

24 THE WITNESS: Thank you, Judge.

25 THE COURT: The State can call your next witness.

1 MS. LIVESAY: Dr. Angelina Phillips.

2 THE CLERK: Please raise your right hand and place
3 your left hand on the Bible.

4 DR. ANGELINA PHILLIPS

5 after having been duly sworn, was examined and
6 testified to as follows:

7 THE CLERK: Please state your name and spell it for
8 the Court.

9 THE WITNESS: Angelina Phillips. A-n-g-e-l-i-n-a
10 P-h-i-l-l-i-p-s.

11 DIRECT EXAMINATION

12 BY MS. LIVESAY:

13 Q And, Dr. Phillips, if you don't mind, tell this
14 crowd where you're employed.

15 A I work at the Medical University of South Carolina.

16 Q And, if you don't mind, what is your job
17 responsibilities there at MUSC?

18 A I am a forensic pathologist and a professor of
19 pathology and nutrition.

20 Q If you don't mind, tell us a little bit about what
21 kind of education you have had to become a pathologist.

22 A I have an undergraduate degree in anthropology from
23 New York University; a graduate degree in human nutrition
24 from Columbia University in New York. Then I completed
25 four years of medical school in Upstate New York and then

1 moved to Massachusetts for another four years of general
2 pathology training before coming down to South Carolina,
3 one more year of training in forensic pathology.

4 Q And tell us a little bit about what forensic
5 pathology is.

6 A Forensic pathology is a subsection of the field of
7 pathology. We are doctors who are primarily tasked with
8 performing autopsies and examining the body of a deceased
9 person.

10 Q So, day-to-day, what are you doing, for the most
11 part?

12 A For the most part, I do 50 percent autopsies and 50
13 percent paperwork and court testimonies.

14 Q And you're doing autopsies, trying to figure out
15 cause of death; is that correct?

16 A Yes. The purpose of the autopsy is to determine the
17 cause and determine a manner of death.

18 Q Okay. And have you ever been qualified as an expert
19 in forensic pathology?

20 A Yes.

21 Q How many times?

22 A At least 30.

23 Q How many?

24 A At least 30.

25 Q Okay. And were those courts General Sessions?

1 **A** Yes.

2 MS. LIVESAY: And, at this time, Your Honor, the
3 State wishes to have Ms. Phillips recognized as an expert
4 in forensic pathology.

5 THE COURT: All right, Mr. Wilson. Any challenges?

6 MR. WILSON: I will stipulate to her qualifications
7 as an expert in the field of forensic pathology.

8 THE COURT: Mr. Galmore?

9 MR. GALMORE: No objection, sir.

10 THE COURT: All right. I find this witness to be an
11 expert in the field of forensic pathology.

12 BY MS. LIVESAY:

13 **Q** Okay. So, Dr. Phillips, you look at victims of
14 crime; correct? Deceased victims?

15 **A** Yes.

16 **Q** Okay. And you're trying to figure out cause of
17 death. Gunshot wounds, stab wounds, etc.?

18 **A** Correct.

19 **Q** And the difference between forensic pathology and
20 regular is that you can testify about things like defense
21 wounds, stippling, things that are specific to the
22 criminal world?

23 **A** That is correct.

24 **Q** Okay. And you have testified 30 times in criminal
25 court; is that right?

1 A Yes.

2 Q Okay. And you do autopsies for police departments?

3 A The autopsies are usually requested by the coroner's
4 office.

5 Q Okay. But mostly for victims of crimes; correct?

6 A At least 20 percent of the cases are, yes.

7 Q Okay. And did you do the autopsy of Jeremiah
8 Dicker?

9 A I did.

10 Q Okay. And if you don't mind, tell us about the
11 wounds that Mr. Dicker suffered.

12 A I'll refer to my autopsy report to go through the
13 injuries on Mr. Dicker. He had three gunshot wounds.
14 There was one gunshot wound that was a graze gunshot wound
15 where it skims across the skin but doesn't penetrate into
16 the body and that was to the top back of the head. That
17 gunshot wound was just disrupting skin or breaking down
18 the skin and the underlying tissues on the skin.

19 There was some hemorrhage underneath the skin and
20 hemorrhage over a part of the brain called the right
21 parietal lobe, which is on the right side towards the top
22 of the head. That gunshot wound was traveling front to
23 back and slightly down. So, this is with the body
24 standing in anatomic position, which is straight upright,
25 facing front, arms down.

1 Q So, hold on. So, just so I'm clear, the first wound
2 to Mr. Dicker was a graze?

3 A Correct.

4 Q Okay. And when we're talking about direction,
5 you're telling me that it went from front to back?

6 A It's located on the top back of the head.

7 Q Okay.

8 A And it's going in a front-to-back direction.

9 Q Okay. So, it's definitely going from front to back?

10 A Yes.

11 Q And was that a fatal wound?

12 A That was not a fatal wound.

13 Q Okay. And was any kind of fragment collected from
14 that?

15 A No.

16 Q And did he suffer wounds other than that one?

17 A Yes.

18 Q Tell me about those, please.

19 A The next gunshot wound that I have listed in my
20 report is a gunshot wound to the right side of his back.
21 That gunshot wound goes through the body. It penetrates
22 both lungs. There is injury to the heart at one of the
23 large vessels, and because of those injuries, there's a
24 fair amount of bleeding into the sac around the heart.
25 There's 50 MLs of blood, so not sure how to quantify that

1 for you, but about a cupful of blood around the heart.
2 Then, a liter and a half of blood in the right chest
3 cavity.

4 That projectile that traveled through the body
5 exited on the right side of the chest, and this gunshot
6 wound is traveling back to front, so going from the back
7 to front, upward and slightly to the right.

8 Q So, am I correct that it went through the back and
9 came out the chest?

10 A Yes.

11 Q And so, no bullet was recovered or any kind of
12 fragment?

13 A No bullets or fragments were recovered from this
14 gunshot wound.

15 Q Okay. And was that gunshot wound fatal?

16 A This gunshot wound was potentially fatal without
17 treatment.

18 Q Okay. And was that the only wound that he suffered?

19 A No. There was another gunshot wound.

20 Q Okay. Where was that located?

21 A The third gunshot wound is on the right forearm.
22 It's entering on the posterior lateral surface, which is
23 posterior back, lateral, the outside surface of the arm --
24 forearm, and that is going through the forearm disrupting
25 the skin, underlying tissues, and muscles of the forearm.

1 And this gunshot wound is associated with a projectile
2 that was recovered from the region of the elbow, and it
3 was traveling upward and slightly to the right.

4 Q And so, that shot was to the arm?

5 A To the forearm, and the projectile was at the elbow.

6 Q Okay. And was that wound fatal?

7 A That wound is not fatal.

8 Q Okay. So, the only wound that he suffered that was
9 fatal was the one through the back that came out the
10 chest?

11 A Correct.

12 Q And no fragment or bullet was recovered because it
13 exited?

14 A Correct.

15 Q And did you see any other injuries on Mr. Dicker?

16 A Yes. He had a number of other injuries. Some were
17 associated with the post-mortem period, or after he died,
18 and we have injuries that happened either around the time
19 that he died or just before. Those injuries are scrapes
20 and bruises, so, abrasions and contusions, to use the
21 language from my report, which are scrapes and bruises.

22 Would you like me to list them out?

23 Q Sure.

24 A We have an abrasion with a laceration, so a cut, on
25 the forehead, at the midline of the forehead. There is

1 patching contusion or bruising on the right side of his
2 chest. There are abrasions or scrapes on the right
3 axillary region in the front -- that's the right armpit
4 region -- near the crease in the front.

5 There are also abrasions on the metacarpal joints.
6 That's the joints on the hand -- on the right hand.

7 And I believe those are all of the injuries that I
8 documented that were associated with around the time he
9 died or just before he died.

10 Q Okay. And do you know if the abrasions and those
11 contusions were associated with the incident or with
12 transportation or the fact that the body had been laying
13 out in May? Could it have been other things other than
14 the incident?

15 A I don't know if those injuries were associated with
16 the incident being the gunshot wounds.

17 Q Okay.

18 A The other injuries on the body, which are thermal
19 injuries or burn injuries, I believe those were from the
20 sidewalk.

21 Q Okay. And so, some of these other injuries could
22 have come from falling after he was shot, transporting,
23 burns from the cement, all of those things could have
24 caused some of these other injuries; is that right?

25 A That is possible, yes.

1 Q Okay. And you don't know if those injuries were
2 directly related to the incident?

3 A That's correct.

4 Q Okay. And did you do a second autopsy on Kalik
5 Conn?

6 A I did.

7 Q Okay. And tell me about Mr. Conn's injuries.

8 A Mr. Conn had five gunshot wounds on his body. And,
9 again, these are in no particular order of how they
10 happened. It's in order to make them list out anatomic,
11 falling from top to bottom.

12 The first gunshot wound that I have is a gunshot
13 wound to the head, entering on the left side of the head
14 just towards the back of the neck region. That gunshot
15 wound has some sponge-like material embedded in the wound
16 itself. It travels through the head, injuring the brain,
17 fracturing the skull. And there is a projectile fragment
18 and a bit of a sponge material that is recovered from the
19 posterior neck or the back of the neck and in the brain
20 tissue itself. This gunshot wound is traveling from left
21 to right and somewhat down.

22 Q And when you collected the fragment, was that sealed
23 up and handed over to Horry County Police Department for
24 further testing?

25 A Yes, it was.

1 Q Okay. And am I correct that that was labeled
2 "fragment from the brain Kalik Conn"?

3 A Yes.

4 Q Okay. Now, so, we have got at least one bullet hole
5 towards the back of Kalik Conn's head.

6 A Yes.

7 Q Okay. And can you mark that on this body so we can
8 kind of see?

9 A I sure can.

10 Q Show me where the entrance -- just the entrance of
11 that gunshot was.

12 A The entrance was on the left side of the body just
13 behind the ear over here.

14 Q And the fragment of the bullet was recovered from
15 the brain?

16 A Yes.

17 Q And was that shot -- I'm just going to move this
18 right here, Doctor, so these folks can look along. So,
19 right here was one gunshot wound?

20 A Correct.

21 Q Okay. And part of the fragment from that was
22 removed from the brain?

23 A Yes.

24 Q Along with some spongy material?

25 A Yes.

1 Q So, if the bullet had gone through a headrest, could
2 that explain the spongy material?

3 A Yes, it could.

4 Q And were there other gunshot wounds to Mr. Conn?

5 A Yes, there were.

6 Q Tell me about the next one.

7 A I'll get the next one for you. The next gunshot
8 wound I have listed is on the right side of the chest.

9 Q So, where is the entrance wound?

10 A The entrance wound is around here on the right side
11 of the chest. That gunshot wound is traveling through the
12 body. It punctures the right and left lungs, travels
13 through the body and exits on the left side of the back.

14 Q No, no, just entrance wounds.

15 So, it went through the chest and came out the back?

16 A Correct.

17 Q Okay. And then -- first, I should have asked: Is
18 this first shot, is that fatal?

19 A Yes, it is.

20 Q And this shot here, the second shot, is that shot
21 fatal?

22 A That shot is fatal without treatment.

23 Q And were there other gunshot wounds?

24 A Yes.

25 Q Okay.

1 A The next gunshot wound is on the left side of the
2 back. That one travels through the body, punctures the
3 7th and 8th thoracic vertebral body, so your spinal column
4 around the chest region. It also perforates -- injures
5 the spinal cord and causes some bruising around the wound.
6 And that gunshot wound enters in that region.

7 Q Okay. So, that hit the spinal cord?

8 A Yes.

9 Q And does that have any kind of effect on a person?

10 A Those injuries to the spinal cord would cause you to
11 lose the ability to use the body below that level. So, if
12 the injury is to the spinal cord here, he has the loss of
13 sensation and the ability to move his legs.

14 Q So, he couldn't walk?

15 A Correct.

16 Q Couldn't move his legs at all?

17 A Could not.

18 Q So, that's the third one. Are there other gunshot
19 wounds?

20 A Yes.

21 Q Tell me about those.

22 A The next gunshot wound I have is on the left arm in
23 the anterior axillary region. So, that is on the left
24 side. Axillary region is your armpit. And it is in this
25 general region.

1 Q And that's the entrance wound?

2 A Yes.

3 So, that one is traveling through the body, and it
4 primarily injures the skin, underlying tissues, muscles,
5 and fractures the bone of this arm. It exits on the
6 posterior or back surface of the left arm.

7 Q Is that wound fatal?

8 A That wound is not fatal. And if you have acute
9 treatment, likely not to cause any long-term damage.

10 Q And so, now we have got one, two, three, four. And
11 are there any other gunshot wounds?

12 A There is one other gunshot wound to the left arm.
13 It is on the left lateral surface, so this outer surface
14 of the arm. And it goes through the skin and underlying
15 tissues, and they're both on this surface of the arm,
16 entrance and exit.

17 Q Okay. So, let me ask you something -- and I should
18 have asked you before: This first one that hit the brain,
19 that was fatal?

20 A Yes.

21 Q Okay. So, tell these folks what happens.

22 A So, with an injury to the brain in that region, this
23 person is likely not to be able to move around and they
24 would not be what is deemed alive for a long period of
25 time. So, within a few seconds to a minute, they would

1 not have any purposeful meaning -- full movement after
2 that period of time, and death would have occurred.

3 Q So, he wouldn't even be able to move his arms,
4 nothing?

5 A Nothing.

6 Q Could he talk?

7 A Likely not.

8 Q So, this wound here is deadly, but before you're
9 deceased, you have no movement.

10 A Correct.

11 Q Okay. And so, this is one wound.

12 And then tell me about this one. Let's go to this
13 one and then this. This second wound, tell me about this
14 one.

15 A That gunshot wound to the back of the arm, that
16 one -- refresh my memory, apologies -- that's the one
17 that's to the chest, I'm sorry. The arm is on the front.
18 That one travels through the body and exits on the chest.
19 Sorry.

20 Q You're fine.

21 A One too many gunshot wounds and not enough coffee; I
22 apologize.

23 The gunshot wound to his chest exits on the back.
24 The gunshot wound to his back goes to a fragment of
25 projectile that was recovered.

1 Q Okay. And was this gunshot wound to the back, was
2 that fatal?

3 A That gunshot wound was potentially fatal with the
4 injuries that he has.

5 Q And what did it hit?

6 A That is the gunshot wound that injures the spinal
7 cord and injures the muscles of the back and the vertebral
8 column or spinal column.

9 Q So, this is the one that we discussed earlier that
10 causes paralysis in the legs and below?

11 A Correct.

12 Q So, he couldn't move his legs, and really, this
13 gunshot wound, he couldn't move anything?

14 A Correct.

15 Q And this third wound here, tell me about that one.
16 What did that hit?

17 A This gunshot wound travels through the body and
18 exits on the back. This one goes through both lungs, the
19 right and left lungs. And there is a little over a half
20 of a liter of blood total in both chest cavities around
21 the lungs.

22 Q Tell these folks what happens when a bullet travels
23 through the lungs.

24 A When a bullet travels through the lungs, there is
25 bleeding, because a lot of your blood travels through your

1 lungs at any given period, so you can aerate it and get
2 oxygen. So, there's a lot of bleeding. That also -- the
3 injury to your lungs causes you to have difficulty with
4 breathing and speaking at times, and it is -- depending on
5 how much blood fills up in the chest cavity, slowly leads
6 to death.

7 Q So, you're, in essence, drowning?

8 A It's a similar process, yes.

9 Q So, he can't move, and he can't get any air because
10 of this?

11 A Correct.

12 Q And then he suffers two to the front of the arm.

13 A One to the front and one to the side of the arm.

14 Q So, one here and then one here?

15 A Yes.

16 Q Okay. And those are not fatal?

17 A They are not.

18 Q Okay. Let me ask you something: This is kind of a
19 crazy question. And you may know, you may not know. When
20 somebody gets shot, it seems like common sense but is it
21 painful?

22 A Yes.

23 Q And once he suffered these two wounds to the back,
24 could he have moved at all?

25 A After the gunshot wound to the head, he likely was

1 not moving any part of his body. The gunshot wound to his
2 back, he may have had some movement of the head and arms.

3 Q Okay. And this one here is filling his lungs up
4 full of blood.

5 A Yes.

6 Q So, five gunshot wounds; some from the front, some
7 from the back?

8 A Correct.

9 Q And the ones from the front and the back are both
10 fatal?

11 A Yes.

12 Q Okay. Thank you.

13 And if you don't mind, Dr. Phillips, since this is
14 black and white, can you just draw a little arrow just
15 kind of -- I should have given you a different color; I
16 apologize -- just a little arrow showing the wound.

17 Oh, thank you.

18 A Showing the entrance wounds?

19 Q Yes, ma'am. Thank you. I appreciate it.

20 A There's the one to the left side back of the head.

21 One on the left side of the back. We have got another on
22 the right side of the chest. The fourth one on the left
23 axillary or armpit region, and the fifth one on the
24 lateral aspect of the left arm.

25 Q Okay. And this seems like a common-sense question

1 but I have got to ask it: Were you able to determine a
2 cause of death?

3 A Yes.

4 Q And if you don't mind, give these folks the cause of
5 death.

6 A In this case, it was the five gunshot wounds listed
7 as to the back of the head, to the torso, and the arm.

8 Q Oh, and one thing, am I correct, when I wrote
9 "entrance" here, that these are the entrance wounds?

10 A Yes. These are the five entrance wounds.

11 Q Okay. Thank you, Doctor. If you don't mind, have a
12 seat.

13 MS. LIVESAY: Can you mark this, Ms. Bobbi?

14 COURT STENOGRAPHER: 226.

15 (State's Exhibit No. 226, Enlarged Diagram of Body,
16 was marked for identification.)

17 BY MS. LIVESAY:

18 Q And, Dr. Phillips, is this accurate as to the
19 entrance wounds in your report?

20 A Yes, it is.

21 MS. LIVESAY: Your Honor, at this time, the State
22 wishes to put State's Exhibit 226 into evidence.

23 THE COURT: All right. Mr. Wilson?

24 MR. WILSON: I don't have any objections, Your
25 Honor.

1 THE COURT: Mr. Galmore?

2 MR. GALMORE: No objection, sir.

3 THE COURT: All right. State's Exhibit 226 admitted
4 into evidence without objection.

5 (State's Exhibit No. 226 was received into
6 evidence.)

7 BY MS. LIVESAY:

8 Q I don't think I asked you before, but you just said
9 that -- testified that your expert opinion is that the
10 cause of death for Kalik Conn was gunshot wounds?

11 A Yes.

12 Q And what were the -- what was the cause of death, in
13 your expert opinion, as to Jeremiah Dicker?

14 A His cause of death was the gunshot wound to his
15 back.

16 Q Okay. And no fragment was recovered from that?

17 A That is correct.

18 Q Okay. And Kalik Conn's wounds were both to the
19 front and the back; is that right?

20 A That is right.

21 Q Ms. Phillips, I put "entrance" on this board;
22 correct?

23 A Yes.

24 Q And these are the wounds for Kalik Conn?

25 A Correct.

1 Q Okay. So, is the information on this board correct
2 as to your report?

3 A Yes, it is.

4 Q Thank you.

5 MS. LIVESAY: No further questions for this witness,
6 Your Honor.

7 THE COURT: All right. Cross-examination?

8 CROSS-EXAMINATION

9 BY MR. WILSON:

10 Q Doctor, let me ask you: Tell us what defensive
11 wounds are.

12 A Defensive wounds are injuries that are on the body
13 in areas where you'd expect if a person is trying to
14 protect their main surfaces from injury. So, it's usually
15 on the backs of the arm or the front forearms as you're
16 holding them up, and injuries in this area are considered
17 defensive wounds.

18 Q And if I throw my arm up to keep you from shooting
19 me and you shoot me in the elbow, that would be considered
20 a defensive wound, wouldn't you think?

21 A It could be, yes.

22 Q Let me ask you, in regards to Mr. Dickers, did he
23 have a wound to his elbow?

24 A Mr. Dicker did have injuries to his elbow region,
25 and that was where the projectile was recovered from the

1 gunshot wound to his forearm.

2 Q Okay. Did he also have bruises on his knuckles?

3 A He did.

4 Q Okay. And is bruising on knuckles perhaps, at
5 times, considered to be defensive wounds?

6 A They can be, yes.

7 Q Okay. You also said that he had some scrapes. That
8 could have come from the fall on the sidewalk?

9 A That is --

10 Q Would that be fair?

11 A That is one possible explanation, yes.

12 Q All right. Now, you also said that Mr. Dicker was
13 shot in the back; right?

14 A Yes, I did.

15 Q Is there any question about the fact that he was
16 shot in the back? Is there any question in your mind
17 about that?

18 A No. It's a gunshot wound to the back.

19 Q And what happened when you're shot in the back with
20 any kind of a weapon? What happens? Well, let's don't
21 talk about what might happen. Let's talk about what would
22 have happened in this particular case with Mr. Dicker when
23 he was shot in the back.

24 A In this case, the gunshot wound to the back travels
25 through the body, injuring both lungs; the heart, causing

1 bleeding; and then exits on the right side of the chest.
2 With those injuries, you would have a lot of bleeding,
3 loss of blood. Again, injuries to the lungs, causing
4 difficulty breathing, difficulty with speaking. Injuries
5 to large vessels of the heart usually bleed quite fast,
6 and those patients tend to lose consciousness quickly and
7 would not have long periods of active ability to move
8 around.

9 Q Okay. Now, in regards to Mr. Dicker -- and I think
10 that you -- let me show you what's marked as State's
11 Exhibit No. 60. See if you can take a look at that. Can
12 you detect the discoloration in the back of his body?

13 A There does seem to be a bit of darker coloration on
14 the back.

15 Q And tell us what that would come from, in your
16 opinion.

17 A I'm not 100 percent sure from the photo, but from my
18 autopsy, I believe that would be from the injury, the
19 gunshot wound.

20 Q So, that discoloration would have come as damage
21 from the gunshot wound itself?

22 A I believe it would be blood.

23 Q Now, can you tell us if any one of these individuals
24 shot the other first? Is there any way for you to know
25 that, based on what's been sent to you?

1 A No, there isn't.

2 Q So, you don't know if Mr. Conn shot Mr. Dickers
3 first or Mr. Dickers shot Mr. Conn or some 18th person
4 shot somebody? You have no idea about that.

5 A That's correct.

6 Q And you're certainly not saying that either one of
7 these gentlemen who are seated here did the shooting?

8 A That's correct.

9 Q All right. You have no idea?

10 A I do not.

11 Q All right. Now, where was Mr. Dickers shot other
12 than in the back?

13 A Mr. Dicker also had a graze gunshot wound to the top
14 back of his head and a gunshot wound to the right forearm.

15 Q So, he had three shots?

16 A Yes.

17 Q Three bullets hit his body. All right.

18 Now, the first two, would they have been fatal or
19 could they have been fatal?

20 A The graze gunshot wound to his head and the injury
21 to his forearm were not fatal. The gunshot wound to his
22 back was.

23 Q Okay. In your examination of Mr. Conn, did you find
24 any defensive wounds on him?

25 A I did not.

1 Q Okay. All right. Did you make any note into
2 your -- in your report regarding whether or not Mr. Dicker
3 had dreads on his head at the time you received the body?

4 A I have documented that he had black, thick
5 dreadlocks.

6 Q Okay. Now, let's talk for a minute about the
7 toxicology report. And tell the jury what that is.

8 A The toxicology --

9 MS. LIVESAY: Objection to relevance. She's already
10 given the cause of death.

11 THE COURT: Overruled. I'll allow it.

12 BY MR. WILSON:

13 Q Tell us, if you would, about the toxicology report.
14 First, tell us what that means and the significance of it,
15 and then tell us what -- we'll talk more. Go ahead and
16 just tell us that.

17 A The toxicology report is a report that I received
18 back from an external laboratory that's not from our
19 hospital where they have examined samples that we have
20 collected from the body, looking for any medications or
21 drugs that would be pertinent in a forensic case.

22 Q And did you find any? Let's start with Mr. Dickers.
23 What were your findings?

24 A For Mr. Dicker, the toxicology report documented
25 that there was cotinine, which is a nicotine metabolite or

1 a cigarette metabolite, in his blood, and we used or
2 submitted cardiac blood to the toxicology lab.

3 Q Did you find any heroin, any cocaine, any marijuana,
4 or anything else?

5 A None of those substances were identified in his
6 toxicology report.

7 Q Then let's talk about Mr. Conn. Tell us what you
8 found there.

9 A Mr. Conn's toxicology documented Delta-9 THC,
10 Delta-9 carboxy THC, 11-hydroxy-Delta-9 THC and cotinine.
11 The THC is marijuana and marijuana metabolites, and
12 cotinine is from nicotine breakdown.

13 Q Now, tell us what "metabolite" means. What does
14 that mean when you say it's a marijuana metabolite or THC
15 metabolite?

16 A Metabolite in general is referring to the breakdown
17 products of a substance. So, someone who's smoked or used
18 marijuana, that gets into their body, and their body
19 breaks that down into smaller pieces so it can be excreted
20 or washed out of the body, and those are the fragments
21 that we are detecting in the blood.

22 Q From that screen, can you tell when a person
23 ingested the marijuana? Is there a way to do that?

24 A I cannot give you a specific timeline. I can just
25 tell you that they have used marijuana in a time period

1 before they died.

2 Q Okay. All right. Now, in regards to Mr. Dicker, is
3 there any way to know how long he would have lived once he
4 had been shot in the back?

5 A I don't think I could give you a specific timeline
6 on that. The injuries that he has to his lungs and heart
7 would suggest that it would be within minutes.

8 Q Within minutes. Okay.

9 And as I understand it, you were not able to find
10 any fragments from -- or recover any fragments from the
11 body of Mr. Dickers?

12 A That is correct.

13 Q All right.

14 A Sorry.

15 Q That's okay.

16 A That is correct. From the torso, there is the
17 projectile that is in his elbow.

18 Q Okay. And did you recover that?

19 A Yes.

20 Q Okay. And what did you do with that item once you
21 recovered it?

22 A The projectile, once it's recovered, is photographed
23 and packaged in an envelope and transferred as evidence to
24 the investigator who sent in evidence.

25 Q So, you recovered it and you gave it back to the

1 police department?

2 A Correct.

3 Q All right. You said there was also a bullet wound
4 to his forehead? I'm sorry, Mr. Dicker. That there was a
5 bullet wound to his forehead?

6 A He had an abrasion to his forehead with laceration.
7 The bullet wound is to the back of his head.

8 Q Okay. So, the bullet wound is actually -- all
9 right. I'm a little confused, so help me. The bullet
10 wound is not to the front. It's to the back of his head?

11 A Correct.

12 Q So, it would mean that his back was to whoever shot
13 him?

14 A The projectile is traveling front to back, so he
15 would have to be facing that person.

16 Q So, front to back, not back to front?

17 A Correct.

18 Q And that's what I'm asking. The shot was fired
19 from -- facing him, and it went back towards that
20 direction; is that correct?

21 A Yes. And it's on the back of his head.

22 Q And then -- and we don't know which of those shots
23 were first, whether the one on the face going back or
24 whether the one that was in his back was first. We don't
25 know the answer to that.

1 A That's correct.

2 Q Or the one to his elbow when he's trying to maybe
3 defend himself. We don't know?

4 A That's correct. I don't know.

5 Q Thank you, Doctor.

6 THE COURT: Mr. Galmore?

7 CROSS-EXAMINATION

8 BY MR. GALMORE:

9 Q So, Mr. Dicker has a gunshot wound, a graze to the
10 head that you testified went front to back; is that
11 correct?

12 A Yes.

13 Q Okay. Now, the gunshot wound to Mr. Dicker's back
14 went from back to front?

15 A Correct.

16 Q Okay. Would that wound be consistent with fleeing
17 from your attacker?

18 A It could be, yes.

19 Q Okay. And he had a third wound, which was in his
20 right forearm?

21 A Yes.

22 Q Okay. You indicated that you recovered a projectile
23 from that third wound; is that correct?

24 A Yes, I did.

25 Q And you turned that projectile over to the police?

1 A Yes.

2 Q Do you know if that projectile was a hollow point
3 round?

4 A I can give you the description from my report, but I
5 don't think I specified what type of projectile it was,
6 other than the basic description in my report.

7 Q Could any of Mr. Dicker's wounds have been caused by
8 a hollow point round?

9 A I don't think I can say for sure from the gunshot
10 wound itself what type of round was used.

11 Q Okay. Now, you did this board for Mr. Conn. Did
12 you create a board for Mr. Dicker?

13 A I did not.

14 Q Did not.

15 Now, regarding Mr. Conn, I think you testified that
16 he had five wounds?

17 A Yes, he did.

18 Q Can you tell us the sequence of the wounds to his
19 body?

20 A I cannot.

21 Q Can you tell us the type of firearm used to commit
22 those wounds?

23 A I cannot.

24 Q Okay. Now, Mr. Conn had a shot to the head;
25 correct?

1 A Yes.

2 Q Could you tell us if his head was straight or turned
3 when he was shot?

4 A I cannot.

5 Q Okay. And I think you said the shot to the head was
6 a fatal injury.

7 A Yes, I did.

8 Q Would Mr. Conn be able to fire a weapon after he was
9 shot in the head?

10 A He likely would not have been able to fire a weapon
11 after a gunshot wound to the head.

12 Q So, if it is determined that Mr. Conn fired a
13 firearm, then he would have had to fire it before he was
14 shot in the head?

15 A Correct.

16 Q Did you attempt to do a gunshot residue test kit on
17 Mr. Conn's hands?

18 A I generally do not do gunshot residue test kits.

19 Q Okay. Were his hands bagged when you performed the
20 autopsy?

21 A I can tell you if you give me a second.

22 They were not.

23 Q Do you know if Horry County Police or another
24 official coroner or somebody would have conducted a
25 gunshot residue kit on Mr. Conn's hands?

1 A I do not.

2 Q Thank you, Dr. Phillips. No further questions.

3 THE COURT: Redirect?

4 MS. LIVESAY: Yes, sir. Just a few questions.

5 REDIRECT EXAMINATION

6 BY MS. LIVESAY:

7 Q Dr. Phillips, Mr. Wilson asked you about the
8 toxicology of Kalik Conn. Do you remember that?

9 A Yes.

10 Q Tell these folks, does that toxicology have anything
11 to do with cause of death?

12 A It does not.

13 Q So, the fact that he had some marijuana in his
14 system had nothing to do with cause of death?

15 A That is correct.

16 Q So, there's no doubt that didn't cause paralysis;
17 correct?

18 A That's correct.

19 Q That was a gunshot wound; right?

20 A Yes.

21 Q Okay. And how about when his lungs are filling up
22 with blood? Did that have anything to do with the fact
23 that he had marijuana in his system?

24 A It did not.

25 Q Okay. And that was from the gunshot wound; correct?

1 A Yes, it was.

2 Q Is there any evidence of anything other than Kalik
3 Conn would be here today but for those gunshot wounds?

4 A There's no evidence that suggest but for the gunshot
5 wounds he would be here today.

6 Q Okay. So, he would be here today but for he was
7 shot?

8 A Correct.

9 Q And they asked you about can you tell who was shot
10 first, that sort of thing. Do you remember that?

11 A Yes.

12 Q And is there any doubt that Kalik Conn was shot both
13 from the front and the back?

14 A He was shot from the front and the back, yes.

15 Q So, he was taking on fire from both directions;
16 correct?

17 A Correct.

18 Q And, in fact, the one from the brain had some sort
19 of spongy substance from the headrest of the car?

20 A It has spongy material in the wound, yes.

21 Q And how about the ones in the front? Did that have
22 any spongy material?

23 A It did not.

24 Q Okay. So, it's consistent with one person shooting
25 through the headrest and one person shooting straight on?

1 A That is a possibility, yes.

2 Q And they asked you about Mr. Dicker's wound to the
3 back. Do you remember that?

4 A Yes.

5 Q Okay. And is there any kind of fragment recovered?

6 A No.

7 Q So, there's no way to determine who fired that shot;
8 correct?

9 A Not from the autopsy results.

10 Q No further questions.

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

12 All right, ladies and gentlemen of the jury, we're
13 going to take a short break. Leave your notepads in the
14 jury box. Do not discuss the case even among yourselves.
15 I'll give you 10 or 15 minutes to stretch your legs and
16 get something to drink, and we'll bring you back in just a
17 minute. Thank you very much.

18 (The jury exited the courtroom at 11:56 a.m.)

19 THE COURT: Anything from the State before we take a
20 break?

21 MS. LIVESAY: No, sir.

22 THE COURT: Mr. Wilson?

23 MR. WILSON: No, sir.

24 THE COURT: Mr. Galmore?

25 MR. GALMORE: No, sir.

1 THE COURT: All right. Let's take about a 10- or
2 15-minute break.

3 MS. LIVESAY: And, Judge, do you know when you want
4 to take lunch just so we can let people know?

5 THE COURT: As close to 12:30 as we can. Anywhere
6 from 12:15 to 12:45. I kind of use that 12:30 as a mark
7 to try to look for a break.

8 MS. LIVESAY: Okay.

9 THE COURT: All right?

10 (A recess was taken from 11:57 a.m. to 12:11 p.m.)

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

13 MS. LIVESAY: No, sir.

14 THE COURT: Mr. Wilson?

15 MR. WILSON: Nothing, Your Honor.

16 THE COURT: Mr. Galmore?

17 MR. GALMORE: No, sir.

18 THE COURT: All right. Let's bring the jury in.

19 (The jury entered the courtroom at 12:15 p.m.)

20 THE COURT: All right, ladies and gentlemen.
21 Welcome back. Make sure you have your own notepads and no
22 one else's.

23 The State can call your next witness.

24 MS. LIVESAY: Thank you, Your Honor. At this time,
25 the State calls Detective Tysheena May.

1 DET. TYSHEENA MAY

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

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

6 THE WITNESS: First name is Tysheena. That's
7 T-y-s-h-e-e-n-a. Last name, May, M-a-y.

8 DIRECT EXAMINATION

9 BY MS. LIVESAY:

10 Q And, Detective May, how long have you been with the
11 Horry County Police Department?

12 A My time with the Horry County Police Department is
13 right at 13 years.

14 Q Okay. And what are your current responsibilities?

15 A My current responsibilities? I'm a detective for
16 the Special Victims Unit.

17 Q And what were your responsibilities in May of 2022
18 when this occurred?

19 A I was a detective with the Homicide Unit.

20 Q And how much training and experience that had you
21 had leading up to that?

22 A So, we go through -- after our basic certification,
23 we go through numerous trainings for whatever our
24 specialty may be. So, I have been to homicide schools. I
25 have been to schools to learn for investigations on sexual

1 assaults.

2 Q Okay. And do you get training every year?

3 A We get training every year.

4 Q And you get training specific as to whatever your
5 responsibilities are?

6 A Yes, ma'am.

7 Q Okay. And how long had you been in the Homicide
8 Unit at that time?

9 A At that time? I had been in the Homicide Unit
10 approximately six or seven months at that time.

11 Q And, if you don't mind, did you work on the case
12 that we're here for?

13 A I was the lead investigator in this case.

14 Q And if you don't mind, tell these folks what that
15 means.

16 A So, as the lead investigator, our job responsibility
17 is to delegate responsibilities for our fellow detectives,
18 to follow up with speaking to people, for us conduct
19 interviews, to canvass the area.

20 And then, after they do whatever it is I have tasked
21 them with and they come back to me with that information,
22 I compile everything -- I compile all the facts and that
23 case file is then handed over.

24 Q And so, you're kind of like the point person?

25 A I'm the point person.

1 Q And you do a lot of the interviews and evidence
2 collection yourself?

3 A Some interviews, not a lot of evidence collection,
4 although I did have to end up doing one for this case.

5 Q Okay. And at the Horry County Police Department, do
6 most detectives and officers kind of have a specific
7 responsibility?

8 A Yes, ma'am.

9 Q Okay. And yours is clearly not crime scene
10 investigation or anything like that?

11 A It is not.

12 Q Okay. And in this particular case, did you collect
13 some evidence from Nasirea Grate?

14 A I did.

15 Q And what evidence did you collect?

16 A I collected two sets of buccal swabs.

17 Q And what are buccal swabs?

18 A Buccal swabs are where we get a DNA sample from
19 swabbing of the inside of the cheek.

20 Q And when you collected the buccal swabs, did you
21 seal that evidence up?

22 A I did.

23 Q And while it was in your custody and control, was it
24 tampered with in any form or fashion?

25 A It was not.

1 Q And was it placed in evidence at Horry County Police
2 Department?

3 A It was.

4 Q And is the Evidence Department at Horry County
5 locked?

6 A Yes, it is.

7 Q Okay. So, only a certain few can get in there?

8 A Correct.

9 Q Okay. And did you take that buccal swab in the
10 normal course like you would any swab from a defendant?

11 A Correct.

12 Q Okay. Did you collect any other evidence and put it
13 in the evidence locker?

14 A For this case?

15 Q Yes, ma'am.

16 A For this case, I did collect two other sets of DNA
17 swabs from Dajon Grate.

18 Q Okay. So, you collected the DNA from these two
19 defendants?

20 A Correct.

21 Q Okay. And when you collected it, again, both sets,
22 did you seal the evidence up?

23 A Both sets are sealed and initialed and dated.

24 Q Okay. And did you tamper with any of that stuff?

25 A I did not.

1 Q And did you put all that stuff in the evidence
2 locker?

3 A I did.

4 Q And that all was to try to figure out whose DNA is
5 where; is that right?

6 A That's correct.

7 Q Okay. For some sort of comparison?

8 A Correct.

9 Q Is that done at Horry County?

10 A It is.

11 Q Okay. And, ultimately, where are the swabs sent for
12 testing?

13 A They're sent to SLED.

14 Q Okay. South Carolina --

15 A Or the South Carolina Law Enforcement Division. My
16 apologies, y'all.

17 Q Okay. And other than those sets of swabs, did you
18 collect any other evidence?

19 A I did not.

20 Q Okay. And is that the normal course for a lead
21 investigator?

22 A To not collect evidence?

23 Q Yes.

24 A That is the normal course.

25 MS. LIVESAY: No further questions for this witness,

1 Your Honor.

2 THE COURT: All right, Mr. Wilson?

3 CROSS-EXAMINATION

4 BY MR. WILSON:

5 Q Well, it's still your responsibility, though, to
6 supervise the officers who work with you or under you when
7 you are the case agent?

8 A I oversee.

9 Q Okay. But you're the head -- you just told the
10 solicitor, as I understand it, that this was your case.
11 You were the chief agent on this case.

12 A Yes.

13 Q All right. And as a part of your responsibility,
14 it's to be the overall person who is responsible for
15 whatever happens in this case; right?

16 A I'm over --

17 Q I apologize. Regarding the officers who are working
18 on the case with you.

19 A Overall, I am responsible for the case.

20 Q Okay. And do you review the information that is
21 brought to you by other officers as it is collected in
22 this case?

23 A I do.

24 Q All right. And that would also be a part of your
25 responsibility; right?

1 A It is.

2 Q And you would be familiar with what those officers
3 go out and do because they're required to bring back
4 reports to you about what they did and what they saw and
5 what didn't happen; right?

6 A I am familiar. That's correct.

7 Q Okay. Let me show you this paper.

8 MS. LIVESAY: Your Honor, can I see what he's
9 showing the witness?

10 MR. WILSON: Well, if she identifies it, then I will
11 bring it to you but...

12 MS. LIVESAY: Your Honor, the State's objection is
13 going to be that this is a document, an email from another
14 officer.

15 MR. WILSON: It is.

16 MS. LIVESAY: So, anything's in it's going to be
17 hearsay.

18 THE COURT: No, it's not. Overruled. I'll allow
19 the questioning if it comes up, but I'm not going to rule
20 right now that, as a matter of law, it's going to be
21 hearsay and it's inadmissible. I'm going to allow his
22 cross-examination questioning.

23 MR. WILSON: Thank you, Your Honor.

24 BY MR. WILSON:

25 Q Do you recognize that document?

1 A I do -- I do not recognize this email.

2 Q Well, let me make it a little easier for you. Do
3 you recognize the signature on the document?

4 A It is the signature of Detective Jonathan Kelly.

5 Q Was Detective Kelly one of the people working on
6 this case with you during this period?

7 A Detective Kelly was assigned to the Homicide Unit at
8 the time.

9 Q Okay. Well, that wasn't my question. My question
10 was whether he was working with you, under your
11 supervision, on this particular case.

12 A Detective Kelly wasn't working under my supervision.
13 He was one of my co-workers at the time, as was every
14 other detective in the unit working cohesively on this
15 case.

16 Q Was he working on this case? Period.

17 A Yes.

18 Q All right. All right. And there's no question that
19 that's his signature on that document; right?

20 A This is an email signature that appears to be his.

21 Q Okay. And what does it say? Does it say the Horry
22 County Police Department?

23 MS. LIVESAY: Objection. That's going to be
24 hearsay, Your Honor.

25 THE COURT: All right. I sustain that.

1 BY MR. WILSON:

2 Q All right. Let me ask you this: Did you read the
3 contents of that letter? Did you read it?

4 A I briefly just went over it.

5 Q And is your testimony that you never, ever have seen
6 any of that before? Is that what you're saying?

7 A Sir, I'm not going to say that I have never seen any
8 of this before. My case file for this case is
9 approximately almost 500-some pages. So, I'm not going to
10 say yes or no, because I may have seen it while flipping
11 through my papers.

12 Q Okay. All right.

13 MR. WILSON: Your Honor, I would just ask that it be
14 marked for identification purposes only.

15 THE COURT: All right. That will be Defense Exhibit
16 or Defense Nasirea Grate Exhibit -- would that be 1?

17 COURT STENOGRAPHER: Yes, sir.

18 THE COURT: Okay.

19 (Defendant's N. Grate Exhibit No. 1, Letter from
20 Det. Kelly, was marked for identification only.)

21 BY MR. WILSON:

22 Q Let me ask you this: Were you familiar with the
23 cell phone information that was provided to the defense?

24 A In what way do you mean familiar?

25 Q Period. Familiar. Did you know anything about it?

1 A I knew that it was being done.

2 Q Okay. And did you turn a copy of it over to the
3 solicitor's office?

4 A That does not fall within my purview as the lead
5 investigator.

6 Q So, who would turn it over to them from your
7 department if you're not doing it and you're the chief
8 investigator?

9 A That would be done by whoever worked on that
10 project.

11 Q So, each agent under your supervision would submit a
12 separate report to the State for what they say they did or
13 happened; right?

14 A It's not -- it's not technically submitted to the
15 State. In our reporting system that we use for our
16 reports, each detective goes in -- it's called P-1. Each
17 detective goes in there and they do an investigative
18 narrative. So, it's not a thing of actually coming and
19 bringing stuff to a person. It is put in the computer
20 where everything is compiled.

21 Q Let me show you this then.

22 MR. WILSON: Solicitor, this is a copy of the
23 investigative report by Ms. May. It's got her name on it.
24 BY MR. WILSON:

25 Q Let me show you this. Just tell me whose name is on

1 that investigative report.

2 A On this investigative report, I'm listed as the
3 detective on it, and Detective Bauman is listed as the
4 crime scene investigator on this crime scene report.

5 Q Okay. But there's no question your name is on
6 there; right?

7 A That's correct.

8 Q No question about that. But you didn't do that
9 report? Is that what you're saying? They just put your
10 name on it and sent it out?

11 A He placed -- the crime scene detectives places the
12 name of the detective -- the homicide detective or the
13 case agent on the report so that, whoever may receive that
14 report, knows who the lead investigator is and they also
15 know who the lead crime scene investigator is.

16 Q And my question, then, is, when they put your name
17 on it, you don't review it, you don't see it, they just
18 stick your name on it and send it out? Is that what
19 you're telling us?

20 A Sir, I'm not the crime scene investigator nor am I
21 the crime scene investigator supervisor nor is that my
22 specialty, crime scene.

23 Q All right. Let me ask you this -- so, tell us this:
24 You didn't write that investigative report; right? Is
25 that what you're saying?

1 A I did not write that investigative report.

2 Q You did not review that investigative report; right?

3 A I did not review that investigative report for
4 purposes of corrections or anything of that manner.

5 Q Well, my question to you originally was whether
6 you're familiar with it. Are you or are you not?

7 A I am familiar. It goes into my larger case file
8 report.

9 Q Oh, okay.

10 A But it is not a report written by me.

11 Q So, you had the report; right? How long have you
12 had the report? How many months or years have you had
13 that particular report?

14 A I believe Detective Bauman probably finished that
15 report, I'm going to say, six or seven months after the
16 incident occurred.

17 Q After you get these reports, do you ever sit down
18 with your investigators who you are in charge of the case
19 with and talk to them about what's in that report to make
20 sure it's correct and accurate?

21 A I do speak with them about the report.

22 Q Okay. Because you want it to be accurate; right?
23 You want what's in that report to be accurate; right?

24 A I want the facts to be in the report.

25 Q That's correct.

1 And, in this particular case, you're telling us
2 that, on that particular investigative report, you read it
3 but you don't know what's in it?

4 A I never said that.

5 Q Well, I'm asking.

6 A I looked over the report.

7 Q Okay. And do you know whether or not what's marked
8 for identification as No. 1 is a part of that report?

9 A What is marked for identification?

10 Q The document that I showed you earlier.

11 A Sir, I will go back to what I said before. Being
12 the complete case file is possibly up to 500 pages, it's a
13 possibility that I have seen it, but I would be remiss to
14 tell you absolutely it's in there or absolutely it is not.

15 Q It's 500 pages, but you got two dead people; right?
16 You have got two dead people, and you got two people on
17 trial for their life, and you're telling me that you
18 couldn't take the time to read the 500 pages in two years?

19 A Sir, that is not what I said. I have read over my
20 report, but I am not going to tell you that I definitely
21 saw a page in there.

22 Q Okay. All right. Thank you, ma'am.

23 Let me ask you this: So, tell me, what you do know
24 about this case? Since you don't know anything about the
25 investigative report, you don't know anything about what I

1 showed you with -- the item that's marked for
2 identification No. 1, tell me what you do know. Tell me
3 what did you do that you can tell us about.

4 A So, for this case, I was contacted by Lieutenant
5 Lent, who was Sergeant Lent at the time, to respond to the
6 incident location. Upon responding to the location, I
7 interviewed Mr. Dicker's mother.

8 While I was speaking with his mother, some other
9 information came in to me. But after that, I pretty much
10 remained on-scene with Crime Scene, outside of the crime
11 scene but I remained there while Detective Bauman and
12 others did their evidence collection and the pictures.
13 They went through their process. That took from
14 approximately maybe 3:00 to maybe 10 or something that
15 night.

16 The next day, I went to the office. There were some
17 warrants that I gathered for this case. I collected the
18 evidence of Mr. Dajon Grate and Mr. Nasirea Grate,
19 conducted interviews. I got a search warrant for
20 [REDACTED] Road. We brought Mr. Dajon Grate back to the
21 police department where he was interviewed. And that was
22 my direct involvement.

23 Q You say you took swabs from Nasirea Grate. That's
24 what you told the solicitor a few minutes ago; right?

25 A That's correct.

1 Q How many swabs did you take?

2 A Two sets.

3 Q Two sets meaning -- how many is that? Four? Two
4 each?

5 A Two swabs are in one set.

6 Q Okay. So, four swabs. Four swabs. Two sets.
7 We're saying the same thing; right?

8 A Yes.

9 Q Okay. And the purpose of taking those swabs was for
10 what?

11 A So, that it could be compared to other evidence that
12 Crime Scene had collected.

13 Q Okay. So, you had taken his swabs so you can get
14 his DNA so you can test it against anything that you found
15 either at the crime scene or anywhere else that you
16 considered evidence -- right? -- to match it against them?

17 A Correct.

18 Q And so, what did you find?

19 MS. LIVESAY: Your Honor, objection. She's already
20 testified that she doesn't do the actual testing. That's
21 sent to South Carolina Law Enforcement Division.

22 THE COURT: Overruled. I'll allow the question.

23 Go ahead.

24 BY MR. WILSON:

25 Q When the reports come back from SLED, where do they

1 go?

2 A They actually go to our Evidence Department, but
3 Evidence provides a copy of it to me.

4 Q So, you had a copy of the SLED report; right?

5 A I do.

6 Q And you know exactly what it says, don't you? Be
7 honest with us. You know exactly what that report says.

8 A I do not know exactly what it says because some of
9 the scientific language used in that, I could not tell
10 you.

11 Q Tell us this: Did any report that you got back say
12 that there was DNA found on Nasirea Grate at this crime
13 scene?

14 MS. LIVESAY: Objection, Your Honor. She cannot
15 testify to the report done by State Law Enforcement
16 Division.

17 THE COURT: She's the lead investigator. She
18 received the report. She can testify as to whether or not
19 the report she got said that. So I'll allow the question
20 in.

21 MS. LIVESAY: But there's no way to ask her any kind
22 of question because she has no personal knowledge. She
23 did not run any of the tests.

24 THE COURT: All right, Mr. Wilson. You can continue
25 with your questions.

1 MR. WILSON: Thank you.

2 BY MR. WILSON:

3 Q I'll repeat my question. Did -- when you got the
4 report back, did you get any information that you found
5 evidence from DNA, based on those swabs that you took,
6 that Nasirea Grate did anything at the crime scene?

7 A There was no DNA that placed him at the crime scene.

8 Q None whatsoever.

9 No other questions.

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

11 CROSS-EXAMINATION

12 BY MR. GALMORE:

13 Q According to the solicitor's line of questioning,
14 you were responsible for collecting buccal swabs; is that
15 correct?

16 A That's correct.

17 Q And you're the lead investigator on this case?

18 A Correct.

19 Q Did you see the shooting?

20 A I did not.

21 Q Do you know who fired first?

22 A I do not.

23 Q Do you know the sequence of shots?

24 A No, sir, I do not.

25 Q Did you locate any eyewitnesses to the shooting?

1 A I did not, not to the shooting itself.

2 Q Did you interview anybody that saw the sequence of
3 shots?

4 MS. LIVESAY: Objection, Your Honor.

5 THE COURT: What was the question?

6 MR. GALMORE: The question was, did she interview
7 anybody that saw the sequence of shots.

8 THE COURT: Oh, I'll sustain that.

9 BY MR. GALMORE:

10 Q In your investigation, did you receive firearms
11 reports from SLED, the State Law Enforcement Division?

12 A I did.

13 Q Did you receive latent print reports from the State
14 Law Enforcement Division?

15 A I did.

16 Q Did you -- were you able to identify any
17 fingerprints in this case that belonged to Dajon Grate?

18 A With the -- and I will be completely honest with
19 you. With the SLED reports, I read over those, but that
20 is something that I briefly read over because it's not in
21 my purview to be extremely knowledgeable on.

22 Q Okay. Let me hand you what's been marked as State's
23 Exhibit 21. Can you tell the jury what that is?

24 THE WITNESS: Do you have a set of gloves? Thank
25 you.

1 COURT STENOGRAPHER: You're welcome.

2 A It is a Canik TP 9 firearm.

3 BY MR. GALMORE:

4 Q Did it have Dajon Grate's fingerprints on it?

5 A From what I recall in the report, it did not.

6 Q Did it have Dajon Grate's DNA on it?

7 A From what I recall in the report, it did not.

8 Q Let me hand you what's been marked as State's No. 22
9 and ask if you recognize that.

10 A Yes, sir, I do recognize it.

11 Q And what is State's Exhibit 22?

12 A State's Exhibit 22 is a GLOCK firearm.

13 Q Did that firearm have Dajon Grate's fingerprints on
14 it?

15 A It did not.

16 Q Did it have Dajon Grate's DNA on it?

17 A It did not. Not that I recall.

18 Q In the course of this investigation, your
19 detectives, the co-workers, recovered an empty GLOCK box
20 pursuant to a search warrant; is that correct?

21 A That is correct.

22 Q And did that box have a serial number on it?

23 A It did.

24 Q Okay. Did you have occasion to have one of your
25 officers run a trace on that serial number to see if that

1 firearm was stolen?

2 A So, I wouldn't have been the one to run that.
3 That's something that's normally handled by the Crime
4 Scene Unit.

5 Q Okay. Did you receive any information that that
6 firearm had been stolen?

7 A I did not. Personally, I did not receive any
8 information.

9 Q Okay. Let me hand you what's been marked as State's
10 Exhibit No. 20 and ask you if you can identify that for
11 the jury.

12 A It is marked as latent lifts.

13 Q And those would have been lifts that -- fingerprints
14 that had been sent to the State Law Enforcement Division?

15 A Seeing the yellow tape on them is how I would -- the
16 way that I would recognize them as being sent to SLED.
17 That's normal.

18 Q Were these Dajon Grate's fingerprints?

19 A Not that I recall.

20 Q Of any of these shell casings, did any shell casings
21 have Dajon Grate's fingerprints on them?

22 A Not that I recall. I don't...

23 Q Did any of the shell casings have Dajon Grate's DNA?

24 A Not that I recall.

25 Q Let me hand you what's been marked as State's

1 Exhibit 16 and ask if you recognize that.

2 A I recognize it simply by the identification stickers
3 on it.

4 Q And it would have been something that you received
5 in the course of your investigation?

6 A I wouldn't have received that, no, sir.

7 Q One of your officers or co-workers would have
8 received it; is that correct?

9 A The Crime Scene Unit would have collected it.

10 Q And what is State's Exhibit 16?

11 A I would need to read the label again to make sure
12 it's correct. It states that it's one projectile that was
13 located near the driver's seat of the white Acura,
14 according to the sticker.

15 Q Okay. Did this projectile have Dajon Grate's
16 fingerprints on it?

17 A No.

18 Q Did it have Dajon Grate's DNA?

19 A It did not.

20 Q Now, we saw cell phone downloads. Did you receive
21 any cell phone downloads from Todd Fry?

22 A I don't know. I received something about his phone
23 on it. When it comes to the cell phone extractions and
24 downloads, it's not --

25 Q Out of your department?

1 A Yeah, I'm not well-versed in that. I know what I'm
2 looking at when Detective Marcus says, hey, this is what
3 this is.

4 Q Did you conduct a gunshot residue test on Malik
5 Conn?

6 A On Kalik Conn.

7 Q Kalik Conn, yes.

8 A No, I did not.

9 Q Did you direct or instruct any of the other
10 detectives assigned to the case to conduct a gunshot
11 residue test on Kalik Conn?

12 A I did not instruct anyone to conduct a gunshot
13 residue testing on Mr. Conn.

14 Q Did you conduct a gunshot residue test on Dajon
15 Grate?

16 A I did not.

17 Q So, because you did not do a test on Dajon Grate,
18 would it be fair to say that you did not find any gunshot
19 residue on Dajon Grate's hands?

20 MS. LIVESAY: Objection, Your Honor. She just said
21 she didn't perform the test.

22 THE COURT: I sustain.

23 MR. GALMORE: No further questions.

24 THE COURT: Redirect?

25 REDIRECT EXAMINATION

1 BY MS. LIVESAY:

2 Q First of all, Ms. May, I want you to tell these
3 folks, do you do any DNA testing?

4 A I do no DNA testing.

5 Q Have you ever been qualified as an expert in DNA?

6 A I have not.

7 Q Okay. Truthfully, you're not qualified to testify
8 about anything regarding DNA, if it was at the scene or
9 not at the scene?

10 A I am not. I read the reports, but I still have to
11 call up there and say, "Hey, can you explain this to me?"

12 Q Okay. So, Mr. Wilson asked you about DNA regarding
13 Nasirea Grate. Do you remember that?

14 A Yes.

15 Q Okay. And he got up here and told these folks none
16 of his DNA was at the scene. Isn't that what he said?

17 A Correct.

18 Q Okay. Now, are you familiar that somebody with a
19 black mask -- ski mask was at the scene?

20 A Yes, ma'am.

21 Q And was there a black ski mask sent to SLED?

22 A It was.

23 Q Okay. And do you know whose DNA that came back to?

24 A From the report, what I recall was that it did come
25 back to Nasirea Grate, but I cannot specify the percentage

1 of it.

2 Q Okay. So, this alleged black ski mask that was at
3 the scene that has been testified about just a couple of
4 witnesses ago -- do you remember Mr. Martinez in here?

5 A I do.

6 Q Okay. Do you remember him saying that a black ski
7 mask was at the scene?

8 MR. WILSON: Your Honor, I object. She's
9 testifying, first of all, and second of all, she's pitting
10 one witness against another.

11 THE COURT: Sustained.

12 MS. LIVESAY: There's no pitting here.

13 BY MS. LIVESAY:

14 Q Did you hear Mr. Martinez's testimony?

15 A I heard his testimony.

16 Q Okay. And even before then, did you know that there
17 was somebody out there with a black ski mask?

18 A Yes.

19 Q Okay.

20 A With a black mask.

21 Q Okay. And, ultimately, lo and behold, a black ski
22 mask was found; correct?

23 A Correct.

24 Q And this black ski mask was sent to SLED; right?

25 A It was.

1 Q Right? And was it sent for DNA testing?

2 A It was sent for DNA testing.

3 Q Right. Because we wanted to know who was wearing
4 the black ski mask; right?

5 A Correct.

6 Q Okay. And who do you remember SLED coming back and
7 saying some DNA came back to this person?

8 A Mr. Nasirea Grate.

9 Q Okay, okay, okay.

10 So, if a black mask -- the guy wearing the black
11 mask, right -- the black mask was at the scene; correct?

12 MR. WILSON: Your Honor, that is not correct. It's
13 misleading this jury, and I object.

14 THE COURT: As I understand, there's no evidence
15 that says that black mask was at the scene. That was a
16 black mask that was found at the residence. Correct?

17 MR. WILSON: That's correct.

18 THE COURT: So, you have got to lay a foundation
19 before you can say that that was at the scene. I sustain
20 the objection.

21 BY MS. LIVESAY:

22 Q Was there a black mask at the scene?

23 A We were told that someone wearing a black mask was
24 seen at the incident location.

25 Q And, ultimately, did you collect a black mask?

1 A Ultimately, a black mask was collected. I think it
2 was from [REDACTED] Road.

3 Q Okay. And was it sent off for DNA?

4 A Yes.

5 Q And who did the DNA come back to?

6 A It did come back to Nasirea Grate.

7 Q And do you remember the description of the shirt
8 given of the person wearing the black mask? Do you
9 remember somebody giving a description?

10 A It was a black T-shirt with either red or white
11 writing on it.

12 Q Some sort of specific logo?

13 A Yes. Like a triangle or something.

14 Q And, in your investigation, did you review the video
15 at the Sunhouse?

16 A Yes, I did.

17 Q Okay. And did it show a black T-shirt with a red
18 logo on it?

19 A It did.

20 Q Okay. And was that person wearing anything on their
21 head?

22 A Yes, ma'am. They were.

23 Q Okay. And, in fact, we saw a picture earlier of the
24 name brand on that hat. Do you remember seeing that?

25 A I do.

1 Q Okay. And is that name brand here?

2 A Yes. It says RedHead Brand Company.

3 Q Okay. And do you know if this mask rolls up to turn
4 into a hat on your head? Do you know if that's possible?

5 A It appears to be the kind that can do that.

6 Q Now, are you familiar with how close in time the
7 Sunhouse video was to when the incident happened? Was it
8 close? Was it the next day? Do you know?

9 A It was a matter of minutes.

10 Q Okay. A matter of minutes between the Sunhouse and
11 when the crime occurred?

12 A Yes, ma'am.

13 Q Okay. Now, Mr. Galmore asked you several questions
14 about if anything belonging to his client had DNA. Do you
15 remember that?

16 A I do.

17 Q Okay. Now, the phone in the back of the Acura, do
18 you remember that?

19 A Yes, ma'am.

20 Q Okay. Now, we didn't test that -- did you test that
21 for DNA?

22 A It was not sent off for DNA, I don't believe.

23 Q Okay. And did you figure out who the phone belonged
24 to?

25 A We were able to.

1 Q Who?

2 A Oh, Dajon Grate. We were able to figure out who it
3 belonged to.

4 Q So, the phone in the back of the Acura belonged to
5 Dajon Grate?

6 A That's correct.

7 Q State's Evidence No. 35, do these look familiar to
8 you?

9 A Yes, ma'am.

10 Q Where were these found?

11 A I recall one being found in the back of the white
12 Acura SUV, in the backseat.

13 Q In the backseat of the Acura?

14 A Mm-hmm.

15 Q With Dajon Grate's phone?

16 A Yes.

17 Q Do you know if any DNA -- because this is SLED
18 No. 2209603. So, we know they were sent off for DNA;
19 right?

20 A Yes.

21 Q Are you trying to figure out who was in the back of
22 the car?

23 A At the time, yes.

24 Q Okay. And did you figure out whether or not these
25 shoes had any DNA belonging to Dajon Grate?

1 A We did.

2 Q Okay. So, the phone belonged to him and the DNA on
3 the shoes belonged to him?

4 A It did.

5 Q Okay. And they were all in the back of the Acura?

6 A Yes.

7 Q In fact, there was some blood in the back of the
8 Acura?

9 A There was.

10 Q And did you send that out to figure out who can that
11 be?

12 A It was sent off to SLED.

13 Q Okay. And did you find out did that belong to Dajon
14 Grate?

15 A It did. And I apologize. I misspoke earlier, but
16 yes, it was. The blood in the backseat belonged to Dajon
17 Grate.

18 Q So, the flip-flops, the phone, and the blood in the
19 back of the Acura all came back to Dajon Grate?

20 A It did.

21 Q Now, how about the Cadillac, that Cadillac that
22 there's been so much talk about, was there any blood in
23 the Cadillac? Do you remember?

24 A So, I don't have personal knowledge of what was
25 found in the Cadillac.

1 Q Okay. So, you don't know if there's blood in the
2 Cadillac or not?

3 A Not from my personal knowledge, no, ma'am.

4 Q So, you don't know anything about the Cadillac.
5 Just what was found in the Acura; is that right?

6 A Mm-hmm, yes, ma'am.

7 Q Okay. Now, there was some questions about
8 fingerprints, and there was some fingerprints on one of
9 the guns. By any chance, do you remember which gun that
10 was? If you don't, you don't.

11 A I -- I don't recall off the top of my head. I do
12 not.

13 Q Okay.

14 A But I know that a palm print was -- I believe was
15 located on one of them.

16 Q Now, do you compare fingerprints?

17 A Personally, I do not.

18 Q Okay. So, everything that you have testified to
19 here has just been from somebody else's -- reading
20 somebody else's work?

21 A From reading other people's reports and, at times,
22 having to call the experts in that area to get
23 clarification on them.

24 Q Okay. So, really, DNA, to get the nitty-gritty of
25 it, would come from whoever at South Carolina Law

1 Enforcement Division?

2 A It would come from whoever was at South Carolina Law
3 Enforcement Division that tested that item and that did
4 that report.

5 Q Okay. And you don't know anything about the
6 specifics of how it's tested or the specifics really of
7 the results?

8 A I know nothing of that.

9 Q Okay. So, kind of just what you have testified to
10 is a brief glance of what you think the report says?

11 A A brief summary of their report and what I read.
12 That is it.

13 Q Okay. No further questions, Your Honor.

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

15 All right, ladies and gentlemen. We're going to go
16 ahead and break for lunch. Leave your notepads in the
17 jury box. Do not discuss this case even among yourselves.

18 I hope you have a good lunch, and we'll bring you
19 back in probably about an hour. Okay? Thank you very
20 much.

21 (The jury exited the courtroom at 12:58 p.m.)

22 THE COURT: All right. Anything from the State
23 before we break for lunch?

24 MS. LIVESAY: No, sir.

25 THE COURT: Mr. Wilson?

1 MR. WILSON: Nothing, Your Honor.

2 THE COURT: Mr. Galmore?

3 MR. GALMORE: No, sir.

4 THE COURT: All right. I'll take the bench at 2:00.

5 (A lunch recess was taken from 12:59 p.m. to 2:05 p.m.)

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

8 MOTION/MATTER OF LAW

9 MS. LIVESAY: Just briefly, Your Honor. During the
10 testimony of Detective Tysheena May, there was some
11 questions about the black mask. At that time, the Court
12 made a comment that the black mask was not at the scene or
13 there was no evidence of the mask at the scene.

14 The State deems or feels like that was a comment on
15 the facts of the case and that, ultimately, it will be up
16 to these 12 people whether or not that mask was at the
17 scene.

18 So, we'd just ask that a curative instruction be
19 given to remind them that the role of the jury is to find
20 the facts, the role of the Court is to rule on the law,
21 and to disregard any comments or anything from the Court
22 that may appear to be any kind of reflection on the facts
23 of the case.

24 THE COURT: Okay. I think my response was -- you
25 had led the jury or had insinuated that that mask -- in

1 redirect, had insinuated that that mask was at the scene.

2 MS. LIVESAY: Yes, sir.

3 THE COURT: And there's nothing that says that the
4 mask is at the scene. The mask was found at the home of
5 one of the defendants. And I think my comment to the jury
6 was there was a mask at the scene, this exhibit was found
7 at the home of one defendant, and there's nothing in the
8 record to indicate that this is the mask that was at the
9 scene. And I think that's accurate.

10 MS. LIVESAY: I don't. And that's why I think it's
11 a direct comment on the facts. Whether or not that mask
12 was at the scene is going to be a question for these 12
13 people.

14 THE COURT: Okay. So, what have you put in the
15 record that places -- and what is the exhibit number for
16 the mask?

17 COURT STENOGRAPHER: Four.

18 THE CLERK: State's Exhibit 4.

19 What have you got in the record that says State's
20 Exhibit 4 was at the scene of the crime?

21 MS. LIVESAY: There is an eyewitness -- two
22 eyewitnessss that say a Black male wearing a black T-shirt
23 with a red logo, wearing a mask -- a ski mask was at the
24 scene. That directly matches the description of Nasirea
25 Grate, who was wearing that exact outfit, including the

1 mask, minutes before at the Sunhouse.

2 So, there is, without a doubt, circumstantial
3 evidence. And when you combine that with his phone was at
4 the scene, there was circumstantial evidence that that is
5 the mask at the scene.

6 THE COURT: Nasirea Grate's phone was at the scene?

7 MS. LIVESAY: Yes, sir. That's from the testimony
8 from yesterday.

9 MR. WILSON: That's not what he said.

10 MS. LIVESAY: Yes, sir.

11 THE COURT: Where was his phone found at the scene?
12 I don't recall that.

13 MS. LIVESAY: The location of the phone from Ken
14 Marcus -- Ken Marcus, yesterday, testified that his phone
15 was at the scene, along with Dajon Grate's, Kalik Conn's,
16 and Jeremiah Dicker's. He said all the phones were at the
17 scene at the same time during the time of the crime. That
18 was the testimony yesterday.

19 THE COURT: Okay. So, it was not found at the
20 scene?

21 MS. LIVESAY: No.

22 THE COURT: But according to the cell tower
23 analysis --

24 MS. LIVESAY: Yes, sir.

25 THE COURT: -- they're saying that it was at the

1 scene.

2 MS. LIVESAY: That's right.

3 THE COURT: All right. I see what you're saying.

4 All right, Mr. Wilson. Let me hear from you.

5 MR. WILSON: Your Honor, I think your ruling was
6 correct. I think Ms. Livesay made an attempt to mislead
7 this jury into thinking that that T-shirt -- because
8 that's what she said. She did not say, "Well, based on
9 all of these things, we believe that it was there."

10 What she said to this jury was that it was there,
11 that that T-shirt, Item. No. 4, was found at the scene of
12 the crime. Those were her exact words, "at the scene of
13 the crime." And if you don't want to take my word for it,
14 have the court reporter play it back, because that's
15 exactly what she said, that it was found at the scene of
16 the crime, which is not correct, which is not true. And
17 she knew it not to be true and she did it anyway.

18 This wasn't even found at his home. It wasn't even
19 found at his home. It was not found at [REDACTED]. It was found
20 at [REDACTED], a whole 'nother address.

21 So, no, I think the Court was absolutely correct,
22 and you can't let the State mislead this jury when they
23 know better.

24 THE COURT: All right. Well, let's -- how long --
25 can you look back and find what she said?

1 COURT STENOGRAPHER: Which part am I looking for?

2 THE COURT: The part where you're in redirect when
3 she is questioning --

4 COURT STENOGRAPHER: Of Detective May?

5 THE COURT: She's questioning Detective May about
6 the black mask.

7 And as I recall her testimony -- I may be wrong --
8 as I recall her testimony, it had something to do one of
9 the defendant's DNA being on the mask and the mask being
10 at the scene.

11 MR. WILSON: That's exactly right.

12 (The court stenographer plays back the requested
13 portion.)

14 THE COURT: All right. I think that's good.

15 All right. I understand what you're saying. And
16 when I charge them on the law, I will charge them that
17 they're not to infer about anything I say in ruling on the
18 admissibility of evidence or otherwise, that I have an
19 opinion about the facts of the case. So, that is part of
20 the closing charges to the jury.

21 MS. LIVESAY: I know, Judge, and I do know that's
22 part of it, but I would like -- since it just happened, I
23 would like for it to be addressed now, because there's no
24 way around the fact that the Court is saying you have
25 found that there is no evidence that the black mask was

1 there. That is debilitating to us because they look at
2 that and think that the judge doesn't think the mask was
3 there.

4 THE COURT: Well, all I'm going to tell them is that
5 they are not to infer -- that they alone decide the facts
6 of the case and nothing that I say during the ruling on an
7 objection is to be interpreted as a comment on the facts.

8 MS. LIVESAY: That's all I want, Judge, if you don't
9 mind.

10 THE COURT: I'll do that.

11 All right. Anything further from the State?

12 MS. LIVESAY: No, sir, Judge.

13 THE COURT: Mr. Wilson?

14 MR. WILSON: Nothing.

15 THE COURT: Mr. Galmore?

16 MR. GALMORE: No, sir.

17 THE COURT: All right. Let's bring the jury in.

18 (The jury entered the courtroom at 2:17 p.m.)

19 THE COURT: All right, ladies and gentlemen.

20 Welcome back. I hope everyone had a good lunch. Please
21 make sure you have your own notepads and no one else's.

22 We're ready to proceed with the trial of the case;
23 however, before we do, I need to remind you that you and
24 you alone decide the facts of this case. Therefore, when
25 I make a ruling on an objection raised by a party, you are

1 not to interpret my ruling or my comments as a comment on
2 the facts, because you and you alone decide on the facts.
3 I don't decide the facts. So, when ruling on objections,
4 you are not to consider my comments as a comment on the
5 facts in any way.

6 All right. The State can call your next witness.

7 MS. LIVESAY: Thank you, Your Honor. At this time,
8 the State calls Jensen Brown.

9 JENSEN BROWN,

10 after having been duly sworn, was examined and
11 testified to as follows:

12 THE CLERK: Please state your name and spell it for
13 the court.

14 THE WITNESS: My name is Jensen Brown. That's
15 J-e-n-s-e-n B-r-o-w-n.

16 DIRECT EXAMINATION

17 BY MS. LIVESAY:

18 Q And, Ms. Brown, where are you currently employed?

19 A Horry County Police Department.

20 Q And how long have you been there?

21 A I have been with the police department since
22 February of 2022.

23 Q Okay. And a little bit about what are your job
24 responsibilities?

25 A I am a crime scene technician in the CSI unit, so

1 I'm not a detective but we assist the detectives on
2 call-outs. We process evidence sent in from detectives
3 and patrol. We make trips to and from SLED with evidence,
4 things of that nature.

5 Q And did you take any evidence to South Carolina Law
6 Enforcement Division for this case?

7 A Yes, ma'am.

8 Q And what did you take?

9 A I took a set of buccal swabs from Nasirea Grate.

10 Q And when you took the swabs, had the seal been
11 opened?

12 A No, ma'am.

13 Q And while they were in your custody and control, did
14 you ever tamper with them?

15 A No, ma'am.

16 Q And when you dropped it at SLED, did you either drop
17 it with an individual or in a lockbox, one of the two?

18 A Lockbox.

19 Q So, when you put it in there, you lock it up and
20 dropped the key off?

21 A Yes. Well, it's not necessarily a key. They
22 time-stamp your form that you sign, and then you leave
23 your form in the locker with the evidence.

24 Q Okay. So, that evidence is in a locker?

25 A Mm-hmm.

1 Q And it's locked up?

2 A Yep.

3 Q And it was never tampered with in your custody and
4 control?

5 A Correct.

6 Q And when you took it from Horry County, the seal had
7 not been broken?

8 A Correct.

9 Q Is that the only items you took?

10 A For this case, yes, ma'am.

11 Q Okay. No further questions. Thank you, Ms. Brown.

12 MR. WILSON: I just have a couple of questions.

13 CROSS-EXAMINATION

14 BY MR. WILSON:

15 Q Ms. Brown, did you take the swabs yourself?

16 A To SLED? Yes, sir.

17 Q No, ma'am. Did you take them from Mr. Grate?

18 A No.

19 Q Did you have any participation in a search warrant
20 for what's now marked as State's Exhibit No. 4?

21 A No, sir.

22 Q All right. You did not?

23 A No.

24 Q All right. And did you ever go to the scene of this
25 incident?

1 A Yes, sir, I was there at the scene.

2 Q And did you find this item at that incident?

3 A No, sir.

4 Q To your knowledge, did any other law enforcement
5 officer find this at that incident location?

6 A No, sir.

7 Q I don't have any other questions.

8 THE COURT: All right. Mr. Galmore?

9 CROSS-EXAMINATION

10 BY MR. GALMORE:

11 Q Ms. Brown, is it your testimony that you did not
12 alter or tamper with the samples in any way?

13 A Correct.

14 MR. GALMORE: No further questions.

15 THE COURT: Redirect?

16 MS. LIVESAY: Nothing from the State, Your Honor.

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

18 The State can call your next witness.

19 MS. LIVESAY: Thank you, Your Honor. At this time,
20 the State calls Cameron Wisniewski.

21 CAMERON WISNIEWSKI,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: Please state your name and spell your
25 last name for the Court.

1 THE WITNESS: Cameron Wisniewski. C-a-m-e-r-o-n
2 W-i-s-n-i-e-w-s-k-i.

3 DIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q And where you are employed?

6 A I'm currently employed by the South Carolina Law
7 Enforcement Division, commonly known as SLED.

8 Q And how long have you been employed there?

9 A I have been there for over two years.

10 Q Okay. And what are your responsibilities?

11 A I'm responsible for processing items of evidence for
12 possible DNA left behind in the forms of blood, semen,
13 saliva, skin cells, and hair. I take samples from these
14 items and prepare them for DNA analysis.

15 I also perform body fluid testing for fluids such as
16 blood, semen, and saliva. I'm also responsible for
17 performing the laboratory portion of DNA analysis and am
18 currently still in training for the interpretation of DNA
19 analysis results.

20 Q Okay. And what kind of education and training have
21 you had leading up to working for SLED?

22 A I have a bachelor's of science in biological
23 sciences from the University of South Carolina. I also
24 have completed a course in biochemistry from the
25 University of Florida.

1 I completed the in-house training program at SLED.
2 During this time, I observed a court-qualified senior DNA
3 analyst and serologist, performed real case work, and all
4 the techniques that we use in the laboratory for evidence
5 processing, body fluid testing, and DNA laboratory
6 analysis.

7 I completed ample mock evidence and laboratory
8 analysis, and my work was reviewed by a senior DNA analyst
9 for accuracy and quality. I also had the opportunity to
10 observe expert testimony given by those in my department.

11 At the end of my training period, I successfully
12 passed a series of competency testing, to include a
13 written test, an oral test, a practical examination of my
14 laboratory work as well as a mock trial.

15 Q So, are you an analyst at this time?

16 A At this time, I am signed off to perform the
17 laboratory portion of DNA analysis, and yes, my job title
18 is DNA analyst.

19 Q Okay. And before that, you were swabbing items,
20 scraping items, performing the test to try to collect DNA
21 off of items?

22 A Yes. Before that, I started in the department as an
23 evidence processor, and I still perform those duties where
24 I'm processing those items of evidence to collect samples
25 for the analysis.

1 Q Okay. And if you don't mind, these items here, I
2 want you to take a look at them. Tell me if you processed
3 either these flip-flops or this mask.

4 A Yes. So, I processed both of these pink sandals as
5 well as this mask. I can recognize these items from the
6 SLED lab number on this unique bar code here with the item
7 number, which was present on both of the heat-sealed
8 pouches that these items were in.

9 Q Okay. And when you say you processed them, I'm
10 going to start now with State's Exhibit No. 35. Tell
11 these folks how you processed these flip-flops.

12 A Sure. So, these flip-flops or sandals came in for
13 ownership DNA, which is DNA that may have potentially been
14 left behind by an individual wearing an item. So, this is
15 usually going to be for clothing items.

16 When I inventory this evidence, first, I took the
17 evidence into my custody and made sure that it was
18 properly sealed and that I had the right evidence with the
19 right description for the right case number.

20 And then I did a visual examination of those sandals
21 there, and I noticed what looked like staining consistent
22 with possible blood staining present on both of those
23 sandals. So, then, at that point, I tested those stains
24 with the test that we use for possible blood. Any stains
25 that were positive were then swabbed, and those swabs were

1 forwarded for DNA analysis.

2 After I completed the blood testing, I then swabbed
3 the interior of the soles and the straps on those sandals
4 for the ownership DNA collection, avoiding those possible
5 bloodstains to collect any DNA that may have been left
6 behind by an individual wearing those shoes.

7 Q So am I clear, you get the flip-flops, you confirm
8 that these are indeed matched up with the identification
9 numbers to make sure this is the item for this number.
10 And there's some blood on the flip-flops or what appears
11 to be. So, you swab the blood areas; correct?

12 A Correct.

13 Q And then you swab other areas that do not have
14 blood?

15 A Correct. So, I avoided that staining that tested
16 presumptively positive for possible blood when I took
17 those swabs of the soles and interior of the straps.

18 Q Okay. And that's to establish ownership?

19 A Yes. That's what we call an ownership DNA
20 collection.

21 Q So, basically, who is wearing the flip-flops?

22 A The goal is to collect DNA that may have been left
23 behind from someone wearing the item, yes.

24 Q And now, there's some writing on the flip-flops.
25 Tell them what that is.

1 A So, I would have circled those stains that were
2 consistent with possible blood staining and then tested
3 those individual stains. And then I would have written
4 Phen-negative or Phen-positive to indicate whether or not
5 the test was positive or negative for possible blood.

6 "Phen" stands for phenolphthalein, which is that
7 presumptive test that we use to test for the possible
8 blood.

9 Q So, you actually document on the flip-flops all the
10 areas you swabbed?

11 A That's correct.

12 Q Now, tell me about State's Evidence No. 4.

13 A So, this was a black face mask that came in with an
14 ownership request. So, again, the goal of the ownership
15 request is to collect DNA that may have been left behind
16 from skin cells left behind by an individual wearing the
17 item.

18 I would have visually examined the item, inventoried
19 it, made sure that it was sealed properly and that I had
20 the correct item for the correct case.

21 And I then would have scraped the inside of that ski
22 mask with a sterile one-time-use scraper. This is done in
23 order to dislodge any skin cells that may be embedded in
24 that fabric. And then I would have gone behind the
25 scraping with a moistened sterile swab and swabbed the

1 entire interior of that face mask as the ownership
2 collection. And then I also collected hair from the item.

3 Q So, was there any blood on the face mask?

4 A I did not visually identify any staining on that
5 item that may have been consistent with possible blood.

6 Q And where did you scrape the mask? Inside or out?

7 A I scraped and swabbed the entire interior of the
8 mask.

9 Q And did you scrape at all on the exterior?

10 A I did not.

11 Q Okay. And explain to them why.

12 A We typically target high-contact areas of clothing
13 items for the ownership collection because we want to
14 target those areas that may have had the most contact with
15 someone's skin because skin cells may be the source for
16 that sample. So, I would be wanting to contact the
17 interior of clothing items because, typically, that is the
18 side of the clothing that's going to be touching someone's
19 skin.

20 Q Okay. So, you scrape the inside because you're
21 trying to figure out who was wearing the mask?

22 A Yes. The goal is to collect possible DNA left
23 behind by someone potentially wearing that item of
24 clothing.

25 Q And did you scrape or swab any other areas for this

1 particular case?

2 A I did not.

3 Q Okay. And when you opened these items to process
4 them, did they appear to have been tampered with in any
5 form or fashion?

6 A They did not. I would have made note of that in the
7 case record, and I did not.

8 Q Okay. And do you know any of the folks or any of
9 the facts of this case?

10 A I do know what we have in the case record, which is
11 typically the incident report, but beyond that, I do not
12 have any other facts or knowledge of the case.

13 MS. LIVESAY: Nothing further from this witness,
14 Your Honor.

15 THE COURT: All right. Mr. Wilson.

16 MR. WILSON: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. WILSON:

19 Q Ma'am, Item No. 4, the only thing that you're
20 telling us is this is what was sent to you; right?

21 A That's correct.

22 Q And you don't know where it came from specifically;
23 right?

24 A I only know what may have been documented in the
25 incident report and what may have been documented on the

1 packaging of that item.

2 Q Okay. And let me ask you this: With DNA, how long
3 does DNA stay on an item?

4 A DNA can persist for up to years. Lots of factors go
5 into whether or not DNA breaks down while it is on an
6 item, but it can persist for up to years if stored
7 properly.

8 Q Okay. So, if I had this on a year ago and left it
9 somewhere, my DNA will still be on a year later, or at
10 least there's a good chance that it might?

11 A It is possible.

12 Q Okay. All right. And you can't tell us, the DNA
13 that you extracted, when it got there or how long it had
14 been there, can you?

15 A The reporting analyst may be able to talk about that
16 more, but no, they cannot determine whether or not -- how
17 the DNA was placed there or how long it's been there or
18 when it was placed there.

19 Q Okay. I also noticed in your report, you do what
20 they call propositions; right?

21 A The DNA -- reporting DNA analyst would be able to
22 answer your questions about the propositions.

23 Q Okay. So, you didn't do that part?

24 A No, sir.

25 Q Okay. But you know what propositions are; right?

1 A I'm aware of the propositions, but I am currently in
2 training for that portion of the interpretation of the DNA
3 analysis.

4 Q All right. So, help me understand, as I just
5 thought you testified that you did the examination of both
6 these items in this case.

7 A Yes. So, after I collected the swabs and whatever
8 collections I take from those items, I then pass those on
9 to the DNA analyst, which is Samuel Stewart in this case.
10 And he is the one who performed the laboratory analysis
11 for this case and the interpretation and issued the report
12 with his results.

13 Q Well, then, I'm a little confused. Because if I'm
14 not mistaken, I thought you testified that the DNA on here
15 belonged to Mr. Dajon Grate, and the DNA on here belonged
16 to Mr. Nasirea Grate.

17 A No. I did not testify to any of the results from
18 the analysis. I only testified to how I processed those
19 items.

20 Q Okay. All right. So, what you're telling us, you
21 didn't do the DNA work. The only thing you did was
22 process it, and you don't know anything about whose DNA is
23 on what?

24 A That's correct. I just processed those items of
25 evidence and forwarded the samples I created on for DNA

1 analysis.

2 Q All right. So, who is Samuel Stewart?

3 A The reporting DNA analyst for this case.

4 Q So, he would be the best person to tell us about
5 Item No. 4 or State's Exhibit 4 and 35; right?

6 A Yes. The results of his analysis for those items,
7 he would be the best person to ask questions.

8 Q So, then I'm to understand that what you simply did
9 was, when the item came in, you scraped whatever was
10 there, and then passed that on to him, and then he made
11 whatever conclusions he came to?

12 A Yes, that is correct.

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

15 THE COURT: Mr. Galmore?

16 CROSS-EXAMINATION

17 BY MR. GALMORE:

18 Q Do you know the circumstances of how the blood came
19 to be on the pink flip-flops?

20 A I cannot determine how the blood, when the blood, or
21 how long the blood has been on those sandals, no.

22 Q Okay. On the sandals, were you able to find any
23 other DNA; that is, skin cells or sweat, saliva?

24 A So, I would have processed both the ski mask and
25 then both of those sandals for the ownership DNA, which is

1 going to be possible DNA left behind by an individual
2 wearing an item of clothing possibly through the form of
3 skin cells.

4 Q Okay. So, were you able to find any skin cells on
5 the DNA -- on the flip-flops?

6 A For the ownership DNA, we take a collection, so I
7 would have swabbed those items. We don't identify
8 individual skin cells.

9 Q Okay. Were you able to find any sweat or saliva on
10 the flip-flops?

11 A We aren't able to identify sweat through our
12 processing or analysis that we do. We do have tests for
13 saliva, but saliva was not requested for the processing of
14 these items.

15 Q Okay. So, you found blood on the flip-flops, and
16 you found -- did you say you found skin cells on the
17 flip-flops or not?

18 A So, I would have just taken that ownership swab from
19 the interior of the soles and the straps. I would not
20 have -- there's no way for us to identify individual skin
21 cells on an item.

22 Q Okay. So, you found DNA but you don't know the
23 source of the DNA?

24 A Yes. The DNA on those items could originate from
25 any source of DNA, but the ownership collection is just

1 possible DNA collected from potential skin cells that may
2 have been left behind. But, yes, I cannot tell you
3 whether or not the DNA originated from what on those
4 items.

5 Q All right. Thank you, ma'am. No further questions.

6 THE COURT: Redirect?

7 MS. LIVESAY: Nothing from the State, Your Honor.

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

9 MS. MARTIN: May she be released?

10 THE COURT: Any objection?

11 MR. WILSON: No objections, Your honor.

12 MR. GALMORE: No objection.

13 THE COURT: All right. She's free to go.

14 The State can call your next witness.

15 MS. MARTIN: Samuel Stewart.

16 SAMUEL STEWART,

17 after having been duly sworn, was examined and
18 testified to as follows:

19 THE CLERK: Please state your name and spell your
20 last name.

21 THE WITNESS: Samuel Allen Stewart. S-t-e-w-a-r-t.

22 MS. MARTIN: Give me one second.

23 COURT STENOGRAPHER: 227 and 228.

24 (State's Exhibit No. 227, 9/14/23 SLED Document, was
25 marked for identification.)

1 (State's Exhibit No. 228, 6/10/24 SLED Document, was
2 marked for identification.)

3 DIRECT EXAMINATION

4 BY MS. MARTIN:

5 Q Can you tell the Court where you're currently
6 employed.

7 A I work with the South Carolina Law Enforcement
8 Division, commonly known as SLED.

9 Q And how long have you been there?

10 A 12-1/2 years.

11 Q And what is your current position at SLED?

12 A I'm a forensic scientist, assigned to the DNA Case
13 Work Department.

14 Q And so, what does a forensic DNA scientist do? What
15 is that?

16 A As a DNA analyst, what's commonly called, I'm
17 responsible for processing any biological evidence in a
18 criminal investigation, with the hopes of developing a DNA
19 profile.

20 We then get a known standard from known individuals
21 that may be involved in a criminal investigation and
22 compare their DNA profile to the DNA profile that may have
23 developed from the items of evidence. I put those
24 findings in a report, and I give that report to the
25 submitting agency.

1 I'm also responsible for reviewing the work of my
2 peers, training any new DNA analysts in the department,
3 and eight hours of continuing education every year.

4 Q Well, let's talk about some education then. What is
5 your educational background?

6 A I received my bachelors of science in biology from
7 Francis Marion University. I also received in-house SLED
8 training under another court-qualified analyst for over a
9 year and a half, where I have successfully completed
10 hundreds of practice and training samples, a written exam,
11 an oral exam, a competency test, and a mock trial before I
12 was deemed competent as a DNA analyst.

13 Q So, let's talk about those tests. What is involved
14 with those tests to become a DNA analyst?

15 A So, we have practice samples so -- we have practice
16 samples and training samples, and we take them through the
17 four steps of DNA: Extraction, quantitation,
18 amplification, and separation.

19 The results of those practice samples and training
20 samples are already known by my training officer, and I
21 have to get those correct within the training period.

22 Once again, the mock trial, just is putting through
23 a mock trial of the evidence that you have done during
24 practice.

25 The written exam and the oral exam, those are both