

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Colleton County
Honorable Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LARRY E. KING,

APPELLANT

APPELLATE CASE NO. 2023-001445

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBITS #1, #2, #3, #4 (PHOTOS); and
STATE’S EXHIBIT #40 (VIDEO SURVEILLANCE)**

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1 THE COURT: All right.

2 MR. PHILLIPS: As far as the attorneys
3 conducting voir dire, Your Honor has heard me
4 say specifically, when you look at the date of
5 South Carolina has essentially the fastest
6 process of voir dire, and that's not in the
7 Defendant's favor.

8 We're seeking to have a fair trial and then
9 quash a jury, and, unfortunately, the period
10 ended while the voir dire process that we have
11 in the State. The only information we know are
12 unconstitutional things that I'm not supposed to
13 base my decision on striking the jury.

14 Very little have I been able to glean from
15 their employment whether they're married, and,
16 of course, their address.

17 Outside of that, we have race and age and
18 gender, which I'm not supposed to take into
19 account. And so with that, that barely
20 scratched the surface level of voir dire, it
21 allows me to know, not only the known biases,
22 but the unknown biases of these potential
23 jurors, so I can make an intelligent decision on
24 preemptory strikes, or whether strikes is
25 necessary by having this additional information,

1 Your Honor.

2 Specifically, again, it's necessary in the
3 interest of justice to obtain an impartial jury,
4 with the intelligent exercise of rendering
5 challenges by counsel, informed consideration of
6 the Court, I think the challenges for cause.

7 Again, I marked in here that unknown biases
8 will not just reveal themselves, but through the
9 process of voir dire, were we able to hopefully
10 find out additional information, so I can make
11 those intelligent decisions of who to strike.

12 We have such little information. It also
13 aids both sides, both the prosecution and
14 defense in making sure we don't violate Batson
15 v. Kentucky, Your Honor, that we don't run into
16 an issue of that specific situation.

17 I have, because we're trying to crack the
18 door here and have it open for attorney
19 conducted voir dire in criminal cases, I've
20 limited it in scope significantly.

21 I know in other states it can take days and
22 weeks and months, I'm not asking for any of
23 that. I'm just trying to get the process
24 started, so I'm asking for an hour from each
25 side, and really just three main questions to be

1 posed, and with attorney conducted voir dire
2 ready to pose these questions, and see how the
3 jurors interact on it, based on those responses,
4 I can make decisions about who I'd like to
5 strike. I have on page seven of that, Your
6 Honor, what we have listed, I'll make sure I say
7 it for the record here, Your Honor.

8 THE COURT: Well, you filed your motion,
9 right?

10 MR. PHILLIPS: So it's marked as Defense
11 Exhibit Number 1.

12 THE COURT: When do you intend to file it?

13 MR. PHILLIPS: We could absolutely file it.

14 THE COURT: Yes, it's part of the record.
15 You mentioned you wanted it for the record.

16 MR. PHILLIPS: I have for the appellate
17 record, as Your Honor knows, I had it marked as
18 Defense Exhibit Number 1. Your Honor has a
19 copy, the prosecution has a copy of it.

20 And on page seven it has the three specific
21 questions. Now, from pages eight --

22 THE COURT: The Court will admit it as a
23 Court's exhibit, so it'll be a part of the
24 record.

25 MR. PHILIPS: Yes, Your Honor.

1 THE COURT: All right.

2 (Court's Exhibit 1 admitted into evidence.)

3 MR. PHILLIPS: And pages eight and 12 are
4 the State's supplemental requested voir dire
5 questions. We need to know which questions Your
6 Honor has issues with, as far as our specific
7 request, and, of course, the motion for
8 attorney-conducted voir dire.

9 THE COURT: What says the State?

10 MR. THORNTON: Thank you, Judge. I'll take
11 them one at a time.

12 As to the attorney conducted voir dire, I
13 think that that entire procedure, the entire
14 procedure we use in South Carolina is best left
15 to the General Assembly, and, of course, the
16 Supreme Court setting out our rules.
17 Specifically, I object to all three of the
18 questions that he's asked. When he's asking,
19 "What are your assumptions, opinions and
20 feelings about a person being arrested, but
21 presumed innocent under the law," in your
22 catchall charge to the jury, you're gonna tell
23 them that they have to give them the benefit of
24 that presumption.

25 The same thing as to two, as to three,

1 "What are your assumptions, opinions and
2 feelings about prosecutors and criminal defense
3 lawyers," you know, one of the things you tell
4 them, and I've never tried a case with Mr.
5 Phillips or any of the other attorneys in here,
6 but I have a feeling that all of us are going to
7 say the same phrase at some point, which is,
8 "Whatever the attorneys tell you is not
9 evidence, you have to base the case on the
10 evidence."

11 So the fact that they might like or dislike
12 a certain class of people is not particularly
13 relevant when the Court is going to instruct
14 them on more than one occasion, that what the
15 attorneys say is not evidence.

16 That the evidence to decide this case comes
17 from the witness stand and in the exhibits that
18 are introduced.

19 So I would object to the questions
20 themselves, and the attorney-conducted voir
21 dire, I don't believe that is proper in the
22 State of South Carolina, and I do not believe it
23 would be proper in this case.

24 I can go ahead and move into our
25 objections, Judge, one at a time on the

1 requested additional questions by Your Honor,
2 that the Courts can be -- do you want me to do
3 it now? I will. If you want me to wait, I'll
4 wait.

5 THE COURT: Well, first I'll address the
6 issue of the proposed attorney conducted voir
7 dire, and the motion that South Carolina selects
8 jurors faster than most places in the country.

9 I happen to think that's a good thing, and
10 I've been a part of both processes, including
11 spending the first six years of my career
12 engaging in voir dire, attorney voir dieres, and
13 questioning jurors on, you know, any and
14 everything we could think of asking them, and
15 the Judge would allow or overrule the questions.

16 And we have attorney-involved voir dire in
17 death penalty cases. I think that the lawyers
18 are able to submit the questions, and if there
19 is any indication that there's a need to follow-
20 up by the Court, that can be requested of the
21 Court.

22 I don't believe there's anything, any
23 statistics anywhere that shows that by the
24 lawyer asking the question, that it's any more
25 effective than the judge asking the questions.

1 And these three proposed questions, whether the
2 feelings, opinions, assumptions about a person
3 being arrested for a crime, but being presumed
4 innocent under the law, I don't think that can
5 get any significant information from a juror.

6 I think, to me, it's a rather confusing
7 question. And you're asking the jurors to
8 resolve a conflict about thinking that the
9 person being arrested, and then being presumed,
10 you know, as far as suggesting, do you believe
11 anyone who's arrested is automatically guilty,
12 that seems to be what he's drawing out, but I
13 don't see any benefit in asking such a question,
14 or how an attorney involved voir dire could get
15 anything much out of that, other than trying to
16 get the jury talking, so they can ask some
17 follow-up questions.

18 MR. PHILLIPS: Yes, Your Honor, that's
19 specifically the reason.

20 THE COURT: This would generate a
21 conversation with the jury?

22 MR. PHILLIPS: Absolutely, if anybody has
23 ever looked at a news article online, and seen
24 what people write, they -- everybody knows that
25 you are presumed innocent under the law, just

1 because you're arrested doesn't mean your
2 guilty, but all I see in the comment section of
3 the internet news article is, "Hang the person,"
4 and all kinds of nastiness.

5 So, yes, I'd like to generate a
6 conversation to expose that bias.

7 THE COURT: So, therefore, the questions
8 proposed here, the proposed attorney voir dire
9 questions is, this is just a feeder into opening
10 up a greater question of the jurors, same as
11 feelings, assumption, opinions about being a
12 juror, and having to determine whether the State
13 met its burden of proof beyond a reasonable
14 doubt solely on the evidence admitted at the
15 trial.

16 And to me that's sort of putting the cart
17 before the horse, because the responsibility to
18 charging the jury is the responsibility of the
19 Court, and to corner jurors prior to trial, to
20 try to get them to speculate on the meaning of
21 burden of proof, and the basis under which they
22 are to determine guilt or innocence, I think
23 that, obviously, the serious benefit of that --
24 and likewise the feeling -- their personal
25 feelings about defense attorneys and

1 prosecutors. I know about the effort to try to
2 put South Carolina in a category of attorney
3 conducted voir dire, I don't believe there's any
4 authority anywhere in this State for that at
5 this point in time in history, unless you know
6 of some.

7 MR. PHILLIPS: Unfortunately, we're asking
8 a lot of things.

9 THE COURT: Yeah. Yeah, so --

10 MR. PHILLIPS: I mean I'd be happy if we
11 modify or rephrase, let's say --

12 THE COURT: Yeah.

13 MR. PHILLIPS: -- do you believe a person's
14 guilty simply because they've been arrested?

15 THE COURT: Uh-huh.

16 MR. PHILLIPS: If Your Honor wished for
17 that modification --

18 THE COURT: Perhaps they --

19 MR. PHILLIPS: -- there's got to be a
20 first.

21 THE COURT: Perhaps that go back to the
22 argument of the State that that's something the
23 Legislature might need to explore, and I don't
24 believe that it's something that we need to make
25 in this case, so I'm going to deny that motion.

1 MR. PHILLIPS: Yes, Your Honor.

2 THE COURT: Now, regarding -- we'll just
3 move to the next thing.

4 Go ahead.

5 MR. THORNTON: Yes, thank you, Your Honor.
6 All right, so as to the next set of questions,
7 Your Honor, I don't object -- so he's got the
8 proposed supplemental Judge voir dire questions.

9 The first four are I would say standard,
10 with one exception that I have, and it talks
11 about you, a family member, or a close friend
12 knowing any potential witnesses.

13 I've never heard it phrased that way. I
14 certainly have no objection to asking the jurors
15 if they know anybody who's a State's witness or
16 Defendant's potential witness.

17 You know, and the same with number two,
18 number three and number four, I just think it's
19 a little overbroad if you -- I don't know how
20 somebody would know if a friend of theirs knows
21 someone who knows someone who knows someone. I
22 think it's relevant if the jurors know them, and
23 it might even be relevant if a family member
24 does, if that's, you know, obviously, a family
25 member they're going to be with fairly

1 frequently.

2 THE COURT: Uh-huh.

3 MR. STONE: Other than that, I don't have
4 any objection to one through four.

5 THE COURT: I typically ask, "Do you know
6 any of the lawyers, witnesses, parties," not
7 trying to figure out do you know anyone who
8 knows anyone.

9 MR. PHILLIPS: The reason for the question
10 is, if someone's father, brother was best
11 friends with one of the individual witnesses,
12 that would be, again, something I would need to
13 know to exercise an intelligent jury strike.

14 THE COURT: We can modify the question to
15 try to reach that without trying to put the
16 juror in a trap at the end of a trial, where
17 they didn't disclose the fact that they're third
18 cousin and knew someone.

19 We'll have to just do the voir dire and
20 see, but I understand the basis for your seeking
21 for me to ask the question, and we'll try to
22 accommodate you in some way.

23 MR. PHILLIPS: And, Your Honor, my response
24 to number three, "If a potential," or, excuse
25 me, "a potential juror or family member or close

1 friend has ever donated for some type of
2 contribution to Solicitor Duffie Stone's
3 campaign, or Sheriff Buddy Hill and any of their
4 election, or any of those type of things, I
5 think those are --

6 THE COURT: Yeah.

7 MR. PHILLIPS: -- absolutely appropriate
8 questions.

9 THE COURT: But if they're aware of it, the
10 question, "Do you --

11 MR. PHILLIPS: Of course.

12 THE COURT: "Do you, a family member or a
13 close friend know the Solicitor?" How would
14 they know that? I imagine every juror or every
15 jurors a family member or a close friend
16 probably knows the Solicitor, or knows of the
17 Solicitor, but that would have to be based on
18 their personal knowledge.

19 MR. PHILLIPS: We did limit the scope and
20 add the word personal knowledge. And, again, as
21 to that second question, three and four, goes
22 directly to campaign donation contributions for
23 their campaign.

24 THE COURT: All right, and why did you
25 throw the Sheriff in there?

1 MR. PHILLIPS: Well, they're law
2 enforcement officers. The Colleton County
3 Sheriff's Department investigated this case,
4 that's all absolutely a part of it. The
5 Solicitor office is the arm of law enforcement.

6 THE COURT: Okay, so --

7 MR. THORNTON: Your Honor, the only thing
8 I would point out is, you know, they could go
9 online and look at that, it's on the website.

10 THE COURT: So the campaign --

11 MR. PHILLIPS: What --

12 THE COURT: -- disclosure laws require
13 disclosure of campaign contribution?

14 MR. PHILLIPS: What's the harm of the
15 question then? Why would they not want that to
16 be asked?

17 THE COURT: It's really insignificant,
18 really, so we'll cross that bridge.

19 MR. PHILLIPS: Thank you.

20 THE COURT: Okay.

21 MR. THORNTON: Judge, five through 11 I
22 have the same issue. It's something that I'm
23 pretty accustomed to seeing a Judge say, "Have
24 you ever been a caregiver for a person, or a
25 care person who has a disability," but when you

1 start adding in the family member, close friend,
2 I just think it's overbroad. At some point it's
3 going to be, you know, every juror's gonna have
4 to stand up, and because as Your Honor had
5 indicated, their third cousin once knew somebody
6 who was a caregiver for someone else.

7 So I don't, you know, from a -- just a
8 general -- from five through 11 I don't have any
9 issue, other than I think it's overbroad.

10 If we could just limit it to even, if you
11 or a family member, instead of adding in a
12 friend, or an immediate family member, I've
13 heard it referenced that way to try to limit it.

14 THE COURT: All right.

15 MR. PHILLIPS: I assume he's referencing
16 five through either, past and present
17 employment. So, specifically, I don't believe
18 it's overbroad. This case deals with the
19 unfortunate death of a child. There's going to
20 be a lot of arguments about caregiving and child
21 abuse, specifically. We would to know, again,
22 to make an intelligent exercise, if somebody was
23 a part of being a caregiver.

24 THE COURT: Yeah.

25 MR. PHILLIPS: As well as number seven,

1 home health nurse or aid, or whether they're --
2 potentially, we've got a discovery motion later.

3 Again, have you worked at a business
4 dealing with vehicles, so there may be some
5 discussions of testimony or evidence presented
6 by the State related to the functionality of a
7 vehicle.

8 THE COURT: Again, I certainly understand
9 that the lawyers would like to tell the Judge
10 what questions to ask the jury, but I don't
11 accept lawyers dictating to me words to use in
12 voir dire.

13 And so I appreciate the subject matter, and
14 the areas that you have mentioned that I've
15 seen, I have no problem with any of that, but --

16 MR. PHILLIPS: thank you.

17 THE COURT: -- just as I don't put words in
18 the lawyers' mouth that you must ask this
19 question this way --

20 MR. PHILLIPS: Well, I agree with you --

21 THE COURT: -- and I don't need it to be
22 dictated to me --

23 MR. PHILLIPS: Yeah, I understand.

24 THE COURT: All right. Go ahead.

25 MR. PHILLIPS: Absolutely. I don't -- all

1 right, go ahead.

2 MR. THORNTON: Thank you, Your Honor. The
3 same thing he had mentioned five through eight,
4 I think I actually said five through 11, but I
5 would have the same feelings, excuse me, for
6 nine and ten.

7 They're pretty standard from a you or a
8 family member perspective, so I don't really
9 have any issue with that.

10 I don't have any issue with 11. I do have
11 -- I do take issue and object to both 12 and 13.
12 Really it goes back to what we talked about on
13 the suggested attorney voir dire, which is --
14 because you already cover that, when you ask
15 them, you know, is there any reason you can't
16 render fair and efficient jury service?

17 So I think 12 and 13 are already covered by
18 the general charge. And, you know, you haven't
19 even charged them on the law yet, which is no
20 matter what your feelings are, you have to
21 accept the law as I tell it to you.

22 So I think that 12 and 13 are just kind of
23 designed to potentially get a disqualification
24 on an otherwise qualified juror. So I think
25 that that's covered in your general charge, as

1 to 12 and 13.

2 THE COURT: Well, I agree with you on 12 --
3 and I agree with you on 13 and disagree with you
4 on 12. 13 wants to know whether you can vote
5 guilty or not guilty.

6 I mean, I agree with the Solicitor's
7 argument on that, but I think number 12 can be
8 structured, which, you know, will be a good
9 question.

10 MR. PHILLIPS: That's fine, Your Honor.

11 THE COURT: All right.

12 MR. THORNTON: Your Honor, 14, 15 and 16 we
13 have no objection. I would just note for us
14 it's the same objection.

15 17 and 18 are kind of restated of 12 and 11
16 just with a different subject matter. It's got
17 the same morally or religiously opposed, or
18 would you hesitate to vote not guilty, so I
19 would object for the same reasons on 17 and 18.

20 THE COURT: Well, by the time I get to
21 those questions, they will know what kind of
22 case it is.

23 MR. STONE: Yes, sir.

24 THE COURT: But I will eliminate number 18,
25 but not 17.

1 MR. THORNTON: We have no objection to
2 number 19, Your Honor. And, again, I know what
3 the Court has ruled, but the same two objections
4 for 20 and 21. I know Your Honor's already
5 indicated you will charge the morally or
6 religiously, but the same objection on that.

7 THE COURT: All right.

8 MR. THORNTON: That brings us -- 22 I
9 think, frankly, is just overbroad. "Have you or
10 a family member or a close friend ever had a
11 discussion regarding criminal activity with
12 anyone from pretty much anybody."

13 So, again, I would object to that as just
14 being, frankly, overbroad, if they've ever had
15 any conversation about criminal activity.

16 THE COURT: All right, that would include
17 everyone, I would say.

18 MR. STONE: Yes, sir, pretty much.

19 MR. PHILLIPS: If I could just respond?

20 THE COURT: Yes, sir.

21 MR. PHILLIPS: Not many people have had
22 contact with FBI, SLED, the County Sheriff's
23 Department, DEA or Attorney General's Office, or
24 the Colleton County Sheriff's Office.

25 THE COURT: Well, I think the gist is to

1 argue the kind of concerned citizen, who might
2 have spoken up about criminal activity, such
3 that you reported it, or had some conversation
4 with someone about it. It'd be interesting to
5 know that, yes, I went to a meeting, and I
6 objected to crime in my community. If you want
7 that person to stand up, or come forward about
8 that, and I don't see any problem.

9 MR. PHILLIPS: Thank you, Your Honor.

10 MR. THORNTON: I don't have any objection
11 to 23, Your Honor, or 24. I do object to 25,
12 26, 27, 28, 29, so I'll just go kind of one at a
13 time.

14 THE COURT: Okay.

15 MR. THORNTON: Basically, do you believe
16 that our laws are too lenient, and there should
17 be stricter punishment.

18 Well, you know, sentencing is not in the
19 purview of the jury, that's in your purview.
20 They shouldn't even be considered with the
21 leniency or strictness of a sentence. "Would
22 you believe a police officer's testimony over
23 another witness?"

24 I think you will instruct the jury that
25 they are allowed to believe all of the witness'

1 testimony, some of it, or none of it at all. I
2 think that's covered in Your Honor's charge.
3 "Do you believe that someone's probably guilty
4 or hiding something, if that person does not
5 testify?" And then "Do you feel that the
6 Defendant must testify, that you would need to
7 hear the Defendant testify to decide on whether
8 the prosecutor proved guilt beyond a reasonable
9 doubt."

10 My assumption is, and this may be
11 incorrect, that 28 and 29 are related, because I
12 wasn't sure when else that would come up. But,
13 Your Honor, unless this is different than every
14 other case I've seen you do, is going to tell
15 them that if the Defendant does not testify,
16 they're not allowed to consider it.

17 So whether they believe it prior to them
18 being charged on the law is not relevant. It's
19 something that's covered once you charge the
20 jury, which is strictly within your province.
21 I'll stop there if I need to.

22 THE COURT: All right. Mr. Phillips?

23 MR. PHILLIPS: I believe they're all proper
24 questions for me to be able to intelligently use
25 my preemptory challenges.

1 I mean, specifically, if a potential juror
2 believes that the criminal laws in South
3 Carolina are too lenient, that'd be good for me
4 to know, because I'm gonna strike them.
5 Specifically, if a potential juror says they are
6 gonna believe an officer's testimony over that
7 of a regular witness, I'm going to strike them.

8 THE COURT: So if somebody says, "I believe
9 the laws are too lenient," then you believe
10 they're both likely to find the person guilty?

11 MR. PHILLIPS: Absolutely.

12 THE COURT: Regardless of the facts of the
13 case?

14 MR. PHILLIPS: Yes.

15 THE COURT: Okay.

16 MR. PHILLIPS: I'd like to know, so I can
17 make that decision.

18 THE COURT: I understand.

19 MR. PHILLIPS: If I don't know, I can't --

20 THE COURT: I understand.

21 MR. PHILLIPS: -- make an intelligent
22 decision, Your Honor.

23 MR. THORNTON: 30, Your Honor, I think is
24 overbroad. "Have you ever commented on a news
25 article --"

1 THE COURT: Hold on, let me talk about this
2 one.

3 MR. THORNTON: Yes, sir, I apologize.

4 THE COURT: Okay, I'm gonna ask the 24
5 through 27, but not 28 and 29.

6 MR. PHILLIPS: Yes, Your Honor.

7 THE COURT: All right.

8 Yes, sir?

9 MR. THORNTON: Thank you, Your Honor. 30,
10 31 and 32 I think they're just overbroad. Have
11 you ever commented on a news article on the
12 internet related to a person's arrest, crime or
13 criminal trial? I think that would, you know,
14 in today's social media age, I realize some --
15 well, me, some of the older people maybe not,
16 but most people are probably going to say that.
17 "Have you ever commented, liked or followed a
18 law enforcement agency's page or a Solicitor's
19 page?"

20 Certainly, I think 30 is overbroad, but I
21 would make the same argument for 31 and 32.

22 THE COURT: I think they have a right to
23 know who the bloggers are, and the people who
24 like to comment. I don't know if the question
25 -- to the extent to which the Court might be

1 required to follow-up on these people, but I'm
2 gonna ask those questions and we'll see.

3 MR. PHILLIPS: Yes, Your Honor.

4 THE COURT: Who likes things, who comments
5 on things, you know. Of course, we all click
6 like sometimes, I don't--

7 MR. PHILLIPS: The basis of the question,
8 as Your Honor pointed out, a lot of these pages
9 have -- I hate to say that I'm fan boy, groupie
10 kind of thing, comment on every single thing,
11 and there's some highly prejudicial comments.

12 THE COURT: Well, we'll explore some of
13 that for you.

14 MR. THORNTON: Judge, no objection to 33,
15 34, 35, 36, 37, 38, 39, 40, 41, 42.

16 I object to 43 and 44 about grievances
17 against lawyers or a bad experience with
18 lawyers, for the same reason that I asked about
19 -- or objected to the ones earlier, asking about
20 relationships with attorneys.

21 THE COURT: All right.

22 MR. PHILLIP: But if there's a potential
23 juror that hates lawyers, I don't want them on
24 my jury, and I might strike everybody for that.

25 THE COURT: All right.

1 MR. PHILLIPS: And the other thing I
2 haven't really emphasized with the prior request
3 of this, is this case has media attention, as
4 Your Honor knows, that heightens the level of
5 scrutiny that I think we have to do normally,
6 because the average person may have come across
7 this.

8 I know Your Honor's gonna ask about that,
9 that's kind of a standard thing, "Have you heard
10 about this case, especially since it's been put
11 in the media," and so it does emphasize or
12 highlight and enhance the prejudice that we
13 could potentially have with the jury pool.

14 THE COURT: Okay. I'm going to ask 41
15 through 43, and with 43 I'll say, "That
16 experience with the defense attorney or the
17 Solicitor."

18 MR. PHILLIPS: Thank you, Your Honor.

19 THE COURT: All right.

20 MR. PHILLIPS: Thank you.

21 THE COURT: What else?

22 MR. PHILLIPS: The next motion would be the
23 motion --

24 MR. PHILLIPS: If we are doing voir dire, I
25 don't think my requests are very controversial.

1 I think now might be a good time to put that --

2 THE COURT: Which one?

3 MR. PHILLIPS: As if we're addressing voir
4 dire of the jury panel -- I'm sorry, are we
5 still on voir dire? I didn't mean to interrupt.

6 THE COURT: No, we're through with voir
7 dire, except for your comment.

8 MR. PHILLIPS: Well, I don't think mine's
9 going to be terribly controversial.

10 THE COURT: All right.

11 MR. PHILLIPS: I would like Your Honor to
12 ask, and it may already be included in whatever
13 it is you're planning to voir dire the jury; but
14 just point out to them that the allegations in
15 this case surround the death of a child, and
16 does anyone know of any reason, or believe that
17 that fact could interfere with their ability to
18 be fair and impartial to both the State and the
19 defense.

20 THE COURT: All right.

21 MR. PHILLIPS: And then I would like to do
22 it separately. I'd like to follow that question
23 up with whatever it is, "The child in this case
24 was disabled to the extent of nonverbal and
25 nonmobile, do you think that that fact would

1 interfere with your ability to be fair and
2 impartial to both sides?" Because I think
3 they're two different questions, and I would
4 like them separated. And I think it also
5 emphasizes the importance of the questions, and
6 that's all I've got.

7 THE COURT: All right. Mr. Stone?

8 MR. THORNTON: No objection, Judge.

9 THE COURT: All right.

10 MR. PHILLIPS: Thank you.

11 THE COURT: Yes, sir. What's the next
12 question? I'm trying to just balance what
13 pertains to jury selection, and what's beyond
14 jury selection.

15 MR. PHILLIPS: The only two is the two
16 motions to quash, and we ask for that before the
17 jury's sworn. And so --

18 THE COURT: Yeah.

19 MR. PHILLIPS: -- whoever we select and
20 then send them out, it just --

21 THE COURT: We won't swear them when we are
22 selecting hem. They won't be sworn in --

23 MR. PHILLIPS: Okay.

24 THE COURT: -- until you get a chance to --

25 MR. PHILLIPS: Argue the motions.

1 THE COURT: -- argue whatever it is for
2 these jurors.

3 MR. PHILLIPS: Thank you, Your Honor.

4 THE COURT: All right.

5 MR. PHILLIPS: Your Honor, just for
6 scheduling purposes, if I can ask are we gonna
7 take a break or something after the selection of
8 the jury?

9 THE COURT: I think we want to get the --
10 we want to see who's gonna be in the pool, then
11 we'll take a break and come back and actually do
12 a selection.

13 MR. PHILLIPS: Thank you, Your Honor.

14 THE COURT: Yeah, we've got to get a break
15 after. Anything else before we start letting
16 them in? Do we want to take a few minutes?

17 MR. STONE: Not from the State, Your Honor.

18 MR. PHILLIPS: No, Your Honor, thank you.

19 THE COURT: All right, so we'll take a few
20 minutes, and they'll be coming in at the same
21 time. All right.

22 (RECESS)

23 **

24 JURY SELECTION CONTINUES

25 BAILIFF: All rise.

1 and get acquainted with each other.

2 (Jury exits the courtroom.)

3 **

4 **PRETRIAL MOTIONS**

5 THE COURT: Any matters of law while the
6 jury is out? Yes, sir.

7 MR. PHILLIPS: Yes, Your Honor, give me one
8 second. Your Honor, Defendant Pangalangan,
9 would have a motion to quash the indictment for
10 murder.

11 Specifically, the State included the
12 incorrect mens rea as an element of defense in
13 the indictment. If you look at State v. Watson,
14 in that Footnote 5 it really outlines, while
15 malice and recklessness, obviously, are not
16 equivalent, extreme recklessness and leading to
17 an inference of malice.

18 In this indictment for murder,
19 specifically, the State has added, it says,
20 "That in Colleton County, South Carolina on or
21 about August 5th, 2019, the Defendant, Rita
22 Pangalangan, did with malice aforethought and
23 with wanton and reckless disregard for human
24 life, kill CP [REDACTED] and
25 CP [REDACTED] did die as a result of

1 Rita Pangalangan's actions all in violation of
2 Section 60-3-10."

3 And I will go to the laws of South
4 Carolina. The highlighted portion is the
5 reckless disregard for human life. The
6 appropriate statement on law would be extreme
7 recklessness that can, you know, lead to malice,
8 there's an inference of malice.

9 So this language generally what would be
10 included in the indictment, but the State chose
11 to include it in the indictment, and when they
12 did, without having the word extreme prior to
13 the reckless disregard for human life, changes
14 the burden in that part.

15 So you have regular negligence, gross
16 negligence, or in this case you have
17 recklessness or extreme recklessness. And so
18 with that now being put as an element in the
19 indictment, given under Gentry, I understand
20 that it's a notice document, but the defect is
21 apparent on the face of the indictment.

22 The offense is not stated with sufficient
23 certainty and particularity and fails to
24 properly apprise within the proper elements
25 that's intended to be charged for murder,

1 specifically, in this case with the improper now
2 element that's put into the indictment.

3 When it is not necessary to be indicted in
4 the first place and doesn't have the critical
5 word extreme for that. And I'll be happy to
6 kind of go through that.

7 Essentially, it's -- the motion to quash is
8 to ensure, obviously, that the jury doesn't have
9 the proper basis listed for which they would
10 make their determination under guilt beyond a
11 reasonable doubt.

12 THE COURT: What says the State?

13 MR. STONE: Your Honor, I'll hand you --

14 THE COURT: Well, maybe first I'll hear
15 from --

16 MR. STONE: Yeah.

17 THE COURT: -- Mr. King, then the State
18 will complete the response.

19 MR. LOY: Your Honor, I would join in Mr.
20 Phillips' motion as the argument. I wouldn't
21 add to the argument. I would, if I can at this
22 time, however, address the criminal conspiracy
23 indictment and my motion to quash that.

24 THE COURT: You're talking about a motion
25 to quash the murder?

1 MR. KING: And, Your Honor, I would join
2 that motion, but I do not have an additional
3 argument.

4 THE COURT: All right, Mr. Solicitor. Mr.
5 Stone?

6 MR. STONE: Yes, sir. May it please the
7 Court, Your Honor? Murder is the unlawful
8 killing of another with malice. Malice in South
9 Carolina can be proven two ways, one, with the
10 expressed malice, and the other with implied
11 malice. This is a case of implied malice.

12 The case specifically that I'm referring
13 to, that I put actually in the indictment that
14 I'll also be handing up and requesting as a jury
15 charge, I'll hand you up State v. Wiles, that is
16 a Court of Appeals case from 2003, State v.
17 Muzon, which is the basis of this entire
18 argument, which is the case from the South
19 Carolina Supreme Court in 1957, that being
20 99SE2d672. And then State v. Heyward, as well,
21 which is a Supreme Court decision decided in
22 1941.

23 But, primarily, the argument would be
24 concerning the language in State v. Muzon.

25 THE COURT: Uh-huh.

1 MR. STONE: In that case, Your Honor, they
2 talk about malice and they define it, and it is
3 defined, specifically, and this, again, is cited
4 in Muzon, it's in Heyward, it's also in re Tracy
5 B, which is 704SE2d71.

6 Specifically, malice can be inferred from
7 conduct so reckless and wantons, as to indicate
8 the depravity of mind and general human regard -
9 - disregard for human life.

10 In the context of murder, malice is not
11 required ill-will toward the individual, but it
12 signifies a general malignant recklessness of
13 the lives and safety of others.

14 And then it goes onto say, or condition
15 with regardless of social duty.

16 Again, under State v. Malon, that being
17 70SE447, it talks about also implied malice,
18 which the circumstances demonstrating a wanton
19 or reckless disregard for human life.

20 The language in Muzon is, "The recklessness
21 of the lives and safety of others."

22 That's an exact quote from Muzon, that is
23 what we put actually in the indictment. And as
24 the indictment as State v. Gentry says, is a
25 notice requirement.

1 We went further than would be necessary.
2 Had we only put in the indictment, murder is the
3 unlawful killing of another with malice
4 aforethought, that would have been sufficient.
5 We went further than that quoting State v.
6 Muzon, therefore, giving the Defendant,
7 basically, more notice than is required, which
8 is we're not going on expressed malice, we're
9 going on implied malice, and so that's the
10 reason that language is actually in the
11 indictment.

12 So if you, as State v. Gentry requires,
13 analyze the case to see does the Defendant --
14 first of all, do you know what type of sentence
15 to hand down, were they convicted?

16 Certainly, this answers that. If the
17 Defendant knows how to respond, I think it
18 actually helps that we put that language in
19 there, but even if we didn't, that language is
20 still then sufficient for the Defendant to
21 respond.

22 And then finally I think State v. Gentry
23 also mentions that referencing to the statute
24 itself is also -- there's no question that we
25 have named both Defendants. There's no question

1 that we've called the proper charge, and, again,
2 had the indictment only said unlawful killing of
3 another with malice, that would have been
4 sufficient on its face.

5 We added additional language, in order to
6 give the defense, both Defendants, proper notice
7 that we are going under the State v. Muzon
8 theory of murder.

9 MR. PHILLIPS: And in response, Your Honor,
10 State v. Watson is a 2002 case. If you see
11 right there where I have it cited on page one,
12 where it says, "Citation omitted," it's citing
13 Muzon. And so Muzon is a 1957 case.

14 We have a 2002 case directly from our
15 Supreme Court, and our Supreme Court notes
16 citing Muzon and Watson, while malice and
17 recklessness, obviously, are not equivalent,
18 extreme recklessness can lead to an inference of
19 malice. And when you look at Muzon, it's not
20 just recklessness, it's malignant recklessness,
21 it is a higher level, the difference between
22 negligence and gross negligence.

23 THE COURT: Is that State v. Charles
24 Watson?

25 MR. PHILLIPS: 349SC372, Your Honor,

1 Footnote 5, a 2002 case.

2 THE STATE: Well, let's see, so Watson
3 involves a requested instruction involving
4 reckless homicide, but murder. And the question
5 is whether the Judge erred in refusing to
6 instruct the jury reckless homicide is less an
7 included offense, and the Court's the ultimate
8 determination.

9 Now, the Court denied charging reckless
10 homicide with the charge of involuntary
11 manslaughter. He was found guilty and
12 sentenced. And let's see, and they conclude
13 that the Judge was correct in not charging
14 reckless homicide and affirmed the Judge's
15 refusal to give that requested charge.

16 So now we have a motion to quash the
17 indictment, not dealing with what should the
18 jury be instructed, and what was the problem
19 with that one?

20 MR. PHILLIPS: Because the prosecutor -- or
21 the Solicitor included that language, and put
22 the incorrect language in the indictment, it now
23 made it part of the element of the offense that
24 will be part of the jury's determination, and
25 that's the incorrect standard. And it's

1 even --

2 THE COURT: How can you contend it's gonna
3 be part of the jury's determination?

4 MR. PHILLIPS: Because they've put it as
5 part of the indictment. They've listed that as
6 -- again, I haven't heard a motion to amend the
7 indictment from the State, but as the indictment
8 stands it's defective on its face.

9 THE COURT: Mr. Solicitor?

10 MR. STONE: Your Honor, I -- first of all,
11 I don't doubt at all that extreme recklessness
12 can get you to the same standard under Muzon, I
13 totally agree with that; but I'm not gonna move
14 to amend the indictment, because the law is not
15 wrong.

16 That indictment is not wrong. The language
17 that I cited for you in State v. Heyward, page
18 four of page six of the opinion that I handed
19 up, it --

20 THE COURT: You jumped to Heyward, okay,
21 page four, let's see what -- first of all.
22 Well, that's not in Beaufort County, number one,
23 number 1041, goodness gracious.

24 MR. PHILLIPS: I did not try that one, Your
25 Honor.

1 MR. STONE: So in that case, I think they
2 shot back at the man. Actually, law enforcement
3 officers went to his house, knocked on his door,
4 because they were coming into question him. He
5 shoots the officer, actually, as the guy enters
6 his front door, basically, saying that he didn't
7 have any ill-will toward him individually, and
8 he didn't -- wasn't committing it from the
9 standpoint of expressed malice. What the Court
10 went into there was whether or not somebody
11 rises to a level of a total reckless disregard
12 for the lives and safety of others, if that
13 qualifier had implied malice, which is exactly
14 where it gets to on page four, on the right-hand
15 column under State v. Gauman on that second,
16 excuse me, third paragraph. Probably about --

17 THE COURT: Let me get there.

18 MR. STONE: Yes, sir.

19 THE COURT: Which page?

20 MR. STONE: Page four.

21 THE COURT: Yeah, I found it.

22 MR. STONE: And -- yes, sir. In the
23 sentence it starts, "In its legal sense."

24 THE COURT: In its legal sense, on the
25 right side of the --

1 MR. STONE: Yes, sir. Under -- see where
2 it's blued out as State v. Gauman?

3 THE COURT: Yeah.

4 MR. STONE: It goes down to that full
5 paragraph about midway in that paragraph.

6 THE COURT: In its legal sense, all right.

7 MR. STONE: "It is employed in the
8 description of murder, it is not necessarily
9 import ill-will toward the individual injured,
10 but signifies rather a general, malignant
11 recklessness of the lives and safety of others."
12 And it goes onto say, "Or a condition of the
13 mind who shows heart, regardless of social
14 duty."

15 I didn't put all of the language in the
16 indictment, but I did put in the part about the
17 recklessness of the lives and safety of others.
18 Similarly, if you go to State v. Wiles, which is
19 -- I also handed you -- handed up there --

20 THE COURT: Uh-huh. State v. Wiles.

21 MR. STONE: This is a case --

22 THE COURT: At least we're getting more in
23 a current era of 2003.

24 MR. STONE: Well, and what that does really
25 it's all still referencing back to Muzon, but

1 the whole concept is, how do you show implied
2 malice? This does imply malice rise to the
3 level of -- can rise to the level of murder. In
4 this case you've got somebody who was trying to
5 escape.

6 There was somebody -- they actually ran
7 over somebody, their belt got connected, or
8 something, underneath the car, and the car drug
9 them for several feet, and the car, in fact, was
10 weaving back and forth.

11 And, again, it goes back to in that
12 situation, whether the driver of the car did not
13 have any specific ill-will toward that person,
14 however, again, they had a malignant
15 recklessness of the lives and safety of others.
16 If you go from that page, Your Honor, to page
17 six of seven, the very first sentence of the
18 second column, and that'd be the column to the
19 right.

20 THE COURT: All right. "Import ill-will
21 toward the individual injured, which signifies
22 rather a general malignant recklessness of the
23 lives and safety of others, or a condition of
24 mind which shows a heart regardless of social
25 duty and fatal mischief."

1 Again, down in the next paragraph, "Implied
2 malice is when circumstances demonstrate a
3 wanton or reckless disregard for human life, or
4 a reasonably prudent man would have known that
5 according to common experience there was a plain
6 and strong likelihood that death would follow
7 the contemplated act.

8 Again, in the analysis, and I know we will
9 argue this again from the standpoint of a jury
10 charge, but in the analysis of an indictment,
11 the question is, have we given them sufficient
12 notice of the charges to answer and review, as
13 Your Honor is sitting as the potential
14 sentencer, should be able to deal with it. Had
15 we only put murder as the unlawful killing of
16 another, that would have been sufficient.

17 We went further then that, in order to give
18 the defense notice that we would be going off of
19 the State v. Muzon theory of implied malice.
20 And not only have we met the threshold level of
21 clarity in the indictment, we have actually gone
22 further than that. And the law, quite frankly,
23 Your Honor, is correct. I mean I'm not asking
24 to amend the indictment, because I didn't put
25 any law in there that was not correct, that's

1 correct law.

2 MR. PHILLIPS: Thank you, Your Honor. So
3 specifically, again, with malignant recklessness
4 is the same as the wording of extreme
5 recklessness.

6 When you look at State v. Watson in the
7 Footnote 5, it says, "While malice and
8 recklessness, obviously, are not equivalent,
9 extreme recklessness can lead to an inference of
10 malice." That is plain language from the Court,
11 and that's in 2000 -- and make sure I say it
12 correctly, 2002, and they cite Muzon, the case
13 that the Solicitor's relying on, and it says, .
14 "Malice in the -- malice may be inferred from an
15 act so reckless, as to manifest the depravity of
16 mind and disregard of human life, that's the
17 extreme recklessness.

18 And when they included that language, it
19 must have the correct language in the indictment
20 as to that. They didn't have to, they did.
21 Unfortunately, they did the incorrect language.
22 And I think Watson fully explains it, cites the
23 case that they're relying on, and act so
24 reckless as to manifest the depravity of mind
25 and disregard human life. The other cases they

1 cite on talk about malignant recklessness, and
2 there's the difference between reckless and
3 extreme recklessness.

4 THE COURT: Anything further?

5 MR. STONE: Not from the State.

6 MR. PHILLIPS: No, Your Honor.

7 THE COURT: I think the problem you run
8 into, when Appellate Courts are addressing
9 issues at various stages of the proceeding, with
10 the -- what's the name of your case again?

11 MR. PHILLIPS: Watson.

12 THE COURT: Watson, and dealing with proper
13 jury charge involving alleged lesser included
14 offense, to Wiles dealing with a directed
15 verdict, and --

16 MR. PHILLIPS: And not to cut you off, Your
17 Honor, Wiles, that's the one that deals with
18 assault and battery with intent to kill --

19 THE COURT: Yeah.

20 MR. PHILLIPS: -- doesn't exist anymore.

21 THE COURT: Pardon?

22 MR. PHILLIPS: That charge doesn't even
23 exist anymore.

24 THE COURT: Yeah, well, a whole lot has
25 changed since 1934 and all of that.

1 MR. PHILLIPS: We're here in 2023.

2 THE COURT: But this indictment serves the
3 notice -- or failed the notice requirement of
4 the indictment. The jury will be charged on the
5 proper standards of law, that's why I am
6 commenting that a jury charge would not
7 necessarily mislead -- would not mislead a jury,
8 based on some disputed language in the
9 indictment.

10 The indictment being a notice document, as
11 to the nature of the charge. The indictment is
12 not published to the jury. The indictment may
13 or may not be submitted to the jury, depending
14 upon evidence presented. It most likely will
15 not be given to the jury. I find that the
16 indictment is sufficient, and I'll deny the
17 motion.

18 MR. PHILLIPS: Thank you, Your Honor, and
19 just for the Appellate record is, that you're
20 finding not just a deficiency, but that the
21 level that's put in there is its reckless
22 disregard for human life, or it must have the
23 extreme reckless?

24 THE COURT: Well --

25 MR. PHILLIPS: Well, I just need --

1 THE COURT: I ruled regarding that.

2 MR. PHILLIPS: But I need a ruling for the
3 Appellate Court.

4 THE COURT: What do you want me to rule on?

5 MR. PHILLIPS: What you're finding.

6 THE COURT: Say it again.

7 MR. PHILLIPS: You're finding --

8 THE COURT: I find that the indictment is
9 adequate.

10 MR. PHILLIPS: Thank you, Your Honor.

11 Next is a motion to quash the infliction of
12 great bodily injury to the child, or in the
13 alternative to amend the indictment, to provide
14 the required mens rea, specifically, under 17-
15 19-90, specifically, the State has not put the
16 Defendant on notice regarding whether it intends
17 to prove actions were -- and, again, I think
18 maybe it's now cleared up, since we have the
19 hearing for the prior motion, whether they
20 believe the actions were intentional negligent,
21 or extremely reckless in inflicting such injury
22 that resulted in death, because it's not a
23 strict liability statute.

24 And the reason I say that is, we have also
25 a criminal conspiracy indictment, so we have

1 kind of competing theories. You have
2 recklessness, but you have conspiracy. Those
3 don't mirror each other, as far as the burden.
4 This, we believe, is a reasonable and necessary
5 request that essentially prevents there being
6 any movement, as far as what the proof that
7 would be pushed forward at trial, and, again,
8 putting us on notice as to what the State
9 intends to prove.

10 From the murder indictment, the one we just
11 had, it appears that their basis that their
12 argument's going to be that just reckless
13 disregard for human life is sufficient. We
14 certainly disagree with that but given the fact
15 that there was also a conspiracy indictment,
16 that goes to an intentional act. So now we have
17 competing theories that the State has put
18 together.

19 They have one indictment of an intentional
20 act, where two people have conspired together to
21 do either the unlawful act by unlawful means, or
22 a lawful act by unlawful means. And so with
23 that being said, now that we have this issue,
24 where the specific indictment for infliction of
25 great bodily injury upon a child has no mens

1 rea, now, looking through case law and
2 arguments, as far as putting us on notice, and,
3 again, with that, Your Honor, just to make sure,
4 I've cleaned this up for any appeal down the
5 road.

6 I had marked the motion to quash the murder
7 indictment as Defendant's Exhibit Number 2. I
8 understand that Your Honor said it'd be taken as
9 the Court's exhibit. Now, I've marked this --

10 THE COURT: Introduce into evidence defense
11 exhibits 1, 2 --

12 MR. PHILLIPS: No --

13 THE COURT: It doesn't refer to the
14 reckless -- you filed a motion, which is part of
15 the record. You can number whatever exhibit
16 number you want to.

17 MR. PHILLIPS: I just -- as a former
18 appellate defender, Your Honor, I'm just trying
19 to help them out, if they ever need it. In --

20 THE COURT: What do you want it to be, a
21 Court's exhibit or defense exhibit?

22 MR. PHILLIPS: I've already marked them,
23 Your Honor.

24 THE COURT: Well, it can be a defense
25 exhibit --

1 MR. PHILLIPS: They're --

2 THE COURT: -- and a Court exhibit, it'll
3 be both.

4 (Court's Exhibit 2 admitted into evidence.)

5 MR. PHILLIPS: Thank you, Your Honor,
6 they're already -- and what's marked as defense
7 exhibit as the motion to quash the great bodily
8 injury indictment.

9 And specifically with this, Your Honor, in
10 looking at State v. Freelan, 106SC220, again, we
11 are jumping back in time. That is a 1916 case,
12 because there's not a lot of law on this.

13 THE COURT: 1916?

14 MR. PHILLIPS: Yes, Your Honor, we're time
15 traveling a little bit. With that, our Supreme
16 Court did address the issue of when there is no
17 mens rea provided in the statute.

18 This is a quote, "The statute must be read
19 in light of the fundamental principle of common
20 law, which is general though, perhaps not a
21 universal application, that an evil intent must
22 concur with the act of a crime. And then citing
23 a United States Supreme Court case, Balant,
24 essentially it says, "While the general rule of
25 common law -- was a necessary element in the

1 indictment and proof of every crime, this was
2 followed in regard to statutory crimes, even
3 when the statutory definition, and not terms
4 included. And I know I just said a lot, and
5 that was probably hard to follow. I think the
6 easiest thing and the persuasive authority is
7 our sister, State of Georgia, had a case
8 recently in 2023, Your Honor.

9 So we're now dealing with present day, our
10 sister state in Georgia said, "Indeed, criminal
11 intent is an essential element of every crime,
12 where criminal negligence is not involved." And
13 then specifically goes through, "As stated by,"
14 that would be the Supreme Court of Georgia,
15 consistently held by the Court of Appeals of
16 Georgia, and this is quoting as I have been,
17 again, what was marked as Defense Exhibit 3, "In
18 the absence of an expressed statutorily defined
19 mens rea element, the allegation of criminal
20 intent is necessarily inferred from an
21 indictment that charges an offense and the
22 language of the statute, and alleges it was
23 committed unlawfully."

24 Our position is, because our statute does
25 not have a mens rea element, that we do need to

1 make sure that we're all on the same page with
2 that. Because with the indictment, again, what
3 we arguably had, at least what was argued by the
4 Solicitor on the murder indictment, we do not
5 have, for this indictment, we don't know the
6 specified mens rea from which they're going to
7 present that, and it's in direct contradiction
8 with the criminal conspiracy indictment.

9 THE COURT: From the State?

10 MR. STONE: May it please the Court, Your
11 Honor, South Carolina Code Section 16-3-95, and
12 in particular as quoted in this indictment,
13 subsection A, "Makes it unlawful to inflict
14 great bodily injury upon a child," period, and
15 we quoted the exact statute.

16 And we not only quoted the number of the
17 statute, but we actually quoted the specific
18 subsection of the statute. That is what the
19 statute says, that is what we quoted in the
20 indictment, and that's proper for a notice
21 document.

22 As far as trying to add in new language,
23 well, the defense just objected to me adding
24 language to the last one, but in this one I'm
25 quoting directly out of the statute, and, again,

1 it is unlawful to inflict great bodily injury
2 upon a child. There's no mention of anything
3 other than that.

4 MR. PHILLIPS: A quick response. I lost
5 the last motion, and so on that same rational,
6 then it needs to be *, so you can't have it both
7 ways.

8 MR. STONE: If he has some law that says
9 that particular code section should have a mens
10 rea, and then explain to it, I'll be glad to
11 take a look at it, but that's not what the
12 statute says.

13 And the reason that we quote directly from
14 the statute is, to make sure the Defendant knows
15 what to answer. We did that, and, again,
16 there's no mens rea listed in Subsection A.
17 Subsection B, however, I will note, it does have
18 one, but that's not what they're charged with.

19 THE COURT: Well, this introduces the
20 necessity of there being criminal intent to the
21 -- guilty of committing any criminal offense.
22 And part of the instructions to the jury, if
23 requested, will be intent. That the intent must
24 be present.

25 It's a part of every law, every statute,

1 there must be criminal intent, versus
2 accidental, or inadvertent, you know, there has
3 to be a fulfillment of the statutory requiring
4 the intent to commit a criminal offense. And,
5 again, that's not a flaw in the indictment.
6 I'll remind you that it deals with the question
7 of the sufficiency of proof, in order for a jury
8 to find someone guilty.

9 All right, I deny the motion.

10 MR. PHILLIPS: but, Your Honor, and that --

11 THE COURT: Now, are we gonna -- I think
12 we're gonna cut the jury panel loose. We just
13 had them --

14 MR. PHILLIPS: Yes, sir.

15 THE COURT: -- to go back there, while we
16 dealt with the issue of quashing the indictment
17 or not. So now we're ready to let them go. We
18 can bring them back out.

19 MR. PHILLIPS: Your Honor, I do have one
20 other matter.

21 THE COURT: Involving quashing?

22 MR. PHILLIPS: Yes, sir.

23 THE COURT: Oh, I'm sorry.

24 MR. PHILLIPS: Judge, it's the last
25 indictment you haven't ruled on.

1 THE COURT: All right.

2 MR. PHILLIPS: I see -- I look at the other
3 indictments, and I see it says the crime took
4 place at this location, at this time, and it was
5 crimes against this child. It describes what's
6 alleged to have been done.

7 I look at the criminal conspiracy
8 indictment, and as far as the notice document, I
9 think it just fails. It doesn't tell us what it
10 is we're here to defend. It says that there was
11 an explicit understanding, for the purpose of
12 accomplishing an unlawful object, or unlawful
13 means by unlawful means.

14 But I mean we're gonna do an opening
15 statement at some point in time, and I don't
16 know if my client is accused of conspiring to
17 commit murder, if he's accusing of conspiring to
18 commit great bodily injury on a child, if he's
19 accused of conspiring to cover up whatever may
20 have happened in the *, or if he's conspiring --
21 confused of conspiring to sell drugs that day.

22 I mean it doesn't list the victim, it
23 doesn't list a crime, it doesn't say what it is
24 he's accused of having done, or -- it just
25 doesn't -- it doesn't put us on notice.

1 Again, I don't know what it is he's accused
2 of having done.

3 THE COURT: What says the State?

4 MR. STONE: Your Honor, criminal conspiracy
5 is the combination of two or more persons for
6 the purpose of either accomplishing criminal,
7 unlawful objects, or by unlawful means. You've
8 got -- we served them both with the indictment
9 for murder, as well as the intentional
10 infliction of injury on the child. Both of
11 those are criminal offenses, both of those took
12 place with both Mr. King, as well as Ms.
13 Pangalangan, both participating.

14 And, again, I think you already reviewed
15 the video. Actually, you see both of them
16 putting the child in the car, both of them leave
17 the child in the car. All of those actions,
18 Your Honor, because they did it together is a
19 conspiracy.

20 So I think -- I'm not real clear on how we
21 could have been any more specific to give them
22 notice. The obvious time and day, all of that
23 is the same as the murder, and the unlawful harm
24 to a child. The name of the victim is the same.
25 The name of the Defendants are the same.

1 MR. PHILLIPS: The indictment I'm looking
2 at doesn't have the name of the victim. The
3 indictment I'm looking at doesn't have the name
4 of the victim unless I've got an outdated copy.
5 It doesn't put us on notice, as to did they
6 conspire to murder the child?

7 Did they conspire to hurt the child? Did
8 they conspire to cover up whatever might have
9 happened, or did they conspire to commit some
10 other unlawful act? Again, I can't go into an
11 opening statement, and explain to the jury what
12 the facts are gonna show, as it relates to this
13 indictment, because I don't know what this
14 indictment says they did.

15 THE COURT: Then let the jury come out and
16 let them go, and we can continue talking. I'm
17 not giving them.

18 MR. PHILLIPS: I understand.

19 THE COURT: Whether this one's quashed or
20 not, would have no impact on whether the jury
21 stays or leaves.

22 MR. STONE: thank you.

23 THE COURT: If you'll bring the jury out.
24 What time tomorrow do they need to come in?
25 Opinions?

1 MR. STONE: Sir, I'll be here when you tell
2 me to, but it's whatever is convenient. Are you
3 staying here, or are you traveling?

4 THE COURT: No, I'm staying here.

5 MR. STONE: Okay. I'm traveling, but I can
6 make it one way or the other.

7 9:30, is that --

8 MR. PHILLIPS: I'm traveling as well, but
9 it's the discretion of the Court, I agree.

10 MR. LOY: You have the gavel, we will be
11 here.

12 THE COURT: No, we don't -- I'm talking
13 about the jury panel. Are we about through with
14 your motions?

15 MR. PHILLIPS: I don't have another
16 pretrial.

17 MR. STONE: I do.

18 THE COURT: Well, my question is, what time
19 should the jury come back tomorrow?

20 MR. STONE: I apologize, we'll be ready to
21 go when they get here tomorrow morning.

22 (Jury enters the courtroom.)

23 **

24 PROCEEDINGS CONTINUED

25 THE COURT: All right, welcome back. We

1 still need to deal with some matters before
2 presenting anything to you, so we're gonna let
3 you all go for the day, as opposed to holding
4 you back there. We need you to return at 9:30
5 tomorrow morning.

6 Once again, please do not discuss the case,
7 do not view any news media concerning the case,
8 do not go on Facebook or Twitter or any other
9 social media site to try to find out something
10 about the case. You're not supposed to be
11 exposed to any information about the case, other
12 than that which you receive here in the
13 courtroom.

14 And it's very important that you follow
15 those instructions, and so we will see you back
16 in the morning. I know that inquiring minds
17 would love to know, for you to come and tell
18 them about that case you got picked on. You're
19 not to discuss the case with anyone. Do not let
20 anyone talk you into saying anything about this
21 case.

22 We'll see you all in the morning at what
23 time?

24 JURORS: 9:30.

25 THE COURT: 9:30, all right. Have a good

1 evening.

2 (Jury exits the courtroom.)

3 THE COURT: I'm gonna take about five
4 minutes, and then plow into the next matter.

5 (RECESS)

6 BAILIFF: All rise. Please be seated.

7 THE COURT: Criminal conspiracy.

8 MR. PHILLIPS: And, Your Honor, I guess
9 just for the record, Defendant Pangalangan,
10 would join in with counsel's motion.

11 THE COURT: You don't know what he's
12 accused of?

13 MR. PHILLIPS: Not a thing, correct.

14 THE COURT: Okay, what says the State?

15 MR. STONE: Your Honor, we go back to State
16 v. Gentry, when it comes to the adequacy of the
17 indictment, specifically, in this case.

18 It specifically talks about, number one,
19 the Court knowing what sentence to hand down,
20 that's not a question. The Court has what
21 sentence to hand down?

22 Second, where the Defendant recalled
23 whether he knows to plea either an acquittal or
24 a conviction, whether he needs to plead guilty
25 or go to trial. And then it really talks about,

1 and something that was interesting that I didn't
2 know until just a few minutes ago, in
3 determining whether an indictment meets the
4 sufficiency standard, and, again, requiring it
5 as a notice for them for crimes that we're
6 charging them with, the Court must look at the
7 indictment with a practical eye, and viewing all
8 the surrounding circumstances.

9 And they mention a case called State v.
10 Adams, 277SC Rule 15. So I looked at State v.
11 Adams during the break that we just had. State
12 v. Adams, they charged him with burglary. And
13 in burglary, as Your Honor knows, is breaking
14 and entering into a dwelling, with the intent to
15 commit a crime therein. The argument by the
16 Defendant was, well, you didn't say what crime I
17 was gonna commit when I broke into the house,
18 therefore, the indictment is insufficient.

19 The Court said, no, that's not, the Judge
20 can look at all of the circumstances, and in
21 this case, Your Honor, you've got three
22 indictments.

23 These Defendants were charged with three
24 indictments at the exact same time. They know
25 what they're here for. They know that the

1 conspiracy is simply the two Defendants working
2 together. If it is insufficient from an
3 evidentiary standpoint, that would be something
4 at the directed verdict stage, but for this a
5 sufficiency of the indictment question is, do
6 they know what they're defending?

7 And I think it's a little bit incredulous
8 to say that they don't have a clue what the
9 conspiracy comes from.

10 THE COURT: In a conspiracy you have common
11 law conspiracy, and what's the other?

12 MR. STONE: I apologize, I'm sorry?

13 MR. PHILLIPS: Conspiracy?

14 THE COURT: Conspiracy, yeah.

15 MR. PHILLIPS: It's a statutory issue.

16 THE COURT: Statutory or common law. And
17 this is statutory, let's see.

18 MR. STONE: I've got statutory, and I think
19 I put that. I don't have the indictment, I
20 handed the indictment back up to you, so --

21 THE COURT: It says * --

22 MR. STONE: Okay.

23 THE COURT: -- to the statute, it mentions
24 the statute.

25 MR. PHILLIPS: Again, a burglary case,

1 where he says, we broke into the house at 1517
2 Maple Street with an intent to commit a crime
3 therein. Yeah, that puts you on notice. You
4 know what it is you can defend. We broke into
5 the house, we didn't break into the house, we
6 were invited to the house, I have an alibi, I
7 wasn't at the house, but for this to say they
8 conspired to commit some unlawful purpose,
9 unspecified, and bring two separate charges.
10 And so there could be a conspiracy to commit
11 murder, it could be a conspiracy to hurt this
12 child, or it could be a conspiracy to cover up
13 whatever happened afterwards.

14 And if we go into opening statements,
15 again, those are wildly distinct, or at least
16 very distinct factual scenarios.

17 THE COURT: Well, you want them to say they
18 conspired to commit a murder, or conspired to --
19 the statute involving assault, great bodily
20 injury on a child?

21 MR. PHILLIPS: Or did they conspire to
22 commit a felony, did they conspire to cover --
23 something. I don't want them to do that, but
24 what I want you to do is quash the indictment,
25 because --

1 THE COURT: Well, I know --

2 MR. PHILLIPS: -- we have --

3 THE COURT: -- but if they're required to
4 do what you seem to suggest, that'll elevate the
5 crime to maybe an accessory before the fact, or
6 an accessory after the fact. Are you asking --
7 is that what you're sort of seeking?

8 MR. PHILLIPS: No, and they haven't --

9 THE COURT: Well, if they did.

10 MR. PHILLIPS: Yes --

11 THE COURT: If they did what you're saying
12 they should have done --

13 MR. PHILLIPS: I mean if they did what --

14 THE COURT: -- would that make them an
15 accessory?

16 MR. PHILLIPS: I don't think they could --
17 not if they're -- I don't think they could be an
18 accessory to a crime they're accused of having
19 committed. I think they could --

20 THE COURT: All right.

21 MR. PHILLIPS: -- either be a principal or
22 an accessory.

23 THE COURT: Uh-huh.

24 MR. STONE: So if they're accused of having
25 committed the murder, I don't think that they

1 can be an accessory to that murder also. I
2 think that what they should do, if they're gonna
3 say you conspired to commit --

4 THE COURT: But you can't be charged with
5 the murder and an accessory --

6 MR. STONE: To the murder.

7 THE COURT: -- before the fact?

8 MR. STONE: I don't -- no, sir, I don't
9 believe that you can. I think you are either a
10 principal or an accessory. And I also think the
11 accessory before the fact, or the principal
12 distinguishes, it's sort of academic.

13 THE COURT: Well --

14 MR. STONE: But in this case --

15 THE COURT: -- maybe this discussion is
16 academic, because where does the law require to
17 specify anything more than this indictment does?

18 MR. STONE: I think if this is --

19 THE COURT: It doesn't say -- do you have
20 any authority that the State must specify that
21 they're in conspiracy to cause great bodily
22 harm, conspiracy to commit a murder, such as
23 your burglary, the burglary that was referenced,
24 a conspiracy to commit a burglary?

25 Do you have authority, where the indictment

1 must be more specific than this?

2 MR. LOY: Your Honor, I do not have
3 authority at my hand which says that. My
4 understanding is, the principal is --

5 THE COURT: All right.

6 MR. LOY: -- that this indictment is to
7 serve as a --

8 THE COURT: If it exists, Mr. Phillips
9 would have it, I tell you that.

10 MR. LOY: My understanding -- well, I don't
11 know, he didn't make this motion, so maybe he
12 didn't look at it ahead of time.

13 THE COURT: He joined in though.

14 MR. PHILLIPS: Thank you, Your Honor.

15 THE COURT: Mr. Phillips, anything further?

16 MR. PHILLIPS: Not anything further, no
17 argument.

18 THE COURT: Anything further on this
19 issue?

20 MR. STONE: No, sir.

21 THE COURT: I think the indictment is
22 officially sufficient, based on the statute.
23 And if the State fails to connect the dots and
24 prove a criminal conspiracy in violation of the
25 law, then the Court will direct a verdict.

1 MR. PHILLIPS: The only thing I will just
2 say, that we have the presentation of reckless
3 disregard for human life, but conspiracy is the
4 intentional act. I think we do have that
5 contradiction, and I'm gonna keep bringing it
6 up.

7 THE COURT: Yeah, but just reflecting on
8 the case they had in Clarendon County, where
9 boys were accused of going in and robbing and
10 committing -- killing an owner, facing the death
11 penalty, and the only thing they came out being
12 convicted of is criminal conspiracy, so it
13 stands alone.

14 And Solicitor Darrell was happy at least he
15 charged with criminal conspiracy.

16 MR. STONE: We're not really concerned
17 about that at this point.

18 THE COURT: What's next?

19 MR. PHILLIPS: Yes, Your Honor. The
20 Defendant, Pangalangan, does have a motion for
21 suppression of untimely and prejudicial
22 disclosure of evidence.

23 A couple of different things, there's
24 multiple pieces of evidence that I would argue
25 was disclosed late, but I'm going to focus on

1 one first. Specifically, on August 18th the
2 State conducts tests on a vehicle, in which the
3 decedent was found, that was 1,474 days after
4 the Defendant's arrest on August 5th, 2019.
5 Failed to disclose those video recordings, or
6 tell us about it, I believe, in the status
7 conference that we had until Wednesday, August
8 23rd, the five days later, with no accompanying
9 information, just two short videos of the
10 vehicle, and some tests being done.

11 And then subsequently disclosed Volkswagen
12 certifications for Jason Bigalotti (phonetic)
13 and Michael Molinski on this Friday, August
14 25th, with no additional explanation or
15 documentation, no reports.

16 It appears, based on what is presented in
17 the witness list, that the State is gonna either
18 present testimony, or presentation of these
19 videos for Michael Molinski and Jason Bigalotti
20 in this case.

21 Now, again, I don't want to muddy the
22 water, so I'm gonna stay with just this one
23 first. In looking at kind of the timeline here,
24 we go all the way back to where I first came on
25 the case on November 9th of 2022.

1 I mailed a copy of the motion for
2 discovery, Rule 5, Brady and Rule 5 to the
3 Solicitor's Office. On November 16th of 2022,
4 Solicitor Duffy Stone sent a letter to all the
5 defense counsels indicating his intent of
6 calling this case for trial in August.

7 And then on May 24th of 2023 our Supreme
8 Court issued a General Sessions docket
9 management order, it became effective on July
10 23rd of 2023, requiring the timely disclosure of
11 discovery.

12 Specifically indicating that the case
13 should not be put on a trial docket until all
14 the discovery is complete and been provided to
15 defense counsel.

16 Specifically, it says, "The Solicitor shall
17 not list any case in which the State, the
18 Solicitor and law enforcement has not complied
19 with Rule 5 and Brady at the time of the post-
20 trial docket is transmitted to the Chief and the
21 Clerk of Court, and used in order, in terms of
22 discovery, is any material subject to a --
23 discovery under Rule 5, and then specifically on
24 June 21st of 2023, we received an email from the
25 Clerk's Office, scheduling this case for trial

1 during this Court term of August 28th.

2 And then on August 7th I emailed a
3 supplement motion of discovery to them
4 requesting different things, specifically, would
5 have been additional video recordings. And then
6 on August 18th we had our status conference, and
7 these tests were conducted on the vehicle. And
8 then on August 23rd, again, that's when the
9 disclosure of the videos were provided in an
10 email.

11 At that point, again, no accompanying
12 information, it was just two videos. And then
13 two days later, last Friday, we had
14 certifications for Jason Biagotti and Michael
15 Molinski just Volkswagen certifications, no
16 reports of what they did. I did a follow-up
17 email on August 26th the next day to Solicitor
18 Thornton, asking if -- or inquiring when the
19 videos were done, who was present when the
20 videos were recorded, if background checks on
21 these potential witnesses were done, the subject
22 matter on which these potential expert witnesses
23 are expected to testify and the substance of
24 their testimony.

25 In response, Solicitor Thornton provided

1 the following: "The videos were done last
2 Friday. Present were Molinski, Vigaloti, Dylan
3 Hightower and Jason Chapman. They are the same
4 folks who may be heard and seen in the videos.
5 Do not have raps on them, but we'll get those to
6 you Monday, along with the others."

7 Sorry, Madam Court Reporter. "Those are
8 the same folks who may be heard or seen in the
9 videos, do not have raps on them, but will get
10 those to you Monday, along with the others.
11 They may testify as to the vehicle, its
12 operation and its interaction with the key fob.

13 Also, whether the key fob can be locked in
14 the car." And so, specifically, again, the
15 others, take this one piece at a time. When
16 we're looking at how this unfolded, it's been
17 1,474 days since the Defendant's arrest, 280
18 days since Solicitor Stone's letter calling the
19 case for -- saying he's gonna call the case for
20 trial in August, 91 days since our Supreme Court
21 issued the General Sessions docket management
22 order, 63 days after we sent an email -- or
23 received an email from the Clerk of Court's
24 Office scheduling this case for trial, 16 days
25 since we sent a supplemental motion for

1 discovery five days after the tests were
2 conducted, and then five days before trial for
3 just the videos.

4 I've got to be specific here, my motion is
5 to suppress the testimony and videos on this
6 specific -- and, again, I'm going to the others
7 in a second, but, specifically, suppress this
8 evidence, not only based on Rule 5, but also
9 given the General Sessions docket management
10 order, and Early v. State, our South Carolina
11 Supreme Court, that's 418SC255, noted that the
12 purpose of Rule 5 is for the defendant to have a
13 meaningful opportunity to prepare a defense,
14 based on evidence that may be introduced at
15 trial.

16 Given this situation, the prejudice is now
17 I don't have the time to retain my own expert to
18 review the car, inspect the car, review the
19 videos, and then, of course, potentially have
20 rebuttal expert testimony at trial, because of
21 the eleventh-hour disclosure of this evidence.

22 So to me the -- our specific arguments that
23 the prejudice on its face it's apparent, through
24 the late nature, it's four years later, and
25 we're having potential expert witnesses. And

1 the way it's done on Wednesday, and then Friday
2 after it was done the previous week, leaves us
3 in a position where I don't have the ability to
4 retain my own independent expert to conduct
5 tests and inspections, and potentially have
6 rebuttal testimony.

7 So I'll save the rest, but I think,
8 specifically, given under what's here, and I
9 hate to pound the chest a bit, but I think we've
10 got to -- there has to be sending a message that
11 the whole purpose of timely disclosure of
12 evidence means something, and having this is a
13 tactic that puts defense counsel at a
14 disadvantage.

15 It impairs the Defendant's right to a fair
16 trial, our right to present a meaningful
17 opportunity -- or having a meaningful
18 opportunity to present a full and complete
19 defense. And that certainly violates the Fifth,
20 Sixth, Fourteenth Amendments to the United
21 States Constitution, Article 1, Sections 3 and
22 10, or -- excuse me, 3 and 14 of the South
23 Carolina Constitution.

24 It's just fundamentally unfair to have
25 discovery provided in this manner, specifically,

1 when there's no reports given, and given just
2 over the amount of time provided. And I'll take
3 it piece-by-piece, but that's the first.

4 THE COURT: Piece-by-piece on the same
5 issue?

6 MR. PHILLIPS: Well -- so we have multiple
7 different issues related to discovery, but for
8 now I figured it's easier for the record and
9 easier for Your Honor, if we take it by
10 evidence.

11 THE COURT: All right.

12 MR. PHILLIPS: Thank you.

13 THE COURT: Anything you have to say on
14 that, Mr. Loy?

15 MR. LOY: Your Honor, I would like to join
16 in the motion. In all candor, Mr. Gatch and I
17 are more than Mr. Phillips, and I don't know
18 that --

19 THE COURT: All right.

20 MR. LOY: Yes, sir.

21 THE COURT: Response by the State?

22 MR. STONE: Thank you, Your Honor, may it
23 please the Court?

24 THE COURT: Yes, sir.

25 MR. STONE: Your Honor, I think this may

1 fall under the category of no-good deed goes
2 unpunished, when I provided something, I'm not
3 required to provide. Obviously, under Rule 5, I
4 don't have to tell Mr. Phillips who my witnesses
5 are, or what the substance of their testimony is
6 going to be, but I did try to do that when he
7 asked. I would also note for the Court, and
8 it's actually in Mr. Phillips' motion on page
9 six of 11, there's this thing we call continuing
10 duty to disclose.

11 So these videos were created at the test,
12 determining the locking and the interaction of
13 the vehicle with the key fobs on Friday, and it
14 was Friday, I think it's the 18th, it was -- and
15 it may have been the same day as our status
16 conference, but it was late in the afternoon.

17 Mr. Hightower was present with them. The
18 videos in question, I think the two videos
19 together are a total of a minute, or less than a
20 minute. And they were done -- it was created on
21 Friday, that Friday, the 18th. I believe they
22 were uploaded into our system by Monday, and I
23 sent them to him -- sent the two things on
24 Wednesday. He emailed me back, and asked --
25 well, the email he basically read you, Judge,

1 you know, who are these people and what's the
2 substance of their testimony? Which I gave him
3 the basic tenant of, but, you know, and the case
4 management order I've heard -- he's the second
5 or third defense lawyer that I've heard get up
6 and say that it says the discovery's got to be
7 complete.

8 What it says is, that we have to be in
9 compliance with Brady and Rule 5, and stuff like
10 this is why. This information didn't exist
11 until that day, and I turned it over -- it was
12 done on Friday, I turned it over the following
13 Wednesday, you know, and the car --

14 THE COURT: Is this documented being
15 elevated to the status of a statutory rule?

16 MR. STONE: Yes, sir, I'm getting beaten up
17 with it just about every time. The first thing
18 they say is, "Well, Judge, they gave me
19 something.

20 They gave me a piece of paper after the
21 case was put on the trial docket, and that's in
22 violation of the docket management order," and
23 it isn't. What it says is, we have to be in
24 compliance with Rule 5 and Brady. And I would
25 also point out that the --

1 THE COURT: It also says Judges are to
2 manage the discovery and --

3 MR. STONE: Yes, sir.

4 THE COURT: -- Judges are to do this, and
5 Judges are to do that.

6 MR. STONE: Yes, sir. And I would also --

7 THE COURT: You know, it's -- is really a
8 misnomer?

9 MR. STONE: I'm sorry, Judge?

10 THE COURT: -- a misnomer, docket
11 management order, is that the --

12 MR. STONE: I think it's an attempt to help
13 everybody manage the docket properly, Judge.
14 Beyond that, that's a -- those decisions are
15 made above my pay grade, but I can tell you what
16 it says. And what it says is, that we're
17 supposed to comply -- be in compliance with Rule
18 5 and Brady. The other thing I would point out
19 is --

20 THE COURT: And it also says Judges are to
21 do these first appearances and second
22 appearances, and coordinate this, and schedule
23 that, and now it's being cited in motions. A
24 motion to suppress based on the violation of a
25 docket management order.

1 MR. PHILLIPS: I have to jump in, Your
2 Honor.

3 THE COURT: No, you don't.

4 MR. STONE: That is --

5 THE COURT: You don't have the privilege of
6 jumping in. That, you know, rules are adopted,
7 and there's ways, generally, through the
8 Legislature, or if the Supreme Court's going to
9 amend the rule, then it appear an objection now,
10 a period through which it becomes law, unless,
11 you know, whenever the procedure takes place,
12 but this is new to me, that an order trying to
13 manage the docket is being elevated in a murder
14 trial, as a basis for the motion to suppress.
15 Now you can jump in there.

16 MR. PHILLIPS: thank you, Your Honor. That
17 is -- the General Sessions docket management
18 order is at the bottom of the pile of the things
19 that I'm relying on. We have not only --

20 THE COURT: I realize that, that you're
21 including it in your argument.

22 MR. PHILLIPS: Sure, 'cause it --

23 THE COURT: So you've got enough to go on,
24 right?

25 MR. PHILLIPS: It -- I think --

1 THE COURT: Without throwing that in there.

2 MR. PHILLIPS: Well, I think, ultimately,
3 the Chief Justice would agree he -- for the
4 Supreme Court to issue this, it must have some
5 basis in that, but also due process, fundamental
6 fairness, obviously, our right to
7 confrontational witnesses, her right to have
8 effective assistance of counsel.

9 THE COURT: I think you cited as a basis --
10 or one of the bases is a motion to suppress, and
11 that's my position on it, regarding this docket
12 management order. It's not the Court's, but it
13 includes a lot of things that are not mandated
14 by the discovery rules.

15 MR. PHILLIPS: Yes, Your Honor. And I
16 guess just to be clear, my request is also made
17 on the Defendant's right to a fair trial, his
18 right to confront confrontational witnesses,
19 compulsory process, meaningful opportunity to
20 present a full and complete defense, effective
21 assistance of counsel.

22 THE COURT: Well, we heard the first time
23 on all the other ones.

24 MR. PHILLIPS: and Rule 5.

25 THE COURT: Okay, I understand. I

1 understand your position --

2 MR. PHILLIPS: I know, Your Honor.

3 THE COURT: -- all around, but --

4 MR. PHILLIPS: It's just -- it puts -- from
5 a defense attorney standpoint, I'm now in a
6 position where I don't have time to do what I
7 need to do.

8 THE COURT: I understand, you said that the
9 first time.

10 MR. STONE: Nothing further, Judge.

11 THE COURT: Well --

12 MR. STONE: Your Honor, with one -- I
13 apologize, may I add one thing?

14 THE COURT: Yes, sir.

15 MR. STONE: I was -- I meant to -- I was in
16 the process of saying this and I stopped, and I
17 apologize for interrupting the Court. I would
18 also point out this is not -- this is about
19 functionality with the fobs, and how the fobs
20 interact with the vehicle.

21 The vehicle's been impounded, and, you
22 know, defense counsel could have gone and seen
23 it, or gone and looked at it any time he got
24 ready. We haven't prevented him from doing so,
25 just like we did, so --

1 THE COURT: Yeah, well, his -- I mean the
2 point is a valid point, offering an expert
3 witness and an expert witness' report three days
4 before trial --

5 MR. PHILLIPS: But Your Honor --

6 THE COURT: -- or five days, or -- well,
7 there is no report, so what's the basic -- what
8 are they going to testify to?

9 MR. STONE: Your Honor, they will testify,
10 as to the fact that -- as to how the remotes,
11 the key fobs operate when the vehicle is
12 running, versus when it is not running.

13 I mean it's a demonstrative -- you can look
14 at the videos and see what they're doing. It's
15 not really expert testimony in the sense -- like
16 a DNA analyst, or something, they're basically -
17 - and that's why it was videotaped.

18 THE COURT: I believe my question was
19 what's expert about that?

20 MR. PHILLIPS: Right.

21 MR. STONE: It isn't, it doesn't require
22 unexpert opinion. There isn't gonna be opinion
23 testify, it's just -- it would be factual
24 statements.

25 MR. PHILLIPS: In response, they provided

1 two days later, Friday, certifications from
2 Volkswagen, whether they end up pushing to
3 qualify, they're gonna have these individuals up
4 there in a capacity, with somebody that has at
5 least some type of training and experience that
6 the jury does not have, whether they try to
7 qualify them --

8 THE COURT: Yeah.

9 MR. PHILLIPS: -- or not.

10 THE COURT: I'm going to defer ruling on
11 that, but I intend to agree with the defense on
12 the extent of offering an expert a week, or
13 three or four days before trial, but I'll defer
14 ruling, because I haven't heard enough testimony
15 or anything about the case, to get a sense of it
16 all. I'm sure the case is not going to turn on
17 what they did last week.

18 MR. PHILLIPS: Well --

19 THE COURT: I would hope not.

20 MR. PHILLIPS: -- our specific thing would
21 be that the State is going to rely heavily on
22 that.

23 THE COURT: Uh-huh.

24 MR. PHILLIPS: And with that --

25 THE COURT: How do you know that?

1 MR. PHILLIPS: Well, again, I would be able
2 to hire my own potential expert to do their own
3 inspection, conduct an independent, you know,
4 potentially, have a rebuttal, if something's
5 different.

6 THE COURT: But I mean you've got time to
7 do that if you want to do it. I said I would
8 defer ruling on the motion.

9 MR. PHILLIPS: But I'm in trial now.

10 THE COURT: Well, if you want to get
11 someone from Volkswagen to go out there, if you
12 want to, you know, I don't know. You know, it's
13 -- I'm deferring ruling on it, but you're -
14 continuing to argue it, basically.

15 MR. PHILLIPS: I understand.

16 THE COURT: All right.

17 MR. PHILLIPS: I'm just making my point
18 clear, Your Honor, I followed that.

19 THE COURT: What's the next issue?

20 MR. PHILLIPS: Yeah, so the additional
21 issue, there is a CV that was provided very
22 recently, I think within the last -- the
23 Solicitor can correct me if I'm wrong, within
24 the last week or so of David Eagerton, and
25 there's no reference in discovery of who this

1 individual is.

2 And so I asked today, you know, the basis
3 of the testimony? And I think this will parlay
4 into another motion that I have, that this
5 individual is going to testify as an expert
6 witness, to relay the alleged drug use from the
7 Defendants.

8 And so I think we've got a couple of
9 different issues related to that. One, again,
10 with -- I understand his position is that he
11 doesn't have to give us any heads-up as far as
12 his witnesses, but now that we have that, we
13 certainly can wait to have that resolved with --
14 because I do have a motion related to that, not
15 only the 404(b), but also additional motions
16 related to that, so --

17 THE COURT: I don't make preliminary
18 rulings on these evidentiary issues, prior to
19 the trial.

20 MR. PHILLIPS: So the basis -- we'll just
21 address it when they call the witness, Your
22 Honor.

23 THE COURT: Okay.

24 MR. PHILLIPS: Based on the Solicitor's
25 statement earlier, as far as their intent is

1 only to present the one statement from the
2 scene, the other argument that I would have
3 related to discovery is no longer necessary. I
4 understand your ruling, it certainly is in
5 abeyance at this point, and so we'll move to the
6 next motion.

7 THE COURT: Okay. I only have one thing in
8 abeyance, or two?

9 MR. PHILLIPS: Specifically, I believe
10 whether you're going to keep out testimony in
11 evidence, but, essentially, my motion to
12 suppress the videos and the testimony --

13 THE COURT: Key fob type testimony?

14 MR. PHILLIPS: That's correct.

15 THE COURT: All right.

16 MR. PHILLIPS: Now, one matter may be
17 cleared up from the Solicitor. Again, their --
18 the lead investigator on this case
19 unfortunately, passed away it looks like on
20 January 16th of 2021, and he handled a great
21 deal of evidence. And I think, Your Honor, what
22 you just said, that you're not gonna do any
23 pretrial evidentiary rulings, so I have to just
24 address it as things arrive during the trial,
25 but we have significant issues of potential

1 hearsay, not only investigative hearsay,
2 pursuant to State v. King, but also just the
3 hearsay level of the documents that he dealt
4 with, because we have a confrontation clause
5 problem as well, and then foundational issues,
6 and, potentially, authentication issues of
7 evidence.

8 So a lot, unfortunately, happens when you
9 have one individual who worked on evidence, and
10 is, essentially, a motion for suppression of
11 evidence, due to unavailable witness. However,
12 based on Your Honor's statement, that you're not
13 gonna provide any pretrial rulings on
14 evidentiary, I don't want to go too far, and
15 Your Honor say you're not ready to address that.

16 THE COURT: Well, I'd still like to know
17 what's coming down the pipe.

18 MR. PHILLIPS: And, unfortunately, the
19 problem --

20 THE COURT: Suppression based on the --

21 MR. PHILLIPS: The unavailability --

22 THE COURT: -- unavailability of a witness.

23 MR. PHILLIPS: Yes, Your Honor, and the
24 problem that I'll have at this point is, I
25 don't, obviously, have privy to what evidence

1 the State is gonna seek to admit, and so that is
2 a conceptual problem on my end that we'll just
3 have to address at the appropriate time; but I
4 wanted to make sure Your Honor is aware of that
5 issue.

6 THE COURT: okay. Any comment the State
7 wants to make about that?

8 MR. STONE: I don't understand it, Your
9 Honor, I apologize, but suppress what? I can't
10 respond, if he moves to suppress what exactly?

11 MR. PHILLIPS: Well, I guess the first --
12 if the State's going -- willing to identify what
13 pieces of evidence that only the sergeant
14 handled, that they intend to seek to present,
15 then we could certainly address it piece-by-
16 piece, or we can wait for the trial.

17 THE COURT: Yes, sir, we're having a trial
18 before the trial.

19 MR. PHILLIPS: Well, I'm just trying to --
20 judicial economy, Your Honor, if we handle it
21 now, then we don't have to stop.

22 THE COURT: All right. Well, a lot of
23 things that are legal as judicial economy are
24 really judicial economy.

25 What's the next one?

1 MR. PHILLIPS: Yes, Your Honor, the next is
2 kind of a joint motion for the State to disclose
3 404(b) Lyle evidence. And, of course,
4 Defendant's objection to the introduction of
5 inadmissible propensity evidence. And so with
6 that, the motion to disclose what potential
7 404(b) evidence, that kind of then is bolstered
8 by our objection to it, but --

9 THE COURT: What type of propensity
10 evidence are we dealing with here?

11 MR. PHILLIPS: It depends what the --
12 that's why I had the motion to disclose the
13 404(b), because I can't unring the bell, if it
14 comes out in trial, and I have to move for a
15 mistrial.

16 THE COURT: That's when you make an
17 objection, before the bell is rung.

18 MR. PHILLIPS: Unfortunately, sometimes
19 that's impossible, and so I'm trying to deal wit
20 that now, so we don't have a mistrial issue.

21 THE COURT: Okay. A response from the
22 State?

23 MR. STONE: Your Honor, we're not gonna
24 offer any propensity evidence, I don't think
25 that's proper. I think any evidence that we

1 would offer, again, the defense should have time
2 to object; but I will tell you that the only
3 thing that falls under res gestae, as well as
4 404(b) that would even be arguable, are two
5 witnesses.

6 One is Brittany Honeycutt, and the other is
7 Lindsey Lewis, both of them have given written
8 statements. I'll be glad to give you a copy of
9 those, as well as the defense. The defense
10 already has a copy of the statements. And those
11 statements, one of the witnesses was actually
12 with Rita Pangalangan for the Friday, Saturday
13 and Sunday, excuse me, I take that back, I
14 apologize.

15 This happened on a Monday, the child was
16 killed on a Monday. Rita Pangalangan left her
17 child with this babysitter Friday, Saturday and
18 Sunday, and she describes, basically, Rita
19 Pangalangan leaving the child with her and
20 taking off, and she doesn't see her for the full
21 weekend, didn't know she was leaving.

22 That leads, literally, into that Monday, so
23 this is, literally, part of the case itself
24 under res gestae. The other witness is somebody
25 who lived with Rita Pangalangan through the --

1 going up until, I believe, August the 1st, and
2 this happened again on August the 5th. In her
3 statement she said that, among other things --
4 and, again, I'll give you the full statement, so
5 you can view it, but among other things she said
6 that Rita Pangalangan told her, "Take the -- I
7 need you to take the child, and I need you to
8 take her with you."

9 And she said, "I can't do that." The
10 witness says, "I can't do that, I'm going to
11 work." And she said, "Just take the child with
12 you to work, and put her in the car, that's what
13 I always do." That, to me, Your Honor, again,
14 this is on August -- this is the timeframe that
15 she's actually living with Rita Pangalangan. It
16 goes directly to the reckless disregard for the
17 safety of the child being something that Rita,
18 apparently, does pretty consistently, that she
19 used to put the child in the back of the car.

20 Again, these statements are all written,
21 the defense has full statements to these things.
22 They are about two pages a piece. In fact, Ms.
23 Lewis' statement is two pages in order, Ms.
24 Honeycutt's statement is four pages total, and
25 the defense has that.

1 THE COURT: Yes, sir.

2 MR. PHILLIPS: Thank you, Your Honor. Any
3 evidence of that nature that's not resulting
4 from a conviction must be explained, or at least
5 proved by clear and convincing evidence to be
6 admissible, and pursuant to State v. Gorr, when
7 a prior bad act, or similar to the one, where a
8 person's being tried, the danger of unfair
9 prejudice is enhanced. So not only under the
10 404(b), if an exception applies, we argue that
11 it doesn't, but if an exception applies, you
12 still have the 403 analysis that the probative
13 value of the evidence is substantially
14 outweighed by its prejudicial effect.

15 And here it's not a result of a conviction,
16 and it's highly similar, so the danger of unfair
17 prejudice is enhanced under the case law. We
18 would argue that this is the exact -- again,
19 under propensity evidence, it's where there's
20 smoke there's fire. This is the exact reason
21 why this should not be presented.

22 THE COURT: All right.

23 MR. STONE: Your Honor --

24 THE COURT: I need to review that; do you
25 have a copy of that

1 MR. STONE: Yes, sir, and I'll give you the
2 statements as well.

3 THE COURT: All right.

4 MR. STONE: I'll also hand you State v.
5 Smith (phonetic), which kind of outlines the use
6 of both 404(b) and res gestae, it's actually a
7 very good overview of the entire case, and, in
8 particular, in child abuse cases, so I'll hand
9 you that, and I'll give a copy of that to the
10 defense as well, and I will give you these
11 statements.

12 THE COURT: It's just a reaction to what
13 I'm hearing about looking at cases and all that
14 is, that the context -- the State is to prove
15 the case regarding the death of a child, when
16 you have I guess the defense is that it was an
17 accident, it was inadvertent, it was a loving
18 mother who would never do anything to hurt her
19 child, or whatever, but I don't know that the --
20 and, of course, the State can't wait until the
21 defense decides to offer that defense, because
22 the defense may not offer anything, so the State
23 has to be able to prove this theory.

24 And, you know, I think there's
25 circumstantial evidence, based on whether the

1 circumstances exist surrounding the situation.

2 I want to read these cases and --

3 MR. PHILLIPS: Yes, Your Honor.

4 THE COURT: -- and, hopefully, within the
5 context of all this. You know, every case is
6 unique.

7 MR. STONE: That said, it's that one case
8 that's got -- it's, quite frankly, such a good
9 analysis, Your Honor, that it mentions other
10 cases, but it summarizes it all very well. And
11 I'll make -- can I make copies of these? I have
12 hole punches in them and I --

13 THE COURT: Sure.

14 MR. STONE: -- don't want to hand up to the
15 Court something that is hole-punched.

16 THE COURT: -- up here, they're --

17 MR. STONE: Sorry.

18 THE COURT: -- when --

19 MR. STONE: I apologize, sorry, thank you.

20 MR. PHILLIPS: And, again, remember the
21 course of 404(b) law has, you know, has changed
22 a way, I mean, specifically, we need to look at
23 State v. Perry, 430SC24, but, again, going back,
24 specifically, here, and what I have for Your
25 Honor, so you can follow, when you have your

1 ability to read their case, what was handed to
2 Your Honor is the objection to 404(b), again,
3 what was marked as Defense Exhibit 1 before --
4 or, excuse me, 10.

5 Under State v. Fletcher, our Supreme Court
6 explained the clear and convincing evidence is
7 the degree of proof, which will produce the
8 amount of trier of facts affirmed as to the
9 allegations sought or established, that's when a
10 prior bad act does not result from a conviction,
11 it must be proved by clear and convincing
12 evidence.

13 If you have someone come in and say, "Well,
14 I was told this a few days before," and it's not
15 a result of clear and convincing evidence, and
16 you take, based off of the case law, that it
17 must be proven by that level of threshold of an
18 evidentiary standard, and then you put that in
19 context with State v. Gorr, that when a prior
20 bad act is similar to one for which the
21 Defendant is being tried, the danger of unfair
22 prejudice is enhanced.

23 THE COURT: Okay.

24 MR. PHILLIPS: Our position would be, even
25 if it satisfies the 404(b) exception in Your

1 Honor's mind, then it would still have to
2 survive the 403, and our argument would be that
3 it survives neither, but certainly not the 403,
4 given the context of what's provided, that its
5 prejudicial effect is highly outweighed --
6 substantially outweighed by any probative value
7 that would be presented.

8 THE COURT: That leaving a child with a
9 babysitter you tend to think that the person is
10 guilty of murder?

11 MR. PHILLIPS: that's gonna be their --
12 that's exactly the argument they said they're
13 gonna make. I mean that's exactly the argument
14 from which they're gonna say.

15 THE COURT: In your case analysis you're
16 saying prior bad acts tend to my child, or have
17 to wait in the car while you go to work, or
18 whatever.

19 MR. PHILLIPS: That's just not the way the
20 State's gonna present it, and I wish it was
21 that --

22 THE COURT: Okay, well, we'll evaluate all
23 this. That's another reason I won't rule in
24 advance.

25 MR. PHILLIPS: Understood, Your Honor.

1 THE COURT: Critical issues.

2 MR. PHILLIPS: Understood, Your Honor. The
3 next motion really deals with -- I think
4 Solicitor Stone said he was gonna mark, or pre-
5 mark the photographs.

6 We would have 403 objections of photographs
7 there.

8 THE COURT: Well, anything that they're
9 offering, you do not object to?

10 MR. PHILLIPS: I haven't seen what
11 they're --

12 THE COURT: You don't know of anything that
13 you will object to.

14 MR. PHILLIPS: That's the problem.

15 THE COURT: All right.

16 MR. PHILLIPS: Yeah.

17 THE COURT: Okay.

18 MR. PHILLIPS: I'm sure I will.

19 THE COURT: What about the photographs?
20 What's the story there?

21 MR. PHILLIPS: I don't know if they had an
22 opportunity to Premark anything yet. I know
23 they were in the process of wanting to do that.

24 THE COURT: We have gory photographs.

25 MR. STONE: We are not -- Judge, here's --

1 the -- the only -- we've actually -- going
2 through I think the Supreme Court just actually
3 handed down a decision, Nelson, in State v.
4 Nelson, the last week, or the week before last.
5 It has not become permanent yet, but it talks
6 about autopsy pictures.

7 We actually went back, we were going to
8 offer a one autopsy pictures of the child's leg.
9 We've taken that out now. We do offer scene
10 photographs. We have the child that was
11 actually taken out of the car at the scene, and
12 on the scene, and that's the only photographs we
13 have. I'll provide -- hand those up to you, but
14 scene photographs, you know, even if you look at
15 State v. Collins, which is a case, in which you
16 had a actual animal mauling case, in which the
17 child autopsy pictures were taken, and were
18 admitted into evidence. This is not --

19 THE COURT: okay --

20 MR. STONE: -- a --

21 THE COURT: There's a similar case out of
22 Chesterfield?

23 MR. STONE: Yes, sir, and that, you know,
24 and even in all those cases they're all
25 referencing pretty much autopsy pictures.

1 The only photographs we're offering are
2 scene photographs. This is literally how the
3 child would have looked in the car, the way the
4 child was taken out of the car, and then the way
5 the child was left after she was taken out of
6 the car.

7 Let me -- there are four photographs, and
8 I'm going to, at this point, Your Honor, if I
9 could go ahead and mark those a State's exhibit,
10 so that you'll have reference to them. I'd like
11 to do that.

12 THE COURT: All right.

13 MR. STONE: Your Honor, could we look at
14 those briefly before they're handed up?

15 THE COURT: Sure.

16 MR. STONE: I'll be happy to show this
17 first to the defense. I'll also hand Your
18 Honor. What we rely heavily on, this is the
19 South Carolina Supreme Court case and the crime
20 scene photos.

21 In that situation, this is a similar case,
22 it's a 15-year-old girl that was, I believe,
23 raped and murdered, and then the two defendants
24 put a pipe bomb in her mouth, and it exploded.
25 The crime scene photos were taken not

1 immediately afterwards, as they were in this
2 case, but I believe 46 days later. In fact, the
3 defense brought up a big objection to the fact
4 that these are not actual crime scene photos.
5 This is how the body was found by law
6 enforcement.

7 South Carolina Supreme Court said this was
8 proper to allow those into evidence, under the
9 same analysis that we do on the other ones,
10 because it shows how the Defendant left, what
11 Defendant did, how they left the victim, and
12 that was the very first look that law
13 enforcement had.

14 In this case, the photographs that we're
15 offering, and I'll hand these up to you. I
16 think I've shown them now to the defense. This
17 is of the very day, within moments after this --
18 after the child was taken out of the car, and
19 this is State's Exhibit 1, 2, 3 and 4, and I'll
20 hand those up to you.

21 THE COURT: Can you make photocopies of
22 these?

23 CLERK: Yes, sir.

24 THE COURT: The number of photographs you
25 were referring to?

1 MR. PHILLIPS: Yes, sir, now that we have
2 identified photographs, specifically, as stated
3 by Solicitor Stone, under State v. Nelson that
4 did come out back on August 9th from our South
5 Carolina Supreme Court.

6 Specifically, our position is that we move
7 for suppression of the evidence here, based --
8 that the photos have little to no probative
9 value, as to any disputed fact, or to an element
10 of murder. And, again, under our 403 objection
11 another case that was recently decided by our
12 Supreme Court, State v. Jones, that was filed on
13 March 29th, the Courts quoted, "It is well
14 settled -- or well established that photographs
15 that are calculated to arouse the sympathies and
16 prejudice of the jury are excluded, if they're
17 irrelevant and unnecessary with the issues at
18 trial.

19 And, of course, you know, the buzz word is,
20 "Enflame the passions and prejudice of the
21 jury," specifically, that the jury would make a
22 decision based on an improper basis , not based
23 on the evidence.

24 Seeing the photos alone would invoke such a
25 response, that the jury would not base their

1 decision -- their verdict solely on the
2 evidence, but based on the graphic nature of the
3 photographs, that any probative value of those
4 photographs are substantially outweighed.

5 THE COURT: Do you object to all the
6 photographs?

7 MR. PHILLIPS: Yes, Your Honor.

8 THE COURT: All right.

9 MR. LOY: With Mr. King we don't have that
10 objection, Your Honor.

11 THE COURT: All right. We'll address that
12 issue later.

13 MR. PHILLIPS: Thank you, Your Honor, and
14 our specific issue is just that a pathologist
15 will be able to testify, explain the injuries,
16 that the State will have other means of evidence
17 that they can present through testimony of the
18 pathologist through the people that were present
19 at the scene, to explain what was there that's
20 not necessary to actually have to show the
21 photographs, as far as what actual probative
22 value would be presented by actually having to
23 publish those to the jury.

24 THE COURT: All right, we'll address that
25 issue in the course of the trial.

1 Is there anything that needs to be marked
2 for identification prior to being admitted or
3 not?

4 What else do we have?

5 MR. PHILLIPS: Thank you, Your Honor, the
6 Defendant, Pangalangan, moves to prohibit any
7 inadmissible hearsay testimony regarding
8 references to any illegal activity that's not
9 contained within the scope of the indictments,
10 and that's under the Fifth, Sixth and Fourteenth
11 Amendments to the United States Constitution,
12 Article 1, Section 14 of the South Carolina
13 Constitution.

14 If we look at Rules 801 and 802 of the
15 South Carolina Rules of Evidence, specifically,
16 this hearsay evidence that implicates the
17 Defendant, or infers the Defendant's involvement
18 in some type of illegal activity, or illegal
19 doing of, I believe, based on my discussion with
20 Solicitor Thornton, they plan to call an expert
21 to testify about drug use from either one or
22 both of the Defendants.

23 And, specifically, given that our argument
24 would be that they not be able to present that,
25 I understand that they now have what was

1 presented to us recently, a CV of a
2 toxicologist, but wanted to raise that motion,
3 Your Honor.

4 THE COURT: All right. Yes, sir?

5 MR. STONE: I'm not sure how that's
6 hearsay, Your Honor. Both Defendants had
7 methamphetamine in their system from blood
8 draws. One had 400 nanograms per milliliter,
9 the other one had 480 milligrams per -- I don't
10 see how that's hearsay.

11 It was actually blood taken from their
12 body. It was taken to SLED, it was tested by a
13 toxicologist at SLED. The child also had her
14 blood taken as well and tested. That was a
15 toxicologist by the name of Demi Garvin, who's
16 also on our witness list, and her CV has been
17 provided, although Rule 5 doesn't require that.
18 So from the standpoint of -- I don't plan on
19 offering any hearsay that's objectionable
20 throughout any part of this trial, but certainly
21 blood draws aren't hearsay. I'm not sure how
22 that's --

23 THE COURT: And the blood was drawn.

24 MR. STONE: Right after the event. There
25 were actually both that were taken from the

1 crime scene to the hospital and were taken --
2 and had their blood drawn at the local hospital.

3 MR. PHILLIPS: And, Your Honor, I guess let
4 me clarify, I had some confusion there. Don't
5 have any issue, as far as toxicologists, they're
6 correct, that's not -- and you say whether we
7 had any law enforcement officers make references
8 to drug use, or the fact of the toxicology
9 results, if any of the law enforcement officers
10 were to discuss that. The other portion of that
11 would also be an argument.

12 Under Rule 403, that the probative value of
13 providing that they had allegedly -- this
14 substance in their system would be substantially
15 outweighed by its prejudicial effect. And I
16 understand that all evidence generally presented
17 by the State is prejudicial, and our position
18 is, in this case, how it relates to what they
19 say recklessness.

20 I understand that their argument would be
21 that that goes to their theme or theory, but our
22 position is that it -- with the probative value
23 presented there, it's substantially outweighed
24 by its prejudicial effect, because there's no
25 additional evidence that corroborates or

1 supports that somehow that resulted in what
2 occurred that day.

3 MR. LOY: And I would go in that argument,
4 as well as object to the introduction of
5 testimony, or evidence as to any uncharged
6 crime.

7 I mean they're not charged. Search
8 warrants were executed at the home, at both
9 homes, as I understand, on the vehicle,
10 etcetera. There were no drugs recovered.
11 They're not charged with possession of any
12 drugs, and I think the -- again, as was stated
13 by counsel, that the probative value is far
14 outweighed by the prejudicial effect.

15 And so I'd ask for a ruling on that at
16 least before we attempt to unring that bell that
17 you said we can't unring.

18 THE COURT: So if someone is on a drug
19 binge, and is accused of committing a crime, are
20 there -- is there authority out there that
21 addresses that question?

22 MR. PHILLIPS: And not to jump in, but I
23 would just say there's no evidence that they
24 were on a drug binge. If somebody tested
25 positive, they could have done it three days

1 before.

2 THE COURT: Well --

3 MR. PHILLIPS: Meth stays in your system
4 for several days.

5 THE COURT: If someone --

6 MR. PHILLIPS: Well --

7 THE COURT: -- is on a drug binge, I'm
8 sure, as is the case in many, many murders, and
9 many, many crimes, is there authority that
10 addresses that issue?

11 MR. PHILLIPS: I'll certainly research it.
12 Our position, again, for the relevance --

13 THE COURT: That would be impartial for
14 them to say that they were more focused on using
15 drugs than tending to the child, and, so,
16 therefore, the jury should know about that.
17 Then there should seemingly be some case
18 authority one way or the other on the issue.

19 MR. PHILLIPS: I think there would have to
20 be some threshold evidence showing that they're
21 on a drug binge, because somebody could test
22 positive --

23 THE COURT: No, I just used drug binge as
24 an example. The same thing can apply, heavily
25 under the influence, if they were tested the

1 same -- around the same time and had all these
2 drugs and the toxicologist would testify as to
3 the level of drugs in their system and all that.
4 As you all are using these legal issues that I'm
5 gonna be asked to rule on, I'm asking -- I'm
6 posing a question, is their authority that
7 addresses that issue in general?

8 MR. LOY: Your Honor, I don't have a case
9 to cite, but as far as a probative value, what
10 they're accused -- my client is accused of
11 having done is to be present when a child that
12 he has no authority over, if he had tried to
13 take this child, he'd have been arrested for
14 kidnapping, it's not his child.

15 He's not a guardian, he doesn't pay
16 support. At most, he's present at the scene,
17 and so --

18 THE COURT: Well -- and mere presence, it
19 does not make a person guilty we know that.

20 MR. LOY: Right.

21 THE COURT: But that's a separate issue.

22 MR. LOY: Well, I understand that Your
23 Honor, but without some threshold -- well, I can
24 address it when it comes up, but I just don't
25 think --

1 THE COURT: We don't know the facts, you
2 know, we're just having a conversation more than
3 anything. I've no reason to question this.
4 You'all brought up the issues, and I'm just
5 asking questions.

6 MR. PHILLIPS: Your Honor, it's close to
7 knowing the facts, because this is gonna be one
8 case where I don't think the facts are gonna be
9 a huge issue. What occurred -- pretty much
10 occurred, and it's on tape, and we could almost
11 go to closing argument.

12 THE COURT: Yeah.

13 MR. PHILLIPS: So just to be clear --

14 THE COURT: I'm just -- since you don't
15 have an actual question about whether or not
16 there are any cases that address the issues of
17 evidence of intoxication.

18 MR. PHILLIPS: And --

19 THE COURT: Is there anything out there
20 that addresses that? And you said --

21 MR. PHILLIPS: Well, if you --

22 THE COURT: If not, I'm gonna ask the
23 Solicitor.

24 MR. PHILLIPS: Yes, Your Honor, I just
25 wanted -- so I can -- as I'm looking, if you

1 could clarify, I just want to make sure exactly,
2 you're saying a case that would say -- that
3 would allow the State to present toxicology in a
4 case that doesn't deal with drugs in a murder
5 case?

6 THE COURT: Cases that deal with the issues
7 in general. No case, you know, each case is
8 going to be unique in its own respect, but you
9 have principles that govern the type of
10 situations.

11 Mr. Stone?

12 MR. STONE: First of all, Your Honor, I
13 know of no case that specifically says that if
14 you're high on meth, or if you're drunk, or if
15 you are high on crack/cocaine, or whatever, that
16 you can't introduce that, if they're committing
17 a crime. I can't come up with a single case
18 that says no. I think that there is so much
19 prevalence of drug use and crime in our juris
20 prudence, that we, literally, have cases that
21 say, and I'm quoting here, "Voluntary
22 intoxication or the use of drugs does not
23 constitute a defense to a crime."

24 So it's the exact opposite of what they're
25 arguing. It's such a prevalent issue in what we

1 deal with in the courtroom, that the Supreme
2 Court in State v. Hartfield, 300SC469,
3 literally, goes to the trouble of saying, by the
4 way that's not a defense, that you can
5 voluntarily use drugs, and, therefore, you can
6 use that as a defense.

7 I think that's an indication of how
8 prevalent this is throughout our entire juris
9 prudence. I know of no case that says, if
10 you're -- that that's not relevant testimony for
11 a jury to know that you are under the influence
12 of -- whether it be meth, whether it be cocaine,
13 whatever, from an illicit drug standpoint,
14 that --

15 THE COURT: Well, what the --

16 MR. STONE: -- that's not relevant.

17 THE COURT: -- defense seems to be saying
18 that acknowledging that the Defendants were on
19 meth to a significant degree, the jury should
20 not know about it, and that's the essential
21 question in the case. And the State says, well,
22 the jury needs to know about it --

23 MR. STONE: I think it goes --

24 THE COURT: -- so --

25 MR. STONE: You know, you're talking about

1 a case, particularly, a murder charge, and what
2 we're talking about is, somebody that has a
3 total disregard for the safety and lives of
4 others. And you're talking about that from the
5 standpoint of somebody who puts a child in a
6 car, and leave that child in the car for five
7 hours and 41 minutes on August the 5th in rural
8 South Carolina in direct sunlight.

9 The child literally cooks to death inside
10 the car, and I think it's inevitable that the
11 jury would say, "What were you thinking?"
12 Because I promise you, Your Honor, as we're
13 playing that video, that question will come
14 through just about everybody's mind that's
15 watching that video.

16 I know it's come through mine a hundred
17 times. What are you doing? What are you
18 thinking? Why don't you get the child out? At
19 one point they actually find that they locked
20 the keys in the car, and instead of breaking the
21 window, they leave and go get a spare key for an
22 hour.

23 So I think if you look at that situation,
24 the fact that they are high on meth becomes
25 extremely relevant, because it answers, what are

1 they thinking? They're not thinking. They're
2 more focused on -- they are high on meth,
3 therefore, they're putting that child's life at
4 risk because of that. Then the question
5 becomes, does that voluntary intoxication give
6 them the defense, which is what we have when I
7 had that case, just to make sure that we weren't
8 gonna go down that road.

9 It is a crucial part to this case, it is
10 central, and I can't fathom that there is a case
11 out there that says that that would not be
12 relevant.

13 THE COURT: It's not relevant in cases that
14 says it is relevant. And since you brought your
15 whole team here, you can have 15 researchers on
16 that question. Well --

17 MR. STONE: There's no --

18 THE COURT: Any other comment on that
19 issue?

20 MR. PHILLIPS: There's no connection
21 between the two. If they put the child in the
22 car and drove to get methamphetamine, if they
23 robbed a methamphetamine dealer, if the child
24 was positive for methamphetamine, but if someone
25 has used methamphetamine, as counsel has argued,

1 within the last 24 hours or 48 hours, the act of
2 leaving the child in the car is no more
3 culpable, it's no more representable, and it's
4 no less. '

5 I can assure you nobody's using voluntary
6 intoxication as a defense, so I can allay the
7 Solicitor's concerns on that one, I think I can;
8 am I correct?

9 MR. LOY: You're correct.

10 MR. PHILLIPS: We haven't discussed that,
11 but I'm pretty sure that's not going to be a
12 defense at all. There's just no nexus between
13 the two. ..I mean --

14 THE COURT: Do we agree that homicide by
15 child abuse cases are different than regular
16 cases, or no?

17 MR. STONE: They --

18 MR. GATCH: Yes, in the jury's eyes I think
19 that they are, and I think --

20 THE COURT: All right.

21 MR. GATCH: -- anything that --

22 THE COURT: If they have an interest, they
23 can --

24 MR. PHILLIPS: From a --

25 THE COURT: -- try to prove neglect.

1 MR. GATCH: Well, this is not a homicide by
2 child abuse case, exactly.

3 THE COURT: It's --

4 MR. LOY: This is a different statute, and
5 --

6 THE COURT: And it may be a different
7 statute, but it's still I mean sort of the same
8 theme, isn't it?

9 MR. PHILLIPS: No, Your Honor, because the
10 elements of proof that are within the homicide
11 by child abuse statute are different than what's
12 present in the murder statute.

13 THE COURT: Okay.

14 MR. PHILLIPS: So, unfortunately, that's --

15 THE COURT: Is that one of the cases that
16 you handed up --

17 MR. STONE: Yes, sir.

18 THE COURT: -- a homicide by child abuse?

19 MR. STONE: It is, and it describes all of
20 those issues, including the concern that you
21 just had -- the comment that you just had about
22 the difficult nature of charging, and I think
23 they actually included a footnote -- I mean not
24 a footnote, but actually a paragraph from former
25 Chief Justice Toal that talks about that from

1 the fact the Fletcher case, which the defense
2 actually referenced earlier, so all of that is
3 in the case, which is the case that I handed up.

4 MR. PHILLIPS: And so, again, our position
5 with that is, even if there is relevance, even
6 if Your Honor finds there's probative value, it
7 still, as Your Honor knows, has to be weighed
8 against its prejudicial effect.

9 And we argue what substantially will
10 outweigh by its prejudicial effect, given the
11 fact that there's no further evidence as far as,
12 again, exactly how that had -- that's our
13 position given that it's not a homicide by child
14 abuse statute.

15 THE COURT: And do you expect that to be
16 your position?

17 MR. GATCH: Coupled with the fact that they
18 don't have -- really -- it's on video, as your
19 Honor must be aware by now. The child is on
20 video being carried, placed in the car, closed
21 the doors, walked away, it's not disputed.

22 It's not somehow worse, if someone is
23 positive for methamphetamine and does that, it's
24 --

25 THE COURT: Maybe they were --

1 MR. GATCH: -- just prejudicial.

2 THE COURT: -- sleeping inside for six
3 hours, eight hours.

4 MR. GATCH: Well, not if they're doing
5 methamphetamine.

6 THE COURT: Well, I know. What kind of
7 information is the jury entitled to know about
8 this unexplained death.

9 MR. GATCH: It's explained. I mean we can
10 stipulate to the cause of death, which is one
11 more reason we don't need the photographs that
12 were there earlier. I mean the cause of death
13 is -- and, again, I speak for counsel without
14 conferring, but I think it's beyond dispute.

15 THE COURT: Right.

16 MR. GATCH: But as the Solicitor stated,
17 this child basically cooked in this car.

18 THE COURT: All right, what other issues do
19 we have?

20 MR. PHILLIPS: Based on the Solicitor
21 Stone's statement, as far as the statements that
22 they're planning to seek to admit, I just -- can
23 we get clarification?

24 Solicitor Stone, so for Defendant
25 Pangalangan, there's only one statement that the

1 State seeks to admit at trial; is that fair to
2 say?

3 MR. STONE: The -- Judge, as I told you
4 earlier, there are two statements. One is by
5 her at the scene, which says, "I went inside --
6 I put the child in the car, I went inside to get
7 cigarettes, I came back out, and we had -- the
8 keys were locked in the car."

9 The statement from Mr. King was the 911
10 call that he made, again, at the scene. Neither
11 one of them were in custody at the time.

12 THE COURT: All right.

13 MR. LOY: I don't have an issue with the
14 911 call.

15 THE COURT: Any other issues?

16 MR. PHILLIPS: I did have a motion to
17 prohibit opinion testimony, essentially, where
18 you have, essentially, someone who's put up, and
19 they cross that level of testimony from lay
20 witness testimony, to giving actual expert
21 opinion without being qualified.

22 So, unfortunately --

23 THE COURT: Are you saying for a particular
24 witness, or a type --

25 MR. GATCH: No. Well, I believe what we

1 have is with certain witnesses, sometimes they
2 will be in a position where their testimony
3 starts to bleed into opinion testimony, and,
4 again, I know based on Your Honor's prior
5 ruling, we'll address that once they come up to
6 testify. I'll make sure to --

7 THE COURT: Yeah.

8 MR. GATCH: -- be extra diligent, so we can
9 address that.

10 THE COURT: Okay.

11 What else? What else for the day?

12 MR. PHILLIPS: We also had the motion
13 regarding redaction of evidence; however, based
14 on the prosecution's position of what evidence
15 is not coming in regarding interrogation videos,
16 as well as some other videos, we will confer
17 with him, regarding what videos they do plan,
18 which I believe, obviously, is the surveillance
19 camera. There won't be -- I don't think this
20 motion is proper at this time, until I speak to
21 him to know for sure exactly what they seek to
22 admit, but if it's just the surveillance camera
23 itself, there shouldn't be any major redactions.

24 We did have some heavy redactions that
25 would have been necessary for other videos, but

1 it appears that that won't be necessary to be
2 addressed by the Court.

3 THE COURT: All right. Any other issues
4 before we come tomorrow morning and start with
5 opening with the jury, limited instructions?

6 Is there anything else before that?

7 MR. STONE: Not from the State, Your Honor.

8 MR. LOY: No, Your Honor.

9 MR. PHILLIP: No, Your Honor.

10 THE COURT: Okay, very good.

11 9:30 it will be.

12 MR. GATCH: Thank you, Your Honor.

13 (ADJOURNED) -

14

15 (At 4:50 p.m. the proceedings were
16 continued to the following day without
17 interruption.)

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END OF VOLUME I

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CERTIFICATE OF REPORTER

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Colleton County, South Carolina on the 28th Day of August 2023.

I do further certify that I am not related, of counsel, or interest to any party hereto.

This, the 1st day of April 2024.

[REDACTED]

Kymberlee M. Williams, CSR/RPR

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State v. Pangalangan/King, Volume II - 2019GS1500781

STATE OF SOUTH CAROLINA	IN GENERAL SESSIONS COURT
COUNTY OF COLLETON	FOR THE 14 TH JUDICIAL CIRCUIT
	2019-GS-15-00780, -709
	2022-GS-15-00710

-----)	
State of South Carolina)	.
)	
)	
Plaintiff,	)
vs.	)
	)
Rita M. Pangalangan,	)
And Larry King.	)
)	
Defendants.)	
-----)	

**TRANSCRIPT OF JURY TRIAL
VOLUME II
(PAGES 221 - 458)**

August 29, 2023
Walterboro, South Carolina

B E F O R E:

The Honorable **Clifton Newman**, Judge Presiding

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PROCEEDINGS CONTINUED

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TUESDAY, AUGUST 29, 2023

WALTERBORO, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

BAILIFF: All rise, the Court is now in session, Judge Newman presiding.

THE COURT: Please be seated.

THE COURT: Good morning.

MR. STONE: Good morning, Judge.

THE COURT: Yes, sir.

MR. STONE: Your Honor, just a housekeeping matter. We talked about this in the status conference. There's a camera request from a person in our office.

I've shown it to all three defense counsel, and nobody has any objection to it. It was just never signed, and before he started with his camera, I wanted to make sure I had brought that to your Honor's attention.

THE COURT: Okay, it will be allowed.

MR. STONE: Thank you, Your Honor.

MR. PHILLIPS: Good morning, Your Honor.

THE COURT: Good morning.

1 MR. PHILLIPS: May I hand this up to you?

2 THE COURT: Yes, sir.

3 MR. PHILLIPS: Yes, sir. Your Honor, I
4 sent an email last night outlining --

5 THE COURT: I've reviewed them both.

6 MR. PHILLIPS: Thank you, Your Honor.
7 Outlining our motion to limit the scope of the
8 prosecution's opening statement, specifically,
9 to preclude the following information argument
10 from being presented during their opening
11 statement.

12 The issues we addressed yesterday, the
13 first one references to reckless disregard for
14 human life, as a misstatement of law. Murder
15 requires an extreme reckless disregard for human
16 life.

17 THE COURT: And I'm going to read what you
18 emailed me and what you just handed me?

19 MR. PHILLIPS: For the record, Your Honor.

20 THE COURT: Well, the record is your
21 filing. You filed it, so it's in the record.
22 We talked about this yesterday. You filed it, a
23 brief, and now you're reading to me what you
24 filed.

25 MR. PHILLIPS: I have not filed a motion on

1 the motion to preclude or limit the scope of the
2 prosecution's testimony, I've not done that.

3 THE COURT: But that's what you -- you
4 emailed it last night. Do you intend to file
5 it?

6 MR. PHILLIPS: I have marked it as Defense
7 Exhibit Number 17, which Your Honor has
8 reviewed.

9 THE COURT: That's all right, you filed it,
10 you prepared a motion or whatever it's for, you
11 filed the motion, and then you filed, and then
12 come read to me what you filed, and you say in
13 order to make a record. A record is made when
14 you filed it.

15 MR. PHILLIPS: I have to disagree, Your
16 Honor.

17 THE COURT: You disagree, but that's -- I'm
18 the Judge and that's my ruling. I don't need
19 you to read verbatim something that you have
20 filed, because it's a part of the record. It's
21 a waste of time. You submitted it, I read it,
22 you filed it.

23 MR. PHILLIPS: Respectfully, this hasn't
24 been filed with the Clerk's Office.

25 THE COURT: Do you intend to file it?

1 MR. PHILLIPS: We can, yes, Your Honor.

2 THE COURT: Well, I thought you said it was
3 Exhibit 17, or something.

4 MR. PHILLIPS: An exhibit's not what --
5 again, I'm not trying to belabor the word, but
6 what's marked as an exhibit is not the same as
7 being filed with the Clerk's Office. We had
8 this very issue in another high-profile case in
9 Columbia about the filing of things, and they
10 said it's known to a Judge, I'm making sure that
11 the appellate record is clear, and I haven't
12 made a motion to limit the scope of the
13 prosecution's opening.

14 Based on Your Honor's decision if I ask
15 specific rulings on these matters.

16 THE COURT: When it comes to that point,
17 then we'll be -- they will be addressed.

18 MR. PHILLIPS: Thank you, Your Honor. What
19 -- since Your Honor's aware and has reviewed the
20 document that was sent, my position is I
21 understand, Your Honor, doesn't want me to
22 rehash the arguments. I just need specific
23 rulings for the four matters/issue raised.

24 THE COURT: All right.

25 What says the State?

1 MR. STONE: Your Honor asked whether or not
2 there was any evidence that there were any case
3 law talking about drug use at the time of the
4 crime, and whether or not that was relevant.
5 I'll hand you three cases, State v. Dickerson,
6 State v. Adams, and State v. Gilcrist, all of
7 which it says yes.

8 And, in fact, in all three of these cases,
9 what they talk about are the -- is drug use at
10 the time of the crime. And what they all say is
11 that not only is it admissible under 404(b), but
12 it's also admissible under res gestae, and all
13 because of the same point, it kind of goes
14 through every bit of argument that we've made so
15 far, which is it's all about the state of mind
16 of the Defendants in this case.

17 Implied malice, everything from the initial
18 argument by the defense, that we had to add some
19 language, to clarify things like this.
20 Everything goes back to the same amount of the
21 Defendants. In each one of these cases it says
22 drug use at the time of the crime is exactly
23 that.

24 It goes to state of mind, it's not
25 propensity evidence, and it's admissible. They

1 even actually cited one case in there that talks
2 about the marijuana use at the time of the
3 crime, and this is, obviously, methamphetamines,
4 it's a much more serious drug than marijuana;
5 but even in that case they talk about the use of
6 the marijuana is relevant.

7 You've got cocaine, you've got crack use at
8 an armed robbery. you've got cocaine use for a
9 murder in which the person -- that the cocaine
10 was even used in that. So all of these cases
11 say the same thing. This is admissible
12 evidence.

13 It's actually not about trying to, as the
14 defense would say, well, you're trying to argue
15 that they did something in the past. They were
16 high the day this happened, and that's
17 particularly relevant when you're talking about
18 why did they do what they did?

19 And the defense is gonna argue, unless I'm
20 missing it, that it was an accident. Well,
21 that's exactly what 404(b) is for, to prove the
22 fact that it's not an accident, and it's a
23 pattern of conduct. It's the same with Brittany
24 Honeycutt's testimony, it's the same with
25 Lindsey Lewis' testimony, all they talk about

1 this is how she acts on a regular basis. All of
2 that is state of mind, all of that goes to why
3 they did what they did.

4 Unless I'm missing it, I assume the defense
5 is gonna argue that this was just an accident,
6 and we're arguing it's much more than that, as
7 they argued earlier, it's extremely a difference
8 for the safety and lives of others. And that
9 extreme different is -- just in the child abuse
10 case that I handed up to you last night, talks
11 about that it's admissible not under just under
12 404(b), but under res gestae as well. Those are
13 two of the main issues.

14 I don't really plan on going into a whole
15 lot of other stuff about the legal stuff. I
16 usually leave that to the Judge until we get to
17 closing, and you've already -- and you talk less
18 about your charge, so I don't plan on going into
19 that; but as far as those two issues, you asked
20 for specific law on that, I gave that to you.

21 And I would also say this, finally, as far
22 as the opening statement's concerned, we always
23 make opening statements when there's gonna be
24 objections down the line, and we still make
25 those opening statements. And I recognize that

1 if I tell the jury something that doesn't come
2 in, then they can make a motion for a mistrial,
3 so I'm not gonna be very foolish about that, but
4 I know that stuff that we have I know it's gonna
5 get admitted into evidence, and I wouldn't be
6 able to do an opening statement, if it's not
7 handcuffed to what they want me to say, which,
8 apparently, is just to introduce myself and sit
9 down. Thank you.

10 THE COURT: Mr. Phillips?

11 MR. PHILLIPS: Yes, Your Honor, we didn't
12 address the statement of law. I'd be happy to
13 start there. I can address the one -- the
14 other --

15 THE COURT: How are you gonna respond to
16 these issues he raised.

17 MR. PHILLIPS: Well, the first issue was
18 under the statement of law --

19 THE COURT: I thought --

20 MR. PHILLIPS: I apologize, Your Honor.
21 Go ahead.

22 THE COURT: I thought he was going to
23 respond to the issues you raised in your
24 pretrial and email that you said you were going
25 to file, and make a part of the record, 'cause

1 that's what we were talking about. The
2 Solicitor responded not specifically to the four
3 things or five things that you raised, and I
4 thought he was, but go ahead.

5 MR. PHILLIPS: Again, just to outline from
6 the first issue is, we believe the correct
7 statement of law, based on the case law is that
8 murder requires an extreme reckless disregard
9 for human life as a possible inference of
10 malice.

11 The second is -- references drug use and
12 toxicology. We have -- that has not been deemed
13 admissible, as I argued, under 404(b), when a
14 prior bad act has not resulted in a conviction,
15 and it must be proved by clear and convincing
16 evidence. And then, again, State v. Fletcher
17 sets out the standard for that. And then when
18 we look at kind of a backdrop on the State v.
19 Gore with the testimony from Brittany Honeycutt
20 and Ms. Lewis, that when you have testimony that
21 is very similar, it enhances and highlights the
22 prejudice to the Defendant.

23 And none of this evidence has been deemed
24 admissible. I've objected to it, and so if Your
25 Honor says it's coming in, then I think they

1 have the ability to argue it, but until that
2 point, I think, as far as effective assistance
3 of counsel, I have to know where the boundaries
4 are, or at least try to limit the boundaries for
5 what I believe to be inadmissible evidence. I
6 understand the prosecution's position about I
7 can move for a mistrial later -- at a later
8 point, however, again, as the appellate part, I
9 know that motions for mistrial are rarely
10 reversed on appeal.

11 It's a manifested necessity standard. Very
12 rare for a case to get overturned on appeal on a
13 mistrial. And so I'm trying to ensure Ms.
14 Pangalangan's right to a fair trial, and so
15 that's why I have these motions. The other
16 issue that wasn't addressed was the deferred
17 ruling that Your Honor had on our motion to
18 suppress the untimely prejudicial disclosure of
19 evidence, and that would be any references to
20 the workings of the key fob, or about the keys
21 locking the car.

22 And so that ruling was referred as well, so
23 we have those four issues that, again, my
24 position, to ensure her right to a fair trial.
25 I just need to know the boundaries for where the

1 prosecutor is on this, but I don't know if I
2 have to object. I would rather not object
3 during the opening, and then that turns into the
4 situation we're in now.

5 THE COURT: All right. Well, I'll say
6 after each party, I don't know how you would
7 expect to convince the jury you have no respect
8 for the juror's time. Before we left yesterday,
9 I inquired as to whether there was anything else
10 that needs to be addressed before opening
11 statements, in order to determine the most
12 opportune time to have the jury come in.

13 And each side says, "No, there's nothing,
14 we're ready for the jury and opening statements
15 at 9:30." That's what I am primarily discussing
16 at the moment, and I hope that kind of doesn't
17 change throughout the trial.

18 Now, certainly, you have an opportunity to
19 argue and put on the record whatever it is you
20 have, but when you represent to the Court that
21 you have nothing, and then at 2:30 a.m. you
22 submit a barrage of things that delays the
23 opening, it's unfair to the jury.

24 It shows a lack of respect for the Court
25 and the jury in my view.

1 MR. PHILLIPS: And respectfully, Your
2 Honor --

3 THE COURT: You disagree?

4 MR. PHILLIPS: No, my point is, I wouldn't
5 raise it, if at the moment I had thought about
6 it I would. As I drive home, I start thinking
7 about what I needed to do as far as the opening,
8 and then, again, obviously, we could have argued
9 it yesterday; but, again, respectfully, for the
10 jury's time, Ms. Pangalangan is facing life in
11 prison.

12 THE COURT: I understand the penalty, and
13 you don't need to repeat yours again and again
14 and again. The response by first Mr. Loy.

15 MR. LOY: Your Honor, only with the
16 exception of the Lyle's/propensity/res gestae
17 motions, I don't believe we have anything to
18 add. I would object on the same basis.

19 THE COURT: Yes, sir.

20 MR. STONE: To be specific about his motion
21 that he filed and before, I don't plan on going
22 into that. I recognize that you held that under
23 advisement, I'm good with that.

24 THE COURT: And I grant that motion of the
25 defense.

1 MR. STONE: Thank you, sir. Number one --
2 I mean number two of the three cases I handed
3 you up yesterday was my understanding, when we
4 left, today your instruction was for us to go do
5 that research, so that's what I did.

6 And interestingly that applies to not only
7 two, but also to three, and I do plan on going
8 into the meth use of the other stuff.

9 As far as extreme recklessness, I do not
10 plan on going into a great deal about the law in
11 this case, as I said earlier, so I apologize, I
12 thought I had addressed those. But, again, it's
13 an opening statement, I think we need to get to
14 the opening statement and do them, and it's not
15 unusual at all that you do opening statements
16 with evidentiary hearings still pending.

17 THE COURT: With regard to the motion to
18 preclude the Solicitor from misstating the law,
19 regarding the question of whether extreme
20 recklessness is required for malice, based on
21 the case that worked to include that reckless
22 homicide is not a less or included offense of
23 murder.

24 I deny the motion to limit the opening
25 statements. The opening statements -- and quite

1 frankly, and where the word reckless is used,
2 where extreme reckless is used, it's not an
3 obstruction of law to the jury, and I will
4 expect that the Solicitor would not misstate the
5 law.

6 And if there is a misstatement of the law,
7 or if there is an attempt to misstate the law,
8 then an objection should be made, to dictate
9 what words should be used, the drug use and the
10 toxicology. I find that that is admissible
11 testimony, based on it occurring beyond the res
12 gestae. That it's admissible to give the jury a
13 complete picture of things that were going on,
14 according to the State's theory.

15 As far as the res gestae it also shows --
16 could show the state of mind of the Defendants.
17 I find the relevance outweighs any danger of
18 unfair prejudice, due to the State's burden of
19 proof and weighing both things that it's
20 admissible, whether or not the State will
21 establish that by clear and convincing evidence
22 under Rule 403 and 404.

23 I can only judge things based on statements
24 that were received, as stated by the Solicitor
25 yesterday, and the other young lady, and I find

1 that those -- that prior conduct is likewise
2 admissible, as part of the res gestae, as it
3 relates to matters that occurred the week before
4 the death of the child. At this time, the
5 motion is denied.

6 MR. PHILLIPS: Thank you, Your Honor. So I
7 won't have to object during opening, can I get
8 confirmation of the issues reserved? I'd rather
9 not do that out of fairness to the prosecution.

10 THE COURT: Can you get what?

11 MR. PHILLIPS: That --

12 THE COURT: Confirmation of what?

13 MR. PHILLIPS: That the ruling is final, so
14 I don't have to object during his opening
15 statement, out of respect.

16 THE COURT: Preliminary rulings are
17 preliminary rulings. Now, you object, and I am
18 not precluding anyone from objecting as you
19 might see fit to object --

20 MR. PHILLIPS: Yes, Your Honor, I
21 understand.

22 THE COURT: -- throughout the trial.
23 Anything further before the jury comes out?

24 MR. STONE: Not from the State, Your Honor.

25 MR. PHILLIPS: No, Your Honor, thank you.

1 MR. LOY: No, You.

2 THE COURT: All right, we will bring the
3 jury in.

4 (Jury enters the courtroom.)

5 THE COURT: Good morning.

6 JURORS: Good morning.

7 THE COURT: Welcome back. Ladies and
8 gentlemen, if you'all would stand to be sworn.

9 CLERK: Raise your right hand.

10 (Jury sworn and empaneled.)

11 THE COURT: Well, ladies and gentlemen,
12 you've received a summons that I think came two
-13 to three weeks, a month or so ago, by informing
14 you that you have to report for jury duty here
15 yesterday, and you'all responded to that summons
16 by showing up yesterday.

17 Then we went through a process called jury
18 qualifications process, and each of you were
19 qualified, or are qualified to serve on jury
20 duty.

21 Then we went through a voir dire process,
22 where we asked each of you whether or not there
23 is any reason why you cannot serve on the jury,
24 and give each side and fair and impartial trial,
25 and all of you indicated that you could be fair

1 and impartial. You were then selected by the
2 State and the defense to be the jury in this
3 case.

4 Now you've just taken an oath, and the oath
5 is to well and duly try this case, and to render
6 a true verdict according to the law and
7 according to the evidence so help you God, and
8 that's the oath you just took. And if you hold
9 firm to that oath, then at the end of the
10 process you will have fulfilled your duty on the
11 jury, and no one will have any right to complain
12 of the verdict that you rendered.

13 And so we look forward to working with you
14 in this case, and to having you go fulfill your
15 responsibility as jurors.

16 Now, the Defendants in this case have been
17 charged with murder, causing great bodily injury
18 on a child, and criminal conspiracy. As to each
19 of those charges each Defendant has pled not
20 guilty, and they are presumed to be not guilty.
21 And they cannot be found guilty unless the State
22 presents evidence that convinces each of you of
23 their guilt beyond a reasonable doubt, and that
24 is the purpose of the trial.

25 Now, you will, at the end of the process,

1 be asked to go back, and to deliberate and to
2 reach a verdict of guilty or not guilty on each
3 charge, and each indictment, as to each
4 Defendant.

5 In order to be in a position to go back and
6 to deliberate, you must receive the evidence,
7 you must listen, and you must pay attention to
8 the evidence. And the evidence generally comes
9 from testimony that takes place at this witness
10 stand, together with any exhibits which have
11 been made a part of the record, and exhibits
12 might include photographs, or various other
13 things, something other than testimony. Where
14 you will listen to testimony, and you will
15 receive any other evidence, and you will
16 evaluate that evidence.

17 And out of all the folks who were summoned
18 to come here for jury duty, and there was a lot
19 of people, out of all the people who were
20 summoned to appear for jury duty, out of all the
21 people who live here in Colleton County, out of
22 all the people who live in the State of South
23 Carolina, and, in fact, out of all the people
24 that live in the United States, even the world,
25 only the 12 of you will deliberate and decide

1 whether the Defendant or Defendants are either
2 guilty or not guilty, so you play a very
3 important role in the court process.

4 I want to make sure that you remain as
5 fresh and focused as possible by taking breaks
6 as is necessary. If at any time you need a
7 break for a special reason, get my attention,
8 and we will have a break.

9 As I stated to you earlier or yesterday,
10 once you are selected on jury you cannot discuss
11 the case with anyone. You can't talk with your
12 fellow-jurors about it, you can't talk with any
13 family members about it, you can't talk to
14 anyone who works here in the courthouse about
15 it, you can't talk with anybody about the facts
16 of this case until you have received all of the
17 evidence.

18 And as I've said, out of all the people
19 who've been summoned, only you can decide the
20 facts of this case. Now, just as only you can
21 decide the facts of the case, as the Presiding
22 Judge, I am the sole judge of the law, and you
23 must accept as correct the law as I state it to
24 you at this time, during the trial, and in
25 greater detail at the end of the trial.

1 Each party is represented by counsel, and
2 certainly the lawyers play a very important
3 role in the process but remember what a lawyer
4 says is not evidence.

5 The evidence is testimony, the exhibits.
6 They certainly will argue their positions to you
7 and play their critical role in dealing with
8 witnesses who testify.

9 Later in the process I will appoint one of
10 you to serve as the Foreperson of the jury. And
11 the Foreperson would then act as the
12 spokesperson of the jury. The Foreperson will
13 have the responsibility under the condition to
14 serve as the spokesperson of the jury, and
15 communicating with me, as necessary.

16 The Foreperson will preside over the jury
17 deliberations, and complete the jury verdict
18 form, and the verdict has to be unanimous.

19 We look forward to working with you on this
20 case, and we will proceed now with opening
21 statements first from the State.

22 MR. STONE: May it please the Court?

23 THE COURT: Yes, sir.

24 **OPENING STATEMENT BY MR. STONE**

25 MR. STONE: A very hot August the 5th,

1 2019, these two people over here, Larry King and
2 Rita Pangalangan put a child in the back of a
3 car, and left it there for five hours and 41
4 minutes. I said it was a hot day, at 11:15 when
5 this all started, the heat index was already 89
6 degrees.

7 It would get close to 100 by the time they
8 ever got that child out of the car, and that was
9 outside of the car. That was out -- air
10 temperature outside. Inside the cabin of the
11 car would reach a minimum of 118 degrees, with a
12 heat index of 135.

13 So what happens when you put a child in the
14 backseat of the car and leave them there for
15 five hours and 41 minutes? They cook to death.
16 They are tortured, and they are cooked to death.

17 The child's internal temperature, when
18 checked by the Coroner, was 109.9 degrees, and
19 that's what we only -- that's what we know,
20 because the thermometer doesn't go any higher
21 than that. The child's brain gave up. The
22 organs shut down. She had blisters all over her
23 body, and she died in the backseat of that car.
24 She died the technical way, the scientific
25 answer to that was hypothermia.

1 You'll hear expert testimony telling you
2 the child died of hypothermia, but that's not
3 why you're here, because she didn't actually die
4 of hypothermia, she died because those two
5 people there treated that little girl like
6 baggage. They didn't forget her. They didn't
7 put her in the car and forget her. They put her
8 in the car because to them she was baggage.

9 You see the little girl wasn't like every
10 other 13-year-old girl. She suffered from
11 cerebral palsy. She couldn't walk, she couldn't
12 talk. Her hands barely worked. She could not
13 reach the car door to open it to free herself.
14 She couldn't even scream for help, not that they
15 would have cared.

16 She was totally dependent on other people
17 for her safety. The other thing about her,
18 again, not like a normal 13-year-old teenager,
19 she couldn't be shipped off to go with her
20 friends to the mall, or something, when Rita and
21 Larry wanted to be alone, or they wanted to do
22 the things they were interested in.

23 She had to be taken care of. She had to be
24 watched and cared for, or she had to be put
25 somewhere out of the way. And on August the

1 5th, 2019 that place was the backseat of the car
2 in direct sunlight. And what were they doing?
3 They were high on meth.

4 MR. PHILLIPS: Objection, Your Honor.

5 MR. LOY: Join.

6 THE COURT: Objection overruled.

7 MR. STONE: Not only were they high on
8 meth, they were standing right at the car.

9 They were swinging on the swing, they were
10 hugging, they were kissing, all of which you'll
11 see.

12 And then they would go inside the house and
13 stay there for hours. They would come out,
14 where they would smoke cigarettes. They would
15 hug and they would kiss, and they'd go back in
16 the house.

17 All the time the child is literally cooking
18 to death in the car. She was to them baggage,
19 and they needed to get her out of the way, so
20 they could do what they needed to do.

21 The decisions we all make every day, we all
22 -- most of us, most of us have choices, most of
23 us have the ability to make decisions, how we
24 act, what we do, and those choices have
25 consequences.

1 Rita Pangalangan had chosen to put that
2 child in that car. She chose to her focus her
3 attention on Larry, to talk to him, to kiss him,
4 to hug him and go inside with him. She chose to
5 do meth.

6 Larry, same thing, he chose to put that
7 child in the car, and I say put, that's
8 gracious. You'll watch it on the video, see how
9 he puts that child in the car, just like you
10 would a suitcase and he chose to spend his time
11 outside the car and inside the house with Rita
12 hugging and kissing and doing drugs. Those were
13 choices that they made, and those choices have
14 consequences.

15 The only person in this case that didn't
16 have a choice was CP she had no choice,
17 none. She was totally dependent on somebody
18 else for her safety, and they didn't care, and
19 that's what this case is about.

20 Now, my job is to prove to you this case
21 beyond a reasonable doubt that what I've told
22 you. If I don't do that, your job is to come
23 back here and find them all guilty.

24 Ladies and gentlemen, I'm gonna ask you,
25 after you hear the testimony, after you see the

1 video of the case, after you see what happens
2 with this child, to come back in and give us a
3 verdict that speaks the truth, that this child
4 died because --

5 MR. PHILLIPS: Objection, Your Honor.

6 MR. STONE: -- died not because --

7 THE COURT: Hold on.

8 MR. STONE: -- of any other reason. I'm
9 sorry, Your Honor.

10 MR. PHILLIPS: We have a matter of law at
11 the appropriate time.

12 THE COURT: Okay, the objection is
13 sustained, as to the Solicitor's reference to
14 speak the truth, and you are to disregard that
15 evidence.

16 MR. STONE: When this is over, I'm gonna
17 ask you to come back and give us a verdict that
18 says, this child died because she was forgotten,
19 because they didn't care. Thank you.

20 THE COURT: Mr. Loy?

21 MR. LOY: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23 MR. LOY: Good morning.

24 JURORS: Good morning.

25

1 **OPENING STATEMENT BY MR. LOY**

2 MR. LOY: You'all 14 folks have been
3 selected in this case to be our jurors in the
4 case, which I'll tell 'you now is both one of the
5 easiest cases you could have been picked for;
6 and in a second breath one of the hardest cases.

7 It's one of the easiest cases, because of
8 the lack of evidence that you will probably hear
9 about throughout the course of this trial.

10 You, as jurors, are what we call the
11 finders of the fact, or the judges of the facts.
12 And during the course of the trial it's your
13 job, it's your primary duty during the course of
14 the trial to determine what the facts are.

15 Your Honor is referred to as the judge of
16 the law. At the appropriate time he will tell
17 you what the law is, and you will finally have
18 the facts that you figured out. That part's not
19 gonna be hard, okay?

20 You'all will come to an agreement, as far
21 as facts, and the sequence of actions that took
22 place, that part won't be hard, it'll be easy.
23 On the other hand, you'all got picked for a
24 really hard case, because this child did expire,
25 she died, roughly, by the manner of death that

1 the Solicitor described, and it's hard to listen
2 to, it's hard to know.

3 You've probably seen a newspaper article,
4 or a news story sometime about this happening in
5 the past, if it has happened in the past. It's
6 a lot easier if you can turn the page of it and
7 get to the end. Here, there's no way to show
8 that. Just listen to what's being said and how
9 it's being said.

10 Secondly, the other part of your duty
11 that's gonna be hard is that you are required to
12 keep an open mind throughout this entire
13 procedure. That is, you don't keep a score,
14 here's a point, there's a point, there's a
15 point, here's a point.

16 You listen to the testimony as it comes,
17 you look at any exhibits or evidence that is
18 introduced, and you file it away. You get the
19 complete picture, and at the end of the case,
20 when the Judge has given you the law, and told
21 you take it back, and will give you the
22 indictments, and put the case in your lap, and
23 he says, "Go on back to the jury room and
24 deliberate," that's when you get to decide guilt
25 or innocence.

1 Until then you just don't have the rules to
2 do it, the rules by having at least all the
3 rules of the game. So you're required to keep
4 an open mind.

5 And I can see, sometimes that's hard,
6 because you -- it may have been hard to keep an
7 open mind, just having heard that from my
8 statement, but you've got to put that aside,
9 walk it off, and once the Judge gives the case
10 to you, you apply the law and you decide.

11 Now, in this case, the facts are going to
12 substantially not be in dispute, I don't
13 believe. Back to the evidence in this case will
14 show you that Mr. King and Ms. Pangalangan had
15 in the past some years ago, been involved in a
16 relationship, a romantic relationship.

17 It didn't work out and they split up, and
18 maybe a month, five weeks, a month, before this
19 tragedy occurred, they had gotten back together.
20 And that, ladies and gentlemen, is one of the
21 worst decisions that Mr. King ever made.

22 They got back together. They didn't live
23 together; it wasn't like that. She had a house
24 over on the other side of town, he had his
25 place, but they were dating and they had

1 rekindled their relationship.

2 And on this particular evening, the night
3 before this child died, Ms. Pangalangan and her
4 child had spent the night at Mr. King's house,
5 over at his house. And in the morning Mr. King,
6 he had reason to believe that Ms. Pangalangan
7 had been unfaithful, had messed around with
8 another guy, or something like that during the
9 time that they had gotten back together.

10 And he confronted her on that, and they
11 went back and forth a little bit, she said, yes,
12 this had happened. And at that point, he told -
13 - now, he's not here, any of that stuff, but she
14 said, yes, it had, and he said, "You've got to
15 go. I can't deal with this right now, I'll talk
16 to you later, but you'all have to go."

17 And they went back and forth a little, and
18 Ms. Pangalangan said, "Okay, but I can't carry
19 Kristina," as you've heard, "that I can't carry
20 her, my back is hurt, I've got a kidney issue."
21 And Larry said, "I'll carry her for you."

22 And I wouldn't -- well, you will have a
23 chance to review this video today. And what the
24 video tape will show you is, that Mr. King came
25 out of the door, cradling this child in his

1 arms, completely appropriate and properly,
2 nothing abusive or disrespectful about that
3 behavior. He carried her in style.

4 He's not fighting with Ms. Pangalangan,
5 he's not looking angry, mean, malicious or
6 hateful towards this child. He carries the
7 child to the car appropriately, and you will see
8 the tape. The back door is open. When he gets
9 there he has to turn the child, because she goes
10 in feet first. He does that, turns her in his
11 arms and he places her in the car, and he backs
12 up, and tells mom, "Go over and do what you need
13 to do to prepare the child to drive.

14 Put the seatbelt on, do what she does, and
15 you'll see mom in the backseat messing with the
16 child. Mom steps away, because at this point,
17 Mr. King's out of the picture. He's gone into
18 his house. His door is closed, they're about to
19 leave, you'all are on your own.

20 It's not his child. It's not his adopted
21 child. He doesn't pay support, he doesn't pay
22 anyone to watch her, he doesn't feed her, he's
23 not financially responsible for her.

24 Mom's out, he put her in the car, and he
25 said, "You'all need to go." Ms. Pangalangan

1 turns around.

2 The video the Solicitor referenced doesn't
3 have audio, but it's pretty easy to follow the
4 conversation that ensues. And you'all will see
5 that Ms. Pangalangan is pleading her case, "I'm
6 sorry, let's get past this." And Larry's
7 telling her, "You need to go," and they go back
8 and forth for a while.

9 Now, the car's running. Larry for some
10 reason believed the air conditioner's on. The
11 child was in the custody of her mother, who has
12 raised her up to this point, and mama's got this
13 child.

14 He turns and he walks into his house, and
15 mom walks behind him. Sometime later mom comes
16 out, goes to the car, it looks like she opens
17 the back door, perhaps checks on the child,
18 makes sure everything's okay. Gets in the front
19 seat momentarily and gets back out. Comes out
20 another time, there's two times, checks on the
21 child, goes back in the house.

22 And after approximately two hours after the
23 child is left, left alone, the two of them come
24 out, and the tape is obvious, they can't get in
25 the car. The car's locked, it's running, it's

1 locked. Now, whether the key fob is in the car,
2 or lost under the hood, in the house, or the dog
3 ran off with it, it really doesn't make any
4 difference. It's obvious they are trying to get
5 into the car.

6 Now, Mr. King, at this point, he's
7 volunteered, he's trying to help. I mean he --
8 because it's a legal obligation here perhaps,
9 but he says -- he goes to the shed, he gets a
10 wedge, and he tries to break the window and get
11 the car door open, and he can't get it open.

12 I mean he can't get it open. And he
13 offers, "Can I break a window? You can just
14 bust out a window," and now, look, it doesn't
15 seem like an emergency at this point, and he
16 just wants to bust out the window.

17 Mom says, "No, it'll be cheaper for us to
18 just run to my house, and I'll pick up the other
19 key fob and we'll come back." He says, "Okay."

20 And, again, I'm sure -- yeah, he got his
21 feelings hurt earlier, but he's trying to help.
22 And they get in the car and he drives mom over
23 to her house, and she gets the key fob, and they
24 come back, and you'll watch the video again.
25 And there's a little bit of issues, they have

1 trouble getting the car unlocked.

2 They do get the car door open eventually,
3 and mom opens the door and they find that the
4 child has deceased.

5 There's two things that the State has to
6 every time they call a case for trial, they need
7 an indictment. If they do those two things,
8 those two things, they win every time. And if
9 they fail either one of those two things, they
10 lose their case.

11 First, they have to prove that the crime
12 alleged in the indictment, the charges they
13 bring, that you'll have in your jury room, the
14 crime alleged in the indictment. You always
15 have to prove the crime. If they can't prove
16 the crime, they sure can't convict either one of
17 them.

18 So it's a double burden. They have to
19 prove that somebody got robbed. If they're
20 stealing a car, they have to prove a car got
21 stolen. They have to prove that the crime.

22 And, second, they have to prove that the
23 Defendant, the person charged, is the one who
24 committed the crime.

25 In this case, Mr. King -- and I'm only

1 concerned with Mr. King. Ms. Pangalangan has
2 her own attorney. She's not on my plate. I'm
3 not here to shoot at her or defend her, I'm here
4 on Mr. King's behalf, and he has three
5 indictments. He has an indictment for murder.
6 Murder is a very specific crime, it's a very
7 specific term of art, and the Judge will
8 instruct you on what it means at the close of
9 this case; but when you apply the law as the
10 Judge instructs you to, to the facts as you have
11 found, which will be substantially as I have
12 described, you will find at least as it pertains
13 to Mr. King, there is no grounds, there is no
14 basis, there's no way that he is guilty of a
15 murder.

16 Whatever happened there, as it relates to
17 Mr. King, is not murder. It's a tragedy, it's a
18 heartbreaking situation, but it's not murder.

19 Secondly, he has a crime of causing great
20 bodily injury to a child. And as you watch this
21 video, you'll see that what he does is, bring
22 this child out of the house, place the child in
23 the backseat of the car, relinquish any control,
24 custody, claim, obligation, right to this child
25 to her mother, and step away, and say, "You'all

1 go."

2 And there's nothing about his involvement
3 when he carries this child, he puts this child
4 in the car, in any way injured her.

5 First, you will hear under the law, there
6 is the statute.

7 Last, there's an indictment for conspiracy,
8 and you'll have that indictment with you in your
9 jury room also. And I will tell you now, excuse
10 me, I will tell you unapologetically that
11 indictment is a garnished indictment.

12 It's the last straw, it's the throw it in
13 there and see what happens. There's nothing to
14 this. Read this indictment, it says the two of
15 them conspire to do something. It doesn't say
16 what. I don't believe for a minute the
17 Solicitor is gonna have the audacity at the
18 close of this case to get up and tell you that
19 Mr. King conspired to perform the murder of this
20 child. Conspiracy means two people come
21 together with a plan to commit a criminal act to
22 accomplish some criminal intent.

23 If they got together and said, "How will we
24 kill this child?"

25 MR. STONE: Objection. It's not a

1 conspiracy. There is no conspiracy language.

2 MR. LOY: The Judge will instruct you --
3 proceed?

4 THE COURT: The Judge will instruct you --

5 MR. LOY: The Judge will instruct you as to
6 the law. So they may have conspired to murder
7 this child, they may have gotten together some
8 wicked plan, "How can we hurt this child," or
9 conceivably it could be a conspiracy to cover up
10 what happened after they discovered that the
11 child was deceased, and they might be in
12 trouble.

13 And in support of that, the State's
14 probably gonna show that when the law
15 enforcement was called, when they responded, Mr.
16 King was as honest, as helpful and
17 straightforward as he could be. He told them
18 what happened. He said, "We were in the yard, I
19 put her in the car.

20 I thought the air conditioning was running,
21 everything seemed okay, mom went back outside.
22 Two hours went by, 'Oh, my God, I can't believe
23 this."

24 Ms. Pangalangan's story was not aligning
25 with that. Her presentation was something

1 different. And if you hear those, it's obvious
2 they are different stories. They are miles
3 apart.

4 Most of what you need to know about Mr.
5 King, evil heart, evil intent, desire to hurt
6 someone vulnerable, he'll reveal to you, when
7 you listen to a 911 call that he made, there was
8 no malicious intent.

9 If I talked too long, I'm sorry, it's a
10 very important day. And if nothing else, please
11 try to listen very closely to the evidence and
12 keep an open mind until the end of this case and
13 decide it when the Judge gives it to you, okay?

14 If you do that, even though I know it's
15 hard, and I know that people have a tendency to
16 prejudge.

17 You are called to judge your fellow man in
18 something very serious. We look forward to
19 speaking with you again, and I would ask that
20 you find my client not guilty.

21 THE COURT: Mr. Phillips?

22 **

23 **OPENING STATEMENT BY MR. PHILLIPS**

24 MR. PHILLIPS: As a father of two girls and
25 a baby boy, I know a parent's worst nightmare is

1 the loss of a child. That death is
2 unimaginable. This case, what happened that
3 day, is an absolute tragedy.

4 Let me say that again, what happened that
5 day was an absolute tragedy. We know and accept
6 mistakes were made. That things should have
7 been done differently. There's a lot that
8 happened in this case.

9 There are a lot of things that you're gonna
10 see and hear that invoke raw emotion, raw
11 emotion. And you swore before God to ensure
12 that you hold the government to that burden, to
13 prove that this case was murder.

14 This case is about a lot of things, but
15 it's not murder. All the evidence from which
16 your decision has to come directly from that
17 witness stand. When you took that sworn oath,
18 if after you heard the government's opening, you
19 felt like you kinda had made your mind up, you
20 violated that oath.

21 And I'm not saying that to attack you, I'm
22 saying that, because we haven't heard any
23 evidence yet, and you have a chance to take a
24 step back, and do this the right way, the way
25 you swore an oath to do, to listen to what

1 actually occurred.

2 We wouldn't be here if the government
3 wasn't seeking to convict Rita of murder. She's
4 not guilty of murder. We accept responsibility
5 that mistakes were made. She should have done
6 things differently.

7 In having that ability, it is her living
8 nightmare. Wake up in the morning and go to
9 bed, and that's all she thinks about is, what
10 she could have done differently.

11 If anybody has made a mistake, and they've
12 had that opportunity where they think a thousand
13 times in their head, I should have done this, I
14 should have done that, I should have broken the
15 window, I should have been more urgent, I
16 shouldn't have left her in the car, she owns
17 this, it's on her soul, but this is not a murder
18 case. This is not a murder case, but it's a lot
19 of things. One, that she'll have to pay for.
20 She'll have to price.

21 That's right, there are consequences for
22 your actions, but it's not murder. I don't want
23 to minimize that. We're not gonna make any
24 excuses in this trial for what happened. Like I
25 said, it's gonna invoke raw emotion. It invokes

1 raw emotion for me. Nobody's gonna downplay
2 that.

3 Now, again, the government has to try to
4 show that she's guilty of murder beyond a
5 reasonable doubt. Now, how -- well, you can ask
6 yourself why do we believe she's not guilty of
7 murder?

8 Well, I contend and, certainly, you can ask
9 yourself this, if the government believes she's
10 guilty of murder, why three years later do they
11 charge her with great bodily injury, or
12 infliction of great bodily injury to a child?
13 If they believed she was truly guilty of murder,
14 why hedge the bet? Why charge her with
15 something else if they were solely based on
16 that.

17 And I contend there is zero evidence of a
18 conspiracy, zero, absolutely none. This case is
19 on video. There's a surveillance cam from Mr.
20 King's residence. There's no smoke and mirrors
21 here. It's all there for you to see, all there
22 for you to evaluate. We're not running from it.
23 And the only reason you're here is because they
24 want to allege it's murder, and that's not what
25 happened, period.

1 And in this case, again, you will have to
2 deal with some very difficult things. You'll
3 have to make difficult decisions, but you have
4 sworn to set aside that emotion. I know it
5 won't be easy, but, again, you've got to make
6 your decision based on the actual evidence
7 presented, and not on the grave emotion of what
8 pulls up in you when you watch the video,
9 because it does hurt. Nobody's gonna deny that.

10 The person who hurts the most is Rita.
11 Rita has two adult daughters. Rita served this
12 community as a teacher for 25 years, she was
13 Teacher of the Year twice. She has a master's
14 degree, she's highly educated. You're gonna
15 hear them say that she should have known better,
16 she should have.

17 We own it 100 percent, but it's not murder.
18 Again, this is an absolute tragedy, no denying
19 it, but don't compound that tragedy by giving
20 into what the government wants. The Solicitor's
21 Office, again, in these type of filed cases, you
22 have the cameras, the lights, when they're
23 seeking conviction for murder, this case is not
24 murder.

25 When you hear all the evidence, we are

1 gonna be confident, when we come in in closing,
2 to come before you and say, "Find Rita
3 Pangalangan not guilty of murder," because that
4 is justice in this case.

5 Justice will come for Rita, but it's not
6 murder. Thank you.

7 MR. STONE: The State calls Halley Godley
8 to the stand.

9 THE COURT: Stand and stretch for just a
10 moment, make sure everyone is comfortable. If
11 everybody will stand for a moment. Okay.

12 ***

13 **HALLEY GODLEY,**

14 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

15 ***

16 **DIRECT EXAMINATION**

17 BY MR. STONE:

18 Q. Agent Godley, if you could, tell the
19 jury your name, please, and what you do?

20 A. My name is Special Agent Hadley Godley,
21 and I work for SLED Narcotics currently.

22 Q. How long have you been with SLED?

23 A. Going on five and-a-half years.

24 Q. And I know we call it SLED, but what's
25 the full title?

1 It's the State Law Enforcement Division?

2 A. Correct.

3 Q. Okay, so you've been with them for how
4 long?

5 A. About five and-a-half years.

6 Q. In your capacity with SLED, what do you
7 do?

8 A. I investigate narcotic cases.

9 Q. Prior to this, back in 2019, what did
10 you do?

11 A. I was with SLED at the time.

12 Q. Okay, and what, specifically, were your
13 job duties then?

14 A. A Narcotics Investigator.

15 Q. Okay. How did you get involved in this
16 case as a Narcotics Investigator?

17 A. I was returning from a training class
18 in Jasper County that day, so I was traveling
19 back northbound on 95.

20 And when this call came out over the
21 Colleton County dispatch radio channel, I was at
22 Exit 42 on 95, and this incident location was
23 right down the road from where I was at. And
24 when the call came out as a 12-year-old locked
25 in a car unresponsive, my first thought was --

1 at the time my daughter was six, and she knew
2 how to get out of a locked car, so --

3 MR. PHILLIPS: Objection.

4 MR. LOY: Objection, Your Honor.

5 THE COURT: Objection's overruled.

6 BY WITNESS:

7 A. So it immediately sounded suspicious to
8 me.

9 Q. Let me ask you -- let me stop you there
10 just briefly. Because you had mentioned 95, I
11 want to give the jury some idea about where
12 we're talking about.

13 MR. STONE: Your Honor, this is State's
14 Exhibit 7, that we've already shown to the
15 Defendants.

16 THE COURT: Any objection to it being
17 admitted?

18 MR. LOY: Not from Mr. King, Your Honor.

19 MR. PHILLIPS: None, Your Honor,

20 THE COURT: It's admitted.

21 (State's Exhibit 7 was admitted into
22 evidence.)

23 MR. STONE: Your Honor, if this gets in
24 anybody's way, I'll move it.

25 BY MR. STONE:

1 Q. All right, let me show you, this is
2 State's Exhibit Number 7. Can you identify that
3 for us?

4 A. Yes, sir. That's an aerial map of
5 Colleton County --

6 Q. Okay.

7 A. -- with --

8 Q. I'm sorry, go ahead.

9 A. With two addresses identified.

10 Q. All right. Now, on this map, if you
11 could, just give us -- if you -- can you still
12 see it?

13 A. Yes, sir.

14 Q. Okay. Give us some idea about the
15 proximity of this. This is -- first of all, is
16 all of this in Colleton County?

17 A. Yes, sir.

18 Q. All right. And so you were traveling,
19 I believe, on Interstate 95 at the time?

20 A. Correct.

21 Q. All right. Give me, if you could, the
22 addresses on that, and tell me about this area,
23 please?

24 A. Can I stand?

25 THE COURT: Yes.

1 BY MR. STONE:

2 Q. As long as you keep your voice up.

3 A. Okay.

4 Q. Thank you.

5 A. So this top right address is 1867
6 Academy Road, in Walterboro, South Carolina.
7 I'm familiar with this address being the home
8 address of Rita Pangalangan.

9 Q. Okay, and the lower address?

10 A. The lower address is 11685 Low Country
11 Highway in Ruffin, South Carolina, and that is
12 the incident location for this investigation.

13 Q. All right, and so that is where you
14 responded to?

15 A. Correct.

16 Q. Okay. When you arrived on-the-scene --
17 and let me make sure I get this exactly right,
18 the 11585 Low Country Highway, can you describe
19 what you find once you get there?

20 A. Initially, as I was describing,
21 initially, I was past the residence, and as I
22 passed it, I saw two legs sticking up out of the
23 tall grass in the yard. And in my mind it
24 reminded me immediately of -- at the time, my
25 daughter had been the same age --

1 MR. PHILLIPS: Objection, Your Honor.

2 MR. STONE: Okay.

3 BY MR. STONE:

4 Q. Just tell me what you saw, just hit
5 that.

6 A. So as I returned back to the yard and
7 got out of my vehicle, I saw CP on the
8 ground, face-down in the tall grass, and Larry
9 was walking around the front yard.

10 Q. All right, and when you say Larry, who
11 are you talking about?

12 A. The individual in the button-up shirt,
13 light blue and white, dark brown beard, with
14 glasses and a bald head.

15 Q. Okay, and do you know his full name?

16 A. Larry King.

17 MR. STONE: And, Your Honor, for the
18 record, she identified the Defendant, Larry
19 King.

20 THE COURT: So noted.

21 BY MR. STONE:

22 Q. And Larry King, what is he doing when
23 you get there?

24 A. He's walking around, and I believe he
25 was still on the phone with 911.

1 Q. Okay. Did you see Rita Pangalangan?

2 A. Not initially.

3 Q. So tell me when you walked up on the
4 scene exactly what you see.

5 A. I see CP [REDACTED] laying in the tall grass
6 facedown, Larry walking around in the front
7 yard, and the front door of the residence was
8 open.

9 Q. I'll show you what has been marked as
10 State's Exhibit 5. I'll ask if you can identify
11 this, please.

12 A. Yes, sir, this is an accurate depiction
13 of the scene when I arrived with the Volkswagen
14 parked in the front yard that was open.

15 Q. That's a fair and accurate depiction of
16 how the scene looked when you arrived?

17 A. Yes, sir.

18 MR. STONE: Your Honor, at this time we move
19 State's Exhibit Number 5 into evidence.

20 MR. LOY: No objection.

21 MR. PHILLIPS: No objection, Your Honor.

22 (State's Exhibit Number 5 was entered into
23 evidence.)

24 MR. STONE: And, Your Honor, we're going to
25 publish this. This is here and a hard copy, and

1 we'll publish it on the ELMO.

2 THE COURT: Solicitor, it's a great
3 disadvantage to rule on the admissibility of
4 evidence not seen by the Court.

5 MR. STONE: I'm sorry, Your Honor.

6 THE COURT: Do you have copies of these
7 exhibits?

8 MR. STONE: Yes, sir.

9 THE COURT: I can't see it.
10 Do you'all have copies of the exhibits?

11 MR. PHILLIPS: I do.

12 THE COURT: We can get copies later, but I
13 would like a copy of the exhibits.

14 MR. STONE: This is a copy of the first
15 two, State's Exhibit 7 and State's Exhibit 5.

16 THE COURT: And Number 5 is admitted, as
17 well as Number 7.

18 BY MR. STONE:

19 Q. Tell me what this is depicting, and
20 this is State's Exhibit 5 up on the monitor.

21 A. This is right when I got on-scene that
22 day.

23 Q. All right, and so this is you in the
24 blue shirt?

25 A. Yes, sir.

1 Q. Is that a blue shirt, by the way --

2 A. It is.

3 Q. -- it looks like it to me, okay. And
4 who is that standing beside you?

5 A. Larry King.

6 Q. Okay, and where is CP the child?

7 A. She would have been off the rear
8 driver's side bumper of the car.

9 Q. Okay, so you can't see her. She's on
10 the other side?

11 A. Correct.

12 Q. All right. And, again, where is Rita
13 Pangalangan at this point?

14 A. Inside the residence.

15 MR. PHILLIPS: Your Honor, we have a matter
16 of law.

17 THE COURT: Ladies and gentlemen, we will
18 take a break. Please do not discuss the case.

19 (Jury exits the courtroom.)

20 THE COURT: Yes, sir.

21 MR. PHILLIPS: Your Honor, as we had in
22 pretrial, the objection to the photographs of
23 the -- before that remark, since we know that
24 it's not a final ruling, we need -- I think the
25 State seeks to admit all of these into evidence

1 at this time.

2 And so renewing our prior pretrial
3 objection to those photographs with those
4 arguments, under Rule 403, going through the
5 case law as we cited, even with the new case
6 that recently came out from our Supreme Court on
7 August 9th, Nelson.

8 Specifically, Your Honor, again, I'm not
9 going to rehash, I know we went through that
10 thoroughly in the argument at pretrial, but we'd
11 renew that objection. We don't need to hash
12 that out now.

13 THE COURT: Mr. Loy?

14 MR. LOY: Likewise, Your Honor, I believe
15 under Nelson what they've described in that
16 case, as well to suppress the pictures, which
17 don't make any issue, the contention more or
18 less likely it's just not probative.

19 We have conceded what the Solicitor said,
20 this child was in the car, it got so hot she
21 basically baked to death, she was pulled out.
22 The pictures don't demonstrate that any more
23 than the words themselves do, plus, these
24 pictures have other prejudicial effect, and that
25 this is a disabled child, and that's not the

1 fault of either one of the Defendants, but they
2 are even more pathetic or emotional and that the
3 child looks emaciated.

4 The child is wearing a diaper. I mean the
5 child -- and those have nothing to do with this,
6 and they don't make it any more or less likely
7 that there was malice involved. The actions are
8 pretty much what we have conceded they were.
9 The State this happened, we said this happened.

10 What do these prove, and what do they go to
11 show, and that is being contested, and I believe
12 the answer is nothing.

13 MR. GATCH: I don't believe that was the
14 answer.

15 MR. STONE: Let me hand you, Your Honor,
16 first of all the Court photographs. Those are
17 -- and, obviously, you'll have the facility to
18 authenticate those through the witness.

19 Nelson was an autopsy case, Your Honor.
20 These are not autopsy pictures, these are crime
21 scene pictures, which is why I handed you up
22 State v. Kelsey yesterday, but even under the
23 analysis of autopsy pictures, specifically, the
24 Supreme Court has routinely said that the
25 photographs are probative, if they tend to shed

1 light on any issue, if they corroborate
2 testimony, if they are -- enabled the jury to
3 better understand testimony, including showing
4 the condition of the victim's bodies, the
5 probable type or location of the injuries, the
6 position in which the bodies were discovered.

7 Again, these are discovered as Agent Godley
8 testified, this is right after this event has
9 taken place. In fact, Larry King is still on
10 the phone with 911 when it happens. This is
11 also -- you will see for the five hours and 41
12 minutes that the child is in the car, both Larry
13 King and Rita Pangalangan approach that car at
14 various times, and actually look in the window.

15 So at some point they're seeing exactly
16 what this is, and these blisters and things that
17 you're seeing. What's also I think important,
18 and she just testified to this, at least part of
19 it is, that when she gets there the child is
20 laying by herself in the grass.

21 Rita Pangalangan, the mother, is nowhere
22 near, and that's exactly how they found the
23 child, and that was the condition that child was
24 in throughout the entire event.

25 THE COURT: Okay. Exhibits Number 2 and 4

1 are admitted over objection, that depict the
2 scene at the time the officers arrived, and
3 being further described through testimony, and
4 that the pictures are not of such a nature the
5 prejudice exceeds probative value.

6 With regard to Number 1 and Number 3, these
7 pictures purport to show --

8 MR. STONE: On State's Exhibit 3, these are
9 -- that's actually the same photograph. This is
10 the bottom half, and this is the full body shot.

11 Again, not only is it how the child was
12 found, you can see the blisters that were on the
13 child's body. Again, as --

14 THE COURT: You can see it on both
15 photographs or can you?

16 MR. STONE: Yes, you can.

17 THE COURT: So they show the same injuries?

18 MR. STONE: They do, the only difference is
19 you can see the child's face, which I believe
20 that both King and Pangalangan would have been
21 able to see, if they looked in the car.

22 And there is -- there's no way for me to
23 tell you, other than to tell you on the video
24 they are looking in the car at various times,
25 sometimes to look at -- supposedly, looking to

1 see how to get the car unlocked; but there were
2 various times in the video in which they're
3 looking in.

4 This is how -- this is what they would see
5 with that child.

6 MR. PHILLIPS: And, Your Honor, our
7 position --

8 THE COURT: I'll get back to you, I'm
9 talking to the Solicitor.

10 MR. PHILLIPS: Yes, sir.

11 THE COURT: And the tag on the feet of the
12 child?

13 MR. STONE: That is -- they had to -- I
14 think at the corner put the tag on that.

15 THE COURT: So is this at the scene or a
16 different location?

17 MR. STONE: No, it's at the scene. It's
18 right there, yes, sir. And I think you can see
19 the grass around it, although they had to --
20 they got a sheet to try to cover the body.

21 THE COURT: All right, Mr. Phillips?

22 MR. PHILLIPS: Thank you, Your Honor.
23 Based on Your Honor's ruling to admit the two
24 photographs as --

25 THE COURT: I haven't excluded the other

1 two, but --

2 MR. PHILLIPS: That's right, but I mean --
3 and that's where I'm going.

4 THE COURT: All right.

5 MR. PHILLIPS: Based on Your Honor's
6 decision to admit those two, our argument would
7 be, again, that there's nothing that testimony
8 can't provide that's not already contained
9 within those two photographs that would be
10 highlighted by those.

11 That is not how she was found at the scene.
12 As the Coroner's tag has a sheet behind her,
13 one's, obviously, an enhanced photograph with
14 the injuries. These photos are nothing more
15 than to inflame the passion and prejudice of the
16 jury, to have them make a decision based on an
17 improper basis, not the evidence themselves, and
18 Your Honor has decided to admit those two
19 photographs with that.

20 And to me those additional two photographs
21 -- I mean the probative value would be
22 substantially outweighed by its prejudicial
23 effect.

24 THE COURT: And, Mr. Loy?

25 MR. LOY: Your Honor, I don't believe that

1 those photographs show anything that is not --
2 can be described by the witness on the stand
3 adequately, and it's not adequately shown in the
4 picture that are there. I would note that on --
5 in Nelson, on page three, the part that's
6 indented, they do what we did. And the Supreme
7 Court seems to think it's important, where in
8 the opening statement counsel said, "We agree
9 that the victim was brutally murdered, we agree
10 she had at least nine wounds to her body, we
11 agree with the prosecutor about the cause of her
12 death, and we agree about where she was killed,
13 we agree in general with what the murder weapon
14 was, and we agree that these people were there."

15 So we're in the same -- and the Supreme
16 Court seems to think that's an important point,
17 because they quote it, they indent it, and then
18 they go further and say, "We agree with that,"
19 and I think that negates a lot of the necessity
20 to bring this in, it just makes it inflammatory.

21 At this point, I think it's also
22 cumulative, and inflammatory as well as
23 cumulative.

24 THE COURT: Last word, Solicitor.

25 MR. STONE:

1 The testimony, and, again, everything in
2 here goes to the state of mind of these two
3 people. These two people were able to see that
4 child in the car, when they looked in the car,
5 and that's what they saw, and that's what --
6 that's one area that makes it particularly, I
7 think, important.

8 MR. LOY: If I could, there's no
9 foundation --

10 THE COURT: That's the last word --

11 MR. LOY: Yes, sir.

12 THE COURT: -- for -- go ahead, sir.

13- MR. LOY: The windows are tinted. No one's
14 testified you can look through that car, when
15 the door's closed, and see what's in it, so
16 there's no foundation based on that.

17 THE COURT: These two photographs 1 and 2
18 are admitted, over objection, to show the
19 bruising on the child, and it further shows the
20 condition at the time.

21 They will be admitted over objection.

22 MR. STONE: Thank you, Your Honor.

23 THE COURT: And we'll take five minutes --

24 MR. STONE: Yes, sir.

25 THE COURT: -- and we will proceed. You may

1 step down. Do not discuss your testimony.

2 WITNESS: Yes, sir.

3 BAILIFF: All rise.

4 (RECESS)

5 (Jury enters the courtroom.)

6 THE COURT: You may proceed.

7 MR. STONE: Thank you, Your Honor.

8 BY MR. STONE:

9 Q. Agent Godley, let me hand you what has
10 been marked as State's Exhibit 2, 3, 4 and 1.
11 First of all, let me just ask if you recognize
12 those photographs?

13 A. Yes, sir.

14 Q. Are those fair and accurate depictions
15 of the scene as you saw them that day?

16 A. Yes, sir.

17 MR. STONE: At this time, Your Honor, we
18 move State's Exhibits 1, 2, 3 and 4 into
19 evidence.

20 MR. PHILLIPS: Subject to our prior
21 objection.

22 THE COURT: Admitted over objection.

23 (State's Exhibits 1 through 4 admitted into
24 evidence.)

25 MR. STONE: Thank you.

1 BY MR. STONE:

2 Q. I'll first call your attention to the
3 monitor.

4 MR. STONE: Your Honor, I've got these
5 marked, but I also have them on the monitor.

6 BY MR. STONE:

7 Q. Let me first go to State's Exhibit 2,
8 and I think I have it so everybody can see it.
9 Tell me what this photograph is depicting.

10 A. This what I saw when I got on-scene, as
11 far as where CP [REDACTED] was, also the vehicle, the
12 what -- as far as parked just as it is there.

13 Q. Now, when you say CP [REDACTED] did you
14 know her?

15 A. I --

16 Q. Or you saw her name later, or did you
17 know her name at the time?

18 A. I knew of her previously.

19 Q. Okay, so you knew of her.

20 MR. PHILLIPS: Objection, Your Honor.

21 BY MR. STONE:

22 Q. So when you --

23 THE COURT: All right.

24 MR. PHILLIPS: Objection.

25 THE COURT: The basis for the objection?

1 MR. PHILLIPS: There's no foundation for
2 that.

3 THE COURT: The objection is overruled.

4 MR. STONE: Thank you.

5 BY MR. STONE:

6 Q. So when you say CP you know
7 that's who that is?

8 A. Yes, sir.

9 Q. Okay. Let me go now to State's Exhibit
10 4. Tell me what's depicted in that.

11 A. Again, it's another picture of CP
12 laying in the overgrown grass.

13 Q. State's Exhibit 1, is that a fair and
14 accurate depiction as you saw it that day?

15 A. It is.

16 Q. And tell me what that depicts.

17 A. Also CP body after it had been
18 rolled over.

19 Q. And then State's Exhibit 3? Tell us
20 what those are.

21 A. Blisters on her skin, which it is
22 showing down to the bone.

23 Q. Okay. Let me go back, if I could, to
24 State's Exhibit 2.

25 Now, where are you -- when you walk up on

1 this scene, and I know we had a photograph
2 earlier that we put in for the overall scene as
3 you were walking up, where are you standing at
4 on this part?

5 A. As I walk onto the scene?

6 Q. Yes.

7 A. It would have been in the direction of
8 the jury box.

9 Q. Okay, and where is Larry King?

10 A. To the left.

11 Q. Okay, and where is Rita Pangalangan at
12 this time?

13 A. Inside the residence.

14 Q. All right. At some point then did you
15 go and get Rita Pangalangan out of the house?

16 A. I did.

17 Q. And where was she when you went in?

18 A. She was just beyond the living room
19 pacing around inside the house.

20 Q. Did you bring her outside?

21 A. I did.

22 Q. Did she tell you what happened?

23 A. She did.

24 Q. What did she say -- or, excuse me, did
25 she tell you -- what did she tell you happened?

1 A. She told me that she put CP in
2 the car, went back inside to get cigarettes,
3 when she came back the door was locked.

4 Q. The doors locked where?

5 A. On the vehicle that CP was in.

6 Q. Let me ask you one other thing too.

7 When you got to the scene, what was it like
8 outside? What was the temperature?

9 A. I don't know the exact temperature, it
10 was extremely hot, it was August in South
11 Carolina.

12 Q. The car itself, and I think we have
13 that in State's Exhibit -- let me see if I can
14 those. State's Exhibit 5, put that up on the
15 monitor.

16 Where is the car located as to any type of
17 shade, anything like that.

18 A. It was not in any type of shade when I
19 arrived on-scene. It was in the open sun
20 exposure.

21 Q. I don't have any further questions.
22 Answer any questions the defense may have.

23 A. Yes, sir.

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CROSS-EXAMINATION

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BY MR. LOY:

Q. What is your last name?

A. Halley Godley.

Q. Godley?

A. Yes, sir.

Q. Halley Godley?

A. Yes, sir.

Q. Agent Godley, did you also have the
opportunity to speak with --

A. I --

Q. -- Mr. King on the scene that day?

A. I did.

Q. And how would you describe his
emotional state when you spoke to him?

A. He seemed a little panicked.

Q. Was he upset?

A. I took it more as a panic, more so than
being upset.

Q. Was he still on the phone with 911 when
you spoke with him?

A. Yes, sir.

Q. 911 calls are recorded, you know that
in your work, right?

A. Yes, sir.

1 Q. Did you ask him what had happened?

2 A. I don't recall.

3 Q. Okay.

4 A. Yes, sir.

5 MR. LOY: Thank you, Your Honor.

6 **

7 **CROSS-EXAMINATION**

8 BY MR. PHILLIPS:

9 Q. Agent Godley, you said when you
10 arrived, Rita was inside?

11 A. Yes, sir.

12 Q. Were you aware that Rita is the one who
13 got her out of the car?

14 A. At that time, no, sir.

15 Q. But you do know that to be true?

16 A. Correct.

17 Q. Right. And as far as that point, you
18 weren't there after she gets her out of the car,
19 and you didn't observe the way she acted after
20 finding the body; is that correct?

21 A. That's correct.

22 MR. PHILLIPS: No further questions, Your
23 Honor.

24 MR. STONE: That's all at this time, Your
25 Honor. The State calls Charles Jones.

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CHARLES JONES,
BEING DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. STONE:

Q. Mr. Jones, what do you do, sir?

A. I'm a firefighter/paramedic for
Colleton County Fire Rescue.

Q. Okay, and how long have you been a
firefighter/paramedic? Is that -- by the way,
is that a combined job?

A. Yes, sir.

Q. Okay, so how long have you been at that
job?

A. This November will make six years that
I've worked.

Q. Now, when you -- as a paramedic, what
are your job responsibilities?

A. You've got your EMT basic, your
advanced EMT, and your paramedic.

Q. So as a paramedic, can you assess
whether or not somebody's alive or dead?

A. Yes.

Q. And you have some equipment and things
like this to use?

1 A. Yes.

2 Q. You were called to 11685 Low Country
3 Highway on August the 5th, 2019; were you not?

4 A. Yes.

5 Q. Tell me what you found when you got
6 there.

7 A. The child laying prone with her legs
8 kind of extending a little bit, a few feet from
9 the rear passenger side of the vehicle on the
10 ground. Didn't appear to be breathing --

11 Q. Okay.

12 A. -- no pulse.

13 Q. I'm sorry, I didn't understand you.

14 A. Didn't appear to be breathing or have a
15 pulse.

16 Q. Okay. Did you check for any of that?

17 A. Yes.

18 Q. And --

19 A. We have a heart, cardiac monitor, which
20 shows what's called an asystole rhythm, which we
21 get no heartbeat at that time.

22 Q. All right, so when you apply cardiac,
23 how do you do that?

24 A. We apply four leads on the person's
25 body.

1 Q. Are these the little white things?

2 A. Yes.

3 Q. So did you apply these four leads on

4 CP [REDACTED] --

5 A. Yes.

6 Q. -- body?

7 A. Yes.

8 Q. And did you check that with the
9 monitor?

10 A. Yes.

11 Q. And what were the results of that?

12 A. It showed an asystole rhythm, where
13 there's no registered heartbeat.

14 Q. So what does that mean?

15 A. That the party is deceased.

16 MR. STONE: No further questions at this
17 time, Your Honor.

18 MR. LOY: No, Your Honor, thank you.

19 MR. PHILLIPS: No questions.

20 THE COURT: Thank you, sir.

21 WITNESS: Thank you.

22 MR. STONE: The State calls Todd Schenk.

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TODD SCHENK,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. STONE:

Q. Mr. Schenk, what do you do, sir?

A. I'm a Crime Scene Investigator for the South Carolina Law Enforcement Division.

Q. And how long have you been doing that?

MR. PHILLIPS: I'm sorry, what kind of investigator?

THE COURT: Crime Scene Investigator.

MR. PHILLIPS: Thank you, I'm sorry.

BY WITNESS:

Q. I've been doing crime scene investigations for almost ten years now.

Q. And all that time with SLED, with the State Law Enforcement Division?

A. Yes, sir.

Q. Okay. And so in your capacity as a Crime Scene Investigator, what do you do?

A. So our job at SLED is to respond and give forensic expertise to our counterparts at the local county or municipality level. So we show up, we'll document the crime scene with

1 photos, collect evidence, give any type of
2 scientific help we can in the forensics field to
3 our local counterparts.

4 Q. All right, and so you are collecting
5 evidence both at the scene and throughout the
6 case?

7 A. We are, yes, sir.

8 Q. Let me first go to State's Exhibit 8.

9 MR. STONE: Your Honor, I believe I've
10 marked it on the back of that copy that is a
11 State's exhibit, and it's the crime scene
12 sketch.

13 BY MR. STONE: .

14 Q. All right, let me show you what's been
15 marked as State's Exhibit 8. Is this your crime
16 scene diagram?

17 A. It is.

18 Q. All right, and this is the one you
19 prepared after responding to the scene?

20 A. Yes.

21 Q. Okay.

22 MR. STONE: At this time, Your Honor, we
23 move State's Exhibit 8 into evidence.

24 MR. LOY: No objection, Your Honor.

25 MR. PHILLIPS: No objection.

1 THE COURT: Submitted without objection.

2 (State's Exhibit Number 8 was admitted into
3 evidence.)

4 MR. STONE: And I know it's difficult for
5 Your Honor to see the copy.

6 BY MR. STONE:

7 Q. If you would, show the jury, and can
8 you see it from there? I'm trying to find a
9 place, so I can locate it, so I don't block
10 defense counsel, but can you see it from there?

11 A. Yes, sir, I can.

12 Q. All right. Can you explain to the jury
13 what that is, please?

14 A. Yes, sir. So this is the residence at
15 1168, excuse me, 11685 Low Country Highway. The
16 residence right here is -- may I step down?

17 THE COURT: Yes, sir.

18 BY WITNESS:

19 A. So this box right here is the actual
20 residence itself. This would be the front door.
21 This next box is just the porch, a very basic
22 version of it with columns. This is the Jetta
23 -- Volkswagen Jetta that was parked out front.
24 The victim was located here, there's a small
25 sidewalk, and then this was the blue Chevy

1 pickup truck that was out front. The main road
2 would be down here.

3 Q. And so that corresponds actually with
4 -- this corresponds basically with State's
5 Exhibit 5; is that correct? And that's already
6 been admitted into evidence.

7 A. Yes, sir, it does.

8 Q. All right. As you go through this, did
9 you -- as you see, not only did you do this
10 graph, did you also inventory the car, the
11 automobile?

12 A. We did search it, yes, sir, we did.

13 Q. And as you inventoried the car, do you
14 ever move things around, or you just -- you
15 report it, photographs it? How do you, I guess,
16 document the scene so to speak?

17 A. So first thing is photographs, our
18 biggest documentation tool. My partner in this
19 instance documented the scene with our
20 photographs. We take overall closeup
21 photographs to establish where things are on-
22 the-scene. I'll also handwrite notes and take
23 measurements of visible -- which we have at the
24 crime scene, but photos being the number one.

25 Q. Let me show you one other exhibit too,

1 this is State's Exhibit 6.

2 MR. STONE: And, Your Honor, I do not
3 believe I have a copy on that one, but this is
4 an ariel view photo.

5 THE COURT: Okay.

6 BY MR. STONE:

7 Q. Let me show you on State's Exhibit 6,
8 if this is a fair and accurate depiction of how
9 the car was located on that day?

10 A. Yes, sir.

11 Q. Okay.

12 MR. STONE: And, Your Honor, at this time
13 we'd move State's Exhibit 6 into evidence.

14 MR. LOY: No objection, Your Honor.

15 MR. PHILLIPS: No objection.

16 THE COURT: It's admitted.

17 (State's Exhibit 8 was admitted into
18 evidence.)

19 MR. STONE: Okay, Mr. Hightower, can you
20 show that on the monitor?

21 BY MR. STONE:

22 Q. All right, and that is where the car
23 was located? That's sort of an arial view of,
24 basically, of your crime scene chart?

25 A. Yes, sir.

1 Q. Okay, all right.

2 MR. LOY: Your Honor, may we approach?

3 THE COURT: Yes, sir.

4 (Bench conference.)

5 BY MR. STONE:

6 Q. All right, let me show you first what's
7 been marked as State's Exhibit Number 9, State's
8 Exhibit Number 10, 11 and 12.

9 First, if you could tell me, can you
10 identify those photographs?

11 A. Yes, sir, I can.

12 Q. And are those fair and accurate
13 depictions of how the backseat of that car
14 looked when you and your team inventoried it?

15 A. Yes, sir.

16 Q. And those are fair and accurate
17 depictions of what's in that bag, and the bag
18 being, the whole bit?

19 A. Yes, sir.

20 Q. Okay.

21 MR. STONE: At this time, Your Honor, we
22 move State's Exhibits 9, 10, 11 and 12 into
23 evidence.

24 THE COURT: Then they're admitted over
25 objection.

1 MR. STONE: Thank you, Your Honor.

2 (State's Exhibits 9, 10, 11 and 12 were
3 admitted into evidence.)

4 BY MR. STONE:

5 Q. Let me first show you on the monitor
6 State's Exhibit Number 9.

7 Now, can you describe for us what that is?
8 I know it might be kind of hard to see from
9 here. Can you see it all right?

10 A. Yes, sir.

11 Q. Okay, if you could describe for the
12 jury what that is?

13 A. So this is looking in the rear
14 passenger door of the Jetta, so the front
15 passenger is the seat on the top right of the
16 photo.

17 Q. And I'm gonna stop you there. This
18 bright spot right here what is that?

19 A. That is the open door on the driver's
20 side of the back.

21 Q. All right, and so that is in the same
22 condition as the crime scene that we showed
23 earlier, which is State's Exhibit 5 with the
24 doors open?

25 A. Yes, sir, it is.

1 Q. Okay. So you're now on the other side
2 of this car, which would be the -- other side,
3 back over here?

4 A. Correct.

5 Q. Is that correct?

6 A. Yes, sir.

7 Q. Okay, all right. And if you go back to
8 State's Exhibit 9, all right, so in that
9 backseat tell us what you -- what that is.

10 A. So there's a blue duffle bag, some kind
11 of gym bag sitting on the rear passenger seat.
12 There's a pink sippy cup in the middle of the
13 car, or in the middle of the seat, and then some
14 other items down there on the floorboards.

15 Q. And the bag, is that in the condition
16 that you saw it when you got there?

17 A. It is.

18 Q. All right. Let me go to State's
19 Exhibit 10. Describe what that is, please.

20 A. That is a .9mm handgun that had two
21 different barrels on it.

22 Q. And that was in the top of that bag?

23 A. It was.

24 Q. The hand on the left, is that one of
25 your team members of your team?

1 A. That's my photographer spreading it on
2 the backseat so you could see the handgun.

3 Q. And then let me show you State's
4 Exhibit Number 11. Tell us what that is.

5 A. That's showing that there were two
6 cartridges in each -- or a cartridge in each
7 chamber of the handgun.

8 Q. Okay, and when you say cartridge, what
9 do you mean?

10 A. It's the unfired bullet.

11 Q. Okay.

12 A. So, yes.

13 Q. And then, finally, let me show you
14 State's Exhibit 12. What's that?

15 A. That was a Tupperware full of
16 cigarettes in the bag.

17 Q. Okay. And that's all in the back seat
18 of the car?

19 A. Correct.

20 MR. STONE: If I may approach, Your Honor,
21 as I hand this up.

22 THE COURT: Yes.

23 BY MR. STONE:

24 Q. All right, let me show you what's been
25 marked as State's Exhibit 29.

1 I'll hand these to you now for
2 identification only, and I'll ask you to hold
3 onto them for right now, please, 30, 31, 32, 25,
4 26, 27 and 28.

5 Are those fair and accurate depictions of
6 what is shown in those photographs?

7 A. It is.

8 Q. And what are those?

9 A. These are tubes of blood that I
10 collected via chain of custody from the Colleton
11 County Sheriff's Office.

12 Q. Okay, and what did you do with it, and
13 before you get into that, these other tubes, -
14 tubes of blood would be referenced in 27 and 28.
15 What about these other photographs?

16 A. These are photographs showing the
17 container, and how I sealed them and submitted
18 them into the lab.

19 Q. Okay.

20 MR. STONE: At this time, Your Honor, we
21 introduce these photographs into evidence,
22 State's Exhibit 28, excuse me, 29, 30, 31, 32,
23 25, 26, 27 and 28.

24 THE COURT: They will be marked for ID
25 purposes at this time.

1 (State's Exhibit Numbers 29, 30, 31, 32,
2 25, 26, 27 and 28 were marked for ID purposes.)

3 BY MR. STONE:

4 Q. Okay, so let me ask you, first of all,
5 when you took the blood, what did you do with
6 it? First of all, the blood vials, where did
7 the blood vials come from?

8 A. I believe it was Investigator Kelly
9 Padgett, or an investigator with the Colleton
10 County Sheriff's Office.

11 Q. Okay, from the Sheriff's Office?

12 A. Correct.

13 Q. Okay. And did you get all of the blood
14 vials from her?

15 A. I did.

16 Q. All right, when you received those, did
17 those blood vials concerning -- and I think
18 we've got -- I want to read them, do you know
19 where the blood came from?

20 A. They came from our two suspects.

21 Q. Okay, Larry King and Rita Pangalangan?

22 A. Yes, sir.

23 Q. All right, and these blood vials, what
24 did you do with them once you received them?

25 A. So once I get them, I transport them

1 back to Columbia to the forensics lab. I seal
2 them in a heat-sealed pouch, log them in, and
3 submit them to evidence.

4 Q. So you actually put them in the best
5 evidence bag at SLED?

6 A. The heat sealed, yes, sir, I did.

7 Q. Okay. How did you receive them?

8 Did you receive them as is depicted in I
9 guess it's State's Exhibit 27?

10 A. Yes, sir, I got like a -- it was a
11 sandwich bag, or some type of Ziplock bag.

12 Q. Okay, and these numbers on there, what
13 do those numbers indicate?

14 A. That's a lab number, item number and my
15 initials.

16 Q. Okay, and so these are your initials
17 there?

18 A. Correct.

19 Q. All right, sir. And then this other
20 paperwork, what I just referred to as the best
21 evidence bags, this is what you actually
22 produced; is that correct?

23 A. It is.

24 Q. All right, and what's the purpose of
25 those? And I -- and, specifically, that is in

1 State's Exhibit Number and State's Exhibit
2 Number 29, what's --

3 A. They're --

4 Q. -- the purpose of that?

5 A. -- tampered evidence bags, where it's a
6 plastic bag, that we use a heat sealer, it's
7 sealed at the top, and we initial, date and
8 seal. And that just shows that if someone were
9 to try to access that evidence, they would have
10 to destroy the seal to get to it, so it's a way
11 to .

12 Q. Okay, so you're taking of the blood,
13 did you change or alter the blood of either Rita
14 Pangalangan or Larry King in any way?

15 A. No, sir.

16 Q. Your process was -- is the chain of
17 custody, which takes it from one person to
18 another?

19 A. Yes, sir.

20 Q. And in that process, you put them in
21 these best evidence bags, which you're
22 indicating in these photographs.

23 A. Yes, sir.

24 Q. Did you change or alter what was inside
25 of that in any way, shape or form?

1 A. No.

2 Q. And the writing on State's Exhibit 25,
3 26, actually, 31 as well, 29, 30 and 27, all of
4 that writing on there indicated on that is stuff
5 that you did, you prepared --

6 A. I did.

7 Q. -- as a part of the chain of custody?

8 A. I did.

9 Q. Okay. And, again, you did not alter it
10 or change it in any way?

11 A. No.

12 MR. STONE: Your Honor, at this time we'd
13 move those exhibits into evidence.

14 MR. LOY: Your Honor, the same objection,
15 there's no foundation.

16 THE COURT: I can rule on each
17 individually, if you'd prefer.

18 MR. PHILLIPS: Subject to the prior
19 objections that we had at pretrial.

20 THE COURT: Number 25 is admitted. Number
21 26 is admitted. Number 27 is for ID purposes
22 only at this time, and so is 28. 29 is
23 admitted, 30 is admitted, 31 and 32 are for ID
24 purposes only at this time.

25 MR. STONE: So ID purposes only, 27 and 32,

1 31; is that correct, and 28 are also for ID.

2 THE COURT: 27, 28, 31 and 32 are for ID
3 purposes only at this time.

4 (State's Exhibits Number 27, 28, 31 and 32
5 were admitted for ID purposes.)

6 (State's Exhibits 25, 26, 29, 30 were
7 admitted into evidence.)

8 BY MR. STONE:

9 Q. Let me go to State's Exhibit 30,
10 please. And this is the best evidence bag you
11 were describing?

12 A. It's our heat-sealed pouch, yes, sir.

13 Q. All right. And, again, what is the
14 purpose of that?

15 A. This is a plastic bag that we heat seal
16 at the top, and it is a tampered evidence bag,
17 where if someone were to rip it open, or try to
18 gain access to the evidence, it would be readily
19 visible, so it's just a way of protecting the
20 evidence as it's being transported.

21 Q. And the handwriting on that, that is
22 yours?

23 A. It is.

24 Q. Let's go to State's Exhibit 29. Again,
25 what is that?

1 A. This is the other -- or this is the
2 item four, heat-sealed pouch. At the top you
3 can see where I've initialed and dated the seal,
4 and you can see the crease in the plastic.

5 Q. Now, the yellow sticker, what is that?

6 A. That is our barcode system, that's how
7 we can electronically transfer evidence
8 throughout the lab, so it's an electronic chain
9 of custody.

10 Q. Okay. And then State's Exhibit 26?

11 A. This is item six, heat-sealed pouch.

12 Q. And State's Exhibit 25?

13 A. This is showing those initials and date
14 on the actual seal, where I sealed in item six.

15 Q. Okay, and the purpose of you sealing
16 it, like that one, once you seal it, like what
17 do you do with it?

18 A. I then submit it to our Evidence -- or
19 Evidence Control, who will then disseminate it
20 throughout the lab where it needs to go.

21 Q. Okay. In your lab, and, you know, we
22 talked about being at the crime scene,
23 Investigator, tell me about what type of lab are
24 you talking about when you say lab?

25 A. It's a forensics, so our -- the South

1 Carolina Law Enforcement Forensics Services
2 Laboratory, so we test evidence from the crime
3 scenes, to firearms, prints, DNA, trace, tox,
4 any forensic evidence, any kind of forensic
5 science we need to do, we do.

6 Q. And when you say tox, what do you mean?

7 A. Our Toxicology Department they can look
8 at blood, and it's best for getting toxicology
9 results. They're -- we have scientists that
10 work in the building and can work in their
11 discipline.

12 Q. Okay, and so this -- all these items
13 here you took that to the lab and turned it over
14 to them; is that correct?

15 A. I did.

16 Q. And, again, did you change or alter it
17 in any way before you did that?

18 A. No.

19 MR. STONE: Thank you, Your Honor, I don't
20 have any further questions at this time.

21 THE COURT: From the defense?

22 MR. GATCH: Thank you. No questions.

23 MR. STONE: No further questions.

24 THE COURT: Thank you.

25 WITNESS: Thanks.

1 MR. STONE: The State calls Lindsey Lewis
2 to the stand. Your Honor.

3 THE COURT: Yes, sir.

4 ***

5 LINDSEY LEWIS,

6 BEING DULY SWORN TESTIFIED AS FOLLOWS:

7 ***

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q. All right, let's get you to pull the
11 microphone close to you, please, ma'am. All
12 right, and go ahead and tell the jury your name
13 again.

14 A. Lindsey.

15 Q. And last name?

16 A. Lewis, L-E-W-I-S.

17 Q. Okay, and where do you live, Ms. Lewis?

18 A. St. George, Maryland.

19 Q. Okay. How long have you lived in St.
20 George?

21 A. About a year.

22 Q. Where did you live prior to that?

23 A. Walterboro.

24 Q. And how long did you live in
25 Walterboro?

1 A. For a while.

2 Q. Okay, how old are you now?

3 A. I am 22.

4 Q. Let me ask you to go back to August the
5 2nd, 2019. How old were you on August the 2nd,
6 2019?

7 A. 18.

8 Q. Okay. Did you know Rita Pangalangan?

9 A. Yes, sir.

10 Q. And how did you know her?

11 A. She was my child's development teacher.

12 Q. And what school was that?

13 A. Colleton.

14 Q. Now, on August the 2nd did you have a
15 reason to go to Rita Pangalangan's home?

16 A. Yes, sir.

17 Q. And what was that reason?

18 A. To meet and go over her daughter,

19 CP [REDACTED] routine.

20 Q. Why did you do that?

21 A. Because I was going to be watching

22 CP [REDACTED] I was supposed to watch CP [REDACTED]

23 Q. Did you have any particular interest,
24 and how did this come about?

25 A. Because I was going to be a nurse, so

1 they thought it would be best for me to, you
2 know, kind of get the hang of her routine and
3 all that, it might help me out, so I agreed and
4 that's why --

5 Q. When you say they, who are you talking
6 about?

7 A. Rita.

8 Q. Okay.

9 A. And I think she spoke to her mother
10 about it.

11 Q. Okay. And so did you go over to Rita's
12 house for the purpose of learning how to take
13 care of CP [REDACTED]

14 A. Yes, sir.

15 MR. STONE: Your Honor, this is Number 13.

16 BY MR. STONE:

17 Q. Let me show you a picture -- excuse me,
18 State's Exhibit 13. First, I'll ask if you can
19 identify that?

20 Is that a fair and accurate depiction of
21 how Cristine looked?

22 A. Yes, ma'am. Yes, sir.

23 Q. And that was when you knew her when you
24 were 18; is that correct?

25 A. Yes, sir.

1 Q. And, again, that is August the -- we're
2 talking about August the 2nd, 2019?

3 A. Yes, sir.

4 MR. STONE: At this point, Your Honor,
5 we're moving in State's Exhibit 13.

6 MR. LOY: No objection, Your Honor.

7 MR. PHILLIPS: No objection.

8 THE COURT: Admitted.

9 (State's Exhibit 13 was admitted into
10 evidence.)

11 BY MR. STONE:

12 Q. Let me show you -- if you could go to
13 State's Exhibit 13. All right, now, as you and
14 CP -- first of all, tell me about her. She
15 appears to be in a wheelchair. When you were
16 dealing with her at the house, tell me about her,
17 could she walk?

18 A. No, sir.

19 Q. How did she get around?

20 A. She would crawl on her knees --

21 Q. Okay.

22 A. -- or either on her hands --

23 Q. I'd like --

24 A. -- like a baby.

25 Q. I apologize, I didn't mean to interrupt

1 you. Go ahead, I'm sorry.

2 A. Kind of like a baby sort of.

3 Q. Okay, and her hands, especially on the
4 right, it looks like -- can she fully grasp
5 things?

6 A. No, sir.

7 Q. Okay. What about her ability to talk,
8 was she verbal?

9 A. No, sir.

10 Q. Let me ask you --

11 A. She would --

12 Q. Go ahead.

13 A. -- gaggle like a baby, but she couldn't
14 speak full words like, you know, we can.

15 Q. And tell me, from the standpoint, it
16 looks like she's actually smiling in that
17 picture. Could she show emotion?

18 A. Yes, sir.

19 Q. And this is -- and you went over there
20 on August the 2nd to learn how to take care of
21 her?

22 A. Yes, sir, pretty much.

23 Q. What was involved in that, in taking
24 care of CP

25 A. She has to get, you know, starting

1 baths, and you have to change her, and, you know,
2 stuff like that.

3 Q. When you say change her --

4 A. Uh-huh.

5 Q. -- what do you mean?

6 A. Like she -- her diapers.

7 Q. Okay, on August the 5th, there's
8 actually a photograph of her with a diaper, is
9 that the condition she was always in?

10 A. Uh-huh.

11 Q. And I need you to say yes or no.

12 A. Yes, sir.

13 Q. Okay, and so you had to change her
14 diaper. What type of food did you give her?

15 A. I was told to give her Ensure nutrition
16 drinks.

17 Q. Okay. Anything else other than that?

18 A. No, not at the time.

19 Q. Okay. All right, so you go over there
20 on the 2nd with an idea of learning how to take
21 care of her.

22 What happens after that? And about what
23 time do you get there by the way?

24 A. It was about noon. I mean noon, 1
25 o'clock, maybe.

1 Q. All right, so what happens after that?

2 A. Well, I just got there, we went over
3 the routine pretty much, and then she asked me --
4 Rita asked me if I'd watch CP while she
5 went on a date with Larry.

6 Q. Okay, was --

7 A. And she --

8 Q. -- that Larry King?

9 A. Yes, sir, her boyfriend.

10 Q. Okay. All right, and --

11 A. yes --

12 Q. -- what time did she ask you to go --
13 if you would watch her?

14 A. What time?

15 Q. Yes. In other words, you got there
16 about noon, you went through the care, about what
17 time did she ask you, if you could watch her?

18 A. I mean it was like around 5:00,
19 6 o'clock.

20 Q. Okay, and did you?

21 A. Yes, sir.

22 Q. Okay, and tell me about that. She left
23 the house, I'm assuming, sometime around that
24 afternoon?

25 A. Yes, sir, she left I would say around

1 5:00, 6 o'clock, that afternoon she left.

2 Q. Was anybody else there to take care of

3 CP

4 A. No, sir.

5 Q. It was just you?

6 A. Uh-huh.

7 Q. Had you taken care of CP before?

8 A. No, sir.

9 Q. Okay. This was on what date?

10 A. This -- the -- the 2nd.

11 Q. August the 2nd?

12 A. Yes, sir.

13 Q. What day was that?

14 A. A Friday.

15 Q. Did you see Rita Pangalangan again?

16 A. Not until Sunday afternoon.

17 Q. After she went on a date with Larry,

18 did she say, "I'm going, and I'll be back

19 Monday," or anything like that?

20 A. She said that -- she texted me later
21 that night to check on CP I would say
22 about 9:30, 10 o'clock. And that she said she
23 would be back the next morning on Saturday to go
24 grocery shopping, and stuff like that, but she
25 never came, and --

1 Q. Were there groceries in the house?

2 A. No, sir.

3 Q. Just the Ensure drinks?

4 A. Uh-huh. And also a pitcher of Kool-Aid
5 in the frig.

6 Q. Okay, all right. So did she come back
7 the next day?

8 A. No.

9 Q. That would be, I guess, the 3rd --

10 A. Saturday.

11 Q. -- on Saturday, correct?

12 A. Uh-huh, Saturday.

13 Q. Did she come back Saturday?

14 A. Uh-uh, no, sir.

15 Q. Did she call in?

16 A. No, sir.

17 Q. Were you able to get in touch with her?

18 A. Through Facebook, I think it was.

19 Q. I'm sorry?

20 A. Through Facebook, I think it was.

21 Q. Did you talk to her again after that?

22 A. After Saturday?

23 Q. Yes.

24 A. Not until Sunday. When she said that
25 she would be -- that Larry would drive her back

1 to the house, because she did not know how to
2 drive his truck, and he was sick, so that's why
3 she was gone, taking care of him.

4 Q. At any point in time did she call to
5 tell -- ask if it was okay if you took care of
6 the child?

7 A. Not -- no, sir.

8 Q. Did you hear from her after she called
9 to check in Friday night?

10 A. No, sir.

11 Q. Did you ever -- by the way, did you see
12 Larry later on?

13 A. Later on, when?

14 Q. The next day?

15 A. Uh-uh. On Saturday?

16 Q. Yes.

17 A. No, sir.

18 Q. On Sunday?

19 A. Sunday, no, sir.

20 Q. Okay.

21 A. I knew he was out there; I could hear
22 music or something, I knew somebody was out
23 there, and I'm guessing it was him.

24 MR. LOY: Objection, Your Honor.

25 MR. STONE: Okay, that's fine. I'll

1 withdraw that.

2 BY MR. STONE:

3 Q. My next question was, did you ever find
4 out if he was actually sick?

5 A. Sick, no.

6 Q. Say it again?

7 A. No, sir, I did not find out he was
8 actually sick.

9 Q. Okay. And then when did you, in fact,
10 see Rita again?

11 A. Again, when? Oh, that would be Sunday.

12 Q. Okay, Sunday, about what time was that?

13 A. In the afternoon. I would say 5, 6
14 o'clock maybe.

15 Q. Tell me also, did you also put the
16 child to bed? Did you also put CP to bed?

17 A. Uh-huh, yes, sir.

18 Q. Did you see anything unusual?

19 A. Yes, sir, I did.

20 Q. What was that?

21 A. I can't remember -- it was bed bugs.

22 MR. PHILLIPS: Objection, Your Honor. 401,
23 403, 404(b), all previously given to Your Honor.

24 THE COURT: Solicitor.

25 MR. PHILLIPS: All that was addressed, and

1 all of that was previously discussed and argued.

2 THE COURT: I'll overrule the objection.

3 MR. STONE: Thank you.

4 BY MR. STONE:

5 Q. Please answer any questions the defense
6 has. Thank you.

7 MR. LOY: None, thank you for coming.

8 THE COURT: Anything further?

9 THE COURT: Pardon?

10 WITNESS: Sorry, I didn't know what you
11 were saying.

12 **

13 **CROSS-EXAMINATION**

14 BY MR. PHILLIPS:

15 Q. Good morning.

16 A. Good morning.

17 Q. You knew CP [REDACTED] from before, correct?

18 A. Yes, from the classroom.

19 Q. Right. Rita would bring CP [REDACTED] to
20 the classroom?

21 A. Yes, sir.

22 Q. And when they're in the classroom, you
23 had fun in the classroom?

24 A. I guess so, yeah.

25 Q. And everybody seems safe in the

1 classroom?

2 A. Yeah.

3 Q. There was no concern when she would
4 bring CP with her to school?

5 A. No, sir. I'm not sure.

6 Q. And she taught you, Rita did?

7 A. Yeah.

8 Q. And you felt comfortable enough with
9 her as your teacher, that you wanted to help,
10 potentially, in becoming a nurse to help take
11 care of her child?

12 A. Yes, at the time.

13 Q. And were you aware that through her
14 condition with -- as far as the pediatrician,
15 that she had a choking hazard, that she had to
16 drink the Ensure or pureed food; did you know
17 that?

18 A. That she has a choking hazard?

19 Q. In other words, she couldn't eat whole
20 food.

21 A. No, I did not know that at the time. I
22 was just told she was supposed to drink Ensures.

23 Q. And there were boxes of those in the
24 home?

25 A. In the pantry.

1 Q. Right, there were plenty of those?

2 A. Yeah, there was a few.

3 Q. At that point, Rita texted you to say
4 that she was checking in, but you said you didn't
5 hear back from her?

6 A. At what point?

7 Q. Did you call anyone about that?

8 A. Call anyone?

9 Q. Yes.

10 A. No, sir.

11 Q. Did you call anyone about not hearing
12 from Rita?

13 A. No. Did I call anyone about not
14 hearing from her? No.

15 Q. And why is that?

16 A. I just figured she'd be back, I don't
17 know.

18 Q. Because you felt comfortable, you had
19 control of the situation.

20 A. At the time.

21 Q. You did, didn't you?

22 A. I was a little confused, but, yeah.

23 Q. I mean you were taking good care of

24 CP

25 A. Yeah.

1 MR. PHILLIPS: No further questions, Your
2 Honor.

3 THE COURT: All right.

4 MR. STONE: Just one very briefly.

5 **

6 **REDIRECT EXAMINATION**

7 BY MR. STONE:

8 Q. Did Rita tell you, by the way, that she
9 couldn't be given solid foods, because she'd
10 choke to death?

11 A. She did not tell me that. All she told
12 me was not to give her -- to give her Ensure,
13 that's what she told me.

14 MR. STONE: Nothing else, Your Honor.

15 THE COURT: Thank you.

16 MR. PHILLIPS: Thank you.

17 MR STONE: The State calls Brittany
18 Honeycutt.

19 THE COURT: Okay.

20 MR. PHILLIPS: And, Your Honor, I guess
21 before we go down that road, I guess we can do
22 that, and I'll have --

23 THE COURT: Do you have any additional
24 questions of this witness?

25 MR. PHILLIPS: No, Your Honor.

1 THE COURT: All right, you may step down.

2 MR. STONE: The State calls Brittany
3 Honeycutt.

4 ***

5 BRITTANY HONEYCUTT,

6 BEING DULY SWORN TESTIFIED AS FOLLOWS:

7 ***

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q. Ms. Honeycutt, where do you live,
11 ma'am?

12 A. I live in Texas.

13 Q. And what do you do?

14 A. I am in Administration for Chevron.

15 Q. How long have you been doing that?

16 A. A couple months.

17 Q. Let me ask you to go back now to
18 August, and a few months prior to that in 2019.

19 Did you know Rita Pangalangan?

20 A. I do.

21 Q. Okay, and so did you have an occasion
22 to come in contact with her on a regular basis?

23 A. Yes.

24 Q. Okay, well, tell me about moving in.

25 A. When I knew what the agreement was, I

1 was paying some rent.

2 Q. All right, let me back you up just a
3 second.

4 A. Sorry.

5 Q. So who were you moving in with?

6 A. Oh, it was me and my two kids.

7 Q. Okay, and where were you moving your
8 two kids in?

9 A. Into Rita Pangalangan's house on
10 Academy Road.

11 Q. And that's Academy Road?

12 A. Yes.

13 Q. All right, great, so what was the
14 rental agreement on that?

15 A. I would pay her some rent just to stay
16 there, because it was supposed to be a temporary
17 situation.

18 Q. Okay. How long did you stay -- how
19 long did you rent from Rita at her house?

20 A. From May of 2019 until August 1st of
21 2019.

22 Q. Until August 1st, 2019, so on the
23 Thursday before this happened?

24 A. Yes.

25 Q. All right. All right, during that time

1 did you come in contact with CP

2 A. Yes, I did.

3 Q. Tell me about CP how would you
4 describe CP

5 A. CP was, obviously, disabled, but
6 she was a sweet girl. She was quiet, she kind of
7 watched TV, she played with her toys. She didn't
8 really bother anybody. I mean you knew she was
9 there, but she was just really quiet.

10 Q. Tell me, could she walk?

11 A. She could not walk.

12 Q. Could she talk?

13 A. She could not talk.

14 Q. But you could see emotions I guess from
15 her?

16 A. Oh, yeah, she definitely showed
17 emotions.

18 Q. Okay. All right, did you ever take of
19 CP

20 A. There were a couple times when I was
21 asked to watch her for a little bit.

22 Q. All right, so when you say you were
23 asked, who asked you?

24 A. Rita asked me.

25 Q. Okay, asked you to watch her?

1 A. To watch her, yes.

2 Q. And how many times was that?

3 A. By myself a couple.

4 MR. PHILLIPS: And, Your Honor, this is
5 subject to our prior objection.

6 THE COURT: Yes, proceed.

7 MR. STONE: Thank you.

8 BY MR. STONE:

9 Q. All right, and so over the time that
10 you stated you watched her by yourself a couple
11 of times?

12 A. Yes.

13 Q. Okay. And what did you have to do to
14 take care of her?

15 A. Since it was just a few hours, when I
16 had to do it by myself, and it was just,
17 basically, making sure her bedroom was clean,
18 made sure she had Kool-Aid in her cup, and that
19 was pretty much it.

20 Q. Did Rita Pangalangan ever just leave
21 the child with you without asking you to take
22 care of her?

23 A. Yes.

24 Q. And how did that happen?

25 A. So there was an incident where there

1 was a Sunday night in July, where she had asked
2 me to watch her for just overnight, and I said
3 that was fine. So -- I'm sorry, that was also on
4 Monday.

5 Q. Okay.

6 A. And she came back the next day, because
7 I had told her I had to work. So she did come
8 back home that morning, and she told me was gonna
9 be home all day.

10 And when I was ready to go to work, or,
11 sorry, I am so sorry, I got my days mixed up. So
12 when the -- when I first watched her the first
13 night, that was an agreement. The next day it
14 was she wasn't going anywhere, and then it was
15 she gave her -- I remember her giving her a bath,
16 I remember her getting ready for bed, and she
17 would close her door, and she did the normal
18 routine.

19 And then I went to bed with my kids,
20 because I had to work the next day, and next
21 thing I know, the next morning I woke up CP
22 was in her room, trying to get out of the bed.

23 Q. So she -- when CP in the room,
24 is she locked in the room?

25 A. I don't know if the door was locked,

1 but I know she could not open the door.

2 Q. Because of the hands?

3 A. Yes.

4 Q. Did CP -- Rita -- and let me go
5 -- now we're gonna go right up until August when
6 you left.

7 A. Uh-huh.

8 Q. You ended up leaving the Thursday
9 before this event --

10 A. Yes.

11 Q. -- took place; is that correct?

12 A. Yes.

13 Q.. Okay. Leading up close to that time
14 did you have a discussion with Rita about you
15 babysitting CP and whether or not you were
16 able to do that?

17 A. Yes.

18 Q. Okay. Please tell us about that.

19 A. So she had asked me --

20 Q. All right, I'm gonna stop you, when you
21 say, she?

22 A. I'm sorry. Then should I just say her
23 name?

24 Q. Please.

25 A. Sorry. Rita came up to me and had

1 asked me if I could watch her. I had let her
2 know I had to go into work for a few hours, and
3 she kept asking me over and over.

4 And, finally, when the answer didn't change
5 it was no, obviously, she told me to leave
6 CP [REDACTED] in my car with the windows down, because
7 she does it all the time.

8 MR. PHILLIPS: Same as our objection. Your
9 Honor.

10 THE COURT: Objection is overruled.

11 MR. STONE: Thank you, Your Honor.

12 BY MR. STONE:

13 Q. And, I'm sorry, I keep interrupting
14 you, could you -- she -- you said you couldn't,
15 because you had to go to work?

16 A. Yes.

17 Q. Pick it up from there.

18 A. So when I told her the first time, she
19 kept asking me over and over again. And when she
20 realized that the answer was not gonna change
21 from no, she had told me that I could still take
22 her, and leave her in my car with the windows
23 down, and -- because she does it all the time,
24 because she does it all the time.

25 Q. She being?

1 A. Rita.

2 Q. Do you see Rita Pangalangan in the
3 courtroom?

4 A. Yes; I do, she's right there.

5 MR. STONE: Your Honor, let the record
6 reflect she's identified the Defendant, Rita
7 Pangalangan.

8 THE COURT: So noted.

9 BY MR. STONE:

10 Q. Can you identify her by an article of
11 clothing.

12 A. Oh, right over here, in the white --

13 Q. What is she wearing?

14 A. It looks like a blue jacket and a white
15 shirt.

16 THE COURT: Okay..

17 MR. STONE: Thank you, Your Honor, no
18 further questions.

19 BY MR. STONE:

20 Q. Thank you, Ms. Honeycutt.

21 MR. LOY: None, Your Honor, thank you.

22 THE COURT: Mr. Phillips?

23 MR. PHILLIPS: Thank you, Your Honor.

24 **

25

CROSS-EXAMINATION

BY MR. PHILLIPS:

Q. Ms. Honeycutt, Rita kicked you out of the house right before all this happened; is that right?

A. It was more that I was moving out of the house.

Q. That's your opinion. She kicked you out of the house, because you weren't paying rent, and you brought bed bugs into her home; is that fair to say?

A. No, sir.

Q. And you also moved your boyfriend into the home with his whole family? You'all had a very toxic relationship, and you were in her home not paying rent, correct?

A. I do not agree with that, no.

MR. PHILLIPS: Nothing else, Your Honor.

THE COURT: Thank you, you may step down.

WITNESS: Thank you.

MR. STONE: The State calls Kelly Padgett.

MR. PHILLIPS: Your Honor, I have a matter of law.

THE COURT: We'll address it later.

MR. PHILLIPS: Thank you, Your Honor.

1 ***

2 KELLY PADGETT,

3 BEING DULY SWORN TESTIFIED AS FOLLOWS:

4 ***

5 DIRECT EXAMINATION

6 BY MR. STONE:

7 Q. Ms. Padgett, who do you work for?

8 A. The Colleton County Sheriff's Office.

9 Q. All right, so would it be proper to say
10 Deputy Padgett?

11 A. Yes, sir.

12 Q. Deputy Padgett, were you working for
13 the Colleton County Sheriff's Office on or about
14 August the 5th, 2019?

15 A. Yes, I was.

16 Q. All right, and did you have an occasion
17 to come into contact with Rita Pangalangan?

18 A. Yes, I did.

19 Q. And at some point, did you take her to
20 the Colleton County -- what's the hospital here
21 in Walterboro, is that Colleton Memorial?

22 A. Colleton Regional Center was what it
23 was once called.

24 Q. All right, so did you take her to the
25 hospital?

1 A. Yes, I did.

2 Q. And were you present when blood was
3 collected from Rita Pangalangan?

4 A. Yes, I was.

5 Q. And I'm gonna show you what's been
6 marked, three photographs that have been marked
7 for identification, and they are State's 31, 32
8 and 34. So first I'm gonna hand you State's 31
9 and 32, and if you would look at those two
10 photographs, I realize that there's some writing
11 on that bag that you did not do, but do you
12 recognize the vials in those photographs?

13 A. Yes, I do.

14 Q. And what are those vials of?

15 A. This would have been the blood that was
16 collected from Ms. Pangalangan on the night when
17 I took her to the hospital.

18 Q. All right, and when you got that blood,
19 is it -- did you have it in this -- I'll call it
20 a plastic bag, or a Ziplock appearing bag, did
21 you have it in that container?

22 A. Yes, it was placed in that container by
23 the nurse at the hospital.

24 Q. And was that done in your presence?

25 A. Yes, it was.

1 Q. And what did you do with it that day?

2 A. It was -- I transported it back to the
3 Sheriff's Office, and it was handed over to the
4 SLED Crime Scene Unit that I met at the office.

5 Q. All right, and is that Agent Schenk?

6 A. Yes.

7 Q. I'm sorry?

8 A. Agent Schenk, yes, sir.

9 Q. While you had the blood in your custody
10 inside the Ziplock bag, did you alter it or
11 change it in any way?

12 A. No, not at all.

13 Q. And was it in the same condition as it
14 was when the nurse took it and handed it to you?

15 A. Yes.

16 Q. All right. I'm now gonna hand you
17 what's been marked as State's Exhibit 34 and ask
18 if you can identify that photograph.

19 A. Yes, I can.

20 Q. And what is that a photograph of?

21 A. This is a picture of myself and Ms.
22 Pangalangan, and it's still at the hospital.

23 I'm holding a form and the Ziplock bag with
24 the vials of blood in it.

25 Q. And is that the same vials of blood

1 that appears in State's 31 and 32?

2 A. Yes, it is.

3 Q. And is that the same blood that was
4 collected at the hospital here in Walterboro?

5 A. Yes, it was.

6 MR. STONE: At this time I'd ask that
7 State's 31, 32 and 34 be admitted into evidence.

8 MR. PHILLIPS: Subject to prior objection.

9 MR. LOY: No objection, Your Honor.

10 BY THE COURT:

11 Q. Ma'am, were you there when the blood
12 was drawn?

13 A. Yes, sir.

14 Q. And did you see the blood being drawn?

15 A. Yes, sir.

16 THE COURT: Any further questions from
17 either side?

18 MR. STONE: No, Your Honor, thank you.

19 THE COURT: It's admitted over objection.

20 (State's Exhibits 31, 32 and 34 were
21 admitted into evidence.)

22 MR. STONE: Thank you, Your Honor. If we
23 could -- if you could put up State's 34, so that
24 the jury can see?

25 BY MR. STONE:

1 Q. And as you described it, and, Deputy
2 Padgett, it's a silly question, but is that you
3 in uniform?

4 A. Yes, sir.

5 Q. And that's you, and is that Ms.
6 Pangalangan?

7 A. Yes, it is.

8 Q. And then as you described earlier in
9 your testimony, was that the bag? And I will now
10 move to 31. So those are the vials of blood that
11 you mentioned earlier?

12 A. Yes, sir.

13 Q. And 32. And those you can actually see
14 the writing that indicates the printed label
15 whose blood it is, etcetera?

16 A. Yes.

17 Q. And did you also receive blood from
18 another Deputy?

19 A. Yes.

20 Q. And did -- whose blood was that, as far
21 as you know?

22 A. Taken from Mr. Larry King.

23 Q. All right, and did -- what Deputy gave
24 that to you?

25 A. Brian Varnadoe.

1 Q. And what did you do with Larry King's
2 blood that you got from Brian Varnadoe?

3 A. It was also handed over to SLED Agent
4 Schenk.

5 Q. And were they the same vials, or same
6 type of vials that we have just seen in these
7 other photographs?

8 A. Yes, sir.

9 Q. All right.

10 MR. STONE: The Court's indulgence, please,
11 Your Honor.

12 BY MR. STONE:

13 Q. I don't have any other questions.
14 Please answer any questions that defense counsel
15 has.

16 MR. LOY: I have none, thank you.

17 MR. PHILLIPS: No questions, Your Honor.

18 THE COURT: Thank you.

19 WITNESS: Thank you.

20 MR. STONE: The State calls Brian Varnadoe
21 -- I'm sorry, I apologize, Judge, the State calls
22 Spencer Stevens.

23 THE COURT: If you'all will stand for a
24 moment. Okay.

25

1 **SPENCER STEVENS,**
2 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

3 ***

4 MR. STONE: Your Honor, I apologize, the
5 Court's indulgence just one moment. Your Honor,
6 if I could -- I apologize I didn't pass the other
7 one up. I'll pass up copies now. Thank you,
8 sir.

9 **

10 **DIRECT EXAMINATION**

11 BY MR. STONE:

12 Q. Mr. Stevens, where do you work, sir?

13 A. Right now I work at Roper St. Francis.

14 Q. All right, and back in August the 5th
15 of 2019 were you working at Roper St. Francis, or
16 somewhere different?

17 A. I worked at Colleton Medical Center at
18 that time.

19 Q. All right, sir, and what position were
20 you working?

21 A. I'm a nurse in the Emergency
22 Department.

23 Q. On or about August the 5th of 2019 did
24 you draw blood from Larry King?

25 A. Yes.

1 Q. I'm gonna hand you what's been marked
2 for identification as State's 27 and 28 and ask
3 you if you can identify what's in those
4 photographs, specifically, the vials we talked
5 about.

6 A. They're different vials we use for
7 different lab studies.

8 Q. All right, and is -- do those have
9 markings on them that allow you to identify them?

10 A. Correct. When a patient comes into the
11 Emergency Department, they're registered either
12 based off of their Social or their name and
13 birthdate. That generates a sheet of stickers
14 for that individual, and on those stickers they
15 call them a label, what we call our 34, which is
16 a specific identifier and the time we created the
17 specimen on them.

18 Q. All right, and does it also have a
19 number on there that indicates who drew it?

20 A. Correct. My specific number was
21 MX07175, and that's my specific identifier to --
22 for the lab to know that I drew those results.

23 Q. And whose blood -- is that the blood
24 that you drew from Larry King on August the 5th?

25 A. Correct.

1 Q. I'm sorry, August the 5th of 2019?

2 A. Yes.

3 Q. And once you draw the blood, do you --
4 who -- did you give it to a member of law
5 enforcement?

6 A. Yes.

7 Q. All right, and do you actually put it
8 in the Ziplock bag, and seal it, or do they do
9 that, how does that work, or you'all do that
10 together?

11 A. I don't recall how it was done in this
12 instance. Most of the time it's under their
13 supervision.

14 Q. Right, and did you -- do you put the
15 stoppers in all of the tubes?

16 A. So the tubes that could come with a
17 transfer device, and there's a transfer needle
18 inside of it that the blood goes into. We don't
19 have any actual contact with it.

20 Q. All right. Thank you, sir.

21 Now, once you handed over to law
22 enforcement, or previous to you drawing -- I mean
23 previous to you handing over to law enforcement,
24 did you alter it, or change it, or do anything to
25 it in any way?

1 A. No, sir.

2 Q. All right. And once you handed it over
3 to law enforcement, did you have anything else to
4 do with it?

5 A. No, sir.

6 Q. All right, I don't have any further
7 questions, just please answer any questions that
8 defense has.

9 THE COURT: Questions?

10

★ ★

11	CROSS-EXAMINATION

12 BY MR. LOY:

13 Q. Do you remember the name of the law
14 enforcement officer you gave this to?

15 A. I do not.

16 Q. Thank you.

17 MR. LOY: No further questions.

18 THE COURT: Anything further?

19 MR. STONE: Nothing further from the State.

20 THE COURT: Thank you, you may step down.

21 MR. STONE: Thank you.

22 The State calls Brian Varnadoe.

23 Your Honor, I'd ask that -- I did not ask
24 this, I apologize, I would ask that Mr. Stevens
25 be excused, unless defense counsel has any

1 objection.

2 MR. LOY: None, Your Honor.

3 MR. PHILLIPS: No, Your Honor.

4 THE COURT: All witnesses are excused once
5 they step down.

6 MR. STONE: Thank you, Your Honor.

7 ***

8 BRIAN VARNADOE,

9 BEING DULY SWORN TESTIFIED AS FOLLOWS:

10 ***

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q. Mr. Varnadoe, who do you work for?

14 A. Colleton County Sheriff's Office.

15 Q. All right, Deputy Varnadoe, did you
16 work for the Colleton County Sheriff's Office on
17 or about August the 9th -- I'm sorry, on or about
18 August the 5th of 2019?

19 A. Yes.

20 Q. Deputy Varnadoe, did you have occasion
21 to meet with Larry King on August the 5th of
22 2019?

23 A. Yes.

24 Q. And did you take him to the Colleton
25 County Medical Center, the Walterboro Hospital?

1 A. I did.

2 Q. And did you -- was that for purposes of
3 a blood draw?

4 A. Yes.

5 Q. And were you present when blood was
6 drawn from him by Nurse Stevens?

7 A. Yes.

8 Q. I'm gonna show you --

9 MR. STONE: I apologize, Judge.

10 BY MR. STONE:

11 Q. I'm gonna show you what's been marked
12 as 27 and 28 and 33. If you would -- actually,
13 first, let's just start with 27 and 28.

14 If you could, can you look at those vials,
15 and 28's a little bit close up, can you identify
16 what's the vials in State's 27 and 28 for
17 identification?

18 A. Yeah, those are the vials drawn from
19 Mr. King.

20 Q. And were you present when those vials
21 were drawn?

22 A. Yes, I was.

23 Q. And did the nurse hand those vials to
24 you?

25 A. They did.

1 Q. All right. While they were in your
2 custody, were they also placed in a plastic bag
3 that's shown there in 27?

4 A. Yes.

5 Q. Did you alter that or change it in any
6 way?

7 A. I did not.

8 Q. What did you do with the blood once you
9 got it?

10 A. Once I got it from the hospital staff,
11 I turned it over to at the time Detective Kelly
12 Padgett, she was a Sergeant, a Detective with the
13 Sheriff's Office.

14 Q. And is it your understanding from there
15 it went to Agent Schenk?

16 A. That's correct.

17 Q. I'm now gonna show you for
18 identification State's 33. Can you identify that
19 photograph for me?

20 A. Yes, sir, that's me holding up the
21 vials and the paperwork.

22 Q. And is that -- you said the vials,
23 meaning the vials that were drawn from --

24 A. Yes.

25 Q. -- Larry King?

1 A. That's correct.

2 Q. And all these are fair and accurate
3 representations of the vials you got, and I
4 realize there's excess writing that was already
5 testified to --

6 A. Right.

7 Q. -- that was put there by Agent Schenk.
8 Other than the writing and the label, is that
9 accurate and a fair representation of what you
10 bring?

11 A. Yes, sir, it is.

12 Q. And is State's 33 a fair and accurate
13 representation of you, basically, holding these
14 bags in the hospital on August the 5th of 2019?

15 A. Yes, it is.

16 Q. And, again, did you alter or change
17 anything in any way?

18 A. No, I did not.

19 MR. STONE: Your Honor, at this time I'd
20 ask that State's 27, 28 and 33 be moved into
21 evidence.

22 MR. LOY: No objection, Your Honor.

23 MR. PHILLIPS: None.

24 THE COURT: they're admitted.

25 (State's Exhibits 27, 28, 33 were admitted

1 into evidence.)

2 MR. STONE: Thank you, Your Honor. And,
3 Mr. Hightower, if you would, please, go ahead
4 and show 33.

5 BY MR. STONE:

6 Q. That's you holding the vials?

7 A. That's me, yes, sir.

8 MR. STONE: And then let's go 27 and 28.

9 BY MR. STONE:

10 Q. And we referenced this, and I probably
11 should have asked you this earlier, it says,
12 "Larry King," and I kind of gestured over that
13 way, but do you see Larry King that that blood
14 was drawn from in the courtroom?

15 A. Yes, I do, with the beard and the white
16 shirt.

17 Q. I have nothing further. Thank you very
18 much. Answer any questions the defense has.

19 A. Yes, sir.

20 MR. LOY: None, thank you for coming.

21 WITNESS: Yes, sir, thank you.

22 THE COURT: Anything Mr. Phillips?

23 **

24

25

CROSS-EXAMINATION

BY MR. PHILLIPS:

Q. Mr. Varnadoe, you spoke with Mr. King?

A. Have I spoken to Mr. King? That day,
yes.

Q. And he said that Rita would never hurt
her daughter intentionally?

A. I'm sorry?

Q. And he said that Rita would never
intentionally hurt her daughter?

A. He may have said that. I don't recall
him exactly saying that. That's a possibility.

MR. PHILLIPS: No further questions, Your
Honor.

THE COURT: Anything further?

MR. STONE: I don't have anything further,
Judge.

THE COURT: All right, thank you.

WITNESS: Yes, sir.

MR. STONE: Your Honor, may I approach, or
may --

THE COURT: Yes, sir.

MR. STONE: -- we approach?

THE COURT: Well, we'll send you to the
jury room for a few minutes. Please do not

1 discuss the case.

2 MR. STONE: You read my mind, Judge, I was
3 just gonna ask you if I could have about ten to
4 15 minutes --

5 THE COURT: Okay.

6 MR. STONE: -- for a break. I need to get
7 to my next group of witnesses organized.

8 THE COURT: All right.

9 MR. PHILLIPS: And, Your Honor, can I put
10 the matter of law on record?

11 THE COURT: Yes, sir.

12 MR. PHILLIPS: Based on the prior
13 objections, now the testimony from Brittany
14 Honeycutt and Lindsey Lewis, we believe it would
15 be appropriate to move for a mistrial,
16 specifically, under the objections that we had
17 under Rule 404(b), as well as Rule 403. I
18 believe at this point the prejudice has
19 manifested a necessity that this has now denied
20 Rita the right to a fair trial.

21 This case has become about her mothering,
22 all these other things, and not even relevant to
23 the day it occurred; and with that, this is,
24 again, evidence all about things that happened
25 previously, not even some of them being very

1 relevant, in my opinion, and very -- not
2 related, other than just unduly prejudicial.
3 From that we believe it to be a manifested
4 necessity based on that to move for a mistrial.

5 THE COURT: A response?

6 MR. STONE: Your Honor, we covered all the
7 issues as far as relevancy. I believe what's
8 wrong with the testimony and her state-of-mind
9 and the treatment of her child I think is very
10 much at issue in this case, and it was all
11 relevant testimony.

12 THE COURT: All right. I'll deny the
13 motion. So scheduling-wise, we've ordered lunch
14 for the jury, and it's anticipated to be here at
15 12:45, so to the extent we can, we're gonna go
16 -- want to go to 12:45, and then break for about
17 an hour.

18 MR. STONE: Yes, sir.

19 MR. PHILLIPS: Yes, sir.

20 MR. STONE: Thank you.

21 THE COURT: All right, so we'll take a few,
22 and let -- sir?

23 MR. STONE: Can we have about ten minutes
24 or so?

25 THE COURT: How much time do you need?

1 MR. STONE: No more than ten. I can get it
2 done in ten minutes.

3 THE COURT: All right, ten minutes, yes,
4 sir.

5 MR. STONE: Thank you.

6 BAILIFF: All rise.

7 (RECESS)

8 (Jury enters the courtroom.)

9 **

10 **PROCEEDINGS CONTINUED**

11 THE COURT: Your next witness.

12 MR. STONE: Thank you, Your Honor. The
13 State calls Matthew Hogue.

14 ***

15 **MATTHEW HOGUE,**

16 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

17 ***

18 **DIRECT EXAMINATION**

19 BY MR. STONE:

20 Q. Agent Hogue, who do you work for?

21 A. I work for SLED, South Carolina Law
22 Enforcement Division.

23 Q. And what do you do for SLED?

24 A. Currently I'm a Special Agent in the
25 Vice Unit for SLED.

1 Q. All right, and back in August of 2019,
2 what were you doing for SLED?

3 A. I was a Forensic Technician in SLED's
4 Toxicology Department.

5 Q. All right. Sir, I'm going to hand you
6 -- we'll do this in two batches, so first I'm
7 going to hand you -- these have already been
8 entered into evidence, 29, 30, 31 and 32. I
9 believe it is listed as SLED Item Number 4.

10 So can you tell me if you recognize the
11 items in those photographs?

12 A. Yes, I do recognize them.

13 Q. All right, and did you -- are you the
14 one who took these pictures?

15 A. Yes, these pictures of the evidence
16 bag, and what was inside of them are pictures I
17 took, as part of my duties as a Forensic
18 Technician.

19 Q. All right, so did you, upon this being
20 logged into SLED, at some point did you open
21 these bags to inventory or take photographs of
22 what was inside the bag?

23 A. Yes, that's correct.

24 Q. And did you alter them or change them
25 in any way?

1 A. No, I didn't.

2 Q. All right, and once you were done with
3 taking these photographs, did you perform --
4 yourself as a technician, did you perform any
5 test on them?

6 A. No, resealed them, and they were stored
7 in our refrigerator until further testing is
8 needed.

9 Q. I'm going to ask you the same thing for
10 State's 25, six, seven and eight, and I believe
11 that SLED Item 6. Same question, do you
12 recognize the blood vials in those photographs?

13 A. Yes, I do.

14 Q. And are you the one that took these
15 photographs to document them with SLED evidence?

16 A. Yes, I did.

17 Q. And did you alter them, or change them
18 in any way?

19 A. No.

20 Q. And other than to open up the bag and
21 catalog it and reseal it, did you have anything
22 to do with them beyond that?

23 A. No, I did not.

24 Q. And I will also ask you, if you can, as
25 to SLED Item 6, can you, by looking at the

1 listing on the vials, can you tell me whose
2 blood sample that is?

3 A. The blood vials say Larry Eugene King,
4 Jr.

5 Q. All right. And as to SLED Item Number
6 4, I'd ask you the same question?

7 A. Rita Marie Pangalangan.

8 Q. Thank you, sir. I don't have any
9 further questions. Please answer any questions
10 that defense has.

11 MR. LOY: None, thank you for coming.

12 WITNESS: Thank you.

13 MR. PHILLIPS: No, Your Honor.

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

15 MR. STONE: I'll ask that he be excused,
16 Your Honor.

17 THE COURT: Yes.

18 MR. STONE: Brooklynn Gonzalez.

19 ***

20 **BROOKLYNN MOLINA,**

21 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

22 ***

23 **DIRECT EXAMINATION**

24 BY MR. STONE:

25 Q. And I messed that up and said Brooklynn

1 Gonzalez. I had both names written down, I'm
2 sorry, I couldn't remember which one.

3 So you're married name now is Brooklynn
4 Molina?

5 A. Yes, that's correct.

6 Q. Agent Molina, who do you work for?

7 A. I'm employed by the South Carolina Law
8 Enforcement Division, commonly known as SLED.

9 Q. And what do you do for SLED?

10 A. I am a Forensic Toxicologist in our
11 Toxicology Department.

12 Q. I'm going to hand you a couple sets of
13 photographs that have been testified to and are
14 already in evidence. So I'd like to start with
15 what is referred to as SLED Item Number 4, which
16 is a collection of four photographs, State's
17 Exhibits 29, 30, 31 and 32.

18 If you would, look at those and let me
19 know, did you have anything to do with the blood
20 vials of Rita Pangalangan in SLED Item 4?

21 A. I had taken the photos, taking these
22 photos.

23 Q. You actually assisted -- is that
24 Agent Hogue?

25 A. Yes, Matthew Hogue.

1 Q. All right. And there's a yellow
2 sticker, and I think this was testified to
3 earlier, but there's a yellow sticker on those.

4 MR. STONE: Mr. Hightower, can you bring up
5 25, please?

6 BY MR. STONE:

7 Q. So this yellow sticker, can you tell me
8 what that yellow sticker signifies?

9 A. Yes, that is the unique SLED
10 identification number, that was given to this
11 case, and Number 6 represents Item Number 6 that
12 was submitted to us.

13 Q. So if I could borrow those real quick
14 again.

15 MR. STONE: Mr. Hightower, could you please
16 bring up 29?

17 BY MR. STONE:

18 Q. So is that what I was just referring to
19 the SLED Item Number 4?

20 A. Yes.

21 Q. Blood for Rita Pangalangan. And would
22 you tell me about SLED Item Number 6, whose
23 blood that is?

24 A. These vials are labeled King, Larry
25 King, Jr.

1 Q. All right, and do you perform any --
2 you said you assisted in taking the pictures.
3 Did you do anything else with SLED Item 4 and
4 SLED Item 6, the blood vials from the
5 Defendants?

6 A. Yes. I performed the blood alcohol
7 analysis, as well as the preliminary drug
8 screen.

9 Q. All right, and your blood alcohol
10 analysis, is that like ethanol, or --

11 A. Yes.

12 Q. And did you find any ethanol, and we'll
13 just do them one at a time, in SLED Item 4,
14 which is Rita Pangalangan's blood?

15 A. No.

16 Q. All right. And did you find any
17 ethanol for SLED Item 6, Mr. King's blood?

18 A. No.

19 Q. You said you did a preliminary -- what
20 was the --

21 A. A preliminary drug screen.

22 Q. All right, and let me ask you this, as
23 part of your job at SLED, and what you do at
24 SLED, what kind of qualifications and things do
25 you have to have to have the job that you

1 currently have at SLED?

2 A. So education-wise, I have a Bachelor of
3 Science in Forensic Chemistry from Ohio
4 University, and I have a Master of Science from
5 the University of Florida in Forensic
6 Toxicology. Education aside, we undergo
7 extensive in-house training for blood/tissue
8 analysis, that consists of analyzing 500
9 previously analyzed samples, and comparing those
10 to the known values, as well as completing -- we
11 have multiple lectures, each followed by an
12 exam, and then a comprehensive exam.

13 We are competency tested, which is an
14 internal test to determine that we are competent
15 in that analysis. And then we are proficiency
16 tested each year by an external vendor in each
17 discipline that we are deemed competent in.

18 For drug screens my training consisted of
19 assisting in 100 case samples and the operation
20 of the instrument. Again, we were competency
21 tested, and are proficiently tested by an
22 external vendor each year for that.

23 Q. All right, and just -- and not about
24 this case, specifically, but this case and other
25 cases you would do, what is the procedure of --

1 that you follow, once you have a -- once you do
2 your preliminary tox screen? If it's positive,
3 what would you do with it?

4 A. So once a case is positive on either
5 preliminary drug screen, those results all have
6 to be confirmed, so they are then assigned to
7 another analyst in our lab.

8 Q. And does that -- let me back up for a
9 second. So you talked about your undergrad
10 degrees and what is it?

11 A. Forensic chemistry.

12 Q. All right, and how long have you worked
13 for SLED?

14 A. I have worked for SLED approximately
15 five years.

16 Q. And you said -- you talked about some
17 proficiency exams. How often do you have to do
18 those?

19 A. Yearly.

20 Q. All right, so have you passed them
21 every year?

22 A. Yes.

23 Q. Have you ever been qualified as an
24 expert before?

25 A. One time.

1 Q. And what would your expertise be in, if
2 I was to ask the Court now to have you declared
3 as an expert? Would it be forensic toxicology?

4 A. Correct.

5 MR. STONE: Your Honor, at this time, I'd
6 ask that Agent Molina be qualified as an expert
7 in forensic toxicology.

8 THE COURT: Says the defense?

9 MR. LOY: I think she's an expert, Your
10 Honor.

11 MR. PHILLIPS: Just subject to the prior
12 pretrial objections.

13 THE COURT: All right, she's so qualified.

14 MR. STONE: Thank you, Your Honor.

15 BY MR. STONE:

16 Q. Ma'am, we talked about doing different
17 tests, the fact that you did a preliminary
18 toxicology. So if we could, just take them one
19 at a time. As to SLED Item 4, which is the
20 blood of Rita Pangalangan, did you -- were you
21 able to run a preliminary toxicology screen on
22 that?

23 A. Yes, I completed a preliminary drug
24 screen.

25 Q. I'm sorry, I used the wrong language, a

1 preliminary drug screen.

2 A. Right.

3 Q. Did you get a preliminary hit on any
4 drugs?

5 A. Yes, that item number was positive for
6 methamphetamine and amphetamine.

7 Q. Now --

8 THE COURT: Ladies and gentlemen, once a
9 witness is qualified as an expert witness, they
10 are then allowed to offer opinions in the area
11 of their expertise, subject to the rules of
12 evidence.

13 MR. STONE: Thank you, Your Honor.

14 BY MR. STONE:

15 Q. As to SLED Item Six, Agent Molina, were
16 you able to -- or did you run a drug screen on
17 that?

18 A. Yes, I did.

19 Q. And that's the blood of Larry King?
20 What results did you get, as far as a
21 preliminary result?

22 A. Do you have a copy of the report
23 actually? I just want to make sure I tell you
24 the correct -- thank you.

25 Q. Just after reviewing that, see if that

1 refreshes your memory.

2 A. Yes, so I did perform a preliminary
3 drug screen, and that would have been positive,
4 again, for methamphetamine and amphetamine.

5 Q. All right, so both were -- both had a
6 preliminary result for the methamphetamine and
7 amphetamine?

8 A. Correct.

9 Q. And what did you say the procedure was
10 once you do that?

11 A. Then that case is assigned to an
12 analyst to confirm those results.

13 Q. And who would the analyst be in this
14 case?

15 A. Lindsay Mitchell.

16 Q. All right. And other than what you
17 testified to, did you have anything else to do
18 with this case?

19 A. No, I did not.

20 Q. All right, thank you very much, ma'am.
21 I have no further questions for you.

22 Please answer any questions the defense
23 has.

24 THE COURT: From the defense?

25 MR. LOY: Just a couple.

CROSS-EXAMINATION

BY MR. LOY:

Q. So I think I understand the process.

You said you do a preliminary screen, and I assume if it's negative, then that substance is discarded, that's the end of the investigation for that substance; is that right?

A. For that substance, correct.

Q. And when you said it's positive and sent to someone else for a confirmation --

A. Correct.

Q. -- is that right? My question is, when it goes to someone else, is that like a higher echelon of testing, or is that something that is more specific, or is it someone else who is, if you will, on your same level within SLED, and you'll just check behind each other?

A. No, it would go to confirmatory testing, which is going to go to a class specific combination.

Q. Okay, and would it be fair, it's a higher testing --

A. Yes.

Q. -- than that?

A. Yes.

1 Q. Thank you.

2 MR. PHILLIPS: Thank you, Your Honor.

3 **

4 **CROSS-EXAMINATION**

5 BY MR. PHILLIPS:

6 Q. Agent Gonazlez, good afternoon. Based
7 on your training and experience, you can't tell
8 when a substance was ingested, right?

9 A. No.

10 Q. And so the preliminary report, it could
11 have happened several days before blood was
12 actually taken; is that fair to say?

13 A. Well, if it's in the blood stream
14 currently, it is acting on the individual.

15 Q. Well, now, as far as your expertise,
16 your training and experience, I don't want you
17 to go outside the scope of what you have, but as
18 far as whether somebody tested positive, they
19 could have ingested it days before, and still
20 test positive, that's true?

21 A. Yeah.

22 Q. Because you can't tell from the
23 preliminary report when somebody may have
24 ingested the substance?

25 A. Right, just what is currently in the

1 bloodstream.

2 Q. Thank you.

3 MR. PHILLIPS: No further questions.

4 THE COURT: anything further?

5 MR. STONE: Nothing further. I ask that
6 she be excused.

7 THE COURT: All right. Now, every witness
8 is excused once they step down, and you're
9 excused.

10 MR. STONE: The State call Lindsay
11 Mitchell.

12 ***

13 LINDSAY MITCHELL,

14 BEING DULY SWORN TESTIFIED AS FOLLOWS:

15 ***

16 DIRECT EXAMINATION

17 BY MR. STONE:

18 Q. Agent Mitchell, who do you work for?

19 A. I work for the South Carolina Law
20 Enforcement Division.

21 Q. And did you work for -- is that also
22 commonly known as SLED?

23 A. Yes.

24 Q. All right. Did you also work for SLED
25 back in August of 2019?

1 A. Yes, I did.

2 Q. These are already evidence that have
3 been testified to, but let me just call out, as
4 to SLED Lab Number 19-14197, Items Number 4 and
5 6, did you perform any -- well, let me back up
6 for a second.

7 Did you have anything to do with those
8 items, or now assist on those items?

9 A. Yes, we performed testing on these
10 evidence items.

11 Q. There was earlier testimony, ma'am,
12 from Ms. Molina, dealing with kind of what a
13 preliminary tox screen is. Can you kind of
14 describe the process of what occurs when there
15 is a positive, for lack of a better word, a
16 positive hit on a drug screen?

17 A. Yeah, if our drug screen results in a
18 preliminary positive, that has to be confirmed
19 by another tech analysis before we can report
20 it.

21 Q. So let me ask you a little bit about
22 your background. What -- are you -- is Forensic
23 Toxicologist the right word?

24 A. Yes.

25 Q. All right. So to be a Forensic

1 Toxicologist, what kind of undergrad degree or
2 training and education do you have?

3 A. I have a double major Bachelor's in
4 Forensic Science and Chemistry from Ace
5 University. I also have a Master's in human
6 Studies from Pennsylvania State University.

7 Q. All right, and what sort of -- and I
8 may have asked you this already, and I apologize
9 if I did, how long have you been with SLED?

10 A. For eight years and-a-half.

11 Q. All right, so did you have any job in
12 forensics or chemical analysis prior to working
13 at SLED? -

14 A. No.

15 Q. Okay, so you've been there now eight
16 years?

17 A. Yes.

18 Q. All right. So tell me a little bit
19 about the certification process, what do you
20 have to do, or what types of certifications do
21 you have to go through, or testing, to maintain
22 your job as a Forensic Toxicologist?

23 A. We undergo extensive in-house training
24 for blood alcohols, and for drugs for analysis
25 interpretation.

1 We have lectures and hands-on training that
2 we do. We have to analyze previously analyzed
3 samples, before we can take a competency test,
4 which is supposed to mimic a real-life case
5 sample. We also do oral training, like test
6 cases and stuff like that, before we are signed
7 off as being competent.

8 Since that time, we have the opportunity to
9 do extra training, extra courses that we get to
10 go to, such as the alcohol course, as well as a
11 drug course. And we annually do proficiency
12 tests in all of the subjects that we perform
13 analysis in.

14 Q. And you said annually, so do you have
15 to do that every year then?

16 A. Yes.

17 Q. And have you failed any of those
18 proficiency attempts?

19 A. No.

20 Q. All right. How many samples do you
21 think, including all the testing that you did,
22 as well as actual cases, how many analyses, I
23 guess would be the word for that, how many times
24 have you looked at this kind of stuff?

25 A. Probably into the thousands.

1 Q. Have you ever been declared an expert
2 in the State of South Carolina or in Federal
3 Court?

4 A. Yes, I have.

5 Q. How many times?

6 A. Probably about four or five.

7 MR. STONE: Your Honor, at this time I'd as
8 that Agent Mitchell be declared an expert in
9 forensic toxicology.

10 MR. LOY: No objection, Your Honor.

11 MR. PHILLIPS: No objection to the
12 qualification, just renew or prior objection
13 regarding toxicology.

14 THE COURT: She's so qualified.

15 MR. STONE: Thank you Your Honor.

16 BY MR. STONE:

17 Q. Agent Mitchell, in this case, and,
18 obviously, I've already referenced the lab
19 number, there was testimony earlier from Agent
20 Molina that the preliminary tox screen was done,
21 and it was positive for methamphetamine and
22 amphetamine.

23 Was that sent to you for confirmatory
24 testing?

25 A. Yes, it was.

1 Q. All right, and was that confirmatory
2 testing done?

3 A. Yes.

4 Q. And can you just kind of explain the
5 process of how that works?

6 A. So a sample is taken from the evidence.
7 It is run on a GSMS, that gives us the ability
8 to separate and identify things that might be in
9 that sample.

10 So in this case it was run on a specific
11 test, which is the drug class that includes
12 methamphetamine and amphetamine.

13 Q. And let me ask this, it was asked
14 earlier, would you call this a higher level of
15 testing, or just a more specific testing?

16 A. I guess both. It is more specific, but
17 it also gives us a quantitative value, as well
18 as the confirmation of the presence.

19 Q. And were you able to analyze that
20 information on -- and, I'm sorry, I didn't
21 forget, but if I try to pronounce it, I'll mess
22 it up, what's the machine that you guys use
23 again?

24 A. GSMS.

25 Q. All right, well, I can remember that.

1 So on the GSMS, were you able to analyze this?

2 A. Yes.

3 Q. All right, so as to SLED Item Number 4,
4 which is the blood of Rita Pangalangan, were you
5 able to reach a confirmatory analysis?

6 A. We did.

7 Q. And what was that confirmation?

8 A. I know that it confirmed for the
9 methamphetamine --

10 Q. All right.

11 A. -- and the amphetamine.

12 Q. Did you do a report on that?

13 A. Yes.

14 Q. All right, I'm gonna hand you what's
15 been marked as State's Exhibit 15 for
16 identification. Can you identify that?

17 A. Yes, this is my report.

18 Q. And is that your name that appears on
19 the bottom?

20 A. Yes.

21 Q. On the second page I believe, all
22 right. And if you'll go to the second page,
23 what are your results, as to Rita Pangalangan in
24 SLED Item 4?

25 A. We found methamphetamine at a level of

1 400 nanograms per mil, as well as amphetamine at
2 a level of 160 nanograms per mil.

3 Q. And is that report an accurate
4 reflection of your results?

5 A. Yes.

6 Q. All right. Other than that I stapled
7 it, has it been altered or changed in any way?

8 A. No.

9 MR. STONE: Judge, I'd ask that State's
10 Exhibit 15 be entered into evidence.

11 THE COURT: Says the defense?

12 MR. PHILLIPS: The document itself is a
13 hearsay document. It could be referenced, and
14 it now has been testified to on the record, and
15 subject to the prior pretrial.

16 THE COURT: Any response?

17 MR. STONE: Judge, I apologize, were you
18 asking me a question?

19 THE COURT: Yes, sir.

20 MR. STONE: Yes, sir. It's not a hearsay
21 document. The agent who wrote it is here to
22 testify.

23 If she wasn't here to testify, then it
24 would be a hearsay document.

25 THE COURT: The document itself is

1 cumulative to the testimony, so the objection is
2 sustained.

3 BY MR. STONE:

4 Q. I'm gonna hand you what's been marked
5 as State's Exhibit 14. And was that also the
6 report that -- in this case?

7 A. Yes.

8 Q. And what's SLED Item Number is that in
9 reference to?

10 A. Item Number 6.

11 Q. All right, and as to SLED Item Number
12 6, were you able to reach the same conclusion as
13 to the levels? .

14 A. For levels, methamphetamine was
15 reported at 480 nanograms per mil, and
16 amphetamine at 88 nanograms per mil.

17 Q. And who is that in reference to, that
18 SLED Item Number?

19 A. Larry Eugene King, Jr.

20 Q. And is that a correct and accurate
21 reflection of your results?

22 A. Yes.

23 MR. STONE: Your Honor, the Court's
24 indulgence, please?

25

1 BY MR. STONE:

2 Q. A couple of questions, there was a
3 question earlier about metabolites in the blood.
4 If you see amphetamine and methamphetamine both,
5 can you explain to the jury what a metabolite
6 is?

7 A. Sure. So when you consume some type of
8 drug, your body can break it down further into
9 what we would call a metabolite.

10 Q. All right, and so can you answer the
11 question as to this case is, is amphetamine a
12 metabolite of methamphetamine?

13 A. Yeah, so in this case when someone
14 consumes methamphetamine, it is broken down to
15 amphetamine in the body.

16 Q. So is that a natural body process, as
17 the body is processing the methamphetamine, it
18 converts some of that into amphetamine?

19 A. Yes.

20 Q. All right. And if someone has these
21 sorts of levels, and if you need this, I can
22 give it back to you, but I think your testimony
23 was in excess of -- I think for Rita Pangalangan
24 it was 400 nanograms per milliliter of
25 methamphetamine, and for Larry King, it was 480

1 nanograms per milliliter of methamphetamine.
2 Can you tell me anything about how that would
3 act on the body?

4 A. Yeah, so methamphetamine is -- some of
5 the physical side affects you, you could have
6 are rapid or irregular heartbeat, labored -- or
7 not labored breathing, but irregular breathing.
8 You could experience agitation, anxiety,
9 confusion, euphoria, you know, it's different
10 person-to-person, but those are the general
11 effects that you might see.

12 Q. All right, and at that level would you
13 consider that person to be under the influence
14 of methamphetamine?

15 A. To some extent, yes.

16 Q. I don't have any further questions.
17 Please answer any questions defense has.

18 MR. LOY: None, Your Honor.

19 THE COURT: Mr. Phillips?

20 **

21 **CROSS-EXAMINATION**

22 BY MR. PHILLIPS:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. I just want to make sure, through the

1 metabolites, as far as you testified, you're not
2 able to tell when a substance was ingested?

3 A. Correct.

4 Q. And it could have been ingested up to
5 -- specifically, with methamphetamine, up to
6 three days prior to when a sample was taken
7 generally?

8 A. Yeah, probably.

9 Q. And a higher threshold would take you
10 to 500, right? That would be a greater
11 indicator that it was taken within that three-
12 day period?

13 A. No, I wouldn't necessarily say that
14 just seeing greater than 500 nanograms per
15 milliliter indicates that it was taken --

16 Q. As far as literature that's out there?

17 A. Not that I'm aware of.

18 Q. But you do agree it could have been
19 ingested up to three days prior, because there's
20 no way for you to know?

21 A. Yes, that would be possible.

22 Q. Thank you.

23 MR. PHILLIPS: No further questions.

24 THE COURT: Anything further?

25 MR. STONE: One question, Judge.

1 **REDIRECT EXAMINATION**

2 BY MR. STONE:

3 Q. Ma'am, is there any question thought
4 that the body is still acting on the body at
5 that time?

6 A. Yeah. The fact that it's in the blood
7 shows that it was active in the blood stream and
8 in the body at the time of the test, and the
9 blood draw.

10 Q. Thank you.

11 **

12 **RECROSS-EXAMINATION**

13 BY MR. PHILLIPS:

14 Q. I hate to do the ping pong, but you
15 don't know how it would affect that person,
16 specifically? You're saying it's active in the
17 blood, but you don't know how it's affecting
18 that person in any way, shape or form? You
19 can't testify to that?

20 A. To like what specific effects they
21 might be feeling at that time? No, not
22 specifically.

23 Q. Right, because they might have done it
24 three days prior?

25 A. Correct.

1 Q. Thank you.

2 THE COURT: All right, you may step down.
3 And, ladies and gentlemen, we are going to break
4 for lunch now. We're gonna start back at 2:15.
5 Please go to the jury room, and please do not
6 discuss the case.

7 (Jury exits the courtroom.)

8 THE COURT: Anything further from counsel
9 before we break for lunch?

10 MR. STONE: Nothing from the State, Your
11 Honor.

12 MR. LOY: Thank you, no, Your Honor.

13 MR. PHILLIPS: No, Your Honor.

14 THE COURT: All right, 2:15.

15 (Luncheon recess.)

16 BAILIFF: All rise. Please be seated.

17 **

18 **PROCEEDINGS CONTINUED**

19 THE COURT: I'm told that the -- due to the
20 impending weather the Court will close at noon
21 tomorrow, and not resume until Friday, so that
22 means that we will probably need to work late
23 today and start early tomorrow, because the case
24 cannot go into next week.

25 So I'm not sure of the schedule of a number

1 of witnesses and all that, but --

2 MR. STONE: Well, Your Honor, if I may?

3 THE COURT: Yes.

4 MR. STONE: We have the video, which we
5 anticipate playing, and that's gonna take up to
6 roughly six hours, so we can run that for
7 however long you want to this afternoon, and
8 we'll finish up one way or the other, so whether
9 we get one witness before the video, and then
10 I'm gonna do the video. So that will be a time
11 that we'll continuously run it, until you tell
12 us to stop.

13 THE COURT: Okay. Yes, sir? -

14 MR. LOY: No, I don't have a problem with
15 it. If they play the whole video, we'll stay
16 until 8 o'clock this evening.

17 THE COURT: All right.

18 MR. LOY: That's fine.

19 THE COURT: All right.

20 MR. PHILIPS: That's okay.

21 THE COURT: But when the State rests, will
22 the defense be ready to proceed, if that's
23 tomorrow morning?

24 MR. PHILLIPS: Tomorrow morning?

25 THE COURT: Yes.

1 MR. PHILLIPS: We can certainly do that.

2 THE COURT: If you'll bring in the jury.

3 MR. STONE: Just --

4 THE COURT: Yes, sir?

5 MR. STONE: Just to be clear, we won't rest
6 after the video, we still have other witnesses.

7 THE COURT: I understand. We'll start at
8 8:00 a.m. -- go tonight and start at 8:00 a.m.
9 in the morning. You know, the -- at one time
10 the Judges controlled the schedule of when Court
11 was in, or Court resumed, but now it's been
12 turned over to the local County authorities,
13 which presents a problem from time-to-time.

14 MR. LOY: I thought we were under your
15 ruling.

16 THE COURT: Pardon?

17 MR. LOY: I thought we were under your
18 ruling, Your Honor, about closing.

19 THE COURT: No.

20 MR. LOY: If the county closes, will we be
21 able to have court?.

22 THE COURT: Yeah. If the County closes up,
23 we have to leave.

24 (Jury enters the courtroom.)

25 THE COURT: All right, the jury's back, you

1 may proceed.

2 MR. STONE: The State calls Dr. Andrew
3 Grundstein to the stand.

4 ***

5 DR. ANDREW GRUNDSTEIN,
6 BEING DULY SWORN TESTIFIED AS FOLLOWS:

7 ***

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q. Okay, let me get you to pull that
11 microphone a little bit closer to you, Doctor.

12 A. Okay.

13 Q. Doctor, tell us what are you a doctor
14 of?

15 A. I am a doctor of climatology, the study
16 of weather and climate.

17 Q. And what do you currently do? What is
18 your occupation?

19 A. I'm a professor at the University of
20 Georgia, been there for about 20 years -- or
21 over 20 years, and I teach weather and climate
22 there.

23 Q. All right, and in the context of
24 climatology, what kind of encompasses that?

25 A. So in the field of climatology it looks

1 at, you know, longer term weather patterns, and
2 similar to meteorology, which looks at day-to-
3 day weather, but we look at longer term weather.
4 One of the things in climatology is really good
5 at is looking at past weather, so we can dig up
6 old records and reconstruct what past, you know,
7 conditions were like.

8 Q. And in the context of studying
9 climatology and teaching actual climatology,
10 does that also affect temperature, heat, heat
11 index, that type of thing as well?

12 A. Yeah, my field is sort of in like
13 medicine, people specializing in things, where
14 you have dermatology, allergists and so forth.
15 In my field people specialize in climate. I
16 specialize in how climate affects people in
17 human health, and I especially focus in heat as
18 it relates to health.

19 Q. I'm sorry, you specialize in what?

20 A. In how heat affects people's health.

21 Q. Okay. In the context of -- and you
22 teach that as well?

23 A. Correct.

24 Q. All right. In the context of studying
25 that and teaching that, have you done research

1 or been published on the effects of heat on
2 people in a car?

3 A. Yeah. Yeah, I have multiple research
4 publications on the conditions in the car when
5 it's left out in the sun.

6 Q. And how did you come about being
7 published? Is that something that's published
8 in a national survey? How does that work?

9 A. Yeah, these are published in what we
10 call peer review journals. And typical
11 scientific journals, they get reviewed by
12 outside experts, to make sure that they meet the
13 standards of quality, and that they're good
14 science.

15 Q. And in the context of those -- how many
16 of those have you done?

17 I mean, first of all, how many of the
18 research projects have you done?

19 A. Specific to hot cars?

20 Q. Yes.

21 A. I believe six or seven.

22 Q. Okay, and then in the context of
23 writing and publishing all those?

24 A. In terms of how many papers?

25 Q. Yes.

1 A. Right, so I've got six or seven peer-
2 reviewed scientific journal articles on that.

3 Q. And have you testified in Court
4 concerning heat in cars?

5 A. I have not testified in Court with
6 heated cars.

7 Q. All right, have you ever been qualified
8 as an expert in heat in cars, and that type of
9 thing?

10 A. No.

11 Q. Okay. How about from the standpoint of
12 -- actually evidence as to heat in cars, and
13 that type of thing?

14 A. I haven't testified in Court about
15 heated cars, but like I said I publish on this,
16 I believe I'm an expert in understanding how hot
17 cars can get in circumstances where they occur.

18 Q. Okay. Let me back up and ask you this
19 specifically. In the context of temperature,
20 like outdoor temperature, first of all, what is
21 that called?

22 I just say it's hot outside, I don't know -
23 -

24 A. Yeah.

25 Q. -- what that means. So what are we

1 talking about with outdoor temperatures?

2 A. Sure. We usually refer to that as the
3 ambient air temperature.

4 Q. Okay, and then from ambient air
5 temperature, what else goes into a factor of
6 heat, and how that affects the body?

7 A. Right, so there's, you know, when it's
8 hot outside, like, you know if it's hot, it's in
9 the 90s, but other factors can influence how you
10 feel when you're heat stressed. Humidity plays
11 a very big role.

12 Those of us living in the south know that
13 humidity can make it feel hotter, and I can
14 explain the reason for that, if that's helpful.

15 Q. Yeah, go ahead.

16 A. Sure. One of the reasons it makes us
17 feel so hot is because it makes it hard for
18 sweat to evaporate, and sweat is part of our
19 personal air conditioning system, so when that
20 doesn't work so well, we feel more heat stress.
21 So the temperature, humidity, sunlight can also
22 increase your heat stress, if you're out in the
23 sun.

24 Q. Now, when I see the news and the
25 weather report, they're always talking about a

1 heat index, and I get that on my phone from a
2 weather source, where does the heat index come
3 from?

4 A. Right. The heat index tries to account
5 for the fact that it's not just air temperature,
6 other factors can affect heat stress, and so
7 when it combines the air temperature and
8 humidity values.

9 Q. Now, how does that relate to a car,
10 and, specifically, a person inside of a car?

11 A. Right, so inside a car it has a very
12 different environment than outside the car, and
13 I think we'll talk about that a little bit
14 later, but you could also combine the role of
15 humidity in the car, to show that the combined
16 heat stress for both the temperature and the
17 humidity.

18 Q. And so there is a totally different
19 temperature that you get inside --

20 A. Well --

21 Q. -- the car.

22 MR. LOY: Objection.

23 MR. STONE: And I'm just establishing the
24 factor, Your Honor.

25 MR. LOY: No, he's eliciting opinions, he's

1 not exploring the background that's relevant.

2 THE COURT: The question is, is there a
3 difference between the heat in the car and the
4 heat out of the car?

5 Is that an effective question?

6 MR. STONE: Yes, sir.

7 THE COURT: That's not an expert opinion.

8 MR. STONE: No.

9 THE COURT: All right, overrule the
10 objection.

11 BY MR. STONE:

12 Q. All right, so heat inside a car that's
13 different there. You've got ambient temperature
14 as you testified and the outside temperature; is
15 that correct?

16 A. Correct. So ambient is outside the
17 car, inside the car we sometimes call it the
18 cabin temperature.

19 Q. Okay, and you have done studies on this
20 as well?

21 A. Yes.

22 Q. And you've been published on peer
23 review articles on this as well?

24 A. Yes.

25 Q. And then you work with other people

1 when you publish and when you researched?

2 A. Yes, I've worked with other experts in
3 this area too.

4 Q. And they're also experts in this field?

5 A. Yes.

6 Q. And your specific expertise, from the
7 standpoint of testifying, is climatology, as it
8 relates to the effect of weather on people?

9 A. Correct.

10 Q. Okay.

11 MR. PHILLIPS: Objection, Your Honor, he
12 has not been qualified as an expert.

13 MR. STONE: But I'd ask the question, Your
14 Honor, at this time I'd offer him as an expert
15 in climatology, and, specifically, in the
16 effects of heat on people.

17 THE COURT: What says the defense? Do you
18 wish to voir dire the witness?

19 Do you object? What say the defense.

20 MR. LOY: Yeah, I don't object. I don't
21 need to voir dire the witness.

22 THE COURT: All right, yes, sir?

23 MR. PHILLIPS: I'll ask cross questions at
24 the appropriate time.

25 THE COURT: Do you object to him being

1 qualified as an expert?

2 MR. PHILLIPS: I'll be quick.

3 **

4 VOIR DIRE EXAMINATION

5 BY MR. PHILLIPS:

6 Q. You said you've never testified in
7 Court before?

8 A. I have testified in Court, just not
9 specifically about vehicle hyperthermia, hot
10 temperatures in a car. I have testified though.

11 Q. But you've never been qualified as an
12 expert?

13 A. I have been qualified as an expert in
14 weather and climate, but, specifically, as an
15 expert in car heating in a court, no.

16 Q. All right, well, I guess drill on that.
17 So you've been qualified as an expert in
18 climate, tell me what that means.

19 A. Sure. In the cases that I've testified
20 in court, I was dealing with heat as it affected
21 human health, that people had suffered from heat
22 stress, so that was the cascade I was qualified
23 in.

24 Q. So this is the first case that you've
25 been trying to get qualified, as it relates to a

1 vehicle?

2 A. Hyperthermia in a vehicle, but I, you
3 know, have testified other times about how heat
4 affected other people, but not in a car.

5 Q. But never in a car?

6 A. Yes.

7 Q. And your specific training and
8 experience goes directly to how people are
9 affected in a car?

10 A. My research has specifically looked at
11 heating in a car, and how it could potentially
12 affect people's health.

13 Q. Okay, so you do have that background?

14 A. Correct.

15 Q. It's not just purely weather and
16 climate?

17 A. No, I have an expertise, and I've been
18 studying it and published in vehicles and how
19 the temperature changes in a vehicle.

20 MR. PHILLIPS: No objection as far as his
21 qualifications.

22 THE COURT: So qualified.

23 MR. STONE: Your Honor, I've handed you a
24 copy of the report all except for this one,
25 which I will hand up later.

1 THE COURT: Okay.

2 BY MR. STONE:

3 Q. Let me show you, Doctor, if I could,
4 and I'll get you to come down in just a second.
5 Let me go ahead and cover this right now.
6 State's Exhibit 16 and State's Exhibit 17.
7 Would these aid in your testimony today, in
8 explaining your findings in this courtroom?

9 A. Yes.

10 Q. Okay, and, in fact, I think the bottom
11 of State's Exhibit 16 has already been entered
12 into evidence. What is the top of State's
13 Exhibit 16?

14 A. This is an illustration of how cars can
15 get so hot -- how the cabin can get so hot in a
16 car.

17 Q. This is actually part of your report?

18 A. Correct.

19 Q. And then these two charts here, these
20 are charts that you created?

21 A. Yes, I created them.

22 Q. And that's State's Exhibit 17?

23 A. Yes.

24 Q. Okay.

25 MR. STONE: At this time, Your Honor, I

1 move in State's Exhibit 16 and State's Exhibit
2 17.

3 THE COURT: Says the defense.

4 MR. LOY: No objection, Your Honor.

5 MR. PHILLIPS: No objection.

6 THE COURT: They're admitted.

7 (State's Exhibits 16 and 17 were admitted
8 into evidence.)

9 BY MR. STONE:

10 Q. Now this one, Doctor, I'm going to ask
11 you to identify, but we're going to need you to
12 mark on this.

13 A. Okay.

14 MR. STONE: So I won't introduce quite yet,
15 Your Honor, but I would like to use it at least,
16 initially, as a demonstrative, before we put it
17 into evidence.

18 BY MR. STONE?

19 Q. This is State's Exhibit Number 19 I
20 believe. Can you tell me what this is?

21 A. Sure. It's a chart that helps us
22 calculate the heat index.

23 Q. Okay. So this is -- it's got at the
24 very top dew point, what -- and we'll cover that
25 in a few minutes, what else?

1 A. It has air temperature and dew point
2 that measures humidity, and those combine to
3 create the heat index.

4 Q. Okay, which is what you've done in your
5 report; is that right?

6 A. Yes.

7 Q. And would this chart help you in your
8 explanation of your testimony?

9 A. It will.

10 Q. Okay.

11 MR. STONE: Your Honor, I'd like to be able
12 to use this right now as a demonstrative, and
13 I'm going to ask him to mark on it, and so ask
14 that, and I would offer it into evidence.

15 THE COURT: Okay.

16 BY MR. STONE:

17 Q. All right, Doctor, if I could, and I
18 know that -- I'm gonna put up State's Exhibit
19 16. Can you see that?

20 A. No, should I -- do you want me to
21 visualize that?

22 Q. Yeah, if you find --

23 MR. STONE: Your Honor, could he come off
24 the stand, as long as he keeps his voice up?

25 THE COURT: Yes.

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BY WITNESS:

A. Okay.

Q. All right, if you will, explain --
first of all at the very bottom of that is a
photograph of the car that's already been put
into evidence. Explain to the jury what the top
is supposed to signify.

A. Sure, this is an illustration of how
cars get so hot. And I think, you know, all of
us who -- especially in the south, leave our
cars outside, you know, and when you get in
there it's often a lot hotter than outside, and
this is why.

First off, it's kind of like a green house.
You know, there's structures with the glass
panels that light can grow things in the winter
when it's cold. Well, cars operate the same
way. The yellow arrows here are the sunlight
coming through the windows of the car.

They heat up the inside of the car, and
when that heat's produced, if the windows are
closed, it can't go anywhere and it builds up,
and you end up with having just the inside
temperature in the car much hotter at times than

1 outside the car, the ambient air temperature.

2 Q. Now, on this particular car, this is --
3 what type of car is this actually?

4 A. All right, well, this looks like a gray
5 four-door sedan.

6 Q. All right, and this is what you used
7 for your display, similar I guess to the car at
8 the bottom. What about the sunroof, is that
9 affected one way or the other?

10 A. If the sunroof was open completely, and
11 had ventilation that could change things, but if
12 it was closed and the air couldn't get out, then
13 you would -- the heat would continue to build up
14 in there.

15 Q. All right, so on the one at the very
16 bottom of this exhibit, where it shows the --
17 where you can see the sunroof. Can you tell if
18 that's open or closed?

19 A. It looks like it's propped open a
20 little bit, but I was told there was a fabric
21 covering that closed it, that would be a
22 covering sorts.

23 Q. Okay, so that's not going to really let
24 sun in or let heat out --

25 A. Right.

1 Q. Okay. That's basically the same thing
2 as the top?

3 A. Correct.

4 Q. Okay. Now, let me ask you this, on
5 State's Exhibit 17, which I believe you also
6 used, if you could walk us through it. The top
7 of this I'm assuming is something you charted
8 separately from this?

9 A. Yes. This is a figure of one of my
10 scientific publications, and I had parked a car
11 in Georgia, so similar in the southeast, and I
12 put a thermometer in the car, and I wanted to
13 measure what the air temperature was like.

14 So we walked it through all these different
15 lines on here. I should also mention it's on
16 the Celsius scale, I published in some of these
17 journals, that people outside the United States
18 with Celsius they asked us to supply the
19 Celsius, so the numbers will look a little
20 different than the bottom chart; but I plotted
21 out here about the time of this incident of it
22 in military time, 24-hour time.

23 The black line here is the cabin
24 temperature, so that's the temperature inside
25 the car. The dotted line here is the ambient

1 air temperature, that's the temperature outside
2 the car. So this car was a gray sedan parked
3 out in the sun, it was in June, and you can see
4 at the start in the morning the temperatures are
5 pretty similar inside and outside the car, and
6 I've got the sun up here.

7 And as the sunlight started coming into the
8 car, you could see the air temperature in the
9 car rapidly increasing, while the temperature
10 outside goes up, but not as much.

11 Q. Let me back you up just a little bit --

12 A. Yes.

13 Q. -- because I'm not very good at
14 military time, but let me get you at the very
15 bottom. When it starts -- that's sort of a
16 flatline where it looks like it's pretty much
17 even with the ambient out temperature, what time
18 is that?

19 A. So we're looking at the morning here,
20 so if we narrow it about the same, you know,
21 10:00, 10:30, 11:00.

22 Q. In the morning?

23 A. In the morning.

24 Q. Okay. So right at -- what time does it
25 start jumping?

1 A. About 11 o'clock you start seeing that
2 big jump in the cabin temperature.

3 Q. Okay, go ahead, I'm sorry to interrupt
4 you.

5 A. Oh, sure. So it ends up getting up to
6 a temperature of 165 degrees. The outside
7 temperature is still pretty hot, it gets up to
8 95, but you get this very big difference, and
9 that is that greenhouse warming.

10 That's that warming from that air getting
11 trapped in the car and heated by the sun, that's
12 the difference between inside the car and
13 outside the car.

14 Q. Now, how does that affect -- you talked
15 earlier about on the affect of health. How does
16 that affect people inside?

17 A. Right. So inside the car can be really
18 dangerous, because a) it can get really hot, in
19 this case it was 165 degrees, but other cars can
20 get hot, which allows heat towards your body.

21 And the other thing that can happen is that
22 inside the car you don't get a lot of air
23 movement, and that air -- and that's why you
24 sweat, right, that's your air conditioning, your
25 personal air conditioning system.

1 And when that doesn't work well, you gain a
2 lot of heat, but you can't get rid of it and
3 your body temperature can rise. And if it rises
4 enough, you could have health problems or even
5 death.

6 Q. Okay, all right. Now, in this case,
7 did you also study a recreation?

8 A. A recreation of a person?

9 Q. No, a recreation of the actual car.

10 A. Oh, the second chart here.

11 Q. Yeah.

12 A. Yes. So the bottom chart is a
13 recreation of the scenario we're all here for.
14 And this was -- this is what the test cabin
15 temperature, it's this black line here, it's the
16 temperature inside the vehicle on this test day.
17 The dotted line is the temperature at a nearby
18 weather station.

19 And you can see that just like in the top
20 chart here, as the sun enters the car the
21 temperature rapidly rises, and it keeps at about
22 130 degrees. The outside temperature stays in
23 the low 90s.

24 So, again, you have that big difference
25 between what's inside the car and what's outside

1 the car, very similar to what I have up here.

2 Q. Now, the ambient air temperature, where
3 exactly did you get that temperature?

4 A. Right, so this ambient air temperature,
5 again, here I got from a nearby weather station
6 in Walterboro near the airport.

7 Q. Okay, so that's pretty close?

8 A. Yes.

9 Q. All right, and that is what you charted
10 at the bottom. Now, the difference between the
11 test, because the test was done I think a few
12 days later, or 20 days later, something like
13 that. It was actually hotter on the test day,
14 but the humidity was lower; is that correct?

15 A. Well -- right, so that the -- they
16 tried to replicate as much as possible, same
17 car, same location, they opened and closed the
18 doors at the same time.

19 What they couldn't control was the weather,
20 and that's kind of why they brought me in to
21 help explain things, and adjusting, so I can
22 identify what the temperatures were like on the
23 5th. The day that they did the test it was a
24 few degrees hotter, and it was also clear.

25 And car heating is related to both air

1 temperature and the amount of sun that builds
2 up, you know, into a car. So what I did was, I
3 adjusted for that. I accounted for the weather
4 conditions with an equation I have, and what I
5 determined was that the cabin temperature wasn't
6 130, but as it was a little less sunny and a
7 little bit cooler, it got up to 118 degrees.

8 Q. All right, and so let me now talk, and
9 I want to talk specifically about the day that
10 CP [REDACTED] died, August the 5th. So your
11 calculations now and your testimony now what I'd
12 like to direct it to, is the testimony
13 specifically as to that car, and the outside
14 temperatures and the cabin temperatures during
15 that time. Did you review the video in this
16 case?

17 A. I did.

18 Q. Did you review the -- I think you also
19 reviewed the video with the other as well,
20 right?

21 A. Right.

22 Q. Tell me about all this.

23 What can you tell us about the ambient --
24 since you're outside, what can you tell us about
25 the cab and temperature, and the cab and

1 temperature inside the car; is that correct?

2 A. Sure. Correct. So what you take is
3 the -- my determination of the mass room
4 temperature that was in the car on that day. On
5 that day the weather conditions, you know, kind
6 of range from, you know, 80s in the morning, up
7 to, you know, low 90s -- around 90 or so in the
8 afternoon.

9 There was also humidity, I talked about
10 that, it had a dew point of 74.

11 Q. All right, tell me this, let me stop
12 you, when you say dewpoint, I think humidity.
13 What's the difference?

14 A. Yeah, it doesn't measure humidity. So
15 the two measures you see -- probably what you
16 see the most is the relative humidity. People
17 in my field actually use the dew point more
18 because it's a more direct measure of moisture.

19 It's just like the air temperature, the
20 higher that number goes, the more water in the
21 air for humidity fields.

22 Q. Okay, so go ahead, I'm sorry.

23 A. So the dewpoint was at approximately
24 74.

25 Q. Okay. So what can you tell us about

1 the temperature -- first of all, from the
2 beginning, and let's start about 11 o'clock in
3 the morning to say 5 o'clock that afternoon,
4 what can you tell me about the -- outside the
5 air temperature, the ambient air temperature?

6 A. Right, so this bottom line is the
7 ambient air temperature, and you can see --

8 Q. That's the dotted line?

9 A. The dotted line, yeah, that's the
10 ambient temperature that was outside the car --

11 Q. Okay.

12 A. --and from that weather station. And
13 you can see that it started -- it was the 80s,
14 and, you know, at the end here it got up to a
15 little bit over 90.

16 Q. Okay, what can you tell us about the
17 dewpoint during that time?

18 A. The dewpoint was approximately 74 in
19 the afternoon.

20 Q. Okay. All right, and then how does
21 that explain to you -- explain the two red dots
22 that you have there?

23 A. Gotcha, okay. So the bottom of the doc
24 here is my determination for what the highest
25 cab temperature inside the car was 118.

1 So now we had talked about how humidity and
2 heat index can influence heat stress. So for a
3 given air temperature it's more humid and it
4 feels more stressful outside. So when I
5 accounted for the 118, plus the fact that the
6 dewpoint was about 74, the heat index in the
7 car, my determination was 135 degrees.

8 Q. I'm now gonna hand you State's Exhibit
9 18. This is, I believe -- first off, where does
10 this chart come from?

11 A. This chart comes from the National
12 Weather Service.

13 Q. Okay. This is their official
14 publication?

15 A. Yes.

16 Q. Give me just a moment. I want to ask
17 you about some specific times, and I recognize
18 that -- my questions here, this is actually
19 gonna be outside the car, correct? This is what
20 I'm gonna ask you -- if I'm asking you
21 temperature, and it was a specific time and
22 dewpoint, you can basically just tell me outside
23 the car --

24 A. Correct.

25 Q. -- right?

1 A. So this would be how it would feel as
2 you're standing outside the car.

3 Q. Okay, all right. Let me call your
4 attention first to 11:07, and I believe -- let
5 me back up, I've got times as 11:07, why is
6 that?

7 A. Yeah, it seems odd, why wouldn't it be
8 exactly 11:00? The reason that happens is all
9 these stations around the country transmit their
10 data, and I was told that they don't want to
11 transmit all at once it can cause problems, so
12 they stagger the observation time, so you could
13 get odd times, so you'll get odd times like
14 11:07 and so forth.

15 Q. Okay. All right, so at 11:07 a.m.,
16 and, again, I'm gonna write up here 8/5, to make
17 sure we're talking about the day of the
18 incident. And let me go to 11:07, that's when
19 you've got an actual time, correct?

20 A. Yes.

21 Q. All right, so I'll give you this.

22 A. Okay.

23 Q. Thank you.

24 A. And I have these values marked on my
25 report --

1 Q. So let me --

2 A. -- yes.

3 Q. Okay, so what can you tell us at 11:07
4 in and around Walterboro at this -- on this day?

5 A. Okay. So on this it is to explain
6 these. An ambient temperature on the horizontal
7 access, you have dewpoint and all these values
8 on a very crowded looking chart are the heat
9 index values.

10 So I'm gonna identify 82, and then the
11 dewpoint was 75.59. So somewhere between 89 --
12 and I'm gonna circle these two, but somewhere
13 between 89 and 91.

14 Q. Okay, and that is 11:07?

15 A. Correct.

16 Q. Let's see if you can write somewhere on
17 there just point that to 11:07.

18 A. Okay.

19 Q. So --

20 A. Give me just a sec.

21 Q. Sure.

22 A. -- is over 78 and not --

23 Q. Sure.

24 A. -- 76, let me correct that. So it's
25 75.59, so might be closer to this one that 89.

1 Q. 89 degrees?

2 A. Yes.

3 Q. All right. So at 11:07 the heat index
4 was 89?

5 A. Yes.

6 Q. Okay. 12:07 that day?

7 A. 12:07 it got up to 84 degrees, and if
8 you point to 74.42, somewhere around that, to
9 74, and that would be about 91.

10 Q. Okay, 1:07?

11 A. 1:07 is 87.

12 Q. Again, that's the ambient air temp
13 outside?

14 A. That's the outside air temperature, and
15 the dewpoint was 74. And it's actually -- this
16 chart goes from 86 to 87, so somewhere between
17 94 and 97.

18 Q. Okay.

19 A. So somewhere between 94 and 97, so
20 around there.

21 Q. And 3:07?

22 A. 3:07 it was 90 degrees, and the
23 dewpoint was 73. That would be sort of between
24 these two.

25 Q. And what are those two numbers?

1 A. And so 98 and 100, somewhere between 98
2 and 100.

3 Q. And then 4:07?

4 A. 4:07 is -- and it's tricky for me in
5 between all these values here.

6 Q. Okay.

7 A. So it would be about -- so between 98
8 and 100. 98, 100.

9 Q. And then 5:07?

10 A. Okay, 5:07 it was 98, but also 72
11 dewpoint, so that would also give us that 98
12 number.

13 Q. And these numbers that you've written
14 out those were -- again, that's heat index
15 outside of the car; is that correct?

16 A. Correct, those are heat index values
17 outside the car.

18 Q. The three numbers that are highlighted,
19 the 118, 74 and 135, what are those?

20 A. So these are my calculations for what
21 the heat index inside the car would be.

22 Q. So --

23 A. At the highest point.

24 Q. And I'm assuming taking all this other
25 information into account?

1 A. Correct.

2 Q. Okay.

3 A. So my determination's the highest
4 temperature and the car was 118, and the
5 dewpoint in the afternoon when that happened was
6 74. And you can see that the heat index in the
7 car would be 135.

8 Q. Go ahead and take a seat, if you would.

9 MR. STONE: I don't have any further
10 questions, Your honor.

11 BY MR. STONE:

12 Q. Please answer any questions the defense
13 has for you.

14 MR. STONE: Thank you, Your Honor.

15 THE COURT: Yes, sir.

16 MR. LOY: I don't have any questions.

17 MR. PHILLIPS: I'll be brief, Your Honor.

18 **

19 **CROSS-EXAMINATION**

20 BY MR. PHILLIPS:

21 Q. I just wanted to make something clear,
22 nobody disputes it was really hot in the car.
23 Your numbers are all based on the assumption
24 that the air conditioner never ran in the car;
25 is that correct to assume?

1 A. Correct, I assumed the air conditioning
2 was not running.

3 Q. All right.

4 A. And I can tell you why I made that
5 assumption.

6 Q. Well, so -- well, what I'd say is this,
7 if a air conditioner runs to a certain point
8 where it overheats and the compressor cuts off,
9 the air circulates within the car, and that
10 would affect the heat index in the -- well, all
11 the numbers, right?

12 A. It wouldn't affect the heat index,
13 because it doesn't --

14 Q. Or, I'm sorry, not the heat index, but
15 the temperature in the car?

16 A. It would depend if it was like blowing
17 hot air in the car, that, you know, could
18 actually -- potentially could make things worse,
19 but it would -- yeah, there would be some air
20 movement in there, but it would be so hot in
21 there that even with a little bit of air
22 movement, I don't know if it would change things
23 a lot.

24 Q. So -- potentially -- so the air
25 conditioner's running to where it overheats and

1 cuts off -- the compressor cuts off, and starts
2 to blow hot air and it could make it worse?

3 A. Well, if you're blowing hot air into
4 the car, right, and you already have hot air,
5 you're just exacerbating the problem.

6 MR. PHILLIPS: No further questions, Your
7 Honor.

8 **

9 **REDIRECT EXAMINATION**

10 BY MR. STONE:

11 Q. I just want to let you answer your
12 question, he had asked earlier, whether or not
13 you assumed the air conditioner was not on? Why
14 was that?

15 A. Right. The way that, you know, I look
16 at heat stress and body temperature, right, is
17 that I look in terms of energy gains, energy
18 losses. And if you gain more energy than you
19 lose, your body temperature goes up.

20 So I don't really see a way that CP
21 could have the medical examiner reported at 110
22 body temperature. I don't know how that could
23 happen without --

24 MR. LOY: Your Honor --

25

1 BY WITNESS:

2 Q. -- being in a hot environment.

3 MR. LOY: -- beyond the scope of expert
4 testimony.

5 THE COURT: Objection's overruled.

6 MR. STONE: Thank you.

7 BY MR. STONE:

8 Q. Go ahead, I'm sorry.

9 A. So from --

10 Q. With the internal temperature 110 what
11 can you tell us?

12 A. Right, so from the way that I look at
13 things, in terms of energy, I don't know how
14 your body temperature could get up to that point
15 without gaining much more energy than your body
16 could lose.

17 Q. So you're gaining and losing energy, in
18 layman's terms, what does that mean?

19 A. So what that means is, you have, you
20 know, that 118 degrees, right, that directs a
21 lot of heat towards your body, and inside the
22 car it's hard to get rid of that heat.

23 Because what we talked about earlier that,
24 you know, if there's not a lot of air movement,
25 sweat can't evaporate, heat can't get released

1 from your skin, so your personal air
2 conditioner, your body's air conditioner isn't
3 working well. You can't get rid of that heat.
4 As you gain more heat than you lose, your body
5 temperature will go up.

6 MR. STONE: Your Honor, nothing else.

7 MR. LOY: May I question this witness?

8 THE COURT: Yes, sir.

9 **

10 **CROSS-EXAMINATION**

11 BY MR. LOY:

12 Q. On the day in question where your 9th
13 and 12th, if you can answer this, your test
14 started around 11 o'clock; is that right?

15 A. It -- I think that's about right.

16 Q. Something like that, and that's not
17 really important. And then the temperatures
18 were monitored throughout the day; is that
19 correct?

20 A. Right, temperatures are measured in the
21 vehicle.

22 Q. Across here -- as you measure
23 temperatures going up and going down; is that
24 right?

25 A. Well, the -- on the --

1 Q. Okay.

2 A. The chart's not there anymore. Right,
3 the temperature in the car you can see how it
4 increased throughout the day.

5 Q. My question is, that's what you
6 measured, right?

7 A. The temperature inside the car, yes.

8 Q. All right. Now, if, hypothetically
9 speaking, you had parked that car where you did,
10 set it there, turned the air conditioner on, set
11 it in the sun, measured the temperature, and
12 then after an hour or so the air conditioner
13 shut off.

14 But you continued to measure the
15 temperature, it probably would have reached
16 close to the same temperature in the afternoon,
17 approximately, anyway; would it not?

18 A. And I've seen other studies, so if the
19 air conditioner running, the air temperature
20 would be lower, if it was functioning --

21 Q. Right.

22 A. -- right? And, you know, we've all
23 been in air-conditioned cars, they're
24 comfortable. If it was functioning, you'd have
25 a lower temperature, and then the temperature

1 would go up.

2 Q. Right. Once the air conditioner was
3 shut off, the temperature would continue to
4 rise, and would rise pretty dramatically,
5 correct?

6 A. I've seen studies where they've --
7 cars, you know, especially during the peak time
8 of the day to heat up to almost the maximum
9 temperature within an hour or two.

10 Q. Thank you.

11 THE COURT: Yes, sir?

12 MR. PHILLIPS: Real brief.

13 - **

14 **CROSS-EXAMINATION**

15 BY MR. PHILLIPS:

16 Q. And you said that it could be worse, if
17 the air conditioner stopped, as far as blowing
18 the hot air, that would significantly -- that
19 would spike the temperature, correct?

20 A. It depends what the temperature in the
21 car was already, but if it was drawing in air,
22 you know, that was, you know, in that, you know,
23 off the engine and it was hot, that could add
24 heat stress to you.

25 Q. Okay. I'm not asking you to speculate,

1 or something like that, but just say in that
2 scenario, again, given the fact that if that
3 scenario was there, then the temperature in the
4 car would rise significantly at that point?

5 A. So I don't know exactly, because it
6 would really depend on what the temperature
7 blowing out of it, so I can't say exactly; but
8 if the air conditioner malfunctioned and it was
9 blowing hot air in there, it certainly wouldn't
10 be cooling the vehicle.

11 Q. Right, and there's no way to recreate
12 that, without actually having data; is that fair
13 to say?

14 A. Right, I couldn't give --

15 Q. From the car?

16 A. I couldn't give you an exact number
17 without replicating that.

18 Q. That's right, because your numbers are
19 all based off the weather station, and you're
20 having to make just an educated guess of what it
21 could potentially be, again, like you said,
22 based on the fact that it started with no air
23 condition versus if the air condition was
24 working, correct?

25 A. Well, I wasn't making just an educated

1 guess, I was using scientific approaches to --

2 Q. Sure.

3 A. -- correct it to something that I think
4 is a very conservative value that's not too high
5 or too low for what was going on.

6 Q. That's not an issue, we know that. I'm
7 just trying to say by the way the car had heated
8 up it might would have been different than the
9 way it's presented on your chart; is that fair
10 to say?

11 A. If hot air was blowing through AC unit,
12 I don't know, because I didn't collect the data
13 there. It was collected without that air
14 conditioner blowing, you know, hot air.

15 Q. Thank you.

16 THE COURT: You may step down.

17 MR. STONE: Your Honor, the State calls
18 Jason Chapman.

19 **JASON CHAPMAN,**

20 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

21 *******

22 **DIRECT EXAMINATION**

23 BY MR. STONE:

24 Q. And what is your rank? I see the
25 stripes on your sleeve, but I apologize, I don't

1 know what it means.

2 A. Captain.

3 Q. Captain?

4 A. Yes, sir.

5 Q. Okay, so Captain Chapman, you work with
6 the Colleton County Sheriff's Office?

7 A. I do, sir.

8 Q. And how long have you been with the
9 Sheriff's Office?

10 A. I've been with the Sheriff's Office
11 since January 1 of 2013, and law enforcement 26
12 years total.

13 Q. Okay. And what is your job with the
14 Colleton County Sheriff's Office?

15 A. I am currently the Special Operations
16 Division Commander, so I oversee tactical
17 operations, all the criminal investigations,
18 evidence, storage, processing, things along
19 those lines.

20 Q. On August the 5th, 2019, did you work
21 the case involving the death of CP [REDACTED]

22 [REDACTED]

23 A. I did, sir.

24 Q. All right, and, generally, as an
25 investigator, you went to the house, you saw the

1 crime scene, that type of thing; is that
2 correct?

3 A. I did, sir.

4 Q. All right. Let me first show you --

5 MR. STONE: May I, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. STONE

8 Q. -- State's Exhibit 20, 21 and 22, and
9 ask you, are these fair and accurate depictions
10 of the scene as you saw them that day, the crime
11 scene?

12 A. They are, sir.

13 Q. Okay.

14 MR. STONE: At this time, Your Honor, we
15 introduce State's Exhibits 20, 21 and 22.

16 MR. LOY: None, Your Honor.

17 MR. PHILLIPS: No objection.

18 THE COURT: They're admitted.

19 (State's Exhibits 20, 21 and 22 were
20 admitted into evidence.)

21 MR. STONE: Okay.

22 BY MR. STONE:

23 Q. So let me first go to the monitor, if I
24 could, on State's Exhibit 20, what is that?

25 A. That is -- you're looking at the front

1 of the residence, where the incident occurred.
2 That is the exterior camera to the Night Owl
3 video system that was installed by the
4 homeowner.

5 Q. Okay. And then go to State's Exhibit
6 21. That's a closeup, I'm assuming, of the same
7 thing?

8 A. It is.

9 Q. Where were cameras located on this
10 house? And I think we've got a crime scene
11 sketch of this house that we put into evidence
12 as State's Exhibit 8. Where were cameras
13 located at this residence?

14 A. They were located -- four different
15 cameras.

16 Q. Okay.

17 A. You had one in the front, the one that
18 we see in Exhibit 20 and 21. That camera was
19 facing the driveway towards U.S. 21 or Low
20 Country Highway. You had one camera on the
21 right side of the residence, one camera on the
22 left side of the residence, and one camera on
23 the very back from the backyard.

24 Q. All right, so this, obviously, shows
25 the front of the residence, but where would the

1 cameras be?

2 A. The --

3 Q. Just using State's Exhibit 5.

4 A. So we're looking at the -- this angle
5 here, this front camera --

6 Q. Okay.

7 A. -- that's gonna be towards the vehicle,
8 and it would have shot that whole area towards
9 U.S. 21.

10 Q. Okay, and then the other three?

11 A. There would have been this side, the
12 far side and then the back facing this.

13 Q. All right. And then let's go to
14 State's Exhibit 22, and what is this?

15 A. This was the master bedroom inside the
16 residence, and the video monitor where the DVR
17 was connected, that showed the four cameras.

18 Q. The four cameras that you just
19 described?

20 A. That's correct, sir.

21 Q. All right. Now, there was a -- I want
22 to make sure I get this right, a video camera --
23 - I mean a recorder system --

24 A. Yes, sir.

25 Q. -- involved in that?

1 A. Yes, sir.

2 Q. Tell me about that. It was a Night Owl
3 camera system, pretty normal Night Owl, like the
4 most popular wired camera system in the nation.
5 It was an eight-channel recorder, but it only
6 had four cameras active on it before that we
7 discussed prior. And it was in the cabinet
8 below the television monitor.

9 These are hard-wired cameras, they're not
10 wireless, so the wires ran to the back of the
11 DVR, and you had one cable that ran from the DVR
12 to the monitor. So you could live-view on the
13 monitor, but the DVR itself also recorded what
14 the cameras catch.

15 Q. Now, have you reviewed the recordings
16 from this -- from these cameras to this house?

17 A. I have, sir.

18 Q. And tell me how much of that did you
19 review?

20 A. As far as the incident date, I reviewed
21 the whole 24 hours. It started at midnight or
22 1:00 on August 5th, 2019, and I ran until the
23 camera was disconnected by law enforcement when
24 it was seized from the residence, and I believe
25 that was 9:30, 10 o'clock that evening.

1 Q. Okay. And did you also review the back
2 cameras as well?

3 A. I did, yes, sir.

4 Q. And did you do anything to check and
5 see if this was -- this recording was
6 contemporaneous? In other words, could you tell
7 by this that you knew, or that you saw -- did
8 you match them up with the video that you're
9 watching?

10 A. Yes, sir. The only variance was a
11 small difference in time, which is, you know, to
12 be expected, your time, versus my time, versus
13 the clock at dispatch. I want to say it was
14 around a seven-minute difference.

15 Q. Okay.

16 A. But we could easily match up things
17 that we know to be true and accurate.

18 For example, the reliable of Agent Godley
19 did arrive the first unit on-scene. We could --

20 Q. All right, well, let me stop you there.

21 A. Sure.

22 Q. Just because I think we have a piece of
23 evidence on that.

24 MR. STONE: I apologize, Your Honor, we
25 have some exhibits.

1 BY MR. STONE:

2 Q. Okay, State's Exhibit --

3 MR. STONE: Put it up.

4 BY MR. STONE:

5 Q. State's Exhibit 5. Is that what you're
6 talking about, when you're talking about when
7 Agent Godley came up to the scene?

8 A. That's correct, sir.

9 Q. Okay. And so you could see this from
10 the video?

11 A. That's correct.

12 Q. So Exhibit 5 is actually from this
13 video; is it not?

14 A. That's correct. It's a still image
15 taken from the video.

16 Q. And so that is way for you to be able
17 to tell what's happening in real-time, and that
18 actually matches up with the data; is that
19 correct?

20 A. That's correct.

21 Q. All right. What about the 911 call?
22 Did you do the same thing with that?

23 A. We did. And, you know, just to further
24 validate that the video we were looking at was
25 from that particular date in the picture, in

1 Exhibit 5 there, you can see Larry King on the
2 telephone with 911.

3 You -- we can -- obviously, we had that
4 recording, and we can hear the discussion that
5 he's having back and forth with the
6 Telecommunications Officer, and Agent Godley
7 arrives on-scene, and you can hear his
8 interaction with Agent Godley over the telephone
9 to 911.

10 And so, again, you know, when you match all
11 those up, it's just telling us that the video
12 was a accurate representation of what was going
13 on that day.

14 Q. Let me show you what's been marked as
15 State's Exhibit 40. Could you tell me what this
16 is?

17 A. Yes, sir, it's a flash drive.

18 Q. Okay, and do you know what,
19 specifically, the flash drive is of?

20 A. The flash drive --

21 Q. I know it's got some writing on the
22 back.

23 A. Yes, that's my signature. I previously
24 reviewed the video to ensure -- the flash drive
25 shows the incident date, the camera footage from

1 that incident date.

2 MR. STONE: AT this time, Your Honor, we
3 move State's Exhibit 40 into evidence.

4 MR. LOY: No objection.

5 MR. PHILLIPS: None, Your Honor.

6 THE COURT: Admitted.

7 (State's Exhibit 40 was admitted into
8 evidence.)

9 BY MR. STONE:

10 Q. Now, let me ask you this, from State's
11 Exhibit 40 have you also reviewed the
12 demonstrative that showed both the front camera
13 and the back camera when applicable?

14 A. I did, sir.

15 Q. Okay, and is that accurate as to
16 State's Exhibit 40?

17 A. It is. It's simply taking the image
18 that you see here, which was the front-mounted
19 camera that covers the front yard, and at some
20 point in time splitting the screen, and showing
21 the rear camera at the same rate, at the same
22 time, on the same date, just so that you get a
23 birds-eye view of front yard and backyard at the
24 same time.

25 Q. All right, let me ask you one other

1 thing too. Could you tell if this was a motion
2 activated camera, or if this was a continuing
3 run camera?

4 A. So it is motion-activated. A close
5 review of the DVR shows that it was still set to
6 the default standard.

7 When you buy a Night Owl system, it's
8 automatically defaulted to motion activated.
9 You have to actually that cut that off, but in
10 this case the DVR was set motion-activated on
11 all four cameras, with a 15-second pre-record,
12 and 30-second post-record per incident.

13 Q. So this is recording pretty much in
14 real-time everything, except for when there's
15 absolutely no motion whatsoever; is that
16 correct?

17 A. That's correct. It runs the whole
18 time. The only time you will see video is when
19 it is activated by motion, and you'll get that
20 pre-stamping post stamp, and then if there's
21 nothing else going on, it will actually stop.
22 And that's why on occasion you'll see a 30-
23 second jump, or a ten-second jump in the time,
24 it's because there was no video to record at
25 that time, because there was no event.

1 Q. Gotcha.

2 Now, you reviewed this, you just testified,
3 I think from 12 o'clock until 9:04 until this
4 time; is that correct?

5 A. From midnight on the 5th, all the way
6 up until the time that we took the video system
7 down and cut the video off.

8 Q. Okay, and was there video caught --

9 A. Yes.

10 Q. -- during this time?

11 A. Yes.

12 Q. And when was there any motion around
13 that car?

14 A. The --

15 Q. Well, excuse me, let me back up, when
16 was the first time there was motion around that
17 car?

18 A. Other than an occasional dog or cat in
19 the early morning hours, the first activity was
20 around 11:16, I think it was 11:16, according to
21 the camera time, and that was Rita and Larry
22 exiting the residence with CP and walking
23 to the car.

24 Q. And that is in the morning?

25 A. That is in the morning, 11:16 a.m.

1 according to the timestamp on the camera.

2 Q. Okay, so prior to that there was no
3 motion around that car?

4 A. Prior to that, the only thing, like I
5 say, there's -- a dog sets it off, a cat sets it
6 off. Vehicles going up and down U.S. 21 set it
7 off, but as far as anything approaching or
8 interacting or opening or tampering the vehicle,
9 no, sir.

10 Q. And I assume on the videos that you can
11 see that?

12 A. You can, sir.

13 Q. Okay.

14 MR. STONE: Your Honor, at this time, we
15 would introduce -- and, in fact, what we're
16 gonna do is, we have the full video. Again, as
17 he has described, there's a section in it when
18 the back becomes relevant as well, and we have
19 superimposed that.

20 Other than that, it's accurate to the --
21 what State's Exhibit 4 is, so at this time we
22 would like to publish this to the jury.

23 THE COURT: All right, it's in evidence.
24 You can publish it, but as we que that up, we're
25 gonna take a break, and give you'all about five

1 to ten minutes.

2 So when we come back it's gonna run for a
3 while, so we'll give you a break before we
4 start. So please go to the jury room. Please
5 do not discuss the case.

6 (Jury exits the courtroom.)

7 THE COURT: We'll take five to ten minutes.

8 MR. STONE: Yes, sir, thank you, Judge.

9 THE COURT: That's all right.

10 (RECESS)

11 **

12 **PROCEEDINGS CONTINUED**

13 BAILIFF: All rise. Be seated, please.

14 THE COURT: Bring the jury. So how many
15 hours is this video?

16 MR. STONE: Four hours and 14 minutes, and
17 it comes with motion-activated cut out, so it's
18 actually covering about six hours, but the video
19 itself is four hours, 14 minutes.

20 THE COURT: Do you want me to tell them
21 that?

22 MR. STONE: Sir?

23 THE COURT: Do you want me to tell them
24 that?

25 MR. STONE: I think out of respect,

1 probably. And in case they are waiting on the
2 next break, and they have to refresh themselves.

3 THE COURT: No, we can take a break in
4 there somewhere.

5 MR. STONE: Yes, sir.

6 THE COURT: I'll just give them an update
7 on the schedule and everything.

8 MR. STONE: Yes, sir.

9 THE COURT: And I think we'll do this, and
10 maybe start at 8:00 --

11 MR. STONE: Yes, sir.

12 THE COURT: -- tomorrow morning and run to
13 12:00, then check out --

14 MR. STONE: Yes, sir.

15 THE COURT: -- until Friday?

16 MR. PHILLIPS: I think we should give
17 notice to everybody that -- just for scheduling
18 purposes, Your Honor, and I'll make it work
19 however you tell me to, but from a scheduling
20 standpoint, would you run the whole video
21 tonight, which would probably put us at 7:00,
22 7:30, 7:45, or would you want to break it, and
23 do some tomorrow?

24 I think either way we can get our witnesses
25 done by noon tomorrow.

1 THE COURT: No, I think we'll see, we'll
2 try to deal with it.

3 MR. PHILLIPS: Yes, sir.

4 THE COURT: Bring them in.

5 (Jury enters the courtroom.)

6 THE COURT: All right, ladies and
7 gentlemen, welcome back. So we're gonna play --
8 the next will be a video that's about to be
9 played, and -- which means we're gonna stay a
10 little late tonight and try to complete this
11 video.

12 And we're gonna start early tomorrow
13 morning, 8:00 a.m., because at noon tomorrow the
14 County is shutting down because of hurricane, or
15 storm, or whatever that may be coming. And the
16 courthouse is scheduled to be closed tomorrow
17 afternoon, and all day Thursday.

18 And I'm sure if it's storming real bad,
19 you'all would love to be not here anyway during
20 the storm.

21 So we're going to do all we can through
22 tonight, tomorrow morning, by noon, and probably
23 early again on Friday, we'll talk about that
24 tomorrow, but that's the way we're gonna go for
25 a while.

1 If anyone needs to make a phone call, we'll
2 take a break at some point for you to be able to
3 do that. Next witness? Yes, sir?

4 MR. STONE: It's the same witness, Your
5 Honor.

6 THE COURT: All right, next evidence.

7 (Video being played for the jury.)

8 BY MR. STONE:

9 Q. Just briefly here, as we're running,
10 I'll ask the witness, can you tell us where the
11 timeline and everything is on this?

12 A. Yes, sir, upper right-hand corner of
13 the screen you'll see 8-05-2019 for August 5th,
14 2019, and your time is to the right of that, and
15 it's 11 o'clock, 'cause it just turned.

16 Q. Thank you.

17 A. Yes, sir.

18 THE COURT: Any time during this video
19 someone needs a break, if you'll get up and
20 start walking, and we'll stop the video.

21 (Video being played for the jury.)

22 THE COURT: Does anyone need a break?
23 Okay, all right.

24 (Jury exits the courtroom.)

25 (RECESS)

1 (Jury enters the courtroom.)

2 **

3 PROCEEDINGS CONTINUED

4 THE COURT: Okay, you may proceed.

5 (Video being played for the jury.)

6 THE COURT: Pause it again. We'll take
7 another break. Please do not discuss the case.

8 THE COURT: How much longer is it?

9 MR. STONE: An hour. About 55 minutes to
10 be exact. There is -- there are a very few
11 questions that I have after the video finishes,
12 but there's something I need to bring to the
13 Court's attention before I ask those questions.

14 THE COURT: All right.

15 MR. STONE: So I'm gonna go ahead and just
16 give the Court some notice about it.

17 THE COURT: Okay, do you want to --

18 MR. STONE: I can do it now, if you'd like
19 to.

20 THE COURT: Yeah.

21 MR. STONE: I need to do some follow-up. I
22 don't believe it would be controversial, but
23 because he will mention the word key fob, I want
24 to bring this to your attention.

25 There are two things that were brought out,

1 both in opening from both defense attorneys, and
2 then on cross-examination on the docket from
3 Georgia. And those questions were the first
4 thing in opening, and those questions were, the
5 first thing in opening both defense attorneys
6 said that the car was on.

7 THE COURT: The car was on?

8 MR. STONE: The car was on, I'm sorry, on,
9 yes, sir. The air conditioner was on and the
10 car was on.

11 Captain Chapman actually knows that that's
12 not possible. The key fob that he would push,
13 push it and it lights the lights on the car,
14 which you will see in a few moments, once we get
15 about 30 minutes into this, when they actually
16 get the key to get the key fob out of the car.

17 It flashes once when you're locking the
18 car, it flashes twice when you're unlocking it.
19 Did I get that right, or do I --

20 WITNESS: Yes, sir.

21 MR. STONE: Okay. However, if the car is
22 on, it doesn't flash at all. So we know, for a
23 fact, when they're getting the keys out of the
24 car, the key fob, when he's pushing it, it
25 doesn't flash.

1 I think that's proper information. It's
2 not a scientific test, it doesn't fall under
3 Rule 5, it's not exculpatory, and it's in direct
4 response to both of the opening statements from
5 the defense counsel saying that the car was on.
6 The second thing was very similar to that.

7 The air conditioner in the car works. The
8 Captain has been in numerous times and the air
9 conditioner worked, and that was on cross-
10 examination from the doctor from Georgia. Those
11 are the only questions, and other than follow-up
12 as far as timing is concerned, but because he's
13 gonna mention key fob, I wanted to get -- I
14 wanted you to have notice of that.

15 THE COURT: All right, and we will get the
16 response when we come back from the break.

17 MR. STONE: Yes, thank you.

18 (RECESS)

19 **

20 PROCEEDINGS CONTINUED

21 THE COURT: Yes, sir?

22 MR. STONE: Yes, sir. Your Honor, I want
23 to clarify something. I talked to counsel,
24 defense counsel at the break.

25 Mr. Loy did say in his opening that he --

1 that the car was on. Mr. Phillips tells him
2 that he did not. I thought he did. I wanted to
3 clarify, but I don't think that makes a
4 difference, but I did not want to misrepresent
5 something to the Court.

6 Mr. Phillips, I take him at his word, but I
7 think we'd all agree that Mr. Loy did say, in
8 fact, say that the car was on in his opening.

9 MR. PHILLIPS: And in due candor, Your
10 Honor, I told the Solicitor I could be wrong.
11 It doesn't matter, because we all were in
12 agreement that it was referenced to.

13 So I appreciate Solicitor Stone trying to
14 clarify that issue, but at the end of the day
15 it's been concluded it was raised in opening, so
16 thank you, Judge.

17 THE COURT: All right, anything further on
18 that issue?

19 MR. STONE: No, sir.

20 THE COURT: Okay, let's see if they're
21 ready to come back.

22 (Jury enters the courtroom.)

23 (Video being played for the jury.)

24 BY MR. STONE:

25 Q. Captain Chapman, just to ask you a

1 question real quick, the time I realize is -- I
2 know the time skips around on this, because the
3 motion as you described earlier.

4 A. Yes, sir.

5 Q. Exactly how much time -- have you been
6 able to calculate exactly how much time CP
7 was in the car?

8 A. By our calculation from when she was
9 placed in the vehicle, and then removed, five
10 hours and 43 minutes and some seconds
11 thereabout.

12 Q. You're familiar with this car?

13 It's in the impound lot I'm assuming at the
14 Sheriff's Office?

15 A. I am, sir.

16 Q. Have you been in the car?

17 A. Yes, sir.

18 Q. The air conditioning work?

19 A. The air conditioning does work.

20 Q. Even today?

21 A. Even as of this morning it's still
22 working.

23 Q. If you go to -- I think this is 16:46,
24 again, military time, that is 4:46 --

25 A. It's --

1 Q. -- is that --

2 A. -- 4:46.

3 Q. -- correct?

4 A. It's 4:46 p.m.

5 Q. What's going on in this scene right
6 here?

7 A. So they have -- they have gone to town
8 and retrieved a second key fob to come back and
9 unlock the vehicle. And we know that from their
10 statement, and from the fact that he --

11 Q. Well, just let me ask you this
12 specifically, in this picture right here, what
13 can you tell me is going on?

14 A. He is pushing the key fob and the park
15 lights are flashing.

16 Q. Play that please.

17 A. Indicating --

18 (Video being played for the jury.)

19 BY MR. STONE:

20 Q. So specifically tell me what's going on
21 here.

22 A. You can see the lights flashing there?

23 Q. Yes.

24 A. So, obviously, the key fob was working,
25 the vehicle's receiving a signal from the key

1 fob. And I am not an expert, but I can tell you
2 that I can replicate a standard, and when we put
3 that vehicle inside the processing bay, and we
4 attempted to replicate that, you cannot get the
5 vehicle to flash the park lights, if the
6 vehicle's running, end of story, there's
7 nothing. We also then contacted Volkswagen --

8 Q. And let's leave it at that.

9 A. Okay.

10 Q. So you that replication?

11 A. We did, over and over and over again.

12 Q. The lights are flashing, the car's not
13 on?

14 A. Yeah, if those lights are flashing from
15 that key fob, the vehicle is not running.

16 Q. You press the button, and you turn it
17 on --

18 A. Right.

19 Q. -- okay.

20 A. I can't be activated at all, or it will
21 not flash those lights.

22 MR. STONE: I have no further questions,
23 Your Honor, thank you.

24 THE COURT: All right, Mr. Loy?

25 **CROSS-EXAMINATION**

1 BY MR. LOY:

2 Q. And based on your experience, and what
3 you did?

4 A. Solely based on what we did in this
5 case, I do know that Volkswagen typically does
6 not work, if it is --

7 Q. So in this case --

8 A. Yes.

9 Q. -- you tried various methods?

10 A. That's correct, sir.

11 Q. Are you stating you're not an expert?

12 A. I am not an expert, sir.

13 Q. And you were unable to replicate what
14 it looked like on the video?

15 A. I was unable to replicate what we saw
16 on the video?

17 Q. I know you're not an expert, but if you
18 were to take an automobile and just park it in
19 the hot sun, with the air conditioner is even
20 on, and let it sit there for a few hours, do you
21 know if it has any effect on the air
22 conditioning system?

23 A. Yeah, do you know if it has any effect
24 on the air conditioning system?

25 Q. Yeah, do you know there was a sensor

1 present?

2 A. No, sir, I couldn't tell you.

3 Q. You don't know one way or the other?

4 A. No, sir, I don't.

5 Q. Thank you.

6 A. Yes, sir.

7 THE COURT: Mr. Phillips?

8 **

9 **CROSS-EXAMINATION**

10 BY MR. PHILLIPS:

11 Q. As far as the car is concerned, have
12 you wrote any reports? Have you documented
13 anything that you discussed?

14 A. Yes, sir.

15 Q. And as to what you did regarding the
16 testimony about the key fob?

17 A. The key fob stuff that we just talked
18 about --

19 Q. You documented that in --

20 A. It's been documented.

21 Q. Oh.

22 A. We also --

23 Q. You wrote a report?

24 A. It's been documented, yes, sir.

25 Q. You wrote a report?

1 A. How many times do I need to answer, I'm
2 not sure.

3 Q. So your position is you wrote a report?

4 A. I wrote notes. I know that the -- and
5 it has been done on video, that we took the
6 video. I know that I did it again this morning
7 to verify.

8 I met with the Solicitor again this
9 morning. I know -- do you have a written
10 report? I don't know what all the reports that
11 you have.

12 Q. Okay.

13 A. Have I documented this? Yes, I have.

14 Q. And you handed those notes to the
15 Solicitor's Office?

16 A. Everything that we have should have
17 been submitted, that is correct.

18 Q. So what that means -- that's why I
19 asked the question, 'cause I don't know.

20 A. Okay, I'm sorry.

21 Q. Okay.

22 A. I apologize.

23 Q. Now, let's be direct. I know you're
24 not a mechanic, but you just kind of went
25 through this --

1 A. Yes.

2 Q. -- with counsel. I think you're
3 somewhat aware of the vehicles and how they
4 operate?

5 A. Yes, sir.

6 Q. If a car idles for hours on end, and I
7 think that someone who has basic car common car
8 knowledge --

9 A. Sure.

10 Q. -- and it idles hours on end with the
11 air conditioner end, the sensor can interfere
12 with the air-conditioner compressor, and cause
13 the cold air to stop coming out.

14 That happens, you don't dispute that?

15 That is a phenomenon that happens, the car
16 idles for a long time, it overheats.

17 A. Are you asking me or --

18 Q. Yeah.

19 A. If I agree with that?

20 Q. That a car overheats when it idles for
21 hours on end with the air conditioner running?

22 A. Is it plausible? Can it happen? I
23 would assume anything could happen.

24 Q. Okay.

25 A. Does my vehicle overheat when it runs

1 all that time? No, sir, it doesn't.

2 Q. So you do know. I guess your point
3 is --

4 A. I just don't -- I can't be a expert in
5 that, because I don't know. You're asking me,
6 is it plausible that any vehicle, a vehicle, a
7 random vehicle could run for that long and
8 something could happen?

9 Absolutely, it's the south, it's hot.

10 Q. Right.

11 A. Absolutely.

12 Q. My main issue is that you said the air
13 conditioner works, and nobody's saying that the
14 air conditioner's broken:

15 A. No, sir.

16 Q. Okay.

17 A. Totally agree with you on that part,
18 that it is plausible that a vehicle could do
19 what you said in the south, absolutely, after
20 running for hours, so --

21 Q. And when you recreated, you said there
22 is no way, in Any way, shape or form that those
23 lights would blink on that car?

24 A. I simply cannot get that vehicle to
25 replicate what we saw in that video, with the

1 flashing of the lights upon lock and unlock, if
2 the vehicle is running, whether it's running --
3 actually fired up and started, or whether you
4 just put the -- push the AC, it will not, no
5 matter what I do, it will not do that.

6 MR. STONE: One moment, Your Honor.

7 BY MR. STONE:

8 Q. You said that there's videos of your
9 test?

10 A. Yes, we took a video of it.

11 Q. All right. No further questions.

12 A. All right, thank you.

13 THE COURT: Anything further?

14 **

15 **REDIRECT EXAMINATION**

16 BY MR. STONE:

17 Q. When you said -- it does flash when the
18 car's off, just not on its own, is that what
19 you're saying?

20 A. That's correct.

21 Q. Okay.

22 A. If the car's powered off, it will do
23 double flash for unlock and a single flash for
24 lock.

25 Q. Thank you.

1 MR. STONE: Nothing further.

2 THE COURT: Yes, sir.

3 **

4 **RECROSS-EXAMINATION**

5 BY MR. PHILLIPS:

6 Q. Listening to your testimony, it sounds
7 like with a key and a key fob, you were able to
8 consistently lock and unlock the vehicle, is
9 that right?

10 A. Yes, sir.

11 Q. And you were describing what the key
12 would do; is that right?

13 A. That's correct.

14 Q. Is there some other way to unlock it
15 without the key fob?

16 A. No, sir, not -- hold on, ask your
17 question again, I want to make sure I answer
18 exactly what you're asking.

19 Q. Did you ever lock and unlock in the
20 course of your experience the vehicle with a key
21 fob and be unsuccessful? Did it work?

22 A. It worked, yes, sir, it did work. We
23 have not had any problems locking or unlocking
24 remotely with the key fob.

25 Q. And you described when you were

1 watching this video, that they were hitting the
2 key fob and the doors weren't unlocked; is that
3 right?

4 A. No, what I was saying was, you can tell
5 by the double flash, followed by a single, that
6 the unlock button had been hit, and the lock
7 button had been hit. I don't know if the locks
8 were actually working at that point in time.

9 The only thing I can say is, that it would
10 not flash like that, if the vehicle was running.

11 Q. It wouldn't flash like that if you
12 successfully lock or unlock it? You don't know
13 what would happen, if you were unable to lock it
14 or unlock it, you didn't have that experience,
15 correct?

16 A. And I was told yes.

17 Q. Okay.

18 A. Yes.

19 Q. So in this case if you're hitting it,
20 and it's not locking or unlocking, you don't
21 know for sure?

22 A. I could not --

23 Q. Okay.

24 A. I could not.

25 THE COURT: Anything further?

1 MR. PHILLIPS: Very briefly.

2 **

3 **RECROSS-EXAMINATION**

4 BY MR. PHILLIPS:

5 Q. Just from the context, obviously,
6 you've been involved in this case, and you have
7 the video, that first phone call that Mr. King's
8 makes?

9 A. I believe from his statement to us,
10 yes, he was on the phone with -- I want to say
11 he did a locksmith and a friend, trying to
12 figure out how to get into the vehicle.

13 Q. All right, so he called some local
14 locksmith, and he explained how to get into the
15 car and to turn it manually, and then the second
16 phone call you see him on someone with 911?

17 A. Yes, sir, that is correct. As soon as
18 -- and he -- as soon as he gets in the vehicle,
19 he dials 911, there's no hesitation, as far as
20 him dialing 911.

21 Q. Okay, I just want to make sure that was
22 clear.

23 A. That's correct.

24 THE COURT: You may step down.

25 MR. PHILLIPS: Nothing further.

1 WITNESS: Thank you.

2 THE COURT: And ladies and gentlemen, that
3 is it for this day. And due to the projected
4 weather and the Court closing at noon tomorrow,
5 we need to start at 8:00 a.m. tomorrow morning.
6 Is there anyone that cannot be here at 8:00
7 a.m.? Pardon?

8 JUROR: I need a ride.

9 THE COURT: You need a ride? All right.
10 Well, we will get with the Court officials and
11 arrange -- how far out do you live?

12 JUROR: Jacksonboro.

13 THE COURT: Jacksonville?

14 JUROR: Jacksonboro.

15 THE COURT: Oh, Jacksonboro. How many
16 miles is that? That's almost --

17 JUROR: 15, 16 miles.

18 THE COURT: Oh, okay. I was going to say
19 that's almost to Charleston --

20 JUROR: Yeah.

21 THE COURT: -- but it's on the way.

22 JUROR: Yeah.

23 THE COURT: Okay. All right, well, we'll
24 work that out to make sure you have a ride
25 tomorrow morning, if you'll stick around and let

1 that be arranged. You have a ride to get home
2 tonight? Oh, okay.

3 JUROR: Yes.

4 THE COURT: We'll --

5 JUROR: But not tomorrow.

6 THE COURT: Okay, we'll get you a ride
7 home --

8 JUROR: Okay.

9 THE COURT: -- and back.

10 JUROR: All right.

11 THE COURT: And, of course, do not discuss
12 your testimony with anyone, and that applies to
13 all of the jurors, do not discuss your testimony
14 with anyone.

15 Thank you so much for your hard work and
16 cooperation today.

17 When your return tomorrow morning --

18 Pamela M. Aikens.

19 MS. AIKENS: Yes.

20 THE COURT: I'm appointing you to serve as
21 the Foreperson of the jury. And the Foreperson
22 will have the responsibility of being the
23 spokesperson for the jury, presiding over the
24 jury deliberations, and completing a verdict
25 form, when the jury reaches that point -- when

1 and if the jury reaches that point.

2 MS. AIDEN: Yes, sir.

3 THE COURT: All right, and we'll see y'all
4 tomorrow at 8:00 a.m.

5 (Jury exits the courtroom.)

6 THE COURT: Before we leave, I'll address
7 some other matters.

8 MR. STONE: I'm sorry, Your Honor?

9 THE COURT: Before we leave, we'll address
10 some other matters, if I can have everyone who
11 is remaining have a seat or leave.

12 MR. STONE: Sir, I apologize.

13 THE COURT: Before we leave, we're gonna
14 address some other matters. I guess as far as
15 the mic went out, I thought it was still
16 working. Requested jury charges. State and the
17 defense?

18 MR. STONE: Yes, sir.

19 THE COURT: Do you have the requested jury
20 charges?

21 MR. STONE: I do, sir.

22 THE COURT: Pardon?

23 MR. STONE: I will have them to you as soon
24 as possible, mine's not complete.

25 THE COURT: And when is as soon as

1 possible? When is that?

2 MR. STONE: Maybe at 2:30?

3 THE COURT: Well, that'll be fine. That'll
4 be fine.

5 MR. STONE: Thank you.

6 THE COURT: All right.

7 MR. STONE: Would it be possible to get a
8 copy of your charge?

9 THE COURT: I don't have a standard charge
10 -- I mean -- no -- well, obviously, I have a
11 standard charge.

12 I don't have my Law Clerk, so I have
13 nothing to give you. You can read the standard
14 charges. I can give them to you from any other
15 case.

16 MR. STONE: Yes, Your Honor.

17 THE COURT: That's basically often time
18 will repeat itself. Y'all may have something
19 special in this case that you might request.

20 MR. STONE: Here, Your Honor, and I've got
21 copies for the defense I'll give them as well.
22 Thank you. And I know one of the things I
23 always ask for reasonable doubt. I believe,
24 Your Honor, --

25 THE COURT: Yes.

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1 MR. STONE: -- there shouldn't be any
2 shock. Obviously, the one thing I imagine, Your
3 Honor, I see coming is that wanton recklessness
4 is pending.

5 THE COURT: all right.

6 MR. PHILLIPS: Thank you, Your Honor.

7 THE COURT: That's it, we'll be back at
8 8:00 a.m.

9 MR. STONE: Thank you.

10 MR. PHILLIPS: Thank you, sir.

11 (At 9:58 p.m. the proceedings were
12 continued to the following day without
13 interruption.

14 **

15 END OF VOLUME II

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CERTIFICATE OF REPORTER*******

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 29th Day of August 2023.

I do further certify that I am not related, of counsel, or interest to any party hereto.

This, the 1st day of April 2024.

Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA	IN GENERAL SESSIONS COURT
COUNTY OF COLLETON	FOR THE 14 TH JUDICIAL CIRCUIT
	2019-GS-15-00780, -709
	2022-GS-15-00710

-----)	
State of South Carolina)	
)	
)	
Plaintiff,	)
vs.	)
	)
Rita M. Pangalangan,	)
And Larry King.	)
)	
Defendants.)	

**TRANSCRIPT OF JURY TRIAL
VOLUME III
(PAGES 459 - 636)**

August 30, 2023
Walterboro, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge Presiding

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PROCEEDINGS CONTINUED********WEDNESDAY, AUGUST 30, 2023****WALTERBORO, SOUTH CAROLINA**

(The following proceedings were held in open court. All parties were present.)

THE COURT: Good morning. Are we ready?

MR. STONE: State is ready, Your Honor.

MR. PHILLIPS: Yes, Your Honor

MR. LOY: Yes, Your Honor.

THE COURT: Everyone is here. Good PHOFRPB. Welcome back.

We are on the State's case.

Who is the next witness?

MR. STONE: The state calls Demi Garvin.

*********DEMETRA GARVIN,****BEING DULY SWORN TESTIFIED AS FOLLOWS:***********DIRECT EXAMINATION**

BY MR. STONE:

Q. Please introduce yourself to the jury.

A. My name is Demetra, D-E-M-E-T-R-A, Garvin, G-A-R-V-, as in Victor, I-N, commonly known as Dr. Demi Garvin.

1 Q. Dr. Garvin, what do you do, ma'am?

2 A. I'm currently the Director of Forensic
3 Sciences for Forensic Science Network, which is
4 a privately held company that provides drug
5 testing, forensic testing services, support
6 services, as well as training, quality
7 assurance, audits for coroners, pathologists,
8 law enforcement community, attorneys.

9 Q. As a doctor, what are you a doctor in
10 exactly?

11 A. I have a Bachelor of Science degree
12 from Furman University and biology, and I have a
13 doctorate in clinical pharmacy from the
14 University of South Carolina, College of
15 Pharmacy in Columbia.

16 Q. How long have you -- and as a doctor
17 now, what -- of toxicology, how long have you
18 been doing this, in particular?

19 A. So I was for 16 years a staffed
20 psychologist and training coordinator at the
21 State Law Enforcement Division, better known as
22 SLED in Columbia. In 2000, after 16 years at
23 SLED, I went over to the Richland County
24 Sheriff's Department in Columbia and helped
25 Sheriff Lott establish a full-service forensic

1 laboratory with multiple disciplines, crime
2 scene latent prints, DNA, firearms, evidence of
3 property, drug chemistry.

4 I think I have named them all, and I was
5 there as the Laboratory Director for 15 years.
6 Subsequent to that, in 2016 I retired from
7 government service, and went full-force into the
8 consulting and training.

9 Q. Okay, and that's been how long? How
10 long have you been doing that?

11 A. Oh, almost 20 years actually.

12 Q. I'm trying to calculate. How many
13 years is that in the field of toxicology?

14 A. Toxicology and drug chemistry this will
15 be my 38th year.

16 Q. And have you been qualified in Court
17 before as a -- and I guess the expertise would
18 be toxicology and chemical -- what, you said it
19 better than I did.

20 A. There's actually three areas, forensic
21 toxicology, I'm a board-certified forensic
22 toxicologist, drug chemistry, forensic drug
23 chemistry, which is the analysis of what we
24 refer to as pills, powders, potions,
25 paraphernalia and plant material, the five P's,

1 and I am a registered pharmacist here in the
2 State of South Carolina.

3 Q. And as an expert, you've testified in
4 pretty much all those fields?

5 A. Yes, sir.

6 Q. And how many times have you been
7 qualified in Court in South Carolina as an
8 expert?

9 A. I've been in qualified in South
10 Carolina beyond -- over 250 times, all Court
11 settings except in international.

12 Q. Okay. So from the standpoint of
13 expertise, is your expertise in toxicology and
14 forensic chemistry?

15 A. Drug chemistry, yes, sir.

16 Q. Drug chemistry.

17 MR. STONE: Your Honor, at this time we'd
18 offer Dr. Demi Garvin as an expert in those
19 fields.

20 THE COURT: What says the defense?

21 MR. LOY: He's an expert, Your Honor.

22 MR. PHILLIPS: No objection in
23 qualification and renew objections.

24 THE COURT: He's so qualified.

25

1 BY MR. STONE:

2 Q. All right, now, Dr. Garvin, as an
3 expert, I know you have reviewed the entire
4 file.

5 At one time you actually started on the
6 decedent, CP [REDACTED] is that correct?
7 You actually did some work on her originally?

8 A. Yes, sir. As part of the -- so
9 Forensic Science Network, myself specifically,
10 we provide consultative support, toxicology and
11 drug chemistry support to the Colleton County
12 Coroner's Office.

13 And in this particular case the Coroner
14 engaged with me to assist him in helping the
15 Medical University of South Carolina, the
16 pathologist-of-record, to identify the proper
17 testing, the toxicology testing on specimens
18 collected from autopsy, to ensure that
19 comprehensive testing was performed under the
20 circumstances of the case, as they were known at
21 that time, and then to provide a narrative
22 summary of the results when they announced it
23 was completed.

24 Q. Have your viewed all of the test
25 results in this case, including the test results

1 from Rita Pangalangan, as well as Larry King?

2 A. Yes, sir.

3 Q. Okay, let me start first with -- and we
4 had testimony just yesterday, but I want to make
5 sure I get the number right.

6 First of all, let's go to -- let's start
7 with Rita Pangalangan. What were the results of
8 her toxicology screen? And I'll try to stay out
9 of your way.

10 A. So --

11 MR. STONE: And this is your report, for
12 the record?

13 THE COURT: Yes, sir.

14 BY MR STONE:

15 Q. Go ahead, I'm sorry.

16 A. So I'll provide the pertinent
17 positives. The blood sample collected from Ms.
18 Pangalangan, I believe, was positive for
19 methamphetamine.

20 Q. All right, and I'm just gonna put meth,
21 'cause I'm not sure I can get the full spelling
22 on that.

23 A. Had a concentration of 400 nanograms
24 per milliliter.

25 Q. Okay.

1 A. With a correspondent amphetamine
2 concentration of 160 nanograms per mil.

3 Q. All right, now I do not know what
4 nanograms per milliliter mean. So what -- can
5 you kind of tell me what that means? Any
6 significance to that?

7 A. So generally speaking, when we're
8 dealing with drug concentrations in a biological
9 sample, in this case a blood sample, there is a
10 unit of measure associated with that drug, and
11 that can vary broadly, depending on the drug in
12 question.

13 So if you think about when your height or
14 your weight is obtained, we don't just put 150,
15 there has to be some unit of measure after that
16 to put it in context, 150 pounds, 150 ounces,
17 whatever that might be, the same without height.

18 The same is true with the drug
19 concentration. So the nanograms per mil in this
20 instance is a measure of this particular drug,
21 how it would be reported on the toxicology
22 report, nanograms per milliliters, it's a unit
23 of measure.

24 Q. And you brought something up that I
25 want to ask about. You said ways of testing,

1 and I think you made some kind of reference to
2 blood tests, there are other ways of testing for
3 meth in a system versus a urine test; is that
4 correct?

5 A. Yes, we can test for methamphetamine
6 and its corresponding active breakdown produce,
7 which is the amphetamine that you see there.

8 We can test for it in blood, we can test
9 for it in urine, oral fluid, or formerly known
10 as saliva, tissue specimens, ocular fluid, any
11 number of biological places.

12 Q. What's the advantage of a blood test
13 over say a urine test?

14 A. So, particularly, in a living person
15 the blood test is a very good selection, in
16 terms of the specimen, because it represents
17 what is happening in real-time, if you will, in
18 association with that sample.

19 Q. Okay. Dr. Demi, let me go ahead and
20 get down to Larry King's results as well, if you
21 can go to that, please?

22 A. Yes, sir, again, the pertinent
23 positives are methamphetamine at a concentration
24 of 480 nanograms per milliliter, with the
25 corresponding amphetamine concentration of 88

1 nanograms per milliliter.

2 Q. Okay, and, again, that was a blood test
3 as well; is that correct?

4 A. Yes, sir.

5 Q. All right. Now, Dr. Garvin, what can
6 you tell me from the standpoint of 400 nanograms
7 or 480 nanograms per milliliter as those two,
8 the influences that drug would have on a body?

9 A. So first of all, just to contextualize
10 the drug itself, methamphetamine is a very
11 potent manmade central nervous system stimulant.

12 So when we talk about stimulants, we're
13 talking about a compound that increases our
14 heart rate, our respiration, our temperature,
15 our -- up to a certain point potential cognitive
16 ability, and other physiological and
17 psychological functions.

18 With increasing doses the drugs becomes --
19 those doses that are associated with misuse,
20 abuse, and then above that towards toxicity and
21 lethality, we see the potential for a cardiac
22 event, a sudden cardiac death, central nervous
23 system activity, to the point of seizures, and
24 death, potentially from that.

25 The drug is used medicinally, so we --

1 there are prescriptive reasons to be using
2 methamphetamines, in this country, in the United
3 States, specifically, attention deficit
4 hyperactivity disorder, which is otherwise known
5 as ADHD. It has been used for weight loss,
6 although that tends to be less so now, because
7 there are safer drugs for that purpose, and it's
8 also used for a condition known as narcolepsy,
9 which is, essentially, a condition in which the
10 patient will -- have difficulty staying awake
11 and will actually spontaneously fall asleep with
12 no warning.

13 So it can be used for its stimulant effects
14 in those instances medicinally.

15 Q. All right, so let me back you up on
16 this. You've got three -- you had three
17 different levels. You had the first level, then
18 you have the misuse level, and then you have
19 then the third, which is the potential fatal
20 level; is that correct? And I don't remember
21 what you called the first level.

22 A. What -- therapeutic.

23 Q. Therapeutic?

24 A. Yes.

25 Q. All right.

1 A. Because the drug is available
2 medicinally.

3 Q. Okay, so the first thing you talked --
4 okay. Therapeutic and then misuse I think is
5 what you used?

6 A. Yes, sir, misuse, abuse.

7 Q. And then fatal?

8 A. Fatality, yes, sir.

9 Q. All right, from the standpoint of those
10 three levels of the use of this drug, are you
11 talking about it from the standpoint of using it
12 on a doctor's prescription, that type of tying?

13 Are there certain levels, at some point,
14 that you start looking at this, and say, you
15 know, this level in the bloodstream would fall
16 under this category, and things like that?

17 A. Yes, there are benchmarks, if you will,
18 or bright lines where we can put into context
19 what we, in our opinion, based on education,
20 training and experience, and the peer review
21 literature associated with those three different
22 situations.

23 So, typically, with therapeutic use of
24 methamphetamine, we're expecting to see
25 concentrations, again, and my comments are

1 relegated completely to living individuals, not
2 someone who's deceased. So in a living
3 individual who's receiving the drug by
4 prescription, legitimately, we are expecting to
5 see concentrations around 50 nanograms per mil
6 and less, so somewhere between 10 nanograms per
7 mil and 50 nanograms per mil, typically.

8 Q. And that's per milliliter, correct?

9 A. Nanograms per milliliter, yes, sir.

10 Q. Okay.

11 A. There might be -- and there's gonna be
12 some -- a few exceptions to that, depending on
13 how the patient was dosed, and what the
14 condition is, and their body, but 50 nanograms
15 you might even see some cases that approach 100
16 nanograms per mil, but, generally, less than
17 that.

18 Q. Okay.

19 A. Yes, sir.

20 Q. All right. Then what gets us into that
21 second category?

22 A. So misuse, abuse of the drug,
23 typically, anything above 200 nanograms per mil
24 is associated with misuse or abuse.

25 Q. Okay. Now, I'm assuming that somebody

1 even that is prescribed methamphetamine, if they
2 get it past 200, they're not doing it on the
3 doctor's instructions, they're doing it on their
4 own?

5 A. That's been my experience, yes, sir.

6 Q. Okay. So that's anything north of 200
7 nanograms; is that correct?

8 A. Yes, sir.

9 Q. Okay, and then when do we get into the
10 fatal end of it?

11 A. So there -- this is where overlap
12 occurs. So above 200 nanograms per mil, when we
13 say that we're in the misuse, abuse range, we
14 also begin to see -- that doesn't mean that
15 someone cannot die from abuse of the drug. 300,
16 400, 600 nanograms per mil upwards of 1,000,
17 2,000 nanograms per mil, we begin to get into a
18 dangerously high area with the potential for
19 overdose.

20 To put that into further context, I have
21 cases, personally, that I've signed out with
22 individuals who have died after having achieved
23 20,000 nanograms per mil.

24 So there's a huge range, even north of
25 that. I think my personal experience has been a

1 case where an individual had succumbed at 38,000
2 nanograms per mil.

3 Q. But the low end of that is, you've seen
4 it what, 300?

5 A. 300 nanograms per mil, 400 nanograms
6 per mil, 600 nanograms per mil.

7 Q. By the way just on the side, is there a
8 sitewide prescription reporting system that you
9 also have access to?

10 A. That's known as the prescription drug
11 monitoring program here in South Carolina, it's
12 a database for healthcare providers to access
13 and enter information about a patient when
14 they're receiving controlled substances.

15 So the prescriber has access to that
16 database, the pharmacist has access. In the
17 State of South Carolina, because I don't have an
18 active patient provider, even though I am a
19 pharmacist, because I don't have an active
20 patient provider relationship, that information
21 is made known to me from an individual who does.

22 So I personally did not access that report,
23 but the information therein was provided to me.

24 Q. But that information is stuff that you
25 normally would use in your role as a

1 toxicologist, in making the -- everything from
2 an expert's determination and analysis and
3 things like that; is that correct?

4 A. Yes, it certainly can be, yes.

5 Q. Do you have any information concerning
6 either Larry King or Rita Pangalangan, in
7 accordance with that?

8 A. Yes, sir.

9 Q. Okay, and what is that information?

10 A. So based on the information that was
11 provided to me about the prescription drug
12 monitoring report, there was no evidence that
13 either individual was -- had been prescribed a
14 compound that was methamphetamine-based.

15 Q. And even if they were under 400
16 nanograms per milliliter, that's much higher
17 than a doctor would prescribe anyways; is that
18 correct?

19 A. Well, if it's not a concentration --
20 the concentration doesn't reflect prescribing,
21 but neither one of those individuals had
22 prescriptions for either a methamphetamine-based
23 compound, or amphetamine-based compound.

24 Q. So now you've brought up another point
25 on this then, from the 400 nanograms per

1 milliliter, can you tell me -- I guess from the
2 standpoint of that, that doesn't necessarily
3 mean they took a certain amount, they could have
4 taken a lot to build up to that; is that how
5 that -- how does that work exactly in the
6 bloodstream?

7 A. So the concentrations that you see
8 depicted here are a function of a number of
9 factors. Certainly, the drug that's
10 administered, the dose, which we don't know, the
11 time of the dose, which we don't know, the --
12 whether or not it's a single dose, or whether
13 it's multiple doses.

14 The individual's ability to metabolize or
15 breakdown the drug, in this case from
16 methamphetamine, which was the parent drug to
17 amphetamine, which is the metabolite, which is
18 also active, which is the active form of the
19 drug.

20 This is our body's -- the way that our body
21 removes the parent drug and prepares it for
22 elimination from the body.

23 Q. At 400 or 480 milligrams -- nanograms,
24 excuse me, that fall under the misuse category,
25 can you tell if those results -- somebody with

1 that in their bloodstream, which you testified
2 is actually a very good way of testing, are they
3 under the influence of meth?

4 A. So with methamphetamine, one can be
5 actively under the influence, so what do we mean
6 by that? Well, because it's a stimulant, we
7 tend to see certain side effects, or adverse
8 effects when the drug is misused associated with
9 it.

10 First of all, the individual is misusing
11 the drug to achieve a sense of euphoria and
12 well-being. In fact, that is created initially
13 by its effect on your transmitters in our brain,
14 certainly, our transmitters in our brain.

15 So the individual wants to use the drug to
16 achieve this sense of well-being, this sense of
17 euphoria.

18 They also are on the receiving end of the
19 changes in blood pressure that I mentioned
20 earlier, potentially, changes in temperature,
21 potential changes in heart rate, breathing.
22 They become more excitable. They become more
23 stimulated. That could be stimulated, in terms
24 of their motor function, it could be stimulated
25 in terms of their sexual function. They become

1 more hyper-vigilant, which means they might be
2 staying on task more specifically, or obsessing
3 about something in particular, a particular
4 situation.

5 They then, again, with increasing doses
6 that can proceed to more pronounced adverse
7 effects, which could lead to cardiovascular
8 collapse, or to seizures in a worse case
9 scenario.

10 Then there's the backside of the drug,
11 which is when the individual is coming down from
12 the drug. So there are effects when the blood
13 concentration is rising, and the individual's
14 actively under the influence, and there are also
15 effects when the individual is coming down, or
16 is away from the drug, if you will.

17 And that, if you think about it, it's sort
18 of intuitive that those effects are kind of the
19 opposite, so the person becomes fatigued, they
20 may become depressed, they're looking for their
21 next dose potentially, because they want to feel
22 good again, all right, based on the
23 neurotransmitter release.

24 So some -- so opposite affects, typically,
25 they may crash. That's actually referred to as

1 crash, where they sleep, where they may have
2 been up for days or hours during active use, now
3 coming down off the drug they may sleep for
4 days, hours or days.

5 Q. So the influence is actually gonna be
6 spanned over not just when they're taking it,
7 but also after they've taken it?

8 A. Yes.

9 Q. Not just --

10 A. Correct.

11 Q. -- right immediately afterwards?

12 A. Yeah, the whole -- the entire continuum
13 of their relationship with that drug.

14 Yes, sir.

15 Q. At 400 nanograms per milliliter, and at
16 480 nanograms per milliliter, what would you
17 expect to see as the side effects of that, or
18 the effects of that on somebody?

19 A. Well, it's difficult to say. It could
20 be either situation. It could be the
21 individual, because we don't know the time of
22 last dose.

23 It could be the individual actively under
24 the influence, so they're stimulated, they're
25 hypervigilant. Again, some of those effects

1 that I mentioned earlier, increased libido,
2 obsession, euphoria. They may feel excessive
3 strength in some instances, risk taking
4 behavior.

5 And then if they're coming down, which that
6 concentration could also reflect, they're
7 exhausted, they're sleeping, fatigued,
8 irritable.

9 Q. How does that affect their decision-
10 making?

11 A. So methamphetamine does affect our
12 cognitive ability, and misused -- well, let me
13 start with therapeutic doses. So one of the
14 reasons that it's given for ADHD, Attention
15 Deficit Hyperactivity Disorder, is because in
16 certain populations if you've been diagnosed
17 with that condition, the drug helps that
18 individual to stay on task, to stay on focus,
19 but the drug dosing associated with that
20 condition is low.

21 Two and-a-half milligram, five milligrams,
22 ten milligrams, perhaps up to 30 milligrams a
23 day, depending on what -- whether we're treating
24 an adult or a child, a young person. Misuse
25 we're talking about doses of up to 1,000

1 milligrams a day, so much, much higher doses of
2 the drug. And with binging, which is repeated
3 dosing multiple times over a short period of
4 time, or over several days perhaps.

5 Individuals have documented to self-
6 administer up to 5,000 milligrams a dose, so
7 very, very large doses of the drug.

8 Q. And at that level what would you expect
9 to see then, as far as their cognitive
10 abilities?

11 A. So the cognitive function consists of
12 our ability to reason to make good decisions --

13 MR. LOY: Your Honor, I object.

14 BY MR. GATCH:

15 Q. -- decision-making.

16 THE COURT: Your objection is the question
17 is unclear?

18 MR. STONE: She's an expert in this field,
19 and I've asked her a clear enough question that
20 she is having no trouble answering it.

21 MR. LOY: There's no testimony before the
22 Court that anybody had 5,000 milligrams. I
23 think the question is relevant.

24 THE COURT: The objection's overruled.

25

1 BY MR. STONE:

2 Q. Go ahead, I'm sorry, go ahead.

3 BY WITNESS:

4 A. Would you ask the question again? I'm
5 sorry.

6 Q. Yeah, I don't know if I can remember
7 it. At the levels of 400 and 480 nanograms, and
8 then in the misuse category, which is you've got
9 as, basically, 200 plus is in the misuse
10 category, so let's talk about the misuse
11 category.

12 What would you expect the people to act
13 like in that category over 200, from the
14 standpoint of cognitive skills, motor skills,
15 libido, that type of thing?

16 A. So it's difficult to ascribe specific
17 affects with a specific concentration. You can
18 talk in general terms based on what we know,
19 with regard to the published literature. And in
20 -- without knowing whether the individual is
21 actively under the influence here, or coming
22 down off the drug, being separated from the drug
23 prior to perhaps the next dose, there could be
24 effects on cognitive function of decreased
25 judgment, decreased critical thinking skills,

1 decision-making, those would be effects that we
2 would see.

3 Q. Say that again, I'm sorry.

4 A. So --

5 Q. Decision --

6 A. Decision-making judgment, critical
7 thinking. The part of critical thinking would
8 be to lessen ability to recognize the
9 consequences of our actions.

10 Q. Okay, I'm sorry, that's not cognitive,
11 okay, that's just cognitive, all right.

12 A. Yes, sir.

13 Q. Okay, what else?

14 A. I think --

15 Q. Other than cognitive, what else are we
16 dealing with?

17 A. Actively under the influence, euphoria
18 early on, stimulation, perhaps feeling increased
19 strength.

20 Q. Okay.

21 A. Possible increased libido.

22 Q. That's basically a sex drive; is that
23 right?

24 A. Yes, sir.

25 Q. And you're using the term influence, I

1 know what you mean when you're saying actively
2 using, as opposed to still being there. If you
3 have 400 nanograms per milliliter in your blood,
4 what -- or 480 nanograms per milliliter in your
5 blood, is that affecting the person that has it
6 in their blood at that time?

7 You mentioned earlier contemporaneous and
8 that type of thing, can that tell us anything?

9 A. It would be my opinion that it would
10 impairing the individual.

11 Yes, either by virtue of being actively
12 under the influence of the drug, as a central
13 nervous system stimulant, as I've described
14 here, or on the backside coming down off the
15 drug, that's commonly referred to as tweaking,
16 and where the person has had -- it's been some
17 period of time since their last dose, and
18 they're either actively seeking another dose, or
19 have been removed from the ability to obtain
20 another dose.

21 Q. So in either way they're under, you
22 know, it's affecting them one way or the other?

23 A. Yes, sir.

24 Q. Okay.

25 MR. STONE: I don't have any further

1 questions at this time, Your Honor, thank you.

2 THE COURT: Mr. Loy?

3 MR. LOY: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 **

6 **CROSS-EXAMINATION**

7 BY MR. LOY:

8 Q. Good morning.

9 A. Good morning.

10 Q. And, I'm sorry, I didn't catch your
11 last name?

12 A. Demi Garvin. Garvin, G-A-R-V-I-N.

13 Q. Doctor, first, I know that the
14 Solicitor was taking care to note your comments
15 or your answers, and I understand your
16 therapeutic zone could be ten to 50, or even as
17 high as 100; is that right?

18 A. Yes, sir.

19 Q. Okay, I see he didn't put that up
20 there, but 100 would still be within the
21 therapeutic range; is that correct?

22 A. We see some individuals, yes, it's
23 typically less than 100 nanograms per mil --

24 Q. All right.

25 A. -- for therapeutic dosing.

1 Q. And I was listening to your testimony
2 also. It sounds like you could testify to us
3 about all sorts of things with your expertise,
4 and all sorts of things. I assume that would
5 include alcohol also; is that correct?

6 A. Yes, sir.

7 Q. Is there a tolerance of a certain
8 substance -- within your field, is that a term
9 you'll use, tolerance substance, or drug
10 tolerance?

11 A. There is such a thing as tolerance,
12 yes, in association with alcohol and other
13 drugs, yes, sir.

14 Q. Could you explain to the ladies and
15 gentlemen of the jury what that means?

16 A. So -- well, there's different types of
17 tolerance, but the tolerance that people are
18 most commonly aware of, is the condition where
19 repeated dosing of a particular drug, to include
20 alcohol, but methamphetamine is another compound
21 where this could occur.

22 The same dose given with repetition, that
23 individual becomes less responsive to it,
24 necessitating a higher dose the next time.
25 Probably the most classic compound that

1 tolerance occurs with that type of tolerance
2 occurs with is alcohol, where one dose of
3 alcohol, one alcoholic beverage, an individual
4 starts to ingest that, and over time if they
5 continue to use alcohol, they need more of an
6 alcoholic dose, or more drinks to achieve the
7 same effect that they're looking for.

8 Q. So a younger person who's never -- or
9 an adult who's never consumed alcohol, and
10 drinks alcohol, might become intoxicated at a
11 very low level in their bloodstream; is that
12 correct?

13 A. Yes.

14 Q. Whereas, a person, if you will, a
15 better term is a more experienced drinker might
16 be able to consume several times that amount of
17 alcohol, and at least show this; is that correct
18 also?

19 A. Yes. Individuals who are chronic, with
20 regard to alcohol, and individuals who are
21 chronic alcohol users, it's -- they develop
22 functioning at higher concentrations, so it's
23 more difficult to ascertain their impairment.
24 They're still impaired from ethanol, but it's
25 more difficult to discern it without objective

1 criteria to do that particularly.

2 Q. These apply to other substances too;
3 does it not generally speaking?

4 A. Correct.

5 Q. And we talked about the -- obviously,
6 you'all talked about the ranges.

7 You said that you have seen either
8 personally, or in the literature, blood alcohol
9 levels up to 20,000 or 38,000 even nanograms per
10 milliliter; is that correct?

11 A. Not blood alcohol, methamphetamine
12 concentrations.

13 Q. I'm sorry, I was confused, I didn't
14 make that clear, I am talking about the chart
15 now.

16 As far as methamphetamine goes, you said
17 you have seen it up to that level in various
18 individuals, either personally or in literature;
19 is that correct?

20 A. Yes, sir.

21 Q. And could we assume that -- or would it
22 be fair to say that those people must have
23 built a tolerance to the substance.

24 milligrams -- or nanograms per milliliter,
25 than a person who has used it regular?

1 A. There are a lot of variables that go
2 into that. Broadly, yes, and just for the
3 record, the individuals who were in the -- I'm
4 personally not familiar in my role with any
5 individual whose come into my work practice
6 environment for review, who was alive above
7 3,000 nanograms per mil.

8 All those individuals were deceased, but as
9 a general rule, an individual at 1,000 nanograms
10 per mil would theoretically be at higher risk,
11 but there are other factors. I have seen
12 individuals who are chronic methamphetamine
13 users, who are deceased with 1,000 nanograms per
14 mil, there's overlap.

15 Q. And you talked about affecting
16 cognitive abilities, and I know you were careful
17 to focus your answers and the possibilities, it
18 could be this, or it could be that, and that
19 would vary from circumstance-to-circumstance,
20 and individual-to-individual; is that correct?

21 A. To a certain extent. The point that I
22 was trying to make there was that we can't look
23 at a specific drug and concentration, and say at
24 that concentration of that drug, the individual
25 is going to behave this way.

2 Q. Thank you very much.

3	★★

4 CROSS-EXAMINATION

5 BY MR. PHILLIPS:

6 Q. Good morning.

7 | A. Good morning.

8 Q. Just to make sure we're on the same
9 page, as far as timing your testimony, you
10 wouldn't know whether someone had ingested meth
11 say potentially up to three days prior to that,
12 based on their ability to metabolize; is that
13 fair to say?

14 That they can test positive and have
15 methamphetamine in their blood, when they've
16 ingested it up to several days before, I think
17 generally three days; is that fair to say?

18 A. And what biological matrix are we
19 talking about?

20 Q. I'm not a scientist, but I'm asking,
21 people who test positive for methamphetamine,
22 that's generally a window of three days?

23 A. What specimen are we talking about?

24 Q. I'm just saying in the blood.

25 A. I need to know the specimen. In the

1 blood?

2 Q. Generally.

3 A. That's conceivable, yes, that's
4 possible.

5 Q. Okay, when you say conceivable, the
6 answer's yes?

7 A. It's possible.

8 Q. Okay. And you can't tell how it
9 affects a person, specifically, because you said
10 you don't distribute variables, in terms of how
11 it metabolizes, and tolerance, and everything in
12 between, correct?

13 A. No, that's not exactly what I said.

14 Q. Okay. Well, I mean we can clear it up.

15 A. So it would be my opinion that the use
16 -- the misuse of methamphetamine is associated
17 with broadly one of two scenarios, either the
18 individual is actively under the influence on or
19 about the time of the incident at hand, or they
20 are coming down off of the drug, and wait for
21 their next dose.

22 Q. Okay.

23 A. So tweaking impairment on the back --
24 there's impairment on the front side, and
25 there's impairment on the backside.

1 Q. And you can't tell which one?

2 A. I cannot tell from the concentration
3 where that individual is without more
4 information.

5 Q. That's right, you wouldn't be able to
6 tell it was ingested up to three days prior?

7 A. I would not be able to tell that from
8 the toxicology, no.

9 Q. Thank you.

10 MR. STONE: Just briefly

11 **

12 **REDIRECT EXAMINATION**

13 BY MR. STONE:

14 Q. But regardless of when the ingestion
15 was, at 480 nanograms per milliliter, they are
16 impaired either whether they're going up, or
17 coming down?

18 A. In my opinion, yes, sir.

19 Q. Thank you.

20 MR. PHILLIPS: No further questions.

21 THE COURT: Anything further?

22 MR. STONE: Nothing, thank you.

23 MR. PHILLIPS: None, Your Honor.

24 THE COURT: Thank you.

25 MR. STONE: State calls Dr. Batalis.

1 THE COURT: Yes, sir.

2 ***

3 NICOLAS BATALIS, M.D.

4 BEING DULY SWORN TESTIFIED AS FOLLOWS:

5 ***

6 DIRECT EXAMINATION

7 BY MR. STONE:

8 Q. Your middle name is Ike?

9 A. Yes.

10 Q. That's my father's name and my son's
11 name. I didn't know that.

12 Dr. Batalis, what do you do, sir?

13 A. I'm a Forensic Pathologist.

14 Q. And what exactly is a forensic
15 pathologist?

16 A. So forensic pathology is a subspecialty
17 -- a practice of medicine and a subspecialty
18 that focuses on the medical legal aspects of
19 medicine, predominantly performing autopsies to
20 determine a cause of the manner of death.

21 Q. And how long have you been doing that?

22 A. I've been employed in my current
23 position for approximately 15 years.

24 Q. Okay. What did you do prior to that?

25 A. I started my training, obtaining my

1 undergraduate degree in biology at Butler
2 University in Indianapolis, Indiana. I then
3 went on to complete medical school at Indiana
4 University School of Medicine, also in
5 Indianapolis.

6 After completing medical school I moved to
7 Charleston to the Medical University of South
8 Carolina, where I completed a four-year training
9 program in general pathology.

10 So general pathology is a field of medicine
11 that deals with the diagnosis of disease. So if
12 you were to have a tumor cut out, or a biopsy
13 performed, the pathologist would be the one to
14 look at that, and determine if there's cancer,
15 or an infection, and that type of stuff.

16 A pathologist would also receive a clinical
17 laboratory, so if you had any blood work done, a
18 pathologist would oversee the lab work
19 performed, and that sort of work.

20 So after completing that four-year training
21 program in general pathology, I passed an
22 examination and became nationally certified in
23 pathology.

24 I then went onto a one-year specialty
25 training program, and, specifically, regarding

1 forensic pathology at the Dallas County Medical
2 Examiner's Office in Dallas, Texas, where we
3 spent that one year just focused on forensic
4 pathology.

5 Again, at the end of that year passed a
6 national examination to become board certified
7 in forensic pathology, and at that point I took
8 my current position.

9 Q. So as a board-certified Forensic
10 Pathologist, have you testified in Court as an
11 expert in that field?

12 A. I have. It's over 100 times now in
13 South Carolina, and I believe twice in Texas,
14 and twice in North Carolina.

15 MR. STONE: Your Honor, at this time we
16 offer Dr. Nicolas Ike Batalis as an expert in
17 forensic pathology.

18 THE COURT: Says the defense?

19 MR. PHILLIPS: No objection.

20 MR. LOY: I'm sorry, no objection, Your
21 Honor.

22 THE COURT: He is so qualified in the field
23 of forensic pathology.

24 BY MR. STONE:

25 Q. Dr. Batalis, I want to talk to you now

1 about CP [REDACTED] [REDACTED] Did you perform the
2 autopsy on this individual?

3 A. Yes, I did on August 7th of 2019.

4 Q. Can you tell me about, from the
5 standpoint, what do you know about the decedent?

6 A. Sure. So just a little bit of
7 background. So at UMC in Charleston, we perform
8 autopsies for a number of counties across the
9 state, as needed by the Coroners.

10 So with the information provided to us in
11 this case, the decedent was a 13-year-old
12 individual, who was found unresponsive after
13 being placed in a vehicle for several hours
14 during very high temperatures.

15 Q. Did you receive information that
16 assisted you in what her body temperature was at
17 the time at the scene?

18 A. Yes. The Coroner in this case reported
19 that the body temperature at the -- when he
20 examined the body was 109.9, which, I believe,
21 was the maximum amount that the thermometer
22 would read.

23 Q. How is 109.9 relative to you in your
24 determination?

25 A. When we're determining a cause of

1 death, we've got to -- we have to determine a
2 number of different factors. And certainly in a
3 case like this, if we're considering whether the
4 heat play a role, hyperthermia, we want to have
5 some indication of what the body temperature
6 was.

7 And a fatal body temperature, the body will
8 start to shut down around 105 to 106 degrees, so
9 certainly having the information at the scene,
10 the body was at least 109, 110 degrees would
11 indicate that there was, you know, evidence of
12 severe hypothermia.

13 Q. When the body starts showing down -- a
14 normal body temperature is what?

15 A. There's going to be a range. I mean
16 the most classical quote would be 98.6, some
17 people would be 98, some people would be in the
18 99 area, but some are just under 100.

19 Q. Okay, and so when does the body start
20 shutting down?

21 A. About 105 or so, and with heavy
22 exercise, the weather we've been dealing with,
23 it's not uncommon, people have fevers at times
24 that get up to 102, 103, 104, but there seems to
25 be a critical line somewhere around 105, 106,

1 where the body will start to shut down.

2 Q. And when we say the body is shutting
3 down, exactly, from your standpoint, what does
4 that mean?

5 A. So, again, our bodies are really
6 designed to really function within a certain
7 temperature range, and so all of the organs will
8 eventually shut down, if we are too cold, or if
9 we're too hot.

10 Regarding the most immediate threats with
11 heat, would be the effect on the brain. And so
12 if the brain gets out of its normal temperature
13 range, it's not gonna be able to function very
14 well, and, again, our brains are the driving
15 force, it's going to drive our other organs
16 signaling those to function, and that sort of
17 thing.

18 Q. And in this particular case, I know you
19 were called upon to develop a manner of death,
20 as well as a cause of death.

21 What is the difference between those two
22 things?

23 A. Sure. So a cause of death is, simply
24 put, how the person died. So, for example, a
25 gunshot wound, a heart attack. The manner of

1 death would be how that cause of death came
2 about, so to use a gunshot, for example, and
3 I'll step back for a second, for the manner of
4 death we have five choices, essentially.

5 We have homicide, which would be the death
6 at the hands of another individual. We have a
7 suicide, which would be somebody intentionally
8 taking their own life.

9 Accident, which is fairly self-explanatory,
10 with the death due to some sort of unpredictable
11 measure.

12 Natural death due to natural disease, or
13 the aging process, or undetermined, where we
14 can't figure it out.

15 So a gunshot wound, for example, could be a
16 homicide, if you were to shoot somebody, that
17 you shoot someone else. If you're to shoot
18 yourself, that could be a suicide.

19 If you're out hunting with some friends and
20 there's an unfortunate circumstance, it could be
21 an accident. So a single cause of death could
22 have multiple manners of death, depending on the
23 situation.

24 Q. All right, so --

25 MR. PHILLIPS: And, Your Honor, objection

1 as to what I think is coming next, could be the
2 ultimate issue here.

3 THE COURT: Okay.

4 MR. PHILLIPS: What I believe is coming in
5 his testimony. Obviously, I know I can cross-
6 examine, but my objection is to what I believe
7 is opinion testimony.

8 THE COURT: Okay.

9 MR. STONE: Sorry, Your Honor, he was
10 called upon to determine the manner of death and
11 cause of death, and that's the normal pathology
12 testimony under 73, and that's exactly what
13 we're gonna ask him, so that's the intent.

14 BY MR. STONE:

15 Q. So from the standpoint of manner and
16 cause, and manner of death and cause of death,
17 what were your determinations?

18 A. My determination for the cause of death
19 in this case was hyperthermia, due to neglect,
20 and the manner of death was homicide.

21 Q. Now, let me start with, if I could, did
22 you -- when you perform an autopsy, do you also
23 do a chart sort of contemporaneous with your
24 autopsy?

25 A. Yes, we have a body diagram that we'll

1 use to take notes and note our findings during
2 the course of the examination, to help us with
3 compiling our report.

4 Q. Let me show you what has been marked as
5 State's Exhibit Number 24, is this the chart
6 that you created?

7 THE COURT: Is it in evidence?

8 MR. STONE: No, sir, not yet.

9 BY WITNESS:

10 A. Yes, this is a reproduction of the body
11 diagram that I -- that we used when we were
12 examining the body and generating the report.

13 Q. Okay. Would that assist you in your
14 testimony today?

15 A. Yes.

16 Q. All right.

17 MR. STONE: And, Your Honor, at this point,
18 none of these writings --

19 BY MR. STONE:

20 Q. These are your writings?

21 A. These are a combination of my writings.
22 I also performed this examination with what we
23 call a fellow, so another pathologist, who was
24 in doing their fellowship training, their
25 forensic pathology training, who I was

1 overseeing, we did this case in concert, so some
2 of the handwriting is hers, some is mine.

3 Q. Okay, and all of that is under your
4 supervision?

5 A. Yes, I was present for the entire
6 examination.

7 MR. STONE: At this time, Your Honor, we
8 move State's Exhibit 24 into evidence.

9 THE COURT: Says the defense?

10 MR. LOY: No objection, Your Honor.

11 MR. PHILLIPS: I don't have a problem if it
12 is demonstrative, but I do have an objection to
13 its admissibility.

14 THE COURT: Any response?

15 MR. STONE: He's testified to that this is
16 the chart that he created in his performance
17 with the autopsy. These are notes that were
18 taken by him and his team during his
19 supervision. It's authentic, it is relevant.
20 Your Honor, we'd move it into evidence.

21 MR. PHILLIPS: I have no problem with this,
22 he can tell him all about it, they can see it.
23 I just don't think it's proper, as far as
24 admissible into evidence.

25 They can absolutely see it, he can tell

1 them, and they can review it right there in
2 front of them.

3 THE COURT: We'll rule later as to whether
4 it goes to the jury room, but it's admissible at
5 this time --

6 MR. STONE: All right.

7 THE COURT: -- for demonstrative purposes.

8 MR. STONE: Yes, sir.

9 (State's Exhibit 24 was marked for
10 identification.)

11 Now, I want to make sure everybody can see
12 it.

13 BY MR. STONE:

14 Q. Now, Dr. Batalis, I've now put this in
15 a position where you can't see it. Let me ask
16 you, if you can keep your voice up, could you
17 come down and describe to us what you have on
18 this drawing?

19 A. Sure. So what we have here is a
20 generic body diagram.

21 At the top there's just some general things
22 that we're gonna examine on every case. When
23 we're performing an autopsy, again, our goal is
24 to determine the cause and manner of death.
25 That being said, we start with an external

1 examination, where we examine the body from head
2 to toe, such as a physical examination your
3 physician would perform.

4 So we're noting the height, weight, eye
5 color, hair color, all those sorts of things,
6 and those are noted up top. We then have a body
7 diagram that we use to note any findings on the
8 body.

9 Again, it could be a scar, it could be a
10 tattoo, or any sort of abnormal findings that we
11 see here through the course of the examination.

12 Q. And what is the height and weight on
13 this diagram?

14 A. This individual was 58 pounds, and
15 measured 56 inches in length, so I believe that
16 would be 4'8" approximately.

17 Q. All right, and you have also -- you've
18 studied the medical records on this individual
19 as well; did you not?

20 A. I read through the records that were
21 provided to me.

22 Q. Okay. And could you tell us from the
23 standpoint -- she suffered from cerebral palsy;
24 is that correct?

25 A. Yes, that was part of her medical

1 condition.

2 Q. All right, and so from that standpoint,
3 does that have anything to do with weight, or is
4 that something that's standard for a 13-year-
5 old?

6 A. No, this individual is certainly
7 shorter than you would expect for this age, and
8 definitely weighed much less than you would
9 expect for a "normal" 13-year-old.

10 Q. Okay, go ahead, I'm sorry to interrupt
11 you.

12 A. I believe I was finished.

13 Q. All right. So after you get the
14 general information, then these other drawings
15 on the body, what do these indicate?

16 A. Sure. So the main findings externally
17 on this, the decedent, where these areas we kind
18 of have these kind of ragged outlines here,
19 there's one on the right elbow, which would be
20 the right side of the abdomen.

21 You'll see there's some on the right side,
22 some on the left side. Also there's some on the
23 left knee and on the right back, left arm, right
24 side. So these were areas of what we would call
25 skin slippage, so the skin, you know,

1 essentially, started to blister or pull away
2 from the body.

3 Some of these areas also had a really dry,
4 yellow, orange kind of leathery type of
5 appearance, so it's certainly nothing we'd see,
6 you know, on a normal examination.

7 Q. So in the context of those two, you've
8 got the skin slippage and the blisters, and
9 you've got the leathery, what's the difference
10 between the two?

11 A. So with skin slippage we typically
12 think that's part of the breakdown process of
13 the body, what we call decomposition. And so
14 that's going to be determined on -- based on how
15 long an individual has been dead but is also
16 really driven by the temperature.

17 So when temperatures are high,
18 decomposition is going to ensue much quicker
19 than if the temperature is much lower.

20 When we start to see the more leathery type
21 of lesions, that tells us there was some sort of
22 injury to the body, some sort of actually burn
23 to the body.

24 In this case the reason it had more of a
25 leathery appearance is because the body wasn't

1 truly functioning well at that time. You know,
2 if somebody really has a burn, their heart is
3 still beating, everything is vital, it's going
4 to really have more of a reddish appearance,
5 kind of more angry type of appearance. So when
6 we see that leathery appearance, we know there's
7 been an injury to the body, but likely kind of
8 during the dying process, or even after death.

9 Q. So what do those two tell you from the
10 standpoint of the manner of death and cause of
11 death?

12 A. The fact that the -- we have the
13 blistering on the body, again, it attests that
14 there was increased temperature for an
15 individual that's been dead for, you know, a
16 limited amount of time, a number of hours, you
17 would not expect to see this skin slippage and
18 blistering on somebody who was found dead in
19 ambient temperature like we are here today.

20 That's something that would really take,
21 you know, probably days to start developing that
22 slippage. So the fact that we saw that skin
23 slippage would indicate that they were at a
24 higher temperature, and, again, with the more
25 leathery appearances, that's probably likely

1 the body was in contact with something that,
2 again, caused more of a surface burn to the
3 skin.

4 Q. All right. Where are the exhibits?

5 A. Oh, they are, they're in the defense
6 file, sorry about that.

7 MR. STONE: Excuse me, Your Honor.

8 BY MR. STONE:

9 Q. Doctor, I want to show you what's been
10 marked as State's Exhibit -- actually entered
11 into evidence as State's Exhibit 3, and actually
12 I'll put it up on the monitor.

13 Is this what you're talking about? These
14 are pictures at the -- that have been testified
15 at the crime scene of CP [REDACTED] leg; is that
16 what you're talking about? What can you tell me
17 about those?

18 A. Yes, so may I point --

19 Q. Can you see well enough from here?

20 A. I can see them, but is there kind of a
21 pointer, or --

22 Q. I'll tell you what, why don't you come
23 down, and just keep your voice up where
24 everybody can hear you, and we'll do it that
25 way. Can you stand here? Would that be all

1 right?

2 A. Sure.

3 Q. Great. I don't want to get in your way
4 either, so am I out of your way?

5 THE COURT: Yeah.

6 BY WITNESS:

7 A. So this photograph here illustrates the
8 kind of two different lesions that we're talking
9 about. So up on the upper aspect of the left
10 thigh here, you can see that there's a very
11 thin appearance, kind of a wispy appearance to
12 the skin. That would be more what I'm speaking
13 of as skin slippage, so part of the breakdown
14 process of the body.

15 But in addition to just that, you can see
16 here on the lower part of the left leg we have
17 this lesion, where the skin was more ulcerated
18 away. You can see some areas on the knee on the
19 leg that appear different than up here, where we
20 don't have an appearance of it.

21 So, again, to me that would say these areas
22 were likely in contact with something in the
23 area that caused a direct burn or injury to the
24 skin, and we also have areas that show that
25 decomposition is there now.

1 Q. All right, and then the -- can you tell
2 any part of the timing on any of that? You'd
3 mentioned earlier something about you would
4 expect it a quick -- or I'm not sure, I don't
5 want to mischaracterize it.

6 A. Could you repeat the question? With
7 respect to what the timing was?

8 Q. Yeah, the timing of -- in other words,
9 how long does it take for a body to do this?
10 How long -- does it give you any indication of
11 anything like that?

12 A. The timing's going to be unpredictable,
13 because it's going to be heavily dependent on
14 the temperature.

15 So, again, in a temperature like this in
16 the courtroom, you may see these types of
17 changes, or, again, in possibly a day or two;
18 but if there is a very high temperature in the
19 environment, you can see this then, you know,
20 hours until death.

21 Q. Okay. And these other things that
22 you've noted too, do they kind of fall under
23 that same category as well?

24 A. Yes, most of what's charted on -- it's
25 showing these different areas where we had these

1 areas of the burn areas, and there's the
2 slippage.

3 The other thing that's noted on the chart
4 is that there were contraction of the knees, and
5 so that was more part of her development. I
6 don't have issues with the knees because she was
7 not able to walk around and use her legs like
8 most folks, and then the legs become stronger,
9 so that's one of the things noted in the
10 background.

11 Q. Okay. I'll let you get back to your
12 seat, thank you. Any other determinations, as
13 far as the external part of the body?

14 A. I don't believe so. I believe those
15 were the main findings, the different areas of
16 the skin slippage, the burns, and then the
17 contraction of the knees.

18 Q. Okay. All right, now, let's go to --
19 I'm trying to determine -- let me stay on the
20 blisters just briefly.

21 Some of that is -- can you tell us if some
22 of that is caused internally, as well as
23 externally?

24 In other words, is there a difference
25 between the internal heat causing some of the

1 damage, versus the body coming in contact with
2 another hot item, and things like that?

3 Is there any way to tell that from those
4 injuries?'

5 A. Yeah, if the body's just heated
6 internally, you're not necessarily going to see
7 external areas like we saw on the leg, where we
8 had the -- where the skin was missing, we had
9 that more kind of reddish, yellow appearance.

10 Again, if the body is just overheating, you
11 can get some of the more skin slippage.

12 Again, usually, that's going to occur after
13 you die, and when the body's just overheating,
14 typically, you're not gonna have the change in
15 the skin. So what we saw, again, would be more
16 varied.

17 On the lower leg that would have been more
18 of a burn that was in contact with something, so
19 it's something more from the outside than from
20 inside.

21 Q. Okay. Now, let me talk about, if I
22 could, the internal -- your internal body
23 temperature what are those?

24 A. Sure. So the major internal finding in
25 this decedent was an abnormality in the brain,

1 it's called polymicrogyria.

2 So our brain has multiple kind of folds to
3 it. And polymicrogyria is a descriptive term,
4 so poly means multiple, and micro means small,
5 and gyria is basically the grooves of our brain.
6 And so she had too many of these grooves that
7 were very small.

8 So the Solicitor mentioned earlier that she
9 had a diagnosis of cerebral palsy. So cerebral
10 palsy can be a condition from a number of
11 things, but basically when the brain is starved
12 of oxygen, while the baby is with mom -- inside
13 mom, or kind of immediately after birth, so it
14 can be caused by a number of different things,
15 prematurity, and, you know, various disease.

16 In this case, the polymicrogyria with her
17 kind of initiating condition, so she developed
18 that, you know, while she was in utero, or
19 inside mom, that led to oxygen deficiency at
20 birth, or around the birth period that led to
21 the cerebral palsy.

22 So certainly at the examination the brain
23 was abnormal, and it did show that finding.
24 Otherwise, the -- probably most the organs, or
25 all the organs I should say, were well

1 developed. There was no evidence of any severe
2 natural disease of the heart, lungs or any other
3 organs. The other notable finding we did see as
4 part of our examination of internal organs was
5 that she did have gastric contents or vomit that
6 was aspirated down into her airways and then to
7 the lungs.

8 Q. All right, and can you tell us if that
9 took place while she was alive, or after she was
10 dead?

11 A. That would have occurred probably
12 during the dying process, after her brain had
13 started to dysfunction and shut down. Some
14 individuals lose the bowel and bladder function.
15 Another thing would be she'd start vomiting.
16 And so in this case she would have vomited
17 during the dying process, regurgitating some of
18 that into the lungs.

19 Q. You are finding hyperthermia; did I get
20 that right?

21 A. Yes.

22 Q. What exactly is hyperthermia?

23 A. Hyperthermia is a condition in which
24 the body shuts down due to extreme heat.

25 Q. And when -- and I think you testified

1 earlier that begins at -- somewhere between 105
2 and 106 degrees; is that correct?

3 A. Certainly. And any time you're above,
4 you know, 101 you can be considered
5 hyperthermic, but what we consider a life-
6 threatening condition, 105 to 106 would be
7 considered a fatal temperature.

8 Q. And her internal was 110?

9 A. At least 110, based on the thermometer
10 reading.

11 Q. The testimony previous in this
12 courtroom is that the internal car temperature
13 reached a maximum of 118 degrees, and a heat
14 index of 135 degrees.

15 How long would it take somebody to die in
16 that particular environment?

17 A. There's gonna be some variability from
18 individual-to-individual, but once the
19 environment had reached that temperature, the
20 individual would not live more than an hour.

21 Q. I don't have any further questions. If
22 you'll answer any questions the defense might
23 have.

24 THE COURT: Yes, sir.

25 MR. LOY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. LOY:

Q. And, I'm sorry, Doctor, what was your last name?

A. Batalis.

Q. Batalis? Dr. Batalis, as a doctor of pathology, you're a medical doctor also, correct?

A. Yes, I am.

Q. And that's pretty much akin to being a scientist; is that fair to say?

A. Yes.

Q. Now, as a scientist here to testify, excuse my language, you don't have a dog in the fight, you're just here to say what the scientific results are and your findings; is that correct?

A. As a forensic pathologist I view my role as being here to speak for those that aren't able to speak for themselves. I'm able to -- I'm here to explain the findings in this individual to show why they died.

Q. And you're sharing with us the results of your scientific investigation or testing; is that correct?

1 A. Correct.

2 Q. And how many times did you say that
3 you've been qualified as an expert to testify in
4 court?

5 A. Somewhere over 100 times in South
6 Carolina, and a couple times in Texas and North
7 Carolina.

8 Q. Let's just talk about South Carolina.
9 Were the hundred times that you've been
10 qualified, were they in Court of General
11 Sessions? And if I say Court of General
12 Sessions, do you know what I mean?

13 A. Yes, they've all -- well, there may
14 have been on or two that were in Federal Court,
15 but the vast, vast majority are in General
16 Sessions Court, as we're here today.

17 Q. And out of those hundred times that
18 you've been qualified as an expert to testify by
19 scientist, how many times have you been called
20 to testify that for the defense?

21 A. As part of my work as a forensic
22 pathologist, I -- there have been times when
23 I've been subpoenaed by both sides, by the
24 prosecution and defense, but, again, the vast
25 majority, if not every time when I've testified,

1 it's been at the request of the Solicitor.

2 Q. So we've gone from the vast majority to
3 every time. Every time you've been qualified to
4 test in Court you've testified for the State; is
5 that correct?

6 A. As I said, I believe so. There have
7 been times where both sides had subpoenaed me,
8 and, again, since the prosecution goes first, I
9 was called first by the Solicitor, but then
10 could also have been subpoenaed by the defense.

11 Q. Okay. And for the last time, I don't
12 want to know how many times you've been
13 subpoenaed, or who subpoenaed you.

14 A. Certainly, there's been times for a defense
15 witness, but every time your name got called to
16 the witness stand, it was to prosecute a cause,
17 yes?

18 A. I believe so, yes.

19 Q. Thank you. Now, you talked about
20 determining manner of death and cause of death;
21 is that right?

22 A. Yes.

23 Q. And when you talked about the manner of
24 death, and I was trying to listen, I think,
25 basically, I'm sorry, I want to talk about the

1 cause of death. Cause of death is just a cold
2 hard science; is that right? This person died
3 of bleeding to death, or this person died
4 because he was shot in the head, or this person
5 succumbed to the moment; is that correct?

6 A. Yes, the cause of death would be,
7 simply put, the main reason, the condition that
8 led to the death.

9 Q. And as far as cause of death goes, I
10 mean would it be fair to say that most of the
11 time, as a scientist, I mean you could do this
12 effectively in the back.

13 What I mean by that is, a deceased person
14 is brought in on a stretcher, and they -- you're
15 asked to determine how this person died, the
16 cause of death.

17 You don't really need a lot of other
18 information to do that, do you?

19 A. We certainly do in some cases. The way
20 I would relate that would be, if you went to
21 your physician and you say, "Examine me," you're
22 not likely to get as detailed of an examination,
23 you're not likely to get the entire treatment,
24 the entire findings; whereas, if you were to
25 actually report what your conditions are, "I

1 have a headache, I have chest pain," the
2 physician would focus their examination and
3 tailor as such.

4 So there is some cases, if somebody's shot
5 15 times, I would agree --

6 Q. Wait one second.

7 MR. LOY: I talk loud, but do I need a mic?

8 THE COURT: You need to talk louder.

9 MR. LOY: I will talk louder.

10 BY MR. LOY:

11 Q. And I'm sorry to interrupt you, I can
12 rephrase my question, if you need to, or you can
13 pick up where you left off, sir.

14 A. I would like to continue. So there are
15 certain cases, if somebody's shot ten or 15
16 times, it's -- the history is not gonna be as
17 important in that case.

18 I'm gonna understand that, you know, except
19 in a very rare circumstance, an individual's not
20 gonna shoot themselves that many times; but
21 there are a number of other deaths, you know, I
22 can't put a percentage on it, but a large amount
23 of it will be examined, the history that's
24 provided to us, the circumstances of the death,
25 the scene investigation are critical as to

1 determining our cause and manner of death.

2 Q. So I stand corrected then. You may be
3 presented with a body, and the body was
4 discovered somewhere with no history whatsoever
5 dead on the table, and say, "I have no idea why
6 this person died," without someone else telling
7 you, and giving you more information.

8 I can't say physically why this person is
9 now dead.

10 A. I'm sorry, could you say that again?

11 Q. Yes, sir. You seem to be telling me
12 that despite the scientific training that you've
13 had and the experience that you've had, being a
14 medical doctor, specializing in autopsies -- how
15 many autopsies have you performed?

16 A. Somewhere between three and 4,000 at
17 this point.

18 Q. Three to 4,000 autopsies. That without
19 someone else telling you how this person was
20 killed or passed away, you can't scientifically
21 look at and perform your autopsy and say this
22 person died of a heart attack, or this person
23 died of pneumonia, or this person died of being
24 shot; is that correct?

25 A. That's not correct.

1 Q. Explain it to me.

2 A. There's mainly information provided
3 from the scene that we're not able to determine
4 through the course of examining the body that
5 would be critical in determining the cause of
6 death.

7 Again, we can look at the body, and we can
8 look at toxicology, we can look at all sorts of
9 different things as part of our examination that
10 we're doing as part of the autopsy, but
11 sometimes there are findings based on the
12 history or the circumstances that reveal the
13 critical cause of death.

14 Q. Thank you very much. Now, let me ask
15 you about this case, and you can look at the
16 chart, if you need to, but you were presented
17 with what you were presented here, the deceased
18 child, and said, "Can you determine how this
19 child died?" And no one else gave you a sheet of
20 paper with their opinions, their findings, or
21 the police reports, or etcetera, but you can
22 look at this child and say, "Yes, she died of
23 heat."

24 A. It's hard to imagine a hypothetical
25 examination, which I would examine a body with

1 no history whatsoever.

2 Q. Well, let's take a moment and try to do
3 that.

4 A. Okay, could you -- again, could you
5 rephrase?

6 Q. If you were presented with the corpse
7 of this child and no other information, and
8 said, "It's critically important that you look
9 at this deceased person, and tell us how they
10 died," would you be unable to determine that
11 they died from heat?

12 A. With no information based on the scene
13 and circumstances and just examination of the
14 body by itself --

15 Q. Yes, sir.

16 A. -- is that your question?

17 Q. Yes, sir.

18 A. Is that including no history, as far as
19 how long the decedent had been dead, where they
20 were found?

21 Q. Yes.

22 A. It's just I've never experienced this
23 in medicine, where you're not provided any
24 history, so it's hard to answer your question.

25 Q. If you can't answer the question, you

1 can't answer the question, but I'll try one more
2 time. This is assuming that you have never met
3 this person, you have no paperwork in your hand,
4 you've been beamed to another planet and
5 presented with this child, with nothing else,
6 and said, "Can you tell us what this person
7 succumbed to?"

8 A. So with no history whatsoever I
9 examined this body, I'd be concerned that there
10 were the burn marks on the extremities that was
11 shown.

12 Externally that would definitely be a
13 concern that there was some sort of, again,
14 burns, some sort of environmental condition that
15 could have contributed to the death.

16 I examined the body internally, certainly
17 the brain disorder. Seeing that polymicrogyria
18 would indicate that there was some natural
19 disease that possibly could explain the death,
20 but, again, the circumstances would be critical
21 in this case.

22 Q. Is that yes or no?

23 A. I believe I explained myself as clearly
24 as I possibly can.

25 Q. Can you answer yes or no?

1 A. Can you ask it again?

2 Q. No. Thank you. Do you have any other
3 causes of death? Because you spoke about
4 suicide or homicide. I think you referenced
5 some natural cause of death.

6 Do you ever have -- and I'm sorry, manner,
7 a manner of death; do you ever have an
8 undetermined?

9 A. Yes.

10 Q. And tell the ladies and gentlemen what
11 that is.

12 A. So underdetermined would be the manner
13 of death, where simply put, after the end of the
14 examination or autopsy all the known facts of
15 the scene, the circumstances, despite all that
16 information we have, if we're not able to
17 specifically determine which category, whether
18 it's homicide, natural, accident, suicide, and,
19 again, the one that we previously described, if
20 we don't feel we have enough information for
21 that, in some cases we will determine to be
22 undetermined.

23 Q. And I don't want to put words in your
24 mouth, but it sounds like unless someone else
25 gives you a bunch of information, based on their

1 experience or opinion, it's quite likely you
2 can't determine the cause of death or manner of
3 death; is that correct?

4 A. I don't believe so concerning cause of
5 death. Again, regarding this case, the
6 circumstances that the decedent was found in a
7 vehicle with very hot temperatures, I don't need
8 some expert to determine that.

9 Again, that's an indicator that there is
10 going to be hyperthermia, we have burns on the
11 body. Cause of death, no. Manner of death is
12 gonna be more critical depending on the
13 information that's provided.

14 Q. Well, that's the answer I was trying to
15 get. So as far as cause of death, in the
16 absence of any other information, you could
17 determine that?

18 A. Yes.

19 Q. Thank you very much. So when you're
20 going from an underdetermined cause of death
21 saying a homicide, what you're doing is
22 reviewing all the information that's provided to
23 you. And factoring that into your opinion and
24 relying on it; is that correct?

25 A. Yes.

1 Q. And in this case the information that
2 was provided to you was provided to you by -- or
3 from the various agents of the State; is that
4 right?

5 A. Yes, the majority of it was provided by
6 the Coroner, and, again, I did review some
7 medical records. I don't know what provider,
8 but there was some healthcare records from a,
9 you know, hospital and medical provider.

10 Q. Okay, but it came from the Coroner and
11 police officers, as far as that goes, the
12 various other agents of the State; is that
13 correct?

14 A. Correct.

15 Q. And how long did it take you to review
16 the information that you had before you went in
17 to do your autopsy?

18 A. I don't recall, it's been it looks like
19 four years. I don't recall exactly how long
20 that would have been.

21 Q. Generally speaking, would it be an
22 hour, two hours?

23 A. Sometimes just a matter of minutes,
24 sometimes it's a couple hours. I don't remember
25 in this specific case.

1 Q. Okay, so at the outside a couple of
2 hours?

3 A. Probably was the case, yes.

4 Q. Okay. And you don't have some sort of
5 a litmus test, where you can run a graph or a
6 test and it pops up homicide, and your opinion
7 based on the information you had received at the
8 time you did the autopsy; is that correct?

9 A. Not only at the time of autopsy, but,
10 again, our reports are issued somewhere between
11 -- usually weeks, and sometimes months after we
12 complete our examination, where we have all the
13 information, including our autopsy findings, and
14 any other information outside the autopsy, so
15 sometimes it's gonna take several weeks or
16 months after the autopsy.

17 Q. Well, what information did you receive
18 after the autopsy in this case, sir?

19 A. I don't recall the specific timeline.

20 Q. Did you receive any information, you
21 can look at your notes and report, did you
22 receive any information subsequent to the
23 autopsy; or did you do the autopsy, prepared
24 your report, write your opinion down, and move
25 onto your next case?

1 A. No, and with this case the initial
2 ruling on the -- regarding the death, there was
3 a pending cause of death, and a pending manner
4 of death.

5 So, again, after completion of the autopsy
6 that day on August 7th, 2019, we're still
7 considering. We want to see everything that was
8 in play.

9 We want to see the toxicology testing to go
10 over it, as part of the autopsy. We wanted to
11 see the microscopic findings under the
12 microscope, and the investigating results. So
13 it wasn't until everything else had come back,
14 in this case it looks like it was approximately
15 a month to six weeks later until the ultimate
16 ruling was made.

17 Q. Okay, so in your opinion, as far as
18 manner of death, you said homicide.

19 A. If you could rephrase, please.

20 Q. In your opinion, as far as cause of
21 death, this is what you described an opinion,
22 that is to receive more information today or
23 next week, it's subject to change; is that
24 right?

25 A. Certainly. When we issue rulings,

1 again, whether it's undetermined homicide,
2 suicide, things could be altered later on, if
3 additional information comes out that we didn't
4 have at the time we made that ruling.

5 Q. And you had reviewed notes, I think you
6 said, anywhere from five minutes to two hours
7 and perform the test, and that's what your
8 opinion is based upon, as well as the toxicology
9 results that you received; is that right?

10 A. And a review of everything after-the-
11 fact. Again, I reviewed, you know, from minutes
12 to an hour before the case. Again, after I did
13 the case, again, would have re-read the records,
14 discussed it in peer review within our division,
15 for much more thought going into the case before
16 the ruling is issued.

17 Q. I think I understand. So if you were
18 to sift through a week's worth of information,
19 and hear the various points and all that, as
20 well as the law enforcement, et cetera, cross-
21 examination, weave together more information,
22 more examination, your opinion might change; is
23 that right?

24 A. If I could rephrase it? Are you saying
25 if I was provided additional information

2 Q. So say you have another week's worth,
3 and you hear from all sides, and all the
4 parties, and all the decisions, it's possible
5 your decision might change?

9 Q. Thank you.

11 THE COURT: Mr. Phillips?

12

* *

13 CROSS-EXAMINATION

15 Q. Good morning, Dr. Batalis.

17 Q. And I guess to be clear, we know each
18 other.

20 Q. We have worked together before?

22 Q. And I just want to say I don't question
23 your credibility at all. And I think based on
24 your testimony I can clarify that. I called you
25 as an expert witness before. You might not even

1 remember, but I have.

2 A. I know I've done some consulting for
3 you. I can't remember the exact testimony, but,
4 yes.

5 Q. So I'm not questioning your
6 credentials. I'm not questioning anything
7 regarding your opinions. And we don't dispute,
8 from our side, I can't speak for the other, we
9 don't dispute how she died. We don't dispute
10 anything.

11 THE COURT: Is that a question?

12 MR. PHILLIPS: Getting ready, Your Honor.

13 BY MR. PHILLIPS:

14 Q. And with that, when you find homicide,
15 that's not the same as the legal definition of
16 murder, because there are different type of
17 offenses, like accident, or mistake, or even
18 voluntary manslaughter.

19 There's different types of homicide; is
20 that right?

21 A. Correct. When we speak of homicide in
22 a medical term, it's death due to the hands of
23 another individual.

24 So an example of a homicide, if there was
25 a, you know, somebody illegally shoots another

1 individual, that would be a homicide. If
2 somebody was being attacked in self-defense,
3 they could kill another individual, that would
4 still be a homicide, where that may not be
5 considered murder.

6 Q. Right, so it's self-defense in the
7 shooting example you just gave, it's not murder,
8 because it was self-defense, but you would still
9 have homicide listed as a manner of death?

10 A. I would leave the murder determination
11 up to the legal system, but, yes, that would be
12 a determination of homicide.

13 Q. So your testimony today here, a finding
14 of homicide, it's not the legal definition of
15 murder, that's what we're here for, that's what
16 they're here for; is that fair to say?

17 A. Correct. There's a difference between
18 homicide, right?

19 Q. Right, because the manner of homicide,
20 it doesn't say whether it's a reckless homicide,
21 or involuntary manslaughter, or anything, it's
22 just based on from a scientific standpoint a
23 homicide?

24 A. Correct. When I say homicide, it means
25 the death due to the actions or the hands of

1 another individual.

2 Q. It doesn't deal with any potential
3 method, or the type of homicide, like a reckless
4 homicide?

5 A. I'm not aware of all the legal
6 variations of homicide, so I think we're in
7 agreement, but I am specifically referring to a
8 medical definition, which is my background.

9 Q. Right.

10 A. Correct. When we go to fill out --
11 yeah, it's either homicide or suicide.

12 Q. Okay, good to see you.

13 THE COURT: Anything further?

14 MR. STONE: Thank you, Doctor.

15 THE COURT: Redirect?

16 MR. STONE: Nothing further, Your Honor.

17 THE COURT: Thank you, sir.

18 WITNESS: Thank you, Your Honor.

19 MR. STONE: With that, Your Honor, the
20 State rests.

21 **

22 **STATE RESTS**

23 THE COURT: All right, ladies and
24 gentlemen, that's the State's case. We'll give
25 you a break now. If you'll go to the jury room,

1 please? Please do not discuss the case.

2 (Jury exits the courtroom.)

3 THE COURT: Are there any matters of law?

4 MR. PHILLIPS: Yes, Your Honor.

5 THE COURT: Yes, sir.

6 MR. LOY: This is a motion for a directed
7 verdict, as far as conspiracy goes. There's
8 simply no evidence of conspiracy between the
9 parties to show conspiracy. As a matter of
10 fact, the evidence --

11 THE COURT: The evidence would indicate
12 what?

13 MR. LOY: That they did not come together
14 to create a conspiracy, that is a criminal act

15 As far as the murder goes, a direct act on
16 part of the Defendant would indicate malice, and
17 support of finding of malice, put the child in
18 the car, puts the child in the care of his
19 mother. He has no legal obligation. He is a
20 legal stranger.

21 THE COURT: He's a legal stranger, is that
22 what you said?

23 MR. LOY: To the child, yes, sir.

24 THE COURT: A legal stranger?

25 MR. LOY: Yes, sir.

1 THE COURT: What is a legal stranger?

2 MR. LOY: A legal stranger is a person who
3 has no rights to the child, no rights to
4 visitation to the child, no rights whatsoever,
5 as well as no obligations to pay child support,
6 he's not obligated to provide care or the
7 custody, etcetera.

8 If there are problems within the family,
9 DSS doesn't investigate him. Legally, he's a
10 person who has never met or engaged in --

11 THE COURT: Is that a term of art, or one
12 that you created, a legal stranger?

13 MR. LOY: Your Honor, it's a term, as I
14 recall from my Family Court days, that we
15 used It would be a legal term.

16 THE COURT: All right.

17 MR. LOY: So I believe the child at the
18 time -- there's evidence to show that at the
19 time he placed this child in the car, he did it
20 without malice, and the video clearly shows he
21 didn't mean to cause her injury. He walked
22 away, and left her in the arms of the mother.
23 There's nothing beyond a reasonable doubt he was
24 acting with malice.

25 Subsequent to that, he had no obligation.

1 I don't believe it's failure to perform.

2 This child was not his own, not under his
3 care, not of his physical custody, he just
4 walked away. She was in the arms of the mother.
5 The same argument. Thank you.

6 THE COURT: Yes, sir. Mr. Phillips?

7 MR. PHILLIPS: Thank you, Your Honor. I'll
8 be very brief. Your Honor, specifically, we
9 would move for a directed verdict on the
10 charges. I will renew all pretrial motions,
11 specifically outlining 404(b), 403, related to
12 Brittany Huneycutt and Lindsey Lewis. I follow-
13 up with a motion for mistrial.

14 It rose to the level of manifest necessity,
15 to where Ms. Pangalangan was not -- has not
16 received a fair trial, and we would ask for a
17 mistrial. So at this point we would not move
18 for a directed verdict.

19 Renew all the pretrial motions and
20 arguments and objections that were made
21 throughout this case.

22 Specifically, as far as the directed
23 verdict motion, or as far as the conspiracy
24 part, the law is that the State's case has to
25 rise to a level of substantial circumstantial

1 evidence, and that burden should go to the jury.

2 As to what's been presented to conspiracy,
3 the State has not presented substantial
4 circumstantial evidence of a conspiracy. It
5 hasn't crossed that threshold. And for that
6 matter, for conspiracy we would specifically
7 make that argument on that.

8 THE COURT: Thank you. Says the State?

9 MR. STONE: Very briefly, Your Honor, I
10 think the video itself establishes the elements
11 that are needed for conspiracy.

12 You've clearly got two people involved in
13 putting the child in the car, with the
14 temperatures, from testimony, it's been clear of
15 that in itself, is a reckless act. You move
16 past that to four or five hours and 42 minutes,
17 where they leave that child in the car.

18 You see on the video both of them going in
19 or near the car, or around the car throughout
20 that five hours and 42 minutes. The infliction
21 of injury to the child is more than obvious from
22 not only the pathology testimony, but also what
23 you actually see in the crime scene photos from
24 the standpoint of murder.

25 Again, this is malice under the law from

1 the standpoint of whether you even use the
2 language that the defense has offered as
3 reckless, excuse me, extreme recklessness. I
4 think you see that, as you were watching the
5 video.

6 You see two people that literally do not
7 break the window to get the child out of the
8 car. They put the child in the car in this type
9 of temperature and leave them there. You're
10 talking about temperatures that have exceeded
11 what most people can't even imagine. Throughout
12 the entire time these two people were absolutely
13 showing no care for that child, as the child
14 literally cooks to death.

15 And it's also clear they did it together,
16 when you actually watch them on video. So I
17 think even from just the very basic standpoint
18 from the video itself, I think it establishes
19 every element.

20 THE COURT: Any response

21 MR. LOY: Yes, Your Honor. Our position is
22 that you don't have a negligence conspiracy.
23 The State's theory is that it was a reckless
24 disregard for human life, and with that
25 conspiracy is an intentional act. There are --

1 under the true statement of law, it's a true
2 disregard for human life in the Watson case, but
3 wanton disregard, recklessness, negligence, and
4 then conspiracy and intentional act. Those
5 don't marry the other. That's the basis for
6 this.

7 THE COURT: Under Rule 19 of the South
8 Carolina Rules of Criminal Procedure on the
9 motion of Defendant, or the Court shall direct a
10 verdict in charging the indictment after the
11 evidence -- there is a failure of competent
12 evidence pending through the charge of the
13 indictment.

14 In ruling on the motion, the Court shall
15 consider only the existence or non-existence of
16 the evidence and not its weight. In this case
17 there is testimony, if believed by the jury,
18 that establishes that it was caused by the
19 willful conduct, wanton and extreme reckless
20 conduct, and by extreme, the conduct that
21 totally shows a willful and absolute disregard
22 for human life by the jury that that conduct and
23 the cause of death was the combined actions of
24 both Defendants.

25 There is evidence of voluntary

1 intoxication, which is not a defense.

2 As it relates to conspiracy, there's a --
3 the evidence shows that the parties were -- the
4 Defendants were working in concert with each
5 other, and to the extent that the conspiracy
6 charge, as to great bodily injury on a child.
7 Whether or not the death of the child the
8 conduct of the parties, and the testimony
9 establishes the bodily injury, based on the
10 autopsy, all of which is sufficient for the jury
11 to consider.

12 Therefore, the motion for a directed
13 verdict as to each party is denied.

14 MR. PHILLIPS: And, Your Honor, to go back
15 --

16 THE COURT: And all Court's rulings during
17 the course of the trial are the same with
18 evidence presented in the State's case.

19 So we'll take a few minutes, and are you
20 ready to go with your defense?

21 MR. PHILLIPS: Candidly, Your Honor, we
22 were told, and I hope the State will agree that
23 they thought they would take up all morning.
24 The State didn't indicate they would rest today.

25 THE COURT: Candidly, the Court inquired as

1 to whether you'd be ready to go, and the State
2 is finished.

3 MR. PHILLIPS: Once we do the inquiry, as
4 far as speaking to the Defendants to see if they
5 want to testify.

6 THE COURT: Says Mr. Loy?

7 MR. LOY: Your Honor, my experience was the
8 same, and the answer is the same. I did tell my
9 client ahead of time we would have an
10 opportunity to have a meaningful conversation
11 before he made a final determination, as to
12 whether or not he chose to testify.

13 I would ask the Court that if he does, his
14 testimony on direct would be relatively brief, I
15 don't think more than 35, 40 minutes.

16 I think --

17 THE COURT: I'm not trying to rush anyone,
18 except the State indicated they had a few more
19 witnesses. It's not for the defense to object
20 to how long the witness' testimony will be, how
21 long the cross-examination would be.

22 MR. LOY: Well, Your Honor, I'd ask for 30
23 minutes so that I can confer with my client, and
24 determine his decision, as to whether or not --

25 THE COURT: You are going to confer with

1 your client, and I am required to ask that each
2 Defendant, as to whether they want to testify,
3 not testify, and confer with counsel on the
4 issue. My point simply is, when the Court gives
5 an instruction, don't rely on what the other
6 side says, because you can't.

7 I called other witnesses too. We're here
8 ready to go.

9 MR. LOY: I understand.

10 THE COURT: We're gonna be leaving at noon,
11 so --

12 MR. LOY: I would request 30 minutes for my
13 client to make a final determination in his most
14 grave decision in his life.

15 THE COURT: It might take you 30, it might
16 take you less.

17 MR. LOY: It might well take me less, but
18 it will not take more.

19 MR. PHILLIPS: If I may, Your Honor, we got
20 a text from my investigator, he was told to be
21 here this morning.

22 My Paralegal's gonna step outside and make
23 a phone call. I just didn't want to speak out
24 of turn, as far as making sure what we are
25 doing.

1 THE COURT: Well, it will be one at a time.

2 MR. PHILLIPS: Thank you.

3 THE COURT: All right. If the parties will
4 stand to be sworn. And we'll take a few minutes
5 before I ask them questions. We'll take a few
6 minutes at this time.

7 MR. LOY: Thank you, Your Honor.

8 (RECESS)

9

**

10

PROCEEDINGS CONTINUED

11

THE COURT: All right, you may be seated.

12

BY THE COURT:

13

Q. Mr. King, if you would stand up for me?

14

At this time I'm going to explain to you your

15

rights. If you do not understand anything that

16

I say, please let me know, I will explain it in

17

any further details that I need to?

18

Do you understand that we have now reached

19

the stage of the trial, where you may present

20

your defense. You have the right to claim the

21

protections given to you by the Fifth Amendment

22

to the Constitution. This amendment in part

23

says in any criminal case a person cannot be a

24

witness against himself.

25

This means that you cannot be compelled or

1 required to testify, but you do have the right
2 to testify on your own behalf, but no one can
3 make you testify. This is a personal right, and
4 no one can waive this right except you; do you
5 understand?

6 A. Yes, sir.

7 Q. If you decide to testify, you will be
8 subject to the same rules that govern other
9 witnesses, and you may be examined, cross-
10 examined on any relevant issue in the case.

11 In addition, if you have any convictions
12 involving dishonesty or false statements for
13 crimes punishable by imprisonment for more than
14 one year. And I determine that, the Court will
15 The Solicitor will then be able to introduce
16 your record to attack your credibility.

17 If you decide to testify, this decision
18 must be freely, intelligently, and voluntarily
19 made, with the knowledge of the protections
20 given to you by the Fifth Amendment, and the
21 consequences of your decision to testify.

22 If you decide not to testify, I will
23 instruct the jury that they cannot give the fact
24 that you did not testify any consideration
25 whatsoever, and that there is to be absolutely

1 no prejudice to you because you did not testify.
2 It's left entirely up to you whether or not you
3 testify. You may talk to your lawyer, family,
4 friend, or anyone else, but the final decision
5 will be left entirely up to you.

6 Do you understand what I have explained?

7 A. Yes, sir.

8 Q. Do you have any questions about what
9 I've explained?

10 A. No, sir.

11 Q. Have you discussed with your lawyer
12 whether or not you should testify?

13 A. Yes, sir.

14 Q. Do you wish to talk to him some more at
15 this time?

16 A. Yes, sir.

17 THE COURT: And, Mr. Loy, you said you
18 wanted up to half an hour?

19 MR. LOY: Yes, sir.

20 THE COURT: Has the half an hour started --

21 MR. LOY: No, sir.

22 THE COURT: -- with our break? It hasn't
23 started yet?

24 MR. LOY: No, Your Honor.

25 THE COURT: All right, very good. Well, we

1 will give you an opportunity to speak to your
2 client, and we will resume after that.

3 MR. LOY: Thank you, Your Honor.

4 THE COURT: Mr. Phillips, are you ready?

5 MR. PHILLIPS: Yes, Your Honor.

6 BY THE COURT:

7 Q. Ms. Pangalangan, if you will stand for
8 me? If you will stand for me? Ms. Pangalangan,
9 at this time I'm going to explain to you certain
10 of your rights, regarding your right to testify.
11 If you do not understand anything that I say,
12 please let me know and I will be happy to
13 explain further.

14 Do you understand what I mean?

15 A. Yes, sir.

16 Q. We now have reached the stage of the
17 trial where you may present your defense. You
18 have the right to claim the protection given to
19 you by the Fifth Amendment to the Constitution
20 of the United States

21 This amendment states, in part, that no
22 person shall be compelled in any criminal case
23 to be a witness against herself or himself.
24 This means that you cannot be required to
25 testify, however, you do have the right to

1 testify, but no one can make you testify.

2 This is a personal right of yours, and no
3 one can waive this right except you; do you
4 understand?

5 A. Yes.

6 Q. Now, if you decide to testify, you will
7 be subject to the same rules that govern other
8 witnesses, and you may be examined and cross-
9 examined on any relevant issue in the case.

10 In addition, if you have any convictions
11 involving dishonesty or false statements, or for
12 crimes punishable by imprisonment for more than
13 one year, and I determine the probative value of
14 admitting this evidence outweighs the
15 prejudicial effect to you, the Solicitor will
16 then be able to introduce your record to attack
17 your credibility.

18 If you decide to testify, this decision
19 must be a free, intelligent, and voluntary
20 decision made by you, with the full knowledge of
21 the protections given to you by the Fifth
22 Amendment, and the consequences of your decision
23 to testify.

24 If you decide not to testify, I will
25 instruct the jurors that they cannot give the

1 fact that you did not testify any consideration
2 whatsoever, and that there is to be absolutely
3 no prejudice to you because you did not testify.
4 It's left entirely up to you whether or not you
5 wish to testify.

6 You may talk to your lawyer, Mr. Phillips,
7 family, friends, or anyone else, but the final
8 decision will be left entirely up to you.

9 Do you understand what I have explained?

10 A. Yes, Your Honor.

11 Q. Do you have any questions about what
12 I've explained?

13 A. No, sir.

14 Q. Have you talked to Mr. Phillips about
15 whether or not you should testify?

16 A. Yes.

17 MR. PHILLIPS: We have discussed it Your
18 Honor.

19 BY THE COURT:

20 Q. All right, do you wish to talk with him
21 any more at this time about whether or not you
22 should testify?

23 A. Yes.

24 Q. All right.

25 THE COURT: Solicitor, with regard to

1 possible impeachable criminal behavior, do you
2 have anything?

3 MR. STONE: No record at all on Ms.
4 Pangalangan.

5 On Mr. King there's some record, but
6 nothing that I believe would be proper to
7 impeach him on.

8 THE COURT: Okay. We will give you an
9 option.

10 MR. PHILLIPS: I know we had at least one
11 here.

12 THE COURT: We're going to recess. We're
13 waiting for the jurors.

14 (RECESS)

15 **

16 **PROCEEDINGS CONTINUED**

17 (Jury enters the courtroom.)

18 THE COURT: Madam Forelady --

19 FORELADY: Yes, sir.

20 THE COURT: -- how is the jury doing?

21 FORELADY: Doing well, Your Honor.

22 THE COURT: Very good. You have heard the
23 State's case. It's now the defense's turn.

24 Mr. Loy?

25 MR. LOY: thank you, Your Honor. Your

1 Honor, we'd call Larry King to the stand.

2 ***

3 LARRY KING,

4 BEING DULY SWORN TESTIFIED AS FOLLOWS:

5 ***

6 DIRECT EXAMINATION

7 BY MR. LOY:

8 Q. And, Mr. King, where are you from, sir?

9 A. From Walterboro, South Carolina.

10 Q. How long have you been -- are you
11 originally from Walterboro?

12 A. Yes, sir.

13 Q. And how old are you, sir?

14 A. 46-years-old.

15 Q. If you would, tell the ladies and
16 gentlemen of the jury a little bit about where
17 you work. Do you have children?

18 A. Yes, sir, I have two sons, 23 and 21.
19 I have a four-year-old grandson. I am now
20 employed in Spartanburg for Renfrow Brothers.
21 I've been up there for two years.

22 Q. Thank you, sir. You're supported by
23 people who are in Court today?

24 A. Yes, sir. I have my son over here on
25 the far side, next to my uncle, my mom's

1 brother, his wife, my cousin and my ex-wife.

2 Q. All right, thank you, sir. And you
3 said that you have children, two children; is
4 that right?

5 A. Yes, sir.

6 Q. Were you involved in their lives as
7 they were coming up?

8 A. Me and my wife got divorced, but, yeah,
9 I was absolutely into it. In 2014 they came and
10 moved in with me, and they stayed with me on up
11 until they got moved out of the house.

12 Q. So from 2014 on you say you raised
13 those children?

14 A. Yes, sir.

15 Q. And you were involved in their life up
16 until then?

17 A. Yes, sir.

18 Q. Did you have problems related to that,
19 anything?

20 A. No, sir.

21 Q. Mr. King, are you employed now? I
22 think you said you were.

23 A. Yes, I work for Renfrow Brothers in
24 Spartanburg, South Carolina.

25 Q. And do you have a pretty steady history

1 of employment?

2 A. Yes, sir.

3 Q. What do you mean by that?

4 A. I've had five jobs all my life.

5 Q. And have there been gaps where you
6 didn't have one, or have you always worked?

7 A. I always worked.

8 Q. There's been a whole lot of talk during
9 this trial about the drugs, methamphetamine.
10 You sat through it all, have you heard that?

11 A. Yes, sir, I have.

12 Q. Well, you're not charged with a drug
13 offense. You're not charged with anything to do
14 with methamphetamine, but the State's gonna talk
15 about it a lot, so I'm gonna ask you a couple
16 questions about that, all right?

17 A. Yes, sir.

18 Q. Are you doing okay? You all right?

19 A. Yes, sir, I'm okay.

20 Q. Do you need a drink or anything? Do
21 you need some water up there with you?

22 A. I'm okay.

23 Q. If you decide you do, let me know, I
24 think the Court will indulge us on that, all
25 right? They talked about this methamphetamine.

1 Have you ever used methamphetamine, sir?

2 A. Yes, sir, I have.

3 Q. Okay. And the Judge -- excuse me, the
4 witness talked about various uses. In the past
5 have you had a problem with methamphetamine.

6 A. I did.

7 Q. And what do you mean -- how do you
8 define a problem?

9 A. I was a drug addict.

10 Q. You were addicted to methamphetamine,
11 is that --

12 A. Yes, sir.

13 Q. -- what you needed?

14 A. I was addicted to methamphetamine.

15 Q. Okay. And early on during the
16 selection of this jury, one of the jurors said
17 they knew you, and stood up and said they -- I
18 guess they missed the anonymous part about it.

19 A. Absolutely.

20 Q. But one of them stood up and said they
21 knew you from the 12-step program; do you
22 recall?

23 A. Yes, sir.

24 Q. Have you in the past struggled with
25 your addiction? Have you sought help? Have you

1 tried to get help?

2 A. I did, and the last two years I went --
3 I moved to Spartanburg and in recovery -- a
4 Christian recovery based center, and have been
5 in the program up there, and I've worked and
6 lived in a recovery house, you know, with other
7 clean guys that were trying to, you know, has
8 been where I've been, trying to put the Lord
9 first, and do the next right thing.

10 Q. All right, sir. You look a little
11 different today than what you did in the video
12 that most of us watched, even though you didn't
13 watch it, but you look like you put on some
14 weight and some size; is that right?

15 A. Yes, sir.

16 Q. And did that have anything to do with
17 your recovery?

18 A. Yes, sir, just putting God first,
19 getting clean, and trying to be more of a family
20 man, and doing the next right thing.

21 Q. When the doctor was talking, she said
22 methamphetamine has sometimes been prescribed
23 for weight loss. Like I say, you don't look
24 like you've lost any weight since then.

25 Have you put weight on?

1 A. Yes, sir.

2 Q. Are you healthy today?

3 A. Yes, sir.

4 Q. Are you clean today?

5 A. Yes, sir.

6 Q. How is it that you can tell the ladies
7 and gentlemen of the jury that you've always
8 worked, and had five jobs your whole life, and
9 always been gainfully employed, and in the same
10 breath tell them that you were a drug addict, a
11 methamphetamine addict?

12 A. I was a functioning addict. I used
13 daily to function.

14 Q. All right.

15 A. It was just a part of my life.

16 Q. When you say you used as a functioning
17 addict, tell me what you mean.

18 A. I had to have it to go. I had to have
19 it to work. I used it to do anything and
20 everything every day.

21 Q. And were you able to work when you used
22 this substance?

23 A. I was.

24 Q. Were you able to drive, and to meet
25 your own obligations?

1 A. I did.

2 Q. And she was talking about tolerance,
3 and you used enough of this stuff to develop a
4 tolerance to it?

5 A. Absolutely.

6 Q. And you said day-to-day as a
7 functioning drug addict, you used enough of this
8 substance to keep you going, and allow you to
9 function normally?

10 A. I did.

11 Q. And in that condition, and I understand
12 you said you've been in the 12-step program, and
13 you had sought some help prior to that, but did
14 that condition continue at least off and on up
15 until the day we're here to talk about?

16 A. Yes, sir.

17 Q. Okay. And subsequently you got to
18 where you described?

19 A. Thank God, yes, sir.

20 Q. All right. Do you know the lady seated
21 at that table over there, Ms. Pangalangan?

22 I think I'm saying it right.

23 A. I do.

24 Q. Okay, and how do you know her?

25 A. We used to date.

1 Q. And when did you'all first start to
2 date?

3 A. 2015.

4 Q. And did that last as a continuous
5 relationship up until the day on this, or had
6 you'all had times apart?

7 A. No, we dated for a few years. And we
8 had broke up six months prior to -- we started
9 back talking about five weeks until this
10 happened, yes, sir.

11 Q. So you'all had started back talking
12 about five weeks prior to this day?

13 A. Yes, sir.

14 Q. The day in question?

15 A. All this stuff, yes, sir.

16 Q. Did you'all live together?

17 A. No, sir.

18 Q. And you know where her home was?

19 A. Yes, sir.

20 Q. About how far was that from your home?

21 A. 15 miles.

22 Q. 15 miles you said?

23 A. Yes, sir.

24 Q. And you knew this little girl?

25 A. Yes, sir.

1 Q. As far as the child goes, had you
2 observed the other defendant, I'm not even gonna
3 try her name, but had you observed the other
4 defendant her interactions with this little
5 girl?

6 A. I did.

7 Q. Okay. Was there anything that you saw
8 with the way she treated the child, took care of
9 the child that caused you concern?

10 A. No, sir.

11 Q. If you had seen things like that, where
12 you thought -- caused you concern, what would
13 your reaction have been?

14 A. I would have got away from it. I would
15 have reported it.

16 Q. Were you in a position where you did
17 observe the child, but someone else abusing the
18 child was treated bad at the hands of another
19 person, man or woman, what would you reaction
20 be?

21 A. I would address it immediately.

22 Q. What do you mean by that?

23 A. It depends. If I'd seen a man abusing
24 a child, I'd stop it.

25 Q. All right. On this particular day you

1 didn't watch -- I noticed you didn't watch this
2 tape recording; is that right?

3 A. I didn't.

4 Q. Have you ever watched it?

5 A. No, sir.

6 Q. Your lawyers had it, but why didn't you
7 watch it?

8 A. I couldn't.

9 Q. Even prepping to come here today, did
10 you watch it?

11 A. No, sir.

12 Q. The State, excuse me, the witnesses for
13 the State have contributed the statements to you
14 from the other defendant, which stated that you
15 spent the night before this child died at your
16 home; is that correct?

17 A. Yes, sir.

18 Q. And the -- was CP [REDACTED] there also?

19 A. Yes, sir.

20 Q. Okay. And you said that you had talked
21 to or been involved with Ms. Pangalangan in the
22 past.

23 What was your relationship with this child?

24 A. She was my girlfriend's daughter.

25 Q. Did you -- this is a child who has

1 special needs and needed special care.

2 Did you wash this child? Did you bathe
3 this child? Somebody did, did you?

4 A. No, sir.

5 Q. And this child was in a diaper, this
6 young girl wore a diaper, wasn't able to clean
7 herself. Did you clean this child? Had you
8 changed her diaper? Were you responsible for
9 things like that?

10 A. No, sir.

11 Q. Did you feed this child?

12 A. No, sir.

13 Q. Did you put her to bed or get her up in
14 the morning?

15 A. No, sir.

16 Q. Were you financially responsible, did
17 you pay any child support or anything for this
18 child?

19 A. No, sir.

20 Q. And this may have been answered, but
21 did you help dress her, or anything like that?

22 A. No, sir.

23 Q. Regardless, the night before they spent
24 the night at your home; is that right?

25 A. Yes, sir.

1 Q. And tell me in the morning you got up,
2 and you and Ms. -- oh, I'm sorry, did you go to
3 bed that night?

4 A. No, sir, I'd been up all night.

5 Q. I mean was that partly due to that
6 methamphetamine use?

7 A. Yes, sir.

8 Q. And when you got up in the morning, did
9 you and the other defendant have a conversation,
10 which led to what we saw on the video, that is
11 you carrying the child out?

12 A. Yes, sir.

13 Q. Okay.

14 A. Yes, sir.

15 Q. Tell the ladies and gentlemen, I don't
16 want you to quote, but just tell them what the
17 conversation was about.

18 A. Just about her being somebody else, and
19 we talked about it. Some things broke my heart
20 to think about.

21 Q. All right, so it was about, basically,
22 what you would call a friendship; is that right?

23 A. Yes, sir.

24 Q. Okay. And did -- in the course of that
25 conversation, did she confirm that, yes, in

1 fact, that had happened?

2 A. Yes, sir.

3 Q. And when she said, yes, that had
4 happened, what was your reaction?

5 A. Just hurt.

6 Q. You were hurt?

7 A. I was hurt.

8 Q. And that was your reaction, what did
9 you do, man? I mean what did you say or what
10 did you do?

11 A. I asked her to leave. I told her I'd
12 call her later.

13 Q. Okay. Did you lose your temper? Did
14 you smash anything?

15 A. Absolutely not.

16 Q. You're a big fella?

17 A. Absolutely not.

18 Q. Did you break anything in the house?
19 Did you grab her and shake her or anything?

20 A. No, sir.

21 Q. Okay. You asked her to leave?

22 A. Yes, sir.

23 Q. And did she agree to leave?

24 A. Yes, sir.

25 Q. And then what happened next?

1 A. I put the child in the car.

2 Q. All right. When you say you put the
3 child in the car, did you carry her out?

4 A. Yes, sir, I did.

5 Q. Okay. And why were you the one to
6 carry her out?

7 A. Rita has had kidney, has a lot of
8 trouble -- health trouble, and her daughter was
9 getting heavy for her, so she asked me to carry
10 her.

11 Q. Okay. And thinking back, and I know
12 you say you remember that day, but thinking back
13 would there have been anything inappropriate,
14 wrong or rough by the way you were treating that
15 little disabled girl?

16 A. No, absolutely not, no.

17 Q. Can you imagine a circumstance where
18 that would be your reaction?

19 A. No, sir.

20 Q. So you stated you carried the child
21 out, and we can see in the tape, placed her in
22 whose car?

23 A. Rita's car.

24 Q. Okay, and where did you put her in the
25 car, if you recall?

1 A. Behind the driver's seat on the
2 driver's side in the rear.

3 Q. Okay, and you stepped away, and then
4 did mom come and like get her settled with the
5 seatbelt, or something like that?

6 A. I think so, yes, sir.

7 Q. And think carefully, if you need to,
8 was the car running when you put the little girl
9 in?

10 A. Absolutely.

11 Q. You say you're from Walterboro; is that
12 right?

13 A. Yes, sir.

14 Q. We know you've heard and everybody else
15 knows, it gets hot in Walterboro, yes?

16 A. Yes, sir.

17 Q. And you grew up here. I know the State
18 went to great lengths to prove to the ladies and
19 gentlemen of the jury that if you park the car
20 in the sun in the summertime in Walterboro, it
21 gets really hot, it gets too hot.

22 Were you aware of that before scientists
23 testified?

24 A. Yes, sir.

25 Q. Do you figure everybody in Walterboro,

1 who's got a car knows that that happens, whether
2 or not they hear from that scientist?

3 A. Absolutely.

4 Q. All right. Would you have left that
5 little girl in the car, if the engine wasn't
6 running and the A/C wasn't on?

7 A. Never, never.

8 Q. Never.

9 A. Never.

10 Q. All right. So you put the little girl
11 in the car, you say the engine was running.

12 Can you tell me what happened next, just
13 next?

14 A. We went back inside.

15 Q. Okay, did you and she have a -- let me
16 ask you this, up until the time you'all
17 discovered that little girl was deceased, was
18 there anything unusual or scary about this day?

19 A. No, it was another normal day. I
20 thought everything was -- I had no idea that
21 anything was wrong.

22 Q. Were you trying to memorize the events
23 moment-by-moment?

24 A. No, sir.

25 Q. Are there things about that day that

1 you may be a little unclear on or foggy, at this
2 point, four years down the road?

3 A. Absolutely not.

4 Q. Well, if somebody told you they watched
5 that tape, and you agreed to have a conversation
6 in the yard, after that child was put in the
7 car, is that something you would deny, or you
8 would say I don't recall?

9 A. No, I remember.

10 Q. Okay. Well, tell me, I'm asking you
11 about that conversation.

12 A. I was asking her -- I just asked her to
13 leave, and told her I would call her later,
14 that's all I said.

15 Q. And did she, in fact, get in the car
16 and leave?

17 A. No, sir.

18 Q. Excuse me?

19 A. No, sir.

20 Q. What did happen?

21 A. She followed me back inside.

22 Q. And what were you'all talking about?
23 You asked her to leave, she didn't leave, what
24 was going on between you?

25 A. She was just trying to plead with me

1 and talk to me, and just trying to make things
2 right.

3 Q. And did you'all talk back and forth
4 about it?

5 A. A little bit, yes, sir.

6 Q. And you said you had your feelings
7 hurt?

8 A. Yeah.

9 Q. Well, you said your heart broke.

10 A. Yeah.

11 Q. And while you'all were in the house,
12 let's just put the cars on the table, did you
13 make up?

14 A. We didn't.

15 Q. Okay, you decided to move on?

16 A. Yes, sir.

17 Q. At some point in time, and you don't
18 have to give me minute-by-minute, because the
19 ladies and gentlemen of the jury have seen the
20 tape, they know how long things took, but at
21 some point in time, did the defendant at the
22 other counsel table, did she attempt to leave?

23 A. Yes, sir.

24 Q. Okay, and what happened when she tried
25 to leave?

1 A. She came back in and told me her keys
2 were locked in her car.

3 Q. That keys were locked in the car?

4 A. Yes, sir.

5 Q. And what was your reaction to that?
6 You cheated on me, get out of here?

7 A. No, I tried to help her get in the car.
8 I didn't know that anything other than that was
9 wrong to be honest.

10 Q. Was the car still running?

11 A. The car was running.

12 Q. Were you worried about the situation?

13 A. No, sir, not really.

14 Q. Okay, and if you had known, and I know
15 you've seen what we've all seen, and if you had
16 any inkling that that's what was gonna happen or
17 had happened, what would your reaction have
18 been?

19 A. I would have knocked that window of
20 that car and got the child.

21 Q. So you made an effort to get the child
22 out of the car; is that right?

23 A. Yes, sir.

24 Q. Or to get the car open, were you
25 successful in that?

1 A. Not right away I wasn't.

2 Q. And how you tried is not important, but
3 do you recall what you did to try to get into
4 the car?

5 A. Some, yes, sir.

6 Q. What did you do?

7 A. I tried to get in -- like I tried to
8 pry the door, tried to hopefully knock out the
9 sunroof. Rita didn't want me to do that.

10 Q. You say you'all knocked out the
11 sunroof?

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

13 Q. It's not your car?

14 A. It's not my car.

15 Q. Okay, but you offered to knock out the
16 sunroof, she said, "No?"

17 A. Yes, sir.

18 Q. Do you recall what you did say other
19 than just no? It's four years later, I know you
20 can't remember everything.

21 A. No.

22 MR. STONE: Objection, hearsay.

23 THE COURT: Repeat the question.

24 BY MR. LOY:

25 Q. Did you ask her if you want -- your

1 answer was, excuse me, earlier --

2 THE COURT: The question, repeat the
3 question.

4 MR. LOY: I'm gonna take a different
5 question.

6 THE COURT: Pardon?

7 MR. LOY: I'm gonna take a different
8 question, if it's okay, Your Honor.

9 THE COURT: All right.

10 BY MR. LOY:

11 Q. Your answer earlier was, you offered to
12 knock out the sunroof; is that right?

13 A. I did.

14 Q. After offering to knock out the
15 sunroof, did Ms. Pangalangan respond?

16 MR. STONE: Objection, hearsay.

17 MR. LOY: No, I'm not asking what her
18 response was, I'm asking did she respond?

19 BY WITNESS:

20 A. She did.

21 Q. And after her response, did you knock
22 out the sunroof?

23 A. No, sir.

24 Q. All right. Did you'all then come up
25 with a different plan?

1 A. Yes, sir.

2 Q. And what was that?

3 A. She said she had a spare key at her
4 home.

5 Q. Okay, and were you, at this point, just
6 done with the operation, or did you continue to
7 try to help?

8 A. I continued to try to help.

9 Q. What did you do to try to help?

10 A. I went and took her to get a spare key.

11 Q. All right, when you left, was the
12 engine running?

13 A. Yes, sir.

14 Q. And was it running when you got back?

15 A. Yes, sir.

16 Q. And did you think that A/C was on?

17 A. Yes, sir.

18 Q. When you got back and you had that key
19 fob, and did you go retrieve the key fob?

20 A. She did.

21 Q. Okay. And when you'all got back, were
22 you able to pop the -- just go -- did that solve
23 the problem?

24 Did you go up, hit the fob and unlock the
25 door?

1 A. No, sir.

2 Q. Why not?

3 A. I think the batteries were weak and it
4 wouldn't work.

5 Q. Okay.

6 A. It wouldn't unlock the door.

7 Q. So you hit lock/unlock and it wouldn't
8 unlock?

9 A. No, sir.

10 Q. You have a real problem now, or at
11 least she had a real problem; is that fair?

12 A. Yes, sir.

13 Q. What did you do to address that?

14 A. I called Robert Stokes at Lock and Key.

15 Q. Do you know someone there?

16 A. Yes, sir, Robert, the owner.

17 Q. Okay. So you called the owner of
18 Stokes Lock and Key, and what was the purpose of
19 that call?

20 A. So he could help me get in the vehicle.

21 Q. And if, in fact, you made that call,
22 would that be reflected on the videotape? Were
23 you in the yard doing this?

24 A. Absolutely, yes, sir.

25 Q. Okay, so you called Stokes Lock and

1 Key, and you spoke with a person you knew there,
2 and asked how to get in the car; is that your
3 testimony?

4 A. Yes, sir.

5 Q. And what did he tell you?

6 A. He told me there's an emergency key in
7 the key fob.

8 Q. Okay, and the emergency key in the key
9 fob, people may know what that means, but,
10 apparently, you didn't at the time, so what does
11 that mean?

12 A. There's a key inside the fob separated
13 from the key.

14 Q. And you were never able to unlock it
15 automatically?

16 A. Never, never.

17 Q. All right, but after speaking with the
18 gentleman at the locksmith company, what did you
19 do?

20 A. He told me to pop off -- he told me to
21 retrieve the key, I got the key and he told me
22 to pop off the face off the door handle, so I
23 could unlock the car.

24 Q. And were you eventually able to unlock
25 the car?

1 A. Yes, sir, I did.

2 Q. And it wasn't with that key fob?

3 A. No, sir.

4 Q. It was just old-fashioned stick it in
5 and turn?

6 A. Yes, sir. Yes, sir.

7 Q. And I'm not gonna ask you what you saw
8 when you got in the car, people saw that on the
9 video and witnessed it themselves; but when the
10 child got out, when the child was taken from the
11 car, and you knew she was deceased, what was
12 your immediate reaction?

13 A. Call 911.

14 Q. Did it occur to you that maybe you were
15 in trouble?

16 A. No, sir.

17 Q. Any time up until -- I mean any time
18 during the course of this investigation,
19 speaking with police officers, speaking with
20 anybody else, and talking about it, were you
21 like "Oh, my goodness, I need to cover something
22 up?"

23 A. Never had an idea.

24 Q. Excuse me?

25 A. No, sir. No, sir.

1 Q. Okay. So you called 911 and the
2 information you gave them, was it correct?

3 A. Yes, sir.

4 Q. And when law enforcement arrived, did
5 you talk to them?

6 A. Yes, sir.

7 Q. And was the information that you gave
8 them correct?

9 A. Yes, sir.

10 Q. Before law enforcement arrived, and
11 from watching that video, it looks like the
12 front door's open and you reach in the car.

13 Are you grabbing something out of that
14 front seat of the car?

15 A. No, sir, I reached in to turn that car
16 off.

17 Q. How did you turn it off?

18 A. A button.

19 Q. It's got a pushbutton on it?

20 A. Yes, sir.

21 Q. When we watched that tape, we should
22 see you reaching in and turning that car off?

23 A. Yes, sir.

24 Q. The vehicle itself, are the windows
25 tinted in that car?

1 A. Yes, sir.

2 Q. Are they a dark tint, or just like --

3 A. Very --

4 Q. -- it comes from the factory?

5 A. Very dark.

6 Q. Can you see in that car?

7 A. No, sir.

8 Q. When law enforcement got there, and
9 later they took you down to the Police Station;
10 is that correct?

11 A. Yes, sir.

12 Q. Did anybody ever tell you, you don't
13 have to talk to us, you've got a right to remain
14 silent, and all that sort of thing?

15 A. Yes, sir.

16 Q. Okay, did you sign the form and say, "I
17 understand?"

18 A. Absolutely.

19 Q. And then did they keep talking to you
20 for several hours?

21 A. Yes, sir.

22 Q. Did you talk until they said, "You
23 don't need to talk anymore?"

24 A. Yes, sir.

25 Q. All right. Did you ever lie to try to

1 cover up --

2 A. Never.

3 Q. -- for yourself?

4 A. Never.

5 MR. LOY: One moment, Your Honor.

6 BY MR. LOY:

7 Q. You've been charged with murder.

8 Did you murder the child?

9 A. No, sir.

10 Q. You carried that child to the car and
11 put her in the car. You've been accused of
12 causing great bodily injury to this child.

13 Do you feel like you handled her correctly
14 and appropriately?

15 A. Yes, I did.

16 Q. And I asked you earlier, is there any
17 way you would cause harm to any child?

18 A. Never, I love children.

19 Q. And for some odd reason, I have no idea
20 still, you're charged with conspiracy; you're
21 aware of that?

22 A. Yes.

23 THE COURT: Jury, disregard the comment of
24 counsel. Pose the questions.

25 MR. LOY: All right.

1 BY MR. LOY:

2 Q. You're also charged with conspiracy; is
3 that correct?

4 A. Yes, sir.

5 Q. Did you and Rita -- no disrespect, did
6 you and Rita get together, and plan some way to
7 kill this child?

8 A. Absolutely not.

9 Q. Did y'all get together and plan some
10 way to hurt this child?

11 A. No, sir.

12 Q. Can you go back to the circumstances
13 that could have occurred?

14 A. No, sir.

15 Q. Mr. King, these other lawyers have
16 probably got some questions for you.

17 Try to answer them the best way you can,
18 all right?

19 A. Yes, sir.

20 Q. And, again, are you good?

21 A. Yes.

22 Q. Okay.

23 THE COURT: I say in the order with cross-
24 examination who goes first?

25 MR. STONE: Which way do you want to go,

1 Your Honor?

2 THE COURT: I don't know, I suppose Mr.
3 Phillips.

4 Do you have cross-examination?

5 MR. PHILLIPS: I can go last.

6 MR. STONE: I'll be glad to go, Your Honor.

7 THE COURT: All right, just --

8 **

9 **CROSS-EXAMINATION**

10 BY MR. STONE:

11 Q. Let me make sure I understand your
12 testimony, and I guess it's either based on your
13 memory of the event, or your comprehension of
14 the event at the time, right, your testimony
15 today? You haven't looked at the video, you --

16 A. No, sir.

17 Q. -- haven't done anything? This is
18 either from your memory of what happened, or
19 from your comprehension of that while it was
20 happening; is that fair?

21 A. Yes, sir.

22 Q. You would agree that everything that
23 was done to that child was done with you and
24 Rita; is that fair?

25 A. Yes, sir.

1 Q. You put the child in the car, and Rita
2 was standing there when you did, correct?

3 A. Yes, sir.

4 Q. You were standing around the car with
5 Rita when the child was inside the car, correct?

6 A. Yes.

7 Q. You went inside and --

8 MR. LOY: Your Honor, I ask the witness be
9 allowed to answer.

10 MR. STONE: He did.

11 BY MR. STONE:

12 Q. You went inside with Rita inside the
13 front porch together; did you not?

14 A. We did.

15 Q. Pardon me?

16 A. I did.

17 Q. And while you were in there the child
18 was still out in the car, correct?

19 A. She was.

20 Q. Now, is it fair to say, and I know
21 we've had some testimony, it was a pretty hot
22 day, it's in August, your house -- correct?

23 A. Yes, sir.

24 Q. And your house is -- outside the car
25 was parked actually -- it wasn't under shade, it

1 was in direct sunlight; is that fair?

2 A. Yes, sir.

3 Q. Okay. Now, when you called 911 as you
4 did, first of all I want to make sure I'm clear
5 about this, you say that from the standpoint of
6 turning on and off the car, when you put the
7 child in the car, the car was on, but you turned
8 the car off after you got the child, correct, or
9 both of you got the child out of the car; is
10 that correct?

11 A. Yes, sir.

12 Q. Okay. And you're sure about that?

13 A. Absolutely.

14 Q. Again, based on either your memory or
15 your comprehension of the event that day, right?

16 A. I'm sure about that.

17 Q. Okay. You've got a security system
18 that works pretty well at that house; do you
19 not?

20 A. Yes, sir.

21 Q. It's actually pretty sensitive; is it
22 not?

23 A. Yes, sir.

24 Q. It's got some infrared, it's got some
25 other stuff, it's picking up everything, and all

1 those are run cameras around your house, right?

2 A. Yes, sir.

3 Q. In fact, I think at one point in time
4 you can actually see a bug fly by and set the
5 camera off, right?

6 A. Yes, sir.

7 Q. And it was motion detected, correct?

8 A. Yes, sir.

9 Q. So if there's any motion around your
10 house, it's gonna pick that up, right?

11 A. Right.

12 Q. Okay. Let me go to --

13 MR. STONE: If you can go to 11:15 on the
14 camera.

15 BY MR. STONE:

16 Q. Rita came back to your -- all right,
17 first of all, you were with Rita --

18 MR. LOY: Wait for 11:15.

19 BY MR. STONE:

20 Q. You were aware --

21 MR. LOY: Your Honor, can I get a ruling?

22 THE COURT: Overruled, proceed.

23 MR. STONE: Thank you, Your Honor.

24 BY MR. STONE:

25 Q. You were with Rita starting that

1 Friday; is that right?

2 A. Yes, sir.

3 Q. In fact, you went over to your house
4 just like I think Ms. Huneycutt or Ms. Lindsey
5 said, you went over to the house and picked her
6 up in your truck, right?

7 A. Yes, sir.

8 Q. Took her back over to your house, and
9 she was with you, that would have been Friday,
10 Saturday and Sunday, right?

11 A. Yes, sir.

12 Q. And then at some point in time on
13 Sunday she went back and got the child, I guess
14 it was in the afternoon, because you had to take
15 her back over there.

16 A. Yes, sir.

17 Q. And that was later in the afternoon,
18 right?

19 A. Yes, sir.

20 Q. So she was with you that entire time?

21 A. Yes, sir.

22 Q. This is at the same time that I think
23 you also said you were on pretty much a meth
24 bender; were you not?

25 A. I was.

1 Q. You were?

2 A. I was.

3 Q. In fact, you were using constantly;
4 were you not?

5 A. I was.

6 Q. And, in fact, you also said you hadn't
7 slept in a couple days at that point, right?

8 A. Yes, sir.

9 Q. Do you even remember the last time you
10 slept up until that point?

11 A. I can't recall. I think it was
12 Thursday or Friday.

13 Q. Okay, so for Friday, Saturday, Sunday
14 you are doing meth all three of those days, and
15 you're staying up; is Rita doing that with you?

16 A. I don't recall.

17 Q. Are you sure?

18 A. Yes, sir.

19 Q. You're gonna stick with that?

20 MR. LOY: Your Honor, asked and answered,
21 let's move forward.

22 THE COURT: Objection --

23 MR. STONE: I apologize -- I apologize.

24 THE COURT: -- overruled. I mean go ahead.

25 MR. STONE: Yes, sir, I'll rephrase it.

1 BY MR. STONE:

2 Q. Did you not tell law enforcement that
3 Rita, in fact, likes to put her meth in her
4 coffee and drinks it that way; did you not tell
5 them that?

6 A. I may have, yeah.

7 Q. You may have mentioned that? Okay.
8 She's with you the entire time on this three-day
9 bender, you're using meth, your testimony you
10 don't remember if she was using it or not, but
11 you know that when she does use it, she puts it
12 in her coffee; is that your testimony?

13 A. I speak for myself, sir.

14 Q. Well, unfortunately, you answered my
15 question, sir. So my question was, when you're
16 doing the meth, is Rita doing it with you?

17 A. She was using.

18 Q. Thank you, sir.

19 So on this three-day bender that you and
20 Rita are on, did she sleep at all, or were you
21 both up the whole time?

22 A. No, she slept.

23 Q. Okay. So you heard the testimony from
24 the -- actually, the toxicologist, that talks
25 about -- and she actually talked about you're

1 under the influence going up and coming down,
2 and, in fact, I think she even actually
3 mentioned that while you're on it and taking it,
4 you're staying up, that's not unusual.

5 So that's pretty consistent with your
6 testimony of what happened to you; is that
7 right?

8 A. Yes, sir.

9 Q. Would you also agree that when you're
10 on meth, and I know you're not on it today, but
11 let's make sure you were on it these days,
12 right?

13 A. Yes, sir, I was.

14 Q. Is it fair to say that you had problems
15 with your decision-making, your critical
16 judgment, your cognitive abilities?

17 A. Yes, sir.

18 Q. Is there anything she testified to, as
19 to the effect of methamphetamine, is pretty much
20 what you were experiencing; is that correct?

21 A. Yes, sir.

22 Q. And, in fact, including the increased
23 libido?

24 A. Yes.

25 MR. LOY: Objection, it's irrelevant.

1 MR. STONE: I'm getting there.

2 THE COURT: Objection is overruled.

3 BY MR. STONE:

4 Q. In fact, when you went into the house
5 with Rita for about an hour or so like this, I
6 think you told counsel you'all were making up.

7 You were going inside to have sex; were you
8 not?

9 A. We did.

10 Q. And that's why the child was still out
11 in the car?

12 A. In the air conditioning with the car
13 running.

14 Q. Okay, well, let me go back now to, the
15 car was on when you put the child in the car?

16 A. Absolutely.

17 Q. And you turned it off before law
18 enforcement got there?

19 A. Yes, sir.

20 MR. STONE: Could you go to 11:15?

21 BY MR. STONE:

22 Q. Can you see the monitor from where
23 you're sitting?

24 A. Yes, sir.

25 Q. That's the car we're talking about,

1 correct?

2 A. Yes, sir.

3 Q. This is your front porch?

4 A. Yes, sir.

5 Q. And speak into the microphone so
6 these --

7 A. Yes, sir.

8 Q. And you also testified that your
9 monitor is pretty sensitive, so it's picking up
10 -- I was just picking up motion now that we
11 really can't even see. I guess that is from the
12 moth, or anything like that? Any of that stuff
13 that could have set it off? It's pretty
14 sensitive.

15 A. Yes.

16 Q. Okay, and were you hear when the
17 officer testified that up until this point,
18 there had been no motion around that car?

19 A. No.

20 Q. Of course, you picked her up from the
21 house -- you took her back to the house, and she
22 came back? What time did she come back?

23 A. I don't know.

24 Q. I mean it was at night though, right?

25 A. Yes.

1 Q. Like Sunday night?

2 A. I think so, yes.

3 Q. Okay. I'm just gonna ask you while
4 we're waiting on that, the car's not on now, is
5 it?

6 A. I'm not sure.

7 Q. This is you and Rita coming out of the
8 front door?

9 A. Yes, sir.

10 Q. This is you carrying the child?

11 A. Yes, sir.

12 MR. STONE: Pause it right there for a
13 minute, please. Thank you.

14 BY MR. STONE:

15 Q. When Rita came back to your house that
16 Sunday night, did she have her child with her?

17 A. Yes, sir.

18 Q. Did she bring the child inside the
19 house?

20 A. Yes, sir.

21 Q. Would this have been sometime around
22 8:00 or 9 o'clock that Sunday night?

23 A. I don't recall, sir.

24 Q. It wasn't midnight, was it?

25 A. No, sir.

1 Q. And she brings the child in with her;
2 does she not?

3 A. Yes, sir.

4 Q. Does she go back to the car after that,
5 or did she just stay with the child and you?

6 A. I don't remember, sir.

7 Q. When did -- that Friday night, did she
8 go to sleep?

9 A. Did she got to sleep?

10 Q. Yeah.

11 A. Yes, sir, she laid down.

12 Q. What time did she go to sleep?

13 A. I don't recall.

14 Q. All right.

15 MR. STONE: If you can play it.

16 (Video being played for the jury.)

17 BY MR. STONE:

18 Q. This is you and Rita in the back of the
19 car; is that correct?

20 A. Yes, sir.

21 Q. Pardon me?

22 A. Yes, sir.

23 Q. The back door's open, correct?

24 A. Yes, sir.

25 Q. The front door's not open, is it?

1 A. No, sir.

2 Q. The first time you and Rita had gone
3 out to the car that day?

4 A. That I'm aware of, I think so. It's
5 the first time I did.

6 Q. Just you and Rita together?

7 A. Yes, sir.

8 Q. And I'm assuming this is when you guys
9 -- when you were upset with her, because she's
10 cheated on you, right?

11 A. Yes, sir.

12 Q. Pardon me?

13 A. Yes, sir.

14 Q. What I'm gonna do is, I'm gonna fast
15 forward this, and I'd like you to just keep
16 watching it.

17 MR. STONE: Let's fast forward the speed
18 since we already know what's on it. Go ahead
19 and move it up three or four times.

20 (Video being played for the jury.)

21 BY MR. STONE:

22 Q. If you can't see this, or if this goes
23 too fast, you let me know, sir, please?

24 A. Yes, sir.

25 Q. Okay. By the way, while we're watching

1 this, when you called 911, you actually said
2 that Rita put the child in the car; did you not?

3 A. I don't remember, sir.

4 Q. No question, you're the one that put
5 Rita in the car, correct?

6 A. CP yes, sir.

7 Q. You also told the 911 operator she'd
8 been in the car maybe one, maybe two hours?

9 A. Yes, I wasn't sure. I looked at Rita
10 when I was asked that question, as you can see
11 on the video, and she gave me that time.

12 I had no idea how long she'd been in there.

13 Q. Do you think that's the effect of meth,
14 or were you just trying to minimize it?

15 A. I had no idea, sir.

16 Q. Okay. What were you talking about; do
17 you remember?

18 A. Not everything. I was exhausted that
19 morning, sir.

20 Q. Do you recall if you were arguing at
21 this point, or making up, or anything?

22 A. No, sir. No, sir. I was asking her to
23 just go and I would call her later.

24 MR. LOY: Your Honor, can you ask the
25 witness to speak up just a little, I'm having

1 trouble hearing him.

2 THE COURT: I need you to speak up, sir.

3 BY WITNESS:

4 A. Yes, sir. At that point, I was still
5 asking her to leave, and trying to convince her
6 that I would call her later. I was exhausted, I
7 just didn't want to deal with her at that
8 moment.

9 Q. Okay. 11:43 or 11:44,, you both go
10 inside; is that right?

11 A. Yes, sir.

12 Q. Okay, and I know you haven't seen the
13 video, but would it surprise you that you stay
14 inside the house for about 30 minutes or so
15 after that?

16 A. Yes.

17 Q. Okay, and you don't come back out for a
18 while, going back out there at all, do you?

19 A. No, sir, I laid down.

20 Q. Okay, well, the video will speak for
21 itself on that, you laid down.

22 When you'all were going back in just now,
23 were you'all going back in to have sex?

24 A. We went in I think to make up.

25 Q. Pardon me?

1 A. We went back into make up, yes, sir.

2 Q. When you turned the car, according to
3 your memory, when you turned the car off,
4 according to you, before the police got there,
5 you reached in the front door and pushed the
6 button?

7 A. Yes, sir.

8 Q. Did you watch this video?

9 A. No, sir.

10 Q. You've got a sensitive motion sensor
11 camera that picks up everything with infrared
12 lighting and the whole bit, in fact, bugs could
13 come up and pick it up.

14 There was no motion on the camera up until
15 11:15, which the motion that was set off is by
16 you and Rita walking to the car.

17 Did you see anybody go into the front door
18 of that car during this time that we just looked
19 at?

20 A. No, sir.

21 MR. STONE: Nothing else.

22 THE COURT: Mr. Phillips?

23 **

24 **CROSS-EXAMINATION**

25 BY MR. PHILLIPS:

1 Q. Mr. King --

2 A. Yes, sir.

3 Q. -- when you called 911 your immediate
4 response was, "Oh, my God."

5 A. Yes, sir.

6 Q. You were in a state of absolute shock?

7 A. Absolutely.

8 Q. Their next response, they said, "What
9 is your -- what is the address of your
10 emergency?" "Hey, man, I've got an emergency I
11 mean real quick." There wasn't any intent to
12 cover up anything

13 A. No, sir.

14 Q. Because there wasn't a plan to do
15 anything?

16 A. No, sir.

17 Q. So your initial response was to call
18 911, your initial response to the operator
19 answering your call was to say, "Oh, my God?"

20 A. Yes, sir.

21 Q. Your next response, "My daughter was
22 locked in a car, she had the A/C on, my girl
23 locked her keys in the car, we had to run to her
24 house to get the key fob and come back?"

25 A. Yes, sir.