

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPEAL FROM COLLETON COUNTY
Court of General Sessions

S.C. SUPREME COURT

The Honorable Clifton B. Newman, Circuit Judge
The Honorable Jean Hoefer Toal, Chief Justice (Ret.)

Appellate Case No. 2023-000392

THE STATE OF SOUTH CAROLINA,.....RESPONDENT,

V.

RICHARD ALEXANDER MURDAUGH, ... APPELLANT.

**RECORD ON APPEAL
VOL. XV**

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**RECORD ON APPEAL INDEX
VOLUME I**

ORDERS

Order Granting Motion of State to Admit Evidence of Other Crimes, filed February 6, 2023 ...1

ORDERS POST TRIAL

Court of Appeals Order, filed October 17, 2023 7

Supreme Court Order, filed January 3, 2024.....8

Circuit Court Order Denying Motion for New Trial, filed April 4, 2024 10

Supreme Court Order, filed August 13, 2024 35

Supreme Court Order, filed September 13, 2024.....37

JUDGMENTS

Judgment (Sentencing Sheets-4), filed March 3, 2023 39

DECREES

Notice of Alibi Defense, filed November 17, 2022 55

Notice of Direct Appeal, filed March 9, 2023 57

Notice of Jury Tampering Appeal, filed April 11, 2024.....59

INDICTMENTS:

Indictment #2021-GS-15-00592 61

Indictment #2021-GS-15-00593 63

Indictment #2021-GS-15-00594 65

Indictment #2021-GS-15-00595 67

MOTIONS AND MEMORANDUMS FILED WITH THE LOWER COURT

Motion to Exclude False Testimony About Evidence Destroyed by the State with Exhibits, filed November 23, 2022 69

Motion for Bill of Particulars, filed December 7, 2022.....164

State's Response in Opposition to Defendant's Motion for a Bill of Particulars; and State's Motion to Admit Evidence of Motive, filed December 8, 2022 173

Memorandum in Opposition to Motion in Limine re: Evidence of Other Crimes and Bad Acts, filed December 19, 2022 196

Reply to Defendant's Memorandum in Opposition to State's Motion in Limine to Admit Evidence of Motive, filed December 28, 2022 215

Motion in Limine to Preclude or Limit Firearm Ballistic Opinion Testimony, or Alternatively, for a *Council* Hearing, filed January 23, 2023 233

State’s Response to Motion to Preclude or Limit Firearms Ballistics Evidence, filed January 24, 2023.....255

MOTIONS AND MEMORANDUMS FILED POST TRIAL

Motion to Suspend Appeal and for Leave to File a Motion for New Trial, filed September 5, 2023.....270

Return to Motion to Suspend Appeal and Leave to File Motion for a New Trial., filed September 15, 2023.....333

Reply to the State’s Return to Appellant’s Motion to Suspend Appeal and for Leave to File Motion for New Trial, filed September 21, 2023 337

Motion for New Trial, filed October 27, 2023.....345

State’s Response to Defendant’s Motion for a New Trial; and State’s Motions to Strike, filed November 6, 2023.....418

Defendant’s Pre-Hearing Brief RE: Motion for a New Trial, filed January 3, 2024.....466

VOLUME II

MOTIONS AND MEMORANUMS FILED POST TRIAL, CONTINUED

Defendant’s Pre-Hearing Brief RE: Motion for a New Trial, filed January 3, 2024, Cont. 483

State’s Pre-Hearing Brief in Opposition to Defense Motion for a New Trial, filed January 3, 2024.....490

Defendant’s Supplemental Pre-Hearing Brief, filed January 10, 2024 497

State’s Revised Pre-Hearing Brief in Opposition to Defense Motion for a New Trial, filed January 10, 2024 529

Defendant’s Second Supplemental Pre-Hearing Brief, filed January 12, 2024.....560

Defendant’s Reply to the State’s Pre-Hearing Brief, filed January 15, 2024 592

Motion to Certify to the Supreme Court with exhibits, filed July 10, 2024 611

VOLUME III

MOTIONS AND MEMORANDUMS FILED POST TRIAL, CONTINUED

Motion to Certify to the Supreme Court with exhibits, filed July 10, 2024, Continued	967

TRANSCRIPTS

Trial Transcript (January 23-March 3, 2023), Pages 1-5894 ¹	
Jury Voir Dire – Panel One.....	1286
Jury Voir Dire – Panel Two	1333
Jury Voir Dire – Panel Three	1387
Jury Voir Dire _ Panel Four.....	1426

VOLUME IV

TRANSCRIPTS, CONTINUED

Jury Voir Dire _ Panel Four, Continued	1449
Pre-Trial Hearing – Witness Paul Greer	
Voir Dire Examination by Mr. Fernandez	1546
Direct Examination by Mr. Fernandez	1563
Cross-examination by Mr. Griffin.....	1576
Jury Selection.....	1631
Opening Statement by Mr. Waters.....	1652
Opening Statement by Mr. Harpootlian.....	1670

State’s Case In Chief

Daniel Greene

Direct Examination by Mr. Waters	1692
Cross-examination by Mr. Harpootlian.....	1735
Redirect Examination by Mr. Waters.....	1762
Recross-examination by Mr. Harpootlian	1767

Chad McDowell

Direct Examination by Mr. Waters	1769
Cross-examination by Mr. Harpootlian.....	1785
Redirect Examination by Mr. Waters.....	1797

Tinish Bryson-Smith

Direct Examination by Ms. Goude.....	1801
Cross-examination by Mr. Harpootlian.....	1805

Amanda Stallings

Direct Examination by Ms. Goude.....	1806

Barry McRoy

Direct Examination by Ms. Goude.....	1811
Cross-examination by Mr. Harpootlian.....	1818

¹ At present, the following portions of the trial transcript appear to remain under seal: (1) 5526:24 – 5544:12; 5550: 23 – 5563:1; and 5669:4 – 5737:13.

Jason Chapman	Direct Examination by Mr. Fernandez	1825
	Cross-examination by Mr. Harpootlian.....	1878
	Redirect Examination by Mr. Fernandez	1906
Laura Rutland	Direct Examination by Mr. Meadors.....	1913

VOLUME V

TRANSCRIPTS, CONTINUED

Laura Rutland, Continued	Direct Examination by Mr. Meadors, Continued	1932
	Cross-examination by Mr. Griffin.....	1946
	Redirect Examination by Mr. Meadors	1970
	Recross-examination by Mr. Griffin	1976
Delila Ciricinone	Direct Examination by Ms. Goude.....	1977
	Cross-examination by Mr. Harpootlian.....	1984
Melinda Worley	Voir Dire Examination by Ms. Goude	1989
	Direct Examination by Ms. Goude.....	1992
	Cross-examination by Mr. Harpootlian.....	2074
	Redirect Examination by Ms. Goude	2132
	Recross-examination by Mr. Harpootlian	2138
Jeff Croft	Direct Examination by Mr. Waters	2143
	Cross-examination by Mr. Griffin.....	2235
	Redirect Examination by Mr. Waters.....	2281
	Recross-examination by Mr. Griffin	2298
Anthony Kniche	Direct Examination by Mr. Conrad.....	2301
	Cross-examination by Mr. Harpootlian.....	2329
	Redirect Examination by Mr. Conrad	2338
	Recross-examination by Mr. Harpootlian	2339
Paul McManigal	Direct Examination by Mr. Conrad.....	2342
	Cross-examination by Mr. Barber	2348
Jonathan VanHouten	Direct Examination by Mr. Conrad.....	2349
John Bedingfield	Direct Examination by Mr. Waters	2368
	Cross-examination by Mr. Griffin.....	2388
	Redirect Examination by Mr. Waters.....	2396
David Britton Dove	Voir Dire Examination by Mr. Conrad	2399

Direct Examination by Mr. Conrad.....	2405

VOLUME VI

TRANSCRIPTS, CONTINUED

David Britton Dove, Continued	
Direct Examination by Mr. Conrad, Continued	2415
Cross-examination by Mr. Barber	2554
Redirect Examination by Mr. Conrad	2600
Recross-examination by Mr. Barber	2612
Dathan Varnadoe	
Direct Examination by Mr. Meadors.....	2615
Cross-examination by Mr. Griffin.....	2632
Redirect Examination by Mr. Meadors	2637
Rogan Gibson	
Direct Examination by Mr. Waters	2638
Cross-examination by Mr. Griffin.....	2676
Redirect Examination by Mr. Waters.....	2696
Will Loving	
Direct Examination by Mr. Waters	2703
Cross-examination by Mr. Griffin.....	2727
Redirect Examination by Mr. Waters.....	2741
Heidi Galore	
Direct Examination by Mr. Conrad.....	2758
Cross-examination by Mr. Barber	2765
Jeannie Seckinger (<i>In-Camera</i> Hearing)	
Direct Examination by Mr. Waters	2769
Cross-examination by Mr. Griffin.....	2837
Redirect Examination by Mr. Waters.....	2856

VOLUME VII

TRANSCRIPTS, CONTINUED

Dylan Hightower	
Direct Examination by Mr. Conrad.....	2873
Cross-examination by Mr. Harpootlian.....	2908
Redirect Examination by Mr. Conrad	2925
Katie McCallister	
Direct Examination by Ms. Goude.....	2928
Cross-examination by Mr. Harpootlian.....	2935
Michael Gunn (<i>In-Camera</i> Hearing)	
Direct Examination by Mr. Waters	2940
Cross-examination by Mr. Griffin.....	2956
James C. Wilson (<i>In-Camera</i> Hearing)	
Direct Examination by Mr. Waters	2957
Jan Malinowski (<i>In-Camera</i> Hearing)	
Direct Examination by Mr. Waters	3010

	Cross-examination by Mr. Griffin.....	3038
	Redirect Examination by Mr. Waters.....	3045
	Re-cross examination by Mr. Griffin.....	3049
Michael Tony Satterfield (<i>In-Camera Hearing</i>)		
	Direct Examination by Mr. Waters.....	3051
	Cross-examination by Mr. Griffin.....	3062
Carson Burney (<i>In-Camera Hearing</i>)		
	Direct Examination by Mr. James.....	3063
Tom Darnell		
	Voir Dire Examination by Ms. Goude.....	3082
	Direct Examination by Ms. Goude.....	3084
	Cross-examination by Mr. Harpootlian.....	3194
	Redirect Examination by Ms. Goude.....	3105
Blake Johnson		
	Direct Examination by Ms. Goude.....	3107
Lawrence Wiggins		
	Direct Examination by Ms. Goude.....	3109
Chandler Horney		
	Direct Examination by Ms. Goude.....	3111
Jomar Albayalde		
	Direct Examination by Ms. Goude.....	3113
Paul Greer		
	Voir Dire Examination by Mr. Fernandez.....	3117
	Direct Examination by Mr. Fernandez.....	3124
	Cross-examination by Mr. Griffin.....	3184
	Redirect Examination by Mr. Fernandez.....	3222
Mark Tinsley (<i>In-Camera Hearing</i>)		
	Direct Examination by Mr. Waters.....	3235
	Cross-examination by Mr. Griffin.....	3254
	Redirect Examination by Mr. Waters.....	3287
Ronnie Crosby (<i>In-Camera Hearing</i>)		
	Direct Examination by Mr. Waters.....	3294
	Cross-examination by Mr. Griffin.....	3298
Mushelle Shelley Smith		
	Direct Examination by Mr. Meadors.....	3313

VOLUME VIII

TRANSCRIPTS, CONTINUED

Mushelle Shelley Smith, Continued		
	Cross-examination by Mr. Griffin.....	3355
	Redirect Examination by Mr. Meadors.....	3368
	Recross-examination by Mr. Griffin.....	3384
Kristin Moore		
	Direct Examination by Ms. Goude.....	3388
	Cross-examination by Mr. Griffin.....	3395

	Redirect Examination by Ms. Goude	3400
William McElveen	Direct Examination by Mr. Fernandez	3402
	Cross-examination by Mr. Griffin.....	3413
Natasha Moodie	Direct Examination by Mr. James.....	3425
Jamie Hall	Direct Examination by Mr. Meadors.....	3429
	Cross-examination by Mr. Griffin.....	3454
Jeannie Seckinger	Direct Examination by Mr. Waters	3475
	Cross-examination by Mr. Griffin.....	3489
	Redirect Examination by Mr. Waters.....	3610
	Recross-examination by Mr. Griffin	3614
Ronnie Crosby	Direct Examination by Mr. Waters	3617
	Cross-examination by Mr. Griffin.....	3651
	Redirect Examination by Mr. Waters.....	3666
Megan Fletcher	Voir Dire Examination by Mr. Meadors	3668
	Direct Examination by Mr. Meadors.....	3674
	Cross-examination by Mr. Griffin.....	3714
	Redirect Examination by Mr. Meadors	3730
	Recross-examination by Mr. Griffin	3734
Annette Griswald	Direct Examination by Mr. Waters	3735
	Cross-examination by Mr. Griffin.....	3784
	Redirect Examination by Mr. Waters.....	3796
Michael Gunn	Direct Examination by Mr. James.....	3798
	Cross-examination by Mr. Griffin.....	3816
Brian Hudak	Direct Examination by Mr. Conrad.....	3821
Dwight Falkofske	Voir Dire Examination by Mr. Conrad	3829

VOLUME IX

TRANSCRIPTS, CONTINUED

Dwight Falkofske, Continued	Direct Examination by Mr. Conrad.....	3833
	Cross-examination by Mr. Barber	3877
	Cross-examination by Mr. Barber Resumed	3883
James C. Wilson	Direct Examination by Mr. Waters	3889

	Proffered Examination by Mr. Waters	3964
	Direct Examination by Mr. Waters Resumed	3967
	Cross-examination by Mr. Griffin.....	3979
	Redirect Examination by Mr. Waters.....	4026
Michael Tony Satterfield		
	Direct Examination by Mr. Waters	4045
	Cross-examination by Mr. Harpootlian.....	4067
	Redirect Examination by Mr. Waters.....	4072
Jan Malinowski		
	Direct Examination by Mr. Waters	4074
	Cross-examination by Mr. Griffin.....	4114
	Redirect Examination by Mr. Waters.....	4126
	Recross-examination by Mr. Griffin	4128
Mark Tinsley		
	Direct Examination by Mr. Waters	4128
	Direct Examination by Mr. Waters Resumed	4171
	Cross-examination by Mr. Barber.....	4183
	Redirect Examination by Mr. Waters.....	4185
Blanca Turrubiate-Simpson		
	Direct Examination by Mr. Meadors.....	4189
	Proffered Examination by Mr. Meadors	4293
	Direct Examination by Mr. Meadors Resumed.....	4296
	Cross-examination by Mr. Harpootlian.....	4301
	Proffered Examination by Mr. Harpootlian	4314

VOLUME X

TRANSCRIPTS, CONTINUED

Blanca Turrubiate-Simpson, Continued		
	Proffered Examination by Mr. Harpootlian, Continued.....	4315
	Cross-examination by Mr. Harpootlian Resumed.....	4322
	Redirect Examination by Mr. Meadors	4336
	Recross-examination by Mr. Harpootlian	4340
Belinda Rast		
	Direct Examination by Mr. Fernandez.....	4344
	Cross-examination by Mr. Harpootlian.....	4353
Matthew Wild		
	Voir Dire Examination by Mr. Conrad	4356
	Direct Examination by Mr. Conrad.....	4361
	Cross-examination by Mr. Barber.....	4413
	Redirect Examination by Mr. Conrad	4419
Nathan Tuten		
	Direct Examination by Mr. Fernandez.....	4421
	Cross-examination by Mr. Griffin.....	4444
	Redirect Examination by Mr. Fernandez	4452

Ryan Kelly	Direct Examination by Ms. Goude.....	4472
Rachel Nguyen	Voir Dire Examination by Ms. Goude	4476
	Direct Examination by Ms. Goude.....	4480
	Cross-examination Mr. Barber	4504
Sara Zapata	Voir Dire Examination by Ms. Goude	4516
	Direct Examination by Ms. Goude.....	4520
	Cross-examination by Mr. Barber	4571
	Redirect Examination by Ms. Goude	4604
	Recross-examination by Mr. Barber	4606
Ellen Riemer	Voir Dire Examination by Mr. Waters	4608
	Direct Examination by Mr. Waters	4612
	Cross-examination by Mr. Harpootlian.....	4671
	Redirect Examination by Mr. Waters.....	4726
	Recross-examination by Mr. Harpootlian	4733
Devon P. Newell	Direct Examination by Mr. Conrad.....	4737
	Cross-examination by Mr. Barber	4743
Roger Dale Davis	Direct Examination by Mr. Fernandez	4745
	Cross-examination by Mr. Griffin.....	4768
	Redirect examination by Mr. Fernandez	4779
Carson Burney	Voir Dire Examination by Mr. James	4782

VOLUME XI

TRANSCRIPTS, CONTINUED

Carson Burney, Continued	Direct Examination by Mr. James.....	4785
	Cross-examination by Mr. Griffin.....	4897
	Redirect Examination by Mr. James	4802
Marian Proctor	Direct Examination by Mr. Waters	4805
	Cross-examination by Mr. Griffin.....	4822
	Redirect Examination by Mr. Waters.....	4836
	Redirect Examination by Mr. Waters Resumed.....	4853
Barton Proctor	Direct Examination by Mr. Waters	4857
	Cross-examination by Mr. Griffin.....	4858
David Owen	Direct Examination by Mr. Meadors.....	4885
	Cross-examination by Mr. Griffin.....	4966

	Redirect Examination by Mr. Meadors	4994
	Recross-examination by Mr. Griffin	5012
David Grubbs		
	Voir Dire Examination by Mr. Conrad	5015
	Direct Examination by Mr. Conrad.....	5018
Kenneth L. Kinsey		
	Voir Dire Examination by Mr. Waters	5052
	Direct Examination by Mr. Waters	5061
	Cross-examination by Mr. Harpootlian.....	5117
	Redirect Examination by Mr. Waters.....	5156
	Recross-examination by Mr. Harpootlian	5159
Ryan Kelly		
	Direct Examination by Mr. Waters	5162
	Cross-examination by Mr. Harpootlian.....	5190
	Redirect Examination by Mr. Waters.....	5207
	Recross-examination by Mr. Harpootlian	5214
Peter Rudofski		
	Direct Examination by Mr. Waters	5223

VOLUME XII

TRANSCRIPTS, CONTINUED

Peter Rudofski, Continued

	Direct Examination by Mr. Waters, Continued.....	5268
	Cross-examination by Mr. Barber	5333
	Redirect Examination by Mr. Waters.....	5378
	Recross-examination by Mr. Barber	5381

The Defense Case

Richard Harvey

	Direct Examination by Mr. Harpootlian	5392
	Cross-examination by Mr. Zelenka.....	5400
	Redirect Examination by Mr. Harpootlian.....	5403

Shalene Tindal

	Direct Examination by Mr. Harpootlian	5405
	Cross-examination by Mr. Meadors.....	5413
	Redirect Examination by Mr. Harpootlian.....	5414

Richard A. Murdaugh, Jr.

	Direct Examination by Mr. Griffin	5423
	Cross-examination by Mr. Meadors.....	5488
	Redirect Examination by Mr. Griffin.....	5499

Michael Sutton

	Voir Dire Examination by Mr. Harpootlian	5500
	Direct Examination by Mr. Harpootlian	5509
	Cross-examination by Mr. Fernandez	5596

	Redirect Examination by Mr. Harpootlian	5664
	Recross-examination by Mr. Fernandez.....	5678
Mark Ball		
	Direct Examination by Mr. Griffin	5687
	Cross-examination by Mr. Waters	5720

VOLUME XIII

TRANSCRIPTS, CONTINUED

Mark Ball, Continued		
	Cross-examination by Mr. Waters, Continued.....	5751
	Redirect Examination by Mr. Griffin	5764
	Recross-examination by Mr. Waters	5775
Morris D. Cooke, Jr.		
	Direct Examination by Ms. Fox	5778
	Cross-examination by Mr. Waters	5789
	Redirect Examination by Ms. Fox.....	5795
	Recross-examination by Mr. Waters	5796
Kenneth Zercie		
	Voir Dire Examination by Mr. Harpootlian	5797
	Direct Examination by Mr. Harpootlian	5804
	Cross-examination by Mr. Meadors	5845
	Redirect Examination by Mr. Harpootlian	5874
	Recross-examination by Mr. Meadors	5878
Barbara Mixon		
	Direct Examination by Mr. Griffin	5880
	Cross-examination by Mr. Meadors.....	5888
Micah Sturgis		
	Voir Dire Examination by Mr. Barber	5890
	Direct Examination Mr. Barber.....	5895
	Cross-examination by Mr. Conrad	5917
	Redirect Examination by Mr. Barber	5932
	Recross-examination by Mr. Conrad	5936
Nolen Tuten		
	Direct Examination by Ms. Fox	5950
	Cross-examination by Mr. Fernandez	5957
	Redirect Examination by Ms. Fox.....	5977
Richard A. Murdaugh		
	Direct Examination by Mr. Griffin	5979
	Cross-examination by Mr. Waters	6086
	Cross-examination by Mr. Waters Resumed.....	6178

VOLUME XIV

TRANSCRIPTS, CONTINUED

Richard A. Murdaugh, Continued

Cross-examination by Mr. Waters Resumed, Continued	6234
Redirect Examination by Mr. Griffin	6350
Re-cross examination by Mr. Waters	6365

Jonathon Eisenstat

Voir Dire Examination by Mr. Harpootlian	6379
Direct Examination by Mr. Harpootlian	6391
Cross-examination by Ms. Goude	6444

Timonthy Palmbach

Voir Dire Examination by Mr. Griffin	6452
Direct Examination by Mr. Griffin	6458
Cross-examination by Ms. Goude	6505

John Marvin Murdaugh

Direct Examination by Mr. Griffin	6512
Proffered Examination by Mr. Griffin	6568
Direct Examination by Mr. Griffin, Continued	6570
Cross-examination by Mr. Conrad	6572

The State's Rebuttal Case

Ronnie Crosby

Direct Examination by Mr. Waters	6597
Cross-examination by Mr. Harpootlian	6608
Redirect Examination by Mr. Waters	6610
Recross-examination by Mr. Harpootlian	6622

Ellen Riemer

Direct Examination by Mr. Waters	6623
Cross-examination by Mr. Harpootlian	6636
Redirect Examination by Mr. Waters	6672

Thomas C. Smalls

Direct Examination by Mr. Waters	6674
Cross-examination by Mr. Griffin	6676
Redirect examination by Mr. Waters	6679

Paul McManigal

Voir Dire Examination by Mr. Conrad	6680
Direct Examination by Mr. Conrad	6682
Cross-examination by Mr. Barber	6687
Redirect Examination by Mr. Conrad	6697
Recross-examination by Mr. Barber	6699

Mark Ball

Direct Examination by Mr. Waters	6701
Cross-examination by Mr. Griffin	6706
Redirect Examination by Mr. Waters	6716

VOLUME XV

TRANSCRIPTS, CONTINUED

Mark Ball, Continued	
Recross-examination by Mr. Griffin	6717
Kenneth L. Kinsey	
Direct Examination by Mr. Wilson	6724
Cross-examination by Mr. Griffin	6767
Redirect Examination by Mr. Wilson	6807
In-camera Hearing	6811
In-camera Hearing	6835
Closing Argument by Mr. Waters	6871
In-camera Hearing	6954
Closing Argument by Mr. Griffin	7030
Final Closing Argument by Mr. Meadors	7102
Jury Charge	7137
Verdict	7155
Jury Polling	7157
Sentence of the Court	7177
Certificate Page	7180
Post-Trial Hearing Transcript (January 16, 2024)	7181

VOLUME XVI

TRANSCRIPTS, CONTINUED

Post-Trial Hearing Transcript (January 16, 2024), Continued	7200
Evidentiary Hearing Transcript (January 26 and January 29, 2024)	7261
Juror X	
Examination by the Court	7279
Examination by the Court Resumes	7283
Juror Z	
Examination by the Court	7304
Examination by the Court Resumes	7311
Juror C	
Examination by the Court	7323
Juror F	
Examination by the Court	7325
Examination by the Court Resumes	7329
Juror L	
Examination by the Court	7330
Juror E	
Examination by the Court	7333
Juror P	
Examination by the Court	7335
Juror O	
Examination by the Court	7339
Juror Y	
Examination by the Court	7342
Juror W	
Examination by the Court	7345
Juror Q	
Examination by the Court	7348
Juror K	
Examination by the Court	7351

Rebecca Hill	
Direct Examination by Mr. Waters	7365
Cross-examination by Mr. Harpootlian.....	7374
Redirect Examination by Mr. Waters.....	7402
Examination by the Court	7406
Further Direct Examination by Mr. Waters	7416
Further Cross-examination by Mr. Harpootlian.....	7420
Rhonda McElveen	
Direct Examination by Mr. Harpootlian	7434
Cross-examination by Mr. Waters	7450
Redirect Examination by Mr. Harpootlian.....	7458
Alternate Juror	
Direct Examination by Mr. Harpootlian	7461
Cross-examination by Mr. Meadors.....	7466
Redirect Examination by Mr. Harpootlian.....	7485
Closing Argument by Mr. Waters.....	7590
Closing Argument by Mr. Griffin.....	7500
Ruling of the Court	7508
Certificate Page.....	7516

EXHIBITS

State Exhibits (Trial)

#1 – Recording (Placeholder) – UNDER SEAL.....	7517
#6 – Recording (Placeholder) – UNDER SEAL.....	7518
#9 – 911 Call recording (Placeholder)	7519
#11 – 911 Call recordings (Placeholder)	7520
#22 – Photograph of scene.....	7521
#27 – Photograph of feed room	7523
#77 – Crime scene diagram.....	7325
#88 – PSA 300 Blackout Rifle (Placeholder)	7527
#89 – Mossberg Shotgun w/ 1 shotshell - buck mark (Placeholder)	7528
#90 – Browning Auto-5 Shotgun (Placeholder)	7529
#91 – Benelli Super Black Eagle 2 Shotgun w/ 2 shotshells (Placeholder).....	7530
#93 – Photograph of Chevrolet Suburban.....	7531
#117 – Photograph of gun room – rack & ammo	7533
#118 – Photograph of gun rack.....	7535
#153 – Interview recording.....	7537
#163 – Photograph of Croft BWC .300 Blackout on pool table.....	7538
#224 – Photograph of tarp in bin	7540
#225 – Photograph of raincoat.....	7542
#227 – Map	7544
#228 – Photograph of Maggie’s phone in woods	7546
#239 – Photograph of house (drone).....	7548
#243 – Interview recording (Placeholder)	7550
#297 – Kennel recording (Placeholder)	7551
#306 – Snapchat recording (Placeholder).....	7552

#312 – Check with documents	7553
#313 – Faris check	7575
#314 – Spreadsheet	7578
#315 – Disbursement documents	7581
#316 – Disbursement documents	7586
#317 – Disbursement documents	7592
#318 – Disbursement documents	7600
#319 – Disbursement documents	7606
#320 – Disbursement documents	7612
#321 – Disbursement documents	7621
#322 – Disbursement documents	7636
#323 – Disbursement documents	7654
#324 – Disbursement documents	7662

VOLUME XVII

EXHIBITS, CONTINUED

State Exhibits (Trial), Continued

#325 – Disbursement documents	7672
#326 – Disbursement documents	7684
#327 – Disbursement documents	7689
#328 – Disbursement documents	7696
#329 – Spreadsheet	7701
#330 – Disbursement documents	7703
#331 – Disbursement documents	7732
#332 – Disbursement documents	7736
#333 – Disbursement documents	7739
#334 – Disbursement documents	7763
#335 – Bank of American banking statement	7795
#347 – Checks	7802
#349 – Message	7807
#350 – Promissory Note	7809
#352 – Confession of Judgment	7811
#356 – Account Statement	7819
#358 – Wire Request	7821
#360 – Check	7824
#365 – Bank Memo	7826
#366 – Bank summary	7828
#367 – Bank statement	7830
#368 – Bank statement	7833
#370 – Bank statement	7836
#371 – Bank statement	7839
#400 – SLED Firearms report	7844
#407 – Email	7855
#410 – Photograph	7857
#411 – Photograph of raincoat in closet	7859

#414 – Photograph of Almeda closet.....	7861
#415 – Bank records	7863
#416 – Bank records	7864
#417 – Bank records	7865
#428 – Checks.....	7866
#429 – Disbursement documents	7870
#430 – Photograph of raincoat.....	7880
#442 – Log file excerpts	7882
#453 – Text messages	7887
#454 – Phone records.....	7889
#515 – Disc of GM search warrant return (Placeholder).....	7891
#516 – Photograph	7892
#517 – Interview recording (Placeholder)	7894
#519 – Timeline report.....	7895
#520 – Timeline report.....	7939
#521 – Spreadsheets.....	8028
#523 – Text message.....	8030
#524 – Vehicle report.....	8032
#543 – 911 call recordings.....	8092
#545 – Recording.....	8093
#547 – Sketch.....	8094
#552 – Interview recording	8096
#553 – Extraction document	8097
#556 – Text messages	8099
#569 – Photograph of Alex at hospital with badge.....	8101

Defense Exhibits (Trial)

#4 – Crime scene sketch	8103
#61 – Birthday Party recording (Placeholder)	8104
#86 – Blue tarp (Placeholder)	8105
#87 – Photograph of blue tarp/rain jacket.....	8106
#95 – Memo	8108
#122 – Photograph of Murdaugh Family.....	8133
#123 – Photograph of Murdaugh Family.....	8135
#130 – Photograph of Almeda back door	8137
#131 – Photograph of Almeda backyard	8139
#132 – Photograph of Almeda backyard	8141
#133 – Photograph of Almeda back door	8143
#134 – Photograph of Almeda back door	8145
#135 – Photograph of cars parked at Almeda.....	8147
#136 – Photograph of Almeda back door	8149

VOLUME XVIII

EXHIBITS

Defense Exhibits (Trial), Continued

#140 – PowerPoint.....	8151

#156 – Steps	8263
#158 – PowerPoint.....	8265
 <u>Court Exhibit (Trial)</u>	
#1 – SLED Firearms report.....	8297
 <u>Court Exhibits (Post-Trial)</u>	
#1 – Message.....	8307
#3 – Affidavit.....	8308
#4 – Note.....	8310
#5 – Affidavit.....	8311
 <u>Defense Exhibits (Post-Trial):</u>	
#1 – Proffer and Affidavit.....	8313
#2 – Emails	8316
 <u>OTHER</u>	
January 24, 2024, Law Clerk Email Concerning Questions for Jurors and January 25, 2024,	
Responsive Email from Creighton Waters	8320
Letter from Richard A. Harpootlian to Ret. Chief Justice Toal (with attachment), dated January 25, 2024.....	
	8323
Affidavit of Juror Z, January 29, 2024	8330
State’s Closing Argument PowerPoints from Trial	8331

1 interactions with them. So, yeah, they were still
2 involved. They weren't -

3 Q For the first few months of the investigation, the
4 local solicitor's office was still running the
5 investigation to your knowledge?

6 A As far as I know. They were out there, Mr. Stone, his
7 chief assistant, were out there and an investigator were
8 out there the next day, and I want to say they were out
9 there maybe two days to lend whatever assistance they could
10 lend, I guess. And I think it was August I saw, like
11 everybody else in the paper, that he, Mr. Stone, had
12 recused himself.

13 Q And that would be the same office for which the
14 defendant had the badge. Is that correct?

15 A Correct. He was an assistant, and so was his father.

16 MR. WATERS: All right. Thank you. Nothing further.

17 THE COURT: Anything further?

18 MR. GRIFFIN: Just briefly.

19 RECROSS-EXAMINATION

20 BY MR. GRIFFIN:

21 Q Mr. Ball, isn't it correct that law enforcement does
22 the investigation, the solicitor's office does the
23 prosecution?

24 A That's the way it normally works.

25 MR. GRIFFIN: Thank you. That's all I have.

1 THE COURT: Thank you.

2 (The witness exited the stand.)

3 THE COURT: Ladies and gentlemen, we're going to
4 break, excuse the jury now until 2:15. Please do not
5 discuss the case.

6 (The jury left the courtroom.)

7 THE COURT: If everyone would be seated.

8 How many more witnesses do you have, Mr. Waters?

9 MR. WATERS: I believe just one, Your Honor. At
10 lunchtime there's one more that I might talk about, but I
11 believe just one, Your Honor, and that will be Dr. Kinsey.

12 THE COURT: All right. I received an email that I
13 want to have counsel look at. Let's see who --

14 MR. WATERS: May we approach, Your Honor?

15 (Break in proceedings.)

16 THE COURT: And I will give you all an opportunity to
17 digest it and discuss it, and we'll talk about it on the
18 other side of, of lunch.

19 (Break in proceedings.)

20 THE COURT: Anything else before we break for lunch?

21 MR. WATERS: Your Honor, very briefly. I know that
22 there has been a request by the defense for a jury view,
23 and for planning purposes I didn't know if Your Honor had
24 a -- if we had some planning for that, to do that, so I
25 guess after this last witness or at what point --

1 THE COURT: Yes, after the State rests. And we'll --
2 it'll -- depending on what time you rest today, it might be
3 this afternoon.

4 MR. WATERS: Okay.

5 MR. BARBER: Your Honor?

6 THE COURT: Yes, sir.

7 MR. BARBER: And it can be now or after lunch,
8 whatever the Court prefers, but I would like to make a
9 *Council* motion for the record regarding the cell phone
10 testimony we just heard.

11 THE COURT: Okay.

12 MR. BARBER: Your Honor, the previous objection was
13 that I was objecting to it being beyond the scope of the
14 expertise for which it's offered, but the Supreme Court --

15 THE COURT: That wasn't your objection.

16 MR. BARBER: That was the objection. I'm now making
17 it a motion under *Council* for the record. In *Council*, the
18 Supreme Court said that when admitting scientific evidence,
19 the trial judge must find the evidence will assist the
20 trier of fact, the expert witness is qualified, and the
21 underlying science is reliable. The trial judge should
22 apply the *Jones* factors to determine reliability. And then
23 the case gives the *Jones* factors as considering the
24 admissibility of scientific evidence under the *Jones*
25 standard. The Court notes several of the factors,

1 including, one, publications of peer review --

2 THE COURT: Yes, sir, we know what the rule says.
3 Beyond that --

4 MR. BARBER: Your Honor, the testimony that we've
5 heard, which we had no notice of to make an earlier motion,
6 there's no publications of peer review of the technique he
7 described. There's no prior application to that method.
8 He testified he's never done this before. Number three,
9 the quality and control procedures used to ensure
10 liability. No data was recorded at all so he's --

11 THE COURT: Your motion is late. You stipulated, you
12 agreed that he was an expert. I gave you an opportunity to
13 voir dire him, question him in any way.

14 MR. BARBER: Your Honor, we had no notice that he was
15 going to offer this experiment. We -- he was offered as a
16 cell phone forensics expert, which he is, and there was no
17 notice that he had done this engineering analysis, throwing
18 his phone around.

19 THE COURT: He did not do an engineering analysis; he
20 said he didn't do an engineering analysis. And what was
21 scientific about his testimony?

22 MR. BARBER: Well -- yes, Your Honor. His testimony
23 was not scientific. That's why we're moving under *Council*
24 that it is not reliable scientific testimony and should
25 not -- it should be struck from the record.

1 THE COURT: All right. What says the State?

2 MR. CONRAD: Your Honor, I think again, as Your Honor
3 has pointed out, there was no objection. This was in the
4 nature of reply testimony. And I think that, again,
5 there's a practical experience that is acceptable for
6 opinions to be offered, and that's kind of what we're
7 talking about. He understands the Raise to Wake feature
8 and manner in which it works, and which it doesn't work,
9 and he offered his testimony based on his experiments in
10 that regard. Counsel was allowed to fully cross-examine
11 the witnesses, and it will ultimately go to weight, not
12 admissibility, Your Honor.

13 THE COURT: All right. The objections are noted for
14 the record. He did not provide scientific testimony. He
15 conducted an experiment and told the jury about it. The
16 fact that the -- had the defense had any questions
17 concerning his qualification to testify as an expert
18 witness, the defense had an opportunity to do that through
19 voir dire or otherwise. Rule 5 does not apply to reply
20 testimony in the sense that the State is not required to
21 provide any advance report or anything. Your objections
22 are noted for the record. The testimony speaks for itself,
23 and that's that.

24 Yes, sir?

25 MR. HARPOOTLIAN: Your Honor, one other matter. The

1 forensic pathologist said this morning concerning some of
2 her testimony about the white material that was noted. She
3 indicated that she had never put that in her autopsy
4 report; she had never given this opinion before. We
5 propose in surrebuttal to bring our pathologist back to
6 testify when they finish their case --

7 THE COURT: I'm not inclined to allow any surrebuttal
8 based on what I've heard at this point.

9 MR. HARPOOTLIAN: Even though she said it wasn't in
10 the report --

11 THE COURT: Yes, sir.

12 MR. HARPOOTLIAN: -- and revealed it today for the
13 first time?

14 THE COURT: Yes, sir.

15 MR. HARPOOTLIAN: Thank you, Your Honor. So, you're
16 denying that request.

17 THE COURT: I said I'm not inclined to at this time.

18 MR. HARPOOTLIAN: Well, when would be the appropriate
19 time?

20 THE COURT: Well, when it's time for you to offer it,
21 then I'll hear it fully. But I'm telling you now I do not
22 anticipate allowing any surrebuttal based on what I've
23 heard at this point.

24 MR. HARPOOTLIAN: Thank you, Your Honor.

25 THE COURT: Yes, sir. Anything else?

1 MR. WATERS: Nothing from the State prior to the lunch
2 break, Your Honor.

3 MR. HARPOOTLIAN: Nothing from the defense, Your
4 Honor.

5 THE COURT: All right. We'll be in recess until 2:15.

6 (A lunch break was taken.)

7 MR. CONRAD: Your Honor, I have a -- State's Exhibit
8 521 is a worksheet showing steps and time steps were taken,
9 along with some calculations about how many steps per
10 minute. It's come to my attention that there is a math
11 error contained in the previously submitted exhibit, and I
12 think the error bled over into the defense's exhibit.

13 I think it's 156?

14 MR. BARBER: Yes.

15 MR. CONRAD: And so at this time with the State's --
16 consent, the State would just like to substitute a
17 worksheet with the correct math for the previous incorrect
18 worksheet.

19 MR. BARBER: And the defense would also ask to do the
20 same.

21 THE COURT: Okay.

22 (Break in proceedings.)

23 MR. WATERS: Your Honor, if we may approach very
24 quickly?

25 THE COURT: Yes, sir.

1 (Break in proceedings.)

2 THE COURT: If you'll bring the jury.

3 (The jury returned to the courtroom.)

4 THE BAILIFF: The jury is present, sir.

5 THE COURT: All right, thank you.

6 Your next witness.

7 MR. WILSON: Thank you, Your Honor. The State calls
8 Dr. Kenny Kinsey.

9 THE COURT: Dr. Kinsey.

10 The witness, KENNETH L. KINSEY, was first duly sworn
11 and testified as follows:

12 THE CLERK: If you will have a seat and adjust that
13 microphone for me. If you will state your name and spell
14 your last name for the record.

15 THE WITNESS: Kenneth Lee Kinsey. K-i-n-s-e-y.

16 DIRECT EXAMINATION

17 BY MR. WILSON:

18 Q Welcome back, Dr. Kinsey, it feels like a year since
19 you were here. You were qualified last week as an expert,
20 correct?

21 A Yes, sir, that's correct.

22 Q What I would like for you to do right now is just to
23 remind the jury, give them a lit bit of background on your
24 education, your work history, your credentials that made
25 you qualified to be an expert witness.

1 A Yes, sir. I've got a degree from Clemson University.
2 A Master's degree -- that's undergraduate. A Master's
3 degree from Troy University. A Ph.D from Walden
4 University. I've formally been certified by the
5 International Association for Identification two different
6 times for crime scene investigation and reconstruction.
7 I've worked approximately 800 death scenes in my career.
8 And I've handle and processed countless evidence and crime
9 scenes in the crime scene-related disciplines. I have
10 completed and passed proficiency in those disciplines as
11 recommended by the International Association for
12 Identification, which includes oral exams, research,
13 technical work, and also I worked under a qualified
14 examiner for a determinate amount of time. And I've been a
15 police officer for approximately thirty years in various
16 capacities.

17 Q And just to remind the jury, you were qualified as a
18 forensic -- or a crime scene forensics expert in this
19 particular case.

20 A Yes, sir, I was.

21 Q And real quick, what other types of qualifications as
22 an expert do you possess?

23 A I am also firearms instructor for handguns, shotguns
24 -- they call them patrol rifles -- but that includes
25 sub-guns, fully automatic and semiautomatic platforms. I

1 have endorsements through the South Carolina Criminal
2 Justice Academy. I'm also a SLED concealed weapons permit
3 instructor. And I'm formally a law enforcement firearms
4 instructor through the NRA.

5 Q Now, you've had an opportunity to do -- to review the
6 case file for this particular case, correct?

7 A Yes, I have.

8 Q And you have actually been out to the crime scene,
9 correct?

10 A I have.

11 MR. WILSON: Beg the Court's indulgence.

12 (Break in proceedings.)

13 Q I would like to show you what's been previously marked
14 as State's Exhibit 526. Do you recognize this map?

15 A Yes, sir, I do.

16 Q And what is it?

17 A That's a satellite map from the Moselle property.

18 MR. WILSON: I would like to offer this into evidence,
19 I assume with no objection.

20 MR. GRIFFIN: No objection, Your Honor.

21 THE COURT: It's admitted.

22 (MAP MARKED AS STATE'S EXHIBIT NUMBER 526 WAS RECEIVED
23 INTO EVIDENCE.)

24 Q Dr. Kinsey, we're going to keep our testimony today
25 narrowly focused and tailored to the few witnesses that the

1 defense put up this past week. Did you have the
2 opportunity to observe one witness named Michael Sutton who
3 was a forensic mechanical engineer for the defense?

4 A I did.

5 Q Now, do you recall any of his conclusion, or what his
6 main conclusion was regarding the size of the shooter?

7 A I do.

8 Q And what was that conclusion?

9 A 5-foot-2 to 5-foot-4.

10 MR. WILSON: I would like now, Doug, if you would, I
11 would like for you to publish or cut on Defense
12 Exhibit 140, and go to page 49. Okay.

13 Q Now, what I want to do is -- we're going to get into
14 this in just a moment, but they published this into
15 evidence last week, and do you recognize these green lines
16 coming out?

17 A Yes, sir, I do.

18 Q Okay, and what do those green lines represent?

19 A Those green lines represent a predicted static angle
20 or -- I don't know what you would call it, trajectory for
21 possible shooters.

22 MR. WILSON: And, Doug, if you would go to page 74 of
23 this presentation, please.

24 Q Do you recognize this photo on page 74 of the defense
25 exhibit?

1 A I do.

2 Q And what is it?

3 A It is Mr. Sutton pointing a pump action shotgun into
4 the feed room at Moselle.

5 Q Okay, and did Mr. Sutton make a -- develop his
6 conclusions as to the height of the shooter based on math
7 that he did in this particular case?

8 A He said it was trigonometry, but, yes, sir, he did.

9 Q Based on your many years of law enforcement
10 experience, education, and training, what is your overall
11 opinion on his conclusion?

12 A I think his intentions are well, but I think his
13 methods were flawed.

14 Q So, what I want to do is I want to go back, and there
15 were three previous green -- angles that we just looked at
16 on the previous slide, correct?

17 A That is correct.

18 Q And then he also determined an angle here in this
19 photo, correct?

20 A That is correct.

21 Q And those are the angles that he used to determine the
22 height of the shooter, correct?

23 A That is correct. And, Mr. Wilson, I don't know the
24 totality of what he considered, but that was one of the
25 elements, one of the criteria he used.

1 Q Okay.

2 MR. WILSON: Just to refresh the jury's recollection.
3 Doug, if you would go to page 4? It should be State's 62.
4 It's a picture.

5 Q What is that a picture of?

6 A That is a picture of what's been described as a quail
7 pen.

8 MR. WILSON: Go to page 5, please.

9 Q And what is that a picture of?

10 A That is a close up of that quail pen, and it has
11 weathered cardboard on one end.

12 MR. WILSON: Okay, and that, for the record, is
13 Exhibit 63 that that is a picture of.

14 And go to page 6, which should be State's 64.

15 Q And what is that a picture of?

16 A That's a close up of what appears to be a bullet
17 defect, or bullet damage in that cardboard.

18 Q Okay. Now, they, they base their angles of -- at
19 least two angles -- let's back up. There were two angles
20 taken from this particular one bullet hole. Why is that?

21 A There were. I believe the original crime scene agent
22 gave a possibility of two angles of the -- of the angle of
23 impact in the cardboard.

24 Q Okay, and what are some things that someone can
25 determine from examining a bullet hole in this cardboard?

1 A Well, the first thing is direction. It let's you know
2 that you had one, or at least -- at least one projectile
3 fired from that direction. It's a pretty good indicator
4 for direction.

5 Q What's another thing that you can determine?

6 A Sometimes you can determine the angle of impact and
7 whether that bullet was affected before it struck that
8 object. And what I mean is was it deflected by flesh, or
9 did it hit its target, or is there an internal problem with
10 the weapon that would cause that bullet to be off center.

11 Q Are you comfortable with the direction that was
12 determined by Special Agent Worley in this particular
13 photo?

14 A I'm very confident of that direction.

15 Q Okay. The defense determined that there were two
16 potential angles. How confident are you that the
17 methodology used to determine those angles are accurate?

18 A I have zero confidence from this piece of evidence as
19 far as establishing angles.

20 Q So, that's interesting. You feel good about the
21 direction of the bullet going into the quail cage but you
22 have a concern about the angle, correct?

23 A That is correct.

24 Q Do you have a concern about the angle?

25 A The angle of impact, yes, sir, that is correct.

1 Q What are two things that could affect the angle of
2 impact on a surface like this cardboard?

3 A As I mentioned before, you could have -- that bullet
4 could have hit an object, which we don't know, or it could
5 be an internal problem with the firearm that causes it --
6 when you think about -- if I could explain?

7 Q Yes.

8 A When you think about a quarterback throwing a
9 football, they spin that football and it makes it stable in
10 flight. Well, a projectile coming out of the muzzle of a
11 firearm, a single projectile firearm, works the same way.
12 You've got little lands and grooves in that barrel, and as
13 that propellant pushes that projectile down the barrel, it
14 twists. And there's different twists depending on the
15 firearm, but that twist is called rifling most commonly.
16 That's what my grandfather called it, but it makes that
17 bullet stable in flight. Anything that can throw that
18 projectile off a bearing, whether it be striking something,
19 or a firearm problem, may be fouling, too much lead in the
20 barrel, it -- those kind of things will make that bullet
21 off center. Now, it still may go the general direction,
22 but the rotation of that projectile could be off just a
23 little bit when it strikes a target.

24 Q So, a good analogy would be a lineman hitting his head
25 on the football and making it go wobbly, but it keeps

1 going, correct?

2 A That would work, yes.

3 MR. GRIFFIN: Objection. Leading.

4 THE COURT: Don't lead the witness.

5 MR. WILSON: Doug, could you zoom in on this hole real
6 quick?

7 (Break in proceedings.)

8 Q Dr. Kinsey, I would like to ask you to step down here,
9 and for demonstrative purposes, I would like you to
10 demonstrate how an angle of impact can be affected in
11 cardboard with a dowel.

12 A Yes, sir.

13 THE WITNESS: Can I step down?

14 THE COURT: Yes, sir.

15 Q Describe to the jury what you've done with this box.

16 A I placed four strategic holes in this box representing
17 a bullet defect in cardboard. As you probably saw in the
18 photographs, as a crime scene investigator we use dowel
19 rods to determine direction and angle of impact. Now, they
20 can be as simple as a wooden dowel rod like you get at your
21 hardware store, or they make some real complicated ones
22 made out of fiberglass. If you can afford it, most
23 agencies and most crime scene teams will use a fiberglass
24 rod, but the wooden rod, as long as they're pretty straight
25 and true, they work just the same.

1 So, if this represents a projectile defect in
2 cardboard -- and may I say weathered cardboard because this
3 has been out there at least a year and a half since this
4 incident took place. You place that dowel rod in that
5 defect, and then you can get an approximate angle, or angle
6 of impact on it, but you can definitely get a more
7 confident direction if your shooter is over here and he's
8 shooting this direction, or over here, or up or down. But
9 it's not the end all, be all, and I can explain that to you
10 also.

11 Q Okay. So, how could -- could you demonstrate how --
12 well, back up a second and step away so the jurors could
13 see this photo, if you would. You saw the -- I might need
14 you up here.

15 (Break in proceedings.)

16 Q You saw the defense expert's testimony, Mr. Sutton, I
17 believe, last week describing this hole. Can you explain
18 to them how he -- how he determined the angle of impact
19 based on what he was observing at this bullet entry?

20 A I can, Mr. Wilson.

21 Q Please do so for the jury.

22 A What Mr. Sutton did with geometry and trigonometry and
23 a whole lot of tools, but basically a protractor, as we
24 used when I testified previously, if you had a confident
25 bullet defect, you can run a string and then put a level or

1 a -- it's a type of protractor, it's a bullet angle finder,
2 on top of that rod, and you can get a general angle of
3 impact in a fixed object. However, this isn't a fixed
4 object.

5 Q He referred to that little mark around 3:00. What did
6 he call that?

7 A I think he called it a bullet wash.

8 Q Could it be a bullet wipe?

9 A Bullet wipe, yeah, something like -- it's not a term I
10 use --

11 Q Okay.

12 A -- or that I'm familiar with.

13 Q And what was he assuming that bullet wipe was caused
14 by based on the testimony you heard?

15 A From the angle. He --

16 Q The angle of what?

17 A The angle of impact.

18 Q What else can cause that?

19 A As we mentioned, striking a surface beforehand,
20 fouling in the barrel, something internal. It just throws
21 the bullet off course a little bit. It's not spinning the
22 way it normally spins so when it strikes, it doesn't
23 strike -- it doesn't enter the way it normally would, it
24 wallers a little bit like that football we talked about.

25 Q What about the dowel rod?

1 A Well, the purpose of inserting a dowel rod is to try
2 to get the best angle or best direction you can. And in a
3 perfect world, the angle would be fairly competent, like
4 another bullet defect we're going to talk about. Remember,
5 this is weathered con -- weathered cardboard. So, once
6 that examiner -- and these rods are not caliber specific
7 either because a crime scene investigator or an examiner
8 can't look at a bullet hole and guess what caliber it is.
9 That's nonsense. So, you try to pick the one that fits the
10 hole the best. And with some of the fancy kits you get a
11 little shim kit with some little rubber garments that you
12 can place in there and make it fit a little bit better.
13 But more typically you just pick the dowel rod that's
14 closest to the hole.

15 Q Could a dowel rod affect the angle of impact?

16 A Upon me inserting this dowel rod, I can do damage to
17 that bullet defect, but more importantly when I remove it,
18 I can do that. And it's very deceptive damage. It's not
19 intentional, but it can damage the angle of impact,
20 especially in a soft, unreliable object like cardboard.

21 Q You can return to the stand, thank you.

22 A Yes, sir.

23 (Break in proceedings.)

24 A I can demonstrate that, Mr. Wilson.

25 Q Please. Go ahead.

1 A Oh, okay. What I'm saying, once a crime scene
2 investigator gets what they need, they get their
3 photographs, their measurements, give direction, so now
4 this dowel rod is here. And none of us know this unless
5 you've got a video of the examiner taking that dowel rod
6 out, so we don't know what direction he or she might have
7 pulled that dowel rod out. Because she's got her
8 measurements, she or he is not considering someone coming
9 behind them and measuring again for something in a piece of
10 cardboard, and we're not talking about wood or sheetrock.
11 We're talking about cardboard. If you pull it to the
12 right, you cause that same bullet wipe that we've got in
13 the photograph. Likewise, if I pull it to the left, now it
14 looks like that projectile has entered from a left to right
15 direction. And you can go on and up or down. That will
16 influence the appearance of that -- of that bullet defect
17 because you've got an object like cardboard, something that
18 there's no confidence in.

19 Q Thank you. You can sit back down.

20 (Break in proceedings.)

21 Q So, do you recall when the defendant expert testified
22 to the direction and angle of that particular angle of
23 impact?

24 A I do.

25 Q And what was it?

1 A I think 1 and 3 degrees.

2 Q Do you remember, like, was it left to right --

3 A Going up.

4 Q -- or right to left?

5 A Going up.

6 Q And from what way to what way? What direction to what
7 direction?

8 A Left to right -- or right to left. Yes, sir, right to
9 left. I have to think about the quail pen in my head.

10 Q Are you confident that the direction was correct on
11 this?

12 A Yes, sir. I have no reason not to believe the
13 direction. I mean, that would have to be a huge defect
14 hole for it to throw the direction off.

15 Q How confident are you in the angle of this?

16 A I have zero confidence in that angle, of the -- of the
17 entry.

18 MR. WILSON: Doug, if you could go to page 21, which I
19 believe is State's Exhibit -- a picture of State's Exhibit
20 38.

21 Q Can you describe for the jury what that is right
22 there?

23 A Like the first defect, this is also a defect in a
24 wooden -- it's been described as a dog house.

25 Q Now, you can also determine the angle of impact and

1 the direction here, correct?

2 A I can.

3 Q What degree of certainty do you have that they were
4 right in the angle of impact and the direction in the dog
5 house?

6 A I place a lot more confidence in this angle because
7 that wood is fixed. It will show a much truer projection
8 of the angle of impact.

9 Q Can you -- hold on one second. How is this
10 particular -- I think you've just described it, though.
11 Real quick, how is the dog house different from the quail
12 cage in determining the angle of impact?

13 A Well, the dog house, if you look at it, is at least a
14 half inch to 3 quarters thick. So, like I said, you've got
15 to stable, dependable bullet defect. The cardboard is two
16 pieces of brown paper, with corrugated paper in between to
17 cause -- you know, for strength purposes. But as I
18 mentioned, not only is the cardboard, in my opinion, not a
19 good substance to shoot into, it's also weathered, so that
20 makes it even weaker.

21 MR. WILSON: Doug, can you go to page 42 on this
22 exhibit?

23 Q All right. Can you -- it doesn't have an exhibit
24 number at the top. This is page 42 on Defense Exhibit 40.
25 Can you describe what this photo is?

1 A Yes, sir. That is a computer animated drawing of some
2 potential trajectories into that quail pen.

3 Q And the two gray boys here, what are they?

4 A They are -- they are two figures that were placed in
5 that CAD presentation to represent shooters.

6 MR. WILSON: Go to 46 of the same exhibit.

7 Q And describe what this is.

8 A This is one animated suspect, I guess, or shooter,
9 placed in a similar CAD drawing, photograph animation.

10 MR. WILSON: Okay. Now go to page 49.

11 Q And what is --

12 MR. WILSON: I'm sorry, go back to -- that's the
13 picture I wanted.

14 Q So, there's three angles represented in this picture,
15 correct?

16 A There are three angles.

17 Q Two of them are from the same pole, correct?

18 A Yes, sir.

19 Q One of them is from the dog house, correct?

20 A That is correct.

21 Q You are a lot -- you were fairly -- you believe that
22 the dog house angle is fairly reliable.

23 A I do.

24 Q You question the quail house angle, correct?

25 A I place no confidence in that angle from the quail

1 house -- quail pen.

2 Q Explain for the jury, and you observed the defense
3 expert last week talking about this. How did they come to
4 determine based on these lines and where these -- where
5 these gray figures are placed? How did they come to
6 determine their heights were between 5-2 and 5-4? We'll
7 get to your opinions about that in a moment, but just
8 explain for them how the defense expert got to that
9 decision.

10 A The defense expert said he tried plugging in different
11 heights, and he had to place those animated figures on a
12 plane, that line, that laser line, and he determined that
13 they go back and forth on that plane to achieve the defects
14 that are documented by the original crime scene examiner.

15 MR. WILSON: Doug, go to page 51 real quick. Let's
16 see if that's the --

17 (Break in proceedings.)

18 Q So, there's some yellow placards here on the ground.
19 Do you see them?

20 A I do.

21 Q And what do those yellow placards represent?

22 A Cartridge cases that were found on the ground.
23 They're markers, so, you know, once you find the cartridge
24 cases, you put them there for documentation purposes,
25 photography and sketch purposes.

1 Q And why -- explain to the jury what the defense -- the
2 defense has determined that their angle is based on the --
3 on the static lines, those green lines, correct?

4 A That's correct. Back and forth on that one static
5 line from one angle, and one static line for the other
6 angle.

7 Q And they placed them right there at that particular
8 location why?

9 A I think the defense expert was taking into
10 consideration the location of the cartridge cases, and he
11 was showing how it would fit those 5-foot-2 animated
12 figures that he placed in that presentation.

13 Q Is it your understanding, and I'll demonstrate. The
14 gray figures are holding the firearm, and those gray lines
15 represent, like, a string they would run up and down,
16 correct?

17 A Yes, sir. That was the testimony. You go back and
18 forth on this green line.

19 Q Okay, and that they would be right here because this
20 is where the shell casings are. The shell casings are
21 ejecting, correct?

22 A That is how I understood his --

23 MR. GRIFFIN: Objection to leading. Objection.

24 Q Why --

25 THE COURT: Just a moment. Restate the question.

1 MR. WILSON: I'll restate the question.

2 Q Why would they be placed right there in that
3 particular location along that static green line?

4 A Because they were in proximity to some of the shell
5 casings.

6 Q Okay. Can you explain to this jury why their
7 assumptions on the math they did are incorrect in
8 determining that the shooter had to be between 5-2 and 5-4?

9 A Well, there's a bunch of variables, and variables do
10 matter. There are a bunch that you would have to consider.
11 First, you would have to consider this to be a static crime
12 scene, very little movement, and when it is movement it's
13 controlled movement. Second, you would have to place some
14 confidence in that angle of impact on that cardboard.
15 Third, as I testified in my previous testimony, we're not
16 able to test fire with confidence what we know to be the
17 weapon used in this situation with the same ammo. And they
18 don't throw the ammo in the same place every time. It may
19 be in the general vicinity. But as I said, I believe in my
20 previous testimony, if you knew exactly where it was going
21 to throw that cartridge case, you could carry a bucket with
22 you and sit that bucket and all of your cartridge cases
23 would go in the bucket. But like we see in the sketch and
24 in the animated drawing, those cartridge cases are
25 throughout. They're in a pretty large little area.

1 And what I also saw that I noticed from this CAD
2 drawing is this cartridge case is to the left of these
3 animated shooters, which means that's at time at least two
4 of these shots were fired with the shooter far to the left
5 and not, not on this static green line.

6 Q Could you come down here real quick and point out what
7 you're talking about as it relates to the location of the
8 shell casing?

9 A Yes, sir.

10 (Break in proceedings.)

11 A I'm not sure if this is a shell casing here,
12 Mr. Wilson, but right here, that is a shell casing, and it
13 did not eject this direction and in any situation depicted
14 here in the presentation. It's not a left-handed -- nobody
15 has ever testified it was a left-hand AR15, and like I
16 said, they're kind of uncommon. And if it is and that's a
17 left hander, then we couldn't explain the majority of them
18 being to the right. So, that's what makes this static line
19 flawed.

20 Q Thank you. Please --

21 A And in another photograph you can actually see a
22 larger area of cartridge cases back here.

23 Q Thank you.

24 A Uh-huh.

25 Q Let's assume for a minute that the angles are correct,

1 and they very well could be, correct?

2 A They could be.

3 Q Why is the defense's theory as to the height of the
4 shooter represented in this picture still wrong? What else
5 could affect it?

6 A Distance and height.

7 Q Would you like to take to moment to demonstrate for
8 the jury what you're talking about?

9 A Weapon position, yes, sir. Will you tell me which
10 angle you would like me to demonstrate from?

11 Q Let me ask you this question before you step down.
12 Can a person be in an -- on their knee and get the same
13 angle and be standing and get the same angle?

14 A Yes, sir.

15 Q Can a 6-foot-4 person and a 5-foot-4 person still
16 shoot the same angle just at different distances?

17 A Absolutely.

18 Q Can you demonstrate for the jury why that is one way
19 that this could have changed their math?

20 A I can.

21 Q Please.

22 (Break in proceedings.)

23 A I measured this step on the witness box during a
24 break. It's 8 inches. I used to be 5-11, but as I get
25 older I'm about 5-10, but if I'm here -- or I could be 5-8,

1 or 5-2, or 5-4. Here I'm 5-10, here I'm 6-6, and here I'm
2 over 7 foot and I've still got the same angle. I have just
3 added a little bit of distance to it. And as far as the
4 quail pen angle, I'm 21 inches from the floor to my knee.
5 I believe it was testified that the defendant is 25 inches
6 between the floor and the knee, so there's 4 and a half to
7 5 inches difference in our heights. Here I'm probably at
8 4-10 if I'm shouldering this weapon. And I don't know the
9 mechanics or how it got this way. I'm just saying it's
10 possible. Here I'm at 39 -- 38 and some change, or I can
11 even take it lower or higher. And please don't ask me to
12 demonstrate that twice because I don't think my knees can
13 do it again.

14 Q I think I heard a crack.

15 A Yeah, but that takes me to 36 inches, 37 inches. With
16 the defendant it would be about 39, so it's definitely
17 possible. Even from a shouldered weapon it's possible.
18 And you do not know how the weapon was being held.

19 Q From what you've observed in this crime scene, was
20 Maggie moving at the time she was shot?

21 A This was a very dynamic crime scene. I believe
22 everything was moving. The victims and the suspect were
23 moving.

24 Q And how do you know that?

25 A Well, suspect would be the different firearms

1 evidence, the cartridge cases. Like I said, there's no
2 absolute. They're not going to throw the exact same spot,
3 but they will throw them in a similar direction. We've got
4 cartridge cases and a pretty nice sized perimeter. We've
5 got them in different locations from where Ms. Maggie
6 Murdaugh's body -- the final resting place, and different
7 angles and different positions and different direction.
8 So, that tells you it's very fluid and it's very dynamic.

9 Q So, if I'm holding a gun as I am moving and shooting,
10 what is happening with those shell casings as I move?

11 A They are moving as they're ejected.

12 Q When -- where was Maggie's head pointing when she hit
13 the ground?

14 A Ms. Maggie Murdaugh's head was pointed in the
15 direction of Paul Murdaugh, where his body rested back
16 toward the feed room.

17 Q And what is your opinion of the defense's expert that
18 says the shooter could not have been 6-feet-4 inches tall
19 like the defendant, Alex Murdaugh?

20 A I think that's a flawed opinion.

21 Q Could it have been a 6-foot-4 person?

22 A It could have been a 5-4, 6-4, or in my opinion, a 7-4
23 as I just demonstrated.

24 MR. WILSON: Doug, let's go to page 59 in the Defense
25 Exhibit 140. That should reflect State's Exhibit 57.

1 Q Dr. Kinsey, can you describe that picture for the
2 jury?

3 A Yes, sir, I can. That is a shot from inside the feed
4 room, that back window pane where the buckshot exited
5 Paul's left arm, and then continued and exited the feed
6 room.

7 MR. WILSON: Please go to page 67. It should be
8 State's 45, I believe.

9 Q And what is that right there?

10 A That's a pink string from the window to a pine tree.

11 MR. WILSON: And then go to page 69.

12 Q And what is that a picture of?

13 A I don't know if it's the same pink string, but it's
14 also a pink string coming out of a window.

15 MR. WILSON: And go to page 74.

16 Q And that is labeled Exhibit 54. And what is that a
17 picture of?

18 A That's a picture of Mr. Sutton with what looks like a
19 pump action shotgun pointed down into the feed room.

20 Q And what do you notice about the angle that he's
21 holding the shotgun and the angle of the string?

22 A Well, the string is parallel --

23 Q Let me rephrase that. I'm sorry, let me rephrase
24 that. What is the defense's theory right here represented
25 in this picture?

1 A I've heard so many theories. But I really believe
2 Mr. Sutton was trying to show that the angle wouldn't match
3 if it was a taller shooter shooting into the feed room.

4 Q Okay.

5 MR. WILSON: Doug, I'm not quite sure what page it is,
6 but I think it's two back. Go back one more. There you
7 go.

8 Q That's -- it's labeled Exhibit 53. And what is that a
9 picture of?

10 A That's a picture of Mr. Sutton holding, I believe, the
11 same shotgun more parallel to the floor.

12 Q And what is he trying to demonstrate in this photo?

13 A I believe he's trying to follow that pink string to
14 that pine tree or whatever, guiding to that pine tree.

15 Q Do you recall from his testimony how he got that
16 angle?

17 A I do, sir, I do. Mr. Sutton testified that he got to
18 where he believes Paul was standing, and he got down and he
19 peeped through the hole in the window, the one that he
20 thought would match that corresponding defect in that pine
21 tree, and he ran a string to that defect in that pine tree.

22 Q Are they trying to determine the angle of the shot is
23 exactly the way the shotgun is being pointed?

24 A Well, I believe they were trying to determine
25 trajectory path of that projectile.

1 Q What is flawed about this?

2 A With a rifle you're talking about a single projectile,
3 and most people understand the distinction. If you can
4 find where it was fired and you can get up a perfect
5 impact, sometimes that will give you the idea of the path,
6 the path of the that projectile.

7 With a shotshell you're talking about 9, 12, or 16, in
8 this case 9 buckshot pellets. They're packed in a
9 shotshell with filler, like styrofoam material. They're
10 packed in a shotshell. When that cartridge -- the primer
11 of that cartridge is ignited and those pellets exit the
12 muzzle of that firearm, they start to spread. We've heard
13 a lot of testimony about that, they start to spread, and
14 they spread in a cone. Okay? You've got some at the top,
15 some bottom, some left, and some right, and the more the
16 distance becomes the greater they spread. They're not like
17 a mother duck with the duckings right behind it and all the
18 buckshot are in line. So, you can't get a true trajectory
19 on this shotgun. You can't even measure a true pattern,
20 not even close to a pattern with one pellet.

21 So, it's my opinion that that pellet that definitely
22 impacted that pine tree, that's the top of the cone, so
23 you've still got a bottom and you've got two sides of that
24 cone, and unfortunately none of those pellets were located.

25 Q So in your professional opinion, can you exclude a

1 6-foot-4 defendant like Alex Murdaugh, or anyone for that
2 matter at that height, from shooting that shotgun at that
3 angle?

4 A Absolutely not.

5 Q When the defense expert says that the shooter has to
6 be between 5-2 and 5-4, do you disagree with that?

7 A I do disagree with that wholeheartedly.

8 Q With what degree of certainty do you think they're
9 wrong in their conclusions?

10 A I just think it's an unknown. I don't -- I mean,
11 there's many more variables you have to know: how the
12 shooter was holding the gun, you know, how his proportion
13 to legs matches up with body. I mean, that's something
14 that we're all a little bit different. And unless you've
15 got a video of that, or someone tells you how they held a
16 weapon, I think the notion that being able to look at this
17 evidence and determine that is unscientific.

18 Q You said something a minute ago. You said there's so
19 much we can't know. Could the shooter have been running
20 laterally?

21 A Certainly he could have.

22 Q Could the shooter have been running toward Maggie?

23 A Certainly.

24 Q Maggie was certainly moving, correct?

25 A In my opinion she was.

1 Q Could the shooter have been on their knees?

2 A Could have been.

3 Q But there's no way to know for sure, correct?

4 A That's an unknown, yes, sir.

5 Q And because there's so many unknowns, there's no way
6 the defense expert can definitively exclude a 6-foot-4
7 person from shooting the rifle and a shotgun, correct?

8 MR. GRIFFIN: Objection. Leading.

9 THE COURT: You cannot lead the witness.

10 Q In your opinion, can the defense, based on what you
11 just testified to, exclude a 6-foot-4 person from being the
12 shooter? And I can provide the weapon.

13 A In my opinion, no. The defense witness is relying on
14 math and absolute, and in crime scene investigation
15 sometimes there are no absolutes.

16 Q Dr. Kinsey, have you ever observed a contact wound to
17 the head by a shotgun?

18 A Yes, sir, I have.

19 Q How many times have you observed a contact wound to
20 the head by a shotgun?

21 A After the fact, I've seen several dozen, maybe three
22 dozen. But I also had a gentleman that committed suicide
23 in front of me, probably from me to you.

24 Q How many times have you actually seen either photos of
25 a contact wound to the back of the head with a shotgun in

1 your professional career?

2 A Probably a dozen. Out of that three dozen, probably
3 twenty-four of them were suicides or someone taking their
4 own life. Probably a dozen execution killings.

5 Q Can you describe for the jury what kind of trauma to
6 the face -- and I know they've heard from a pathologist,
7 but in your experience as an expert in crime scene
8 forensics, can you describe the kind of trauma you have
9 observed in your career with a contact wound to the back of
10 the head or any part of the head?

11 A Yes, sir, I have.

12 Q And specifically to the face.

13 A Generally speaking, whether it be a shotgun or a large
14 caliber handgun, the result is similar. You feel as though
15 the forehead and the facial features have went away, and
16 that's a kind way to put it. They're actually there, but
17 they have been -- they've been shredded, and the
18 pathologist can actually put those features back in place,
19 or the majority of it. But looking at it, it looks like
20 from the teeth up the person went away. It's just a mess.

21 Q Dr. Kinsey, I would like to show you what's been
22 marked as State's Exhibit 486. Can you look at that and
23 say if you have seen that picture before?

24 A Yes, sir, I have.

25 Q And what is it a picture of?

1 A It's a picture of Paul Murdaugh at autopsy.

2 Q What part of Paul Murdaugh, Murdaugh is it a picture
3 of?

4 A His face and his forehead.

5 Q Do -- does his face look like it suffered the kind of
6 trauma you have observed in the past from a contact gunshot
7 wound to the back of the head, or any part of the head?

8 A No, sir. Other than some red features from, you know,
9 falling on the cement after the fatal shot and some
10 blotching to his skin, his face looks fairly normal to have
11 gone through what he suffered.

12 Q And I'm not going to publish the photo again because I
13 think people are tired of seeing it, but I do need for you
14 to describe what kind of things you've observed with the
15 eyes and the bones with people that you have seen that have
16 been struck or shot in the back of the head at point blank
17 range.

18 A Yes, sir. Well, it's not always the back now. I've
19 seen some from the side also.

20 Q From any angle.

21 A Yes, sir. Generally, like I said, it looks like the
22 facial features are gone away, or they've at least changed
23 drastically. A lot of times you will get large blood
24 pockets or contusions under the eyes if the eyes don't pop
25 out. A lot of times the eyes will pop out, and they'll be

1 on what's left of the cheeks. The facial bones, you can
2 grab them with your -- with a gloved hand and you can move
3 them around, and you'll actually have pellet exits in the
4 skin flap. If you pull the skin up, you can see where the
5 pellets, whether they be buckshot or close distance
6 birdshot, you can see the actual defects from those
7 pellets.

8 Q Based on your training and your many years of law
9 enforcement experience, are the wounds suffered to Paul to
10 the back of the head consistent with a contact shot to the
11 back?

12 A Absolutely not in my opinion.

13 Q Okay. Dr. Kinsey, we'll move on from that for just a
14 second. You were here yesterday, correct?

15 A I was.

16 Q Did you have the opportunity to observe, I want to say
17 his name correctly, I believe it was Tim Palmbach?

18 A I did.

19 Q He was a crime scene investigator who was qualified as
20 an expert from the defense. Isn't that right?

21 A Yes, sir.

22 Q Okay. I would -- he came up with two significant
23 conclusions, let's say three, about how Paul was shot in
24 the feed room. Can you -- do you remember what those were
25 for this jury?

1 A The big one that I recall is that Paul was shot in the
2 back of the head with a contact wound. And the other one
3 the -- strikes in my mind, I don't know, the shooter passed
4 him and shot him from inside the feed room. Those are the
5 two big ones that I recall.

6 Q There was another one regarding the number of people
7 there, was there?

8 A The thing about two shooters, yes, sir.

9 Q We'll get to that in a minute.

10 MR. WILSON: I would like to -- Doug, can you get the
11 ELMO up?

12 (Break in proceedings.)

13 Q I'm showing you what's been marked as Defense
14 Exhibit 182. What's that a picture of?

15 A That's a picture of that expert with his hands cupped
16 opposite the hinges on the door, the doorframe.

17 Q Okay. I want to leave this picture up for a moment
18 because what is the direction that the picture was taken
19 from?

20 A From inside the feed room.

21 Q Facing what direction?

22 A Outside the feed room.

23 Q Okay. Now, you had an opportunity to hear the
24 defense's theory on how Paul was shot, correct?

25 A Yes, sir, I did.

1 Q I would like to demonstrate that with you right now.

2 A Yes, sir.

3 Q Can you walk us through the defense's theory as you
4 understood it to be?

5 A Yes, sir, I can.

6 MR. WILSON: Your Honor, for purposes of this
7 demonstration, I don't know if the Court would allow it,
8 but it would be nice if we could open this door. I want to
9 make sure that there's security here, but if we could have
10 that door open just for a minute or two?

11 THE COURT: All right. Can you open that door?

12 SPEAKER: Yes, sir.

13 THE COURT: All right.

14 MR. WILSON: Thank you, Your Honor.

15 (Break in proceedings.)

16 Q I'm grabbing what's marked as State's Exhibit 4, which
17 is a camo Benelli Super Black Eagle 3 shotgun 12 gauge.

18 We'll use this for demonstration, so step down.

19 (Break in proceedings.)

20 Q Now, is the door the same width as the feed room door?

21 A It's a couple of inches wider than the feed room door.

22 Q And, of course, the feed room door doesn't have this.
23 You know, it's inset, correct?

24 A That is correct.

25 Q So, this is not exactly a replication of what happened

1 at the feed room door, correct?

2 A No, sir, it's not. The door swings the same
3 direction, though.

4 Q Now, you have given me permission -- I'm very careful
5 about muzzle velocity, excuse me, muzzle awareness, but you
6 have given me permission to point this at you, correct?

7 A I have.

8 Q Okay. You actually asked me to, correct?

9 A Yes, sir, I did.

10 Q All right. So, go in there and stand a couple of feet
11 back. It doesn't have to be 5 feet, but you have since
12 testified that Paul was 5 feet inside the feed room,
13 correct?

14 A Can we demonstrate the first shot out here?

15 Q I am. All right. Stand back a little bit because
16 you've got to tumble towards me.

17 A Yes, sir.

18 Q So, I'm going to point like I'm pointing at you.

19 A Yes, sir.

20 Q Paul is shot. Where is the shooter approximately
21 outside the door?

22 A The breech face, or the ejection port of the shotgun
23 is just past the doorframe.

24 Q Okay. Paul has just been shot.

25 A Yes, sir.

1 Q And then what -- and the defense's theory, walk me --
2 you tell me what to do, and you act this out, and I'm going
3 to do what you told me to do based on the defense's theory
4 of the case.

5 A The defense agreed with the assessment that Paul stood
6 there for a moment bleeding down his injured left arm, and
7 he slowly walked toward the door.

8 Q Okay, and what does the shooter do?

9 A The shooter is coming in the door.

10 Q And then what does the shooter do?

11 A He shoots Paul in the back of the head after he passes
12 him.

13 Q Okay, and then shoots Paul in the back of the head
14 like this, and where does the blood spatter go?

15 A The blood spatter, the pellets defects, and one that I
16 didn't know about that the expert collected was in the
17 doorframe at the top of the door.

18 Q And I understand it's a little different than the feed
19 room door, but it's the best we can do. So, what did you
20 find odd about the theory, first of all?

21 A I think the theory is preposterous, in my opinion.

22 Q Can you -- can you walk me through why you think it's
23 preposterous?

24 A Absolutely. Number one, that Drylok Number Two
25 shotshell fired the projectile at 1450 feet per second once

1 it leaves the muzzle of that weapon. As was mentioned,
2 that's a millisecond. That's fast. To think that the
3 pressure from flesh and bone will cause that pellet --
4 those steel pellets now, we're not talking about lead.
5 Lead is a little bit more giving. Lead will -- is
6 malleable. It will crush or flatten. We're talking about
7 steel, BB pellets. They will turn around because of the
8 pressure, go back the opposite direction, 180-degree
9 direction at enough velocity to dent a steel exterior door
10 and embed in the doorframe. That doesn't happen. That
11 doesn't happen, in my opinion.

12 Q I don't know if you mentioned this earlier, but can
13 you talk about -- I'm trying to get it right.

14 A And can I add --

15 Q Please do.

16 A -- also there's no defects to the OSB or the T111
17 siding in the bottom of the room.

18 Q All right. Wait a second, you said a lot right there.

19 A Yes, sir.

20 Q TS what?

21 A TS111. It's, like, exterior paneling that people put
22 on their buildings. That's what's on the building. The --

23 Q For all of us city boys, we appreciate you describing
24 that. Thank you.

25 A Yes, sir. It's all-weather paneling. There's no

1 defects at the bottom, and if that theory is correct, if
2 this is an entrance and this is an exit, the shot still had
3 to go somewhere. There's no defects down there on
4 anything.

5 The doorframe, as I mentioned in my previous
6 testimony, the doorframe has a clean void that would be
7 perfectly in line with those shot -- from that shotshell.
8 There is no cracks, chips, pellet holes in the cement.
9 There is nothing in the OSB. That's cheap plywood; that's
10 manmade plywood. There's no defects in the plywood.
11 There's no high velocity blood spatter on the floor.

12 What was pointed out to you is medium velocity, and
13 that's from coming out of the wound and gravity bringing it
14 down to the floor. You would see a pattern on the floor
15 just like what you can see in the photographs at the top of
16 that door. None of that's there. So, I have to look at
17 the science, and I have to look at inertia, and I have to
18 look at that shotshell, and how fast that shell is
19 propelled out of that barrel, and I know that it can't turn
20 around 180 degrees and go back the other direction. It's
21 not like blood and tissue. We're talking about steel,
22 steel pellets.

23 Q Dr. Kinsey, are there studies on percentages of
24 blowback when you're shooting into someone?

25 A There are.

1 Q And based on your expert opinion, what percentage of
2 blowback would come back at a shooter if they were able to
3 shoot at that angle?

4 A Well, I don't think there's any definite, but what I
5 read is 8 to 10 percent except in, you know, like I said,
6 it's not an absolute every time, but 8 to 10 percent.
7 Remember that most of your force is going out the front of
8 the barrel.

9 Q And a moment ago you were just talking about the
10 defects and all of the trauma that would have happened to
11 the paneling and the floor. Can you point on this photo
12 with the dowel stick behind you for the jury? I just want
13 them to see in this photo.

14 A Right in here. The void -- as I documented in my
15 original testimony, the void was from here down. Other
16 than one stray satellite drop of blood, that was fairly
17 clean. From here to at least right here. But there's no
18 defects here; there's no defects in that cement outside.
19 There's no defects in the inside cement, and none in this
20 OSB right here. And that was still there when I did the
21 tour. They have ripped all of the shelving and some of the
22 insulation, but this was still there.

23 Q Dr. Kinsey, you may have covered this a little bit,
24 but explain for the jury. If someone is shooting down as
25 we just demonstrated a moment ago here in the doorway,

1 you're leaning out, the shooter is shooting down, how did
2 pellets get embedded into the doorframe up here? How is
3 that possible?

4 A I think it's impossible myself. Physics don't work
5 that way unless you're shooting into a trampoline or a huge
6 piece of steel, and then you may have a pellet deflecting
7 back on you. It happens many times, especially when we're
8 shooting steel targets, but not at that velocity. It will
9 not sink into the doorframe, and it definitely will not
10 dent that door with what I documented, in my opinion.

11 Q What is the -- restate for this jury what the
12 defense's theory based on that blowback that would have
13 exploded into the shooter's face here behind Paul, explain
14 for this jury what the defense's theory is about how that
15 shooter would have been injured.

16 A The defense expert testified that that shooter would
17 be most probably incapacitated from blood, bone, and bloody
18 fluid, and there was a high likelihood that he was injured
19 by those pellets.

20 Q Dr. Kinsey, in your expert opinion, is there anything
21 awkward about a shooter standing outside, going into an
22 enclosed area, turn around, and shoot someone from in
23 close? Is there something weird about that to you?

24 A I can't figure out the methodology of a shooter.
25 I've, I've never done any crime like that, Mr. Wilson, but

1 I don't see -- if we talk about common sense -- and
2 everybody has mentioned the totality. When they don't have
3 an answer for something, it's always I looked at the
4 totality. But I don't see any reason for someone to
5 squeeze up past one victim in this doorway, to go inside to
6 shoot him back out. And if he did, if that scenario did
7 happen, that doesn't explain all the pellets that are in
8 the floor of the feed room that we've testified -- heard
9 testimony to as to why law enforcement didn't clean those
10 pellets up. If it happened the way that the defense expert
11 says, those pellets would be out here in the yard. They
12 would not be inside that feed room.

13 Q Dr. Kinsey, have you had a chance to review the case
14 file on this particular case and observe the defense
15 testimony from last week?

16 A It's two separate things. Yes, sir. I have reviewed
17 our case file -- all of the crime scene, or what I felt was
18 crime scene-related evidence. I didn't look into videos
19 and a lot of that other stuff. And I have witnessed the
20 testimony of the defense experts.

21 Q Are you familiar with what the investigation has
22 determined about the tool marks found on the 300 Blackout
23 shells found around Maggie's body and the tool marks found
24 on the 300 -- the weathered 300 Blackouts shells found way
25 up by the house in the flowerbed? Are you familiar with

1 that?

2 A I am familiar.

3 Q And what do you know about that?

4 A The examination --

5 MR. GRIFFIN: Objection, Your Honor. This is beyond
6 the scope of our case. It's going into completely new
7 information. Their ballistic expert has already testified,
8 and we've presented a ballistics expert, and now they're
9 creating him as a --

10 THE COURT: Your response?

11 MR. WILSON: Your Honor, their expert said yesterday
12 about an hour and 9 minutes into their testimony that it
13 would be impractical for one shooter to bring in two long
14 guns. It has always been the State's theory that the
15 shooter owned both guns and had them on him, so we're
16 rebutting what the defense expert said.

17 THE COURT: The objection is overruled.

18 Q Please answer the question.

19 A Can you ask me again, Mr. Wilson, please?

20 Q Are you familiar with what the investigation has
21 determined about the 300 Blackout shells found around
22 Maggie's body and the 300 Blackout shells found up by the
23 flowerbed that were -- appeared to be several months old
24 and weathered? What relationship do the shells have to
25 each other?

1 A According to the firearms examination, those cartridge
2 casing were loaded and ejected from the same weapon.

3 Q So, a family-owned weapon is what was used to kill
4 Maggie.

5 MR. GRIFFIN: Objection. Leading.

6 Q What do you infer from that information?

7 A I would infer that this is a family-owned firearm.

8 Q There was some testimony yesterday, Dr. Kinsey,
9 about -- well, it was from the defendant's brother,
10 Mr. John Marvin Murdaugh, and it related to the following
11 day he came upon the crime scene. It had been cleared, and
12 he saw how the crime scene was left. Can you explain --
13 you've been in law enforcement for how many years?

14 A Thirty years. Well, over thirty, but thirty years
15 getting paid.

16 Q And you're the chief deputy at the sheriff's
17 department?

18 A Yes, sir, Orangeburg County Sheriff's Office.

19 Q Just to clarify some things, can you explain normally
20 or traditionally how crime scenes are cleaned up for this
21 jury? Is it the responsibility of law enforcement, in
22 other words?

23 A No, sir. There are private companies that are
24 contracted through SOVA. Well, it used to be SOVA. The
25 name has changed now, and I'm sorry --

1 Q What does SOVA stand for?

2 A It's victims -- it's the State Office of Victims
3 Assistance, but it's now changed. I can't tell you what
4 the new acronym is. But it works through our victims
5 advocates. Law enforcement -- victims advocates, almost
6 every department has them. And there's funding provided
7 from tax payer funds to work through your victims
8 advocates, and you go out and you clean these crime scenes
9 for the families so they don't bear the burden of cleaning
10 those crime scenes.

11 Law enforcement in particular cannot collect and
12 dispose of and transport body -- it sounds terrible -- body
13 parts or body fluids. That's something the coroner has to
14 do because it's actually by permit through DHEC. But to
15 make it easy on the family, these companies can collect
16 those items, and then they will turn them over with a chain
17 of custody, and they will properly dispose of those items.

18 Q Dr. Kinsey, is it your expert opinion that a 6-foot-4
19 shooter cannot be excluded from the murder of Maggie and
20 Paul?

21 A I see nothing that could exclude a 6-foot-4 shooter.

22 Q In your expert opinion, can you tell this jury, is it
23 right for the defense to say that there had to be two
24 shooters based on the testimony that you heard yesterday?

25 MR. GRIFFIN: Objection. Leading.

1 Q In your expert opinion, can, can two -- can you
2 exclude two shooters?

3 A I cannot include or exclude two shooters.

4 Q Can the defense include to the exclusion of all other
5 possibilities two shooters?

6 A Absolutely not.

7 MR. WILSON: Beg the Court's indulgence.

8 (Break in proceedings.)

9 MR. WILSON: Please answer any questions the defense
10 has for you.

11 THE COURT: Mr. Griffin.

12 MR. GRIFFIN: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. GRIFFIN:

15 Q Good afternoon, Dr. Kinsey.

16 A Hey, Mr. Griffin.

17 Q And anyone who has a doctorate degree I want to call
18 doctor. Is it all right if I call you Doctor?

19 A I'll answer to anything you call me, Mr. Griffin. I
20 appreciate that.

21 Q Well, now your degree, though, is in criminal justice.
22 Is that correct?

23 A That is correct, yes, sir.

24 Q You're not a doctor of pathology.

25 A Absolutely not.

1 Q And you've had no medical training.

2 A I have training in pathology of gunshot wounds, yes,
3 sir. I've attended several courses, classes, and seminars.
4 It was also included in the criteria for the certifications
5 I mentioned for the International Association for
6 Identification. I've also conducted extensive research on
7 office -- police officer use of force cases and the
8 injuries that result therein.

9 Q And your doctorate is in criminal justice, and I
10 believe your dissertation research is in use of force and
11 perceptions of public attitude held by police training?

12 A That is correct.

13 Q What was that?

14 A Well, with the current atmosphere, or what's been
15 going on in the last five or six years in our country, I
16 was just trying to help. I wanted to figure out something
17 that would assist with -- because we've seen some law
18 enforcement officers do some terrible things on video.
19 We've also -- we've got a segment of our society, the
20 minority segment of our population, a lot of those citizens
21 are in fear of law enforcement, and I wanted to study if
22 the media perception as held by the three types of law
23 enforcement trainers, if the media or -- the media
24 perception and the way they portray law enforcement, if
25 that affected the way we train our officers. If we're too

1 hypervigilant or if we -- you know, we tell them, look,
2 there's death waiting for you around every corner. Is that
3 going to make law enforcement more prone to use force or
4 more -- or use less force, or those kind of criteria, and
5 that's what I was interested in. And I was laying the
6 groundwork with a scientific quantitative study to allow
7 someone to come behind me and do some further research just
8 to expand that topic.

9 Q Right. The -- but you said you also have done some
10 gunshot wound training as part of some certifications?

11 A Yes, sir, the IAI. As I mentioned, I was formerly
12 certified two different times. I think it's a five year
13 certification, and I did let it lapse. The -- in 2015
14 because that's when I started my Ph.D, and I couldn't study
15 for both. But that is an extensive process where you do
16 research, and you are -- you have to do a written test, and
17 then with my proficiencies throughout SLED, and then I
18 still do some with our sheriff's office now where you have
19 to pass proficiency, and that is practical examinations,
20 testing, and that kind of thing.

21 Q Okay. Now, in this case the State did have a
22 pathologist, Dr. Riemer, correct?

23 A Yes, sir, they did.

24 Q And you reviewed her autopsy report as part of your
25 work, correct?

1 A Not so much as reviewed her report, but I went and
2 spoke with her in Charleston at her office.

3 Q Did you review her --

4 A I have access to her report, Mr. Griffin. I can't
5 tell you I looked through the whole report.

6 Q And you understood that her opinion was that it was a
7 shoulder shot through the neck, and then up out of the top
8 of the head. Is that correct?

9 A Yes, sir. I believe we agreed on that, yes, sir.

10 Q And your reconstruction opinion is that's the exact
11 same angle that Paul was shot by the shooter: shoulder,
12 neck, out the top of the head.

13 A Yes, sir. But I didn't just rely on her information.
14 I also looked at the crime scene photographs, and I went to
15 the scene myself.

16 Q I understand that.

17 A Yes, sir.

18 Q But -- and then you -- did you hear Dr. Eisenstat, his
19 testimony?

20 A I did.

21 Q Now, you worked with SLED, did you not?

22 A I did, yes, sir.

23 Q Dr. Eisenstat worked for GBI, correct?

24 A Yes, sir.

25 Q SLED does not have its own in-house division of

1 medical examiners, do they?

2 A No, sir. There are several fine medical examiners
3 throughout the state. I've done autopsies in a lot of the
4 bigger cities in South Carolina.

5 Q Dr. Eisenstat worked -- and he was the chief medical
6 examiner toward the end at GBI, correct?

7 A That's what he testified to. I don't know of that
8 doctor.

9 Q You didn't know of him before this case?

10 A I did not, no, sir.

11 Q Now, he says -- his opinion is it was a gunshot wound
12 contact to the back of the head. Is that correct?

13 A That is what he testified to, yes, sir.

14 Q And if that is -- and he is correct, then your opinion
15 is incorrect. Is that right?

16 A I don't share the same opinion as that doctor. But,
17 yes, if he would be correct, that would make me incorrect.

18 Q Now, in your training, are you familiar with doctor --
19 excuse me, Mr. Di Maio's book on gunshot wounds?

20 A I have read Di Maio. I haven't heard it described as
21 the Bible. I don't consider, nor do my cohorts consider,
22 that as the gunshot Bible. There's four or five different
23 versions out. There's one called *Terminal Ballistics* by
24 Dobb, and there's also *Gunshot Wounds* by Dougherty, and
25 those are the ones that I'm more familiar with. But I'm

1 not saying it's a bad textbook, and I'm not saying that the
2 information in it is not correct.

3 Q Okay. Now -- and we'll get to more of that in a
4 moment. What, what I would like to do is first address Mr.
5 Sutton's work that you had criticisms of.

6 A Well, I didn't have criticisms. We just have
7 different opinions. He's an engineer and I'm a crime scene
8 investigator, Mr. Griffin.

9 Q Well, I just -- well, seems like you said that the
10 angles of the -- into the quail pen were unreliable.

11 A Absolutely.

12 Q And --

13 A I have several more criteria that I didn't mention
14 earlier, but, I mean, if you want me to go into those, I
15 will.

16 Q Well, I want to ask you first. What's your
17 understanding as to how those measurements were taken?
18 Well, first, who took those measurements in the quail pen?

19 A The original angles were the original SLED crime scene
20 agent that responded to the scene --

21 Q Right.

22 A -- and took those angles.

23 Q And you understand that Mr. Sutton relied upon Agent
24 Worley's measurements?

25 A I do.

1 Q Okay.

2 A I do.

3 Q Now, you were putting the dowel, shoving it in a box
4 and taking it out of a box as if Mr. Sutton went back and
5 tried to remeasure.

6 A No, sir, that's not what I was insinuating. I said
7 when the original agent removed her dowel, it wasn't
8 nefarious, but depending on how she removed that dowel, she
9 could have altered that impact.

10 MR. GRIFFIN: Well, let's take a look at that, Doug.
11 And this is State's -- excuse me, Defendant's Exhibit 140.
12 And can you pull it up?

13 SPEAKER: The PowerPoint?

14 MR. GRIFFIN: Yeah, the one you were showing me.
15 Excuse me. Just go to the second slide. It's right there.
16 There you go.

17 Q So, you understood from this exhibit that Mr. Sutton
18 relied solely on the shot trajectories measured by Agent
19 Worley.

20 A As I said, it wasn't his intentions, Mr. Griffin. It
21 was his results that I disagree with. It's not absolute,
22 and he gave, in my opinion, an absolute opinion to this.

23 Q Well, why, why would Special Agent Worley take
24 measurements if someone were not -- should not rely upon
25 them?

1 A I can't answer that. You would have to ask Special
2 Agent Worley. But in my opinion, the direction of -- even
3 though she can't obtain a perfect angle of impact, or even
4 if that weathered cardboard was damaged, it's not a good
5 substance to depend on because it's just not hardy enough.
6 And she was showing direction. I'm not saying the
7 direction is wrong. I'm just saying I wouldn't put
8 confidence, reviewing this case or working this case, I
9 would not put confidence in anything that that angle of
10 impact tells me because it's cardboard.

11 Q All right.

12 MR. GRIFFIN: So, if you would go to Slide Number 7?
13 I believe I've numbered them correctly.

14 Q And you recognize that as being one of her
15 measurements?

16 A I do, yes, sir.

17 Q And do you think she took the dowel out and then put
18 it back in to put this measuring device?

19 A No. Mr. Griffin, I didn't say the angle. I said the
20 angle of impact. When he was talking about the bullet wipe
21 and that part, that's what I was referring to, and that's
22 what I'm saying. That hole can be altered when you remove
23 those dowel rods. That shows direction, but that
24 direction, I don't place a lot of confidence in it because
25 we had more cartridge casings than we had injuries on

1 Ms. Maggie Murdaugh. We don't know if this bullet struck
2 Ms. Maggie Murdaugh, if it struck anyone else. We don't
3 know that the defect in that dog house struck Ms. Maggie
4 Murdaugh. Those are unknowns. We don't know. So, all
5 this proves to me is that the shooter was moving, and more
6 than likely Ms. Maggie Murdaugh was moving.

7 Q All right. Hang on.

8 MR. GRIFFIN: So, Doug, if you'll back up one to
9 Number 6.

10 Q So, are you suggesting that this photograph, Number 6,
11 taken by SLED and Agent Worley, that that was taken after
12 the dowel was removed, or before a dowel was put in there?

13 A Mr. Griffin, I don't know. That's what I'm telling
14 you. I don't know how it was altered when she removed the
15 dowel. I wouldn't place confidence in this before
16 inserting the dowel because it's paper. It's not -- it's
17 not something hardy.

18 Q Well, would your opinions be different if you knew she
19 took the pictures first before inserting the dowel or --

20 A It would still be irrelevant except for direction
21 because we know we had a moving shooter, we know we had a
22 moving victim, and we can't prove one way or the other
23 whether the projectile that caused this defect struck Ms.
24 Maggie Murdaugh.

25 Q All right.

1 MR. GRIFFIN: So, if you'll go to Slide 8.

2 Q Again, this a Agent Worley's measurements of a dowel
3 in the hole. Is that correct?

4 A Same pictures, yes, sir.

5 MR. GRIFFIN: Well, let's go to Number 9. It's a
6 little closer.

7 Q And is this measuring up and down or left to right?
8 Horizontal or vertical?

9 A That is up and down.

10 Q Okay.

11 A And I wasn't going to mention this, but the actual
12 protractor or level finder is backwards. It would be a
13 much more confident angle if the flat edge was up against
14 the substance, but I wasn't going to bring that out.

15 Q And SLED did this, not --

16 A SLED did that, yes, sir. But I don't know what her
17 intentions were. Like I said, she could have just been
18 trying to showing direction. I don't know that, Mr.
19 Griffin.

20 Q Well, this -- I mean, this is direction but it's up
21 and down direction, right?

22 A Yes, sir. It's showing angle of impact also.

23 Q Okay, and if you had confidence in the angle of
24 impact, you could do -- whether you're doing it with the
25 FARO system or just, you know, the old fashioned way with

1 some sort of colored twine, I mean, that's -- it's a
2 legitimate way to determine shot angles.

3 A I don't know what it would prove, and I run it through
4 my head a million times. I don't know what more it would
5 prove other than you've got a moving victim, you've got a
6 moving shooter, and that at some point in time Ms. Maggie
7 Murdaugh was over there in the vicinity of that quail pen.
8 And we know that because we identified that tire tread
9 impression on her leg as being from that Polaris, or
10 another Polaris, another tire just like it. So, I know
11 that already.

12 MR. GRIFFIN: If you would go to Slide 12, please.
13 It's Exhibit 7.

14 Q Do you know that this shot angle through the quail pen
15 also went through the feed room -- I mean, excuse me,
16 through the shed, through that wooden walk -- I mean, the
17 wooden wall there, correct?

18 A I don't think I observed a photograph to the inside of
19 the shed. I may have, but I don't believe I ever observed
20 that.

21 Q Well, do you see Number 12 going all the way through?
22 This is the dowel, and it goes on the outside, the inside,
23 and then on through the back side of the quail pen.

24 A I see it being held up by the cardboard and the rabbit
25 wire, but I don't know what's behind that cardboard.

1 Q You're unaware that it actually went through the wood
2 there. You didn't know that.

3 A I do not know. And like I said, I don't see what it
4 would prove. I don't see any more that it would prove than
5 you've got a moving suspect and a moving victim.

6 Q Well, if the measurements included going through fixed
7 wood siding, that would give you more confidence that the
8 angle was accurate, would it not?

9 A Yes, sir, but the angle itself will prove no more for
10 me than direction because what this proves to me is at some
11 point in time, Ms. Maggie Murdaugh was close to this quail
12 pen, if this shot is related, and I have no reason to
13 believe it's not, and my shooter was moving and my victim
14 was moving. I don't know forensically what else that can
15 prove.

16 Q Well, certainly you can measure the angle of the door
17 entrance to the quail pen and calculate backwards to see
18 where that shot was fired from.

19 A You could, yes, sir.

20 Q And that's what Mr. Sutton did, did he not?

21 A He did. And I never disagreed with his direction.
22 I'm disagreeing with his final analysis, or his final
23 result that you can judge how tall a shooter is without
24 knowing a whole lot of other variables.

25 Q Well, you understood that Mr. Sutton said that the gun

1 -- the barrel was somewhere on that line some -- to make
2 the shot angle.

3 A Moving back and forth on that line, yes, sir, I heard
4 his testimony.

5 Q And that he picked a spot and said if you put the gun
6 at a hip level, to get on that line he used a 5-2 person as
7 an example.

8 A Exclusively, yes, sir, I do.

9 Q But he did not say the person had to be 5-2, did he?
10 I mean, we all know it could be dynamic. A 5-8, a 6-foot
11 person can get low.

12 A What I gathered from his testimony is it was his
13 opinion that only a person in that height range would --
14 could have fired that weapon. That was my opinion.

15 Q Well, his opinion was that it would be -- a shooter at
16 6-4, it would be an unnatural position for them to fire at
17 that low of a level.

18 A And that's his -- that's his -- that's the part I
19 disagree with. I don't know how Mr. Sutton could publish
20 an opinion about what's natural or unnatural.

21 Q Well, if it's someone 6-4 and the -- the muzzle of the
22 gun is being fired at 28 inches off the ground, I mean, the
23 6-4 person has got to get down on the ground or hold a gun
24 below their knee. Isn't that correct?

25 A I have demonstrated several different ways, depending

1 on distance and height, that a shooter can shoot any -- we
2 don't know. We don't have a video of it, Mr. Griffin.

3 Q Right, but Mr. Sutton's methodology -- and I think
4 I -- what I'm hearing now is you don't have a real dispute
5 to his methodology.

6 A He's an engineer, yes, sir.

7 Q What you dispute is the accuracy of the angle coming
8 out of the quail pen because of the construction being
9 cardboard. Is that right?

10 A Yes, sir. I said that if I was investigating that,
11 and even reviewing that case as a consult, I put little or
12 no confidence in that angle of the impact of that
13 cardboard. Now, I put much greater confidence in the one
14 for the dog kennel.

15 Q Okay. Well, let's see if we can -- you mentioned you
16 had a fair amount of confidence in the -- at least one of
17 angles coming out of -- out of the quail pen, right? Left
18 or right?

19 A The direction, yes, sir.

20 Q The direction.

21 A Uh-huh.

22 Q So, let's take a look at that real quick.

23 (Break in proceedings.)

24 THE COURT: Ladies and gentlemen, we will give you a
25 break at this time. Please go to the jury room. Please do

1 not discuss the case.

2 (The jury left the courtroom.)

3 THE COURT: The court reporter needs a break. We will
4 take 15 minutes.

5 MR. GRIFFIN: Thank you, Your Honor.

6 (A break was taken.)

7 THE COURT: You may bring the jury.

8 (The jury returned to the courtroom.)

9 THE BAILIFF: The jury is present, sir.

10 THE COURT: All right. Thank you.

11 Mr. Griffin.

12 MR. GRIFFIN: Thank you, Your Honor.

13 THE COURT: Yes, sir.

14 CONTINUED CROSS-EXAMINATION

15 BY MR. GRIFFIN:

16 Q Dr. Kinsey, I'm still talking about the quail pen.
17 Remember how high off the ground that defect is?

18 A I do not remember, Mr. Griffin.

19 Q If I show you Agent Worley's report, will you take a
20 look? And we'll start it out at some way or another. If
21 you could, just tell the jury if that's consistent with
22 your understanding of how high that defect is.

23 A 4 foot, 2 inches.

24 Q Yes, sir.

25 A Okay.

1 Q And did you inspect -- when you were out there, did
2 you inspect the entry to the quail pen or the damage to the
3 shots behind the quail pen at all?

4 A I looked at all of it, but I did not run any angles.

5 Q Okay, and did you ever talk to Agent Worley about her
6 measurements?

7 A Yes, sir. I did interview Agent Worley about her work
8 on the scene.

9 Q When was that?

10 A Like the first or second week of December at the new
11 SLED laboratory. I can give you an exact date if I can
12 look back through my notes.

13 Q I don't need that. But are you being compensated for
14 your time?

15 A I am, yes, sir.

16 Q And how much have you been paid thus far, and how much
17 do you hope to get paid before it's all said and done?

18 A Well, I'm a Baptist, so if I didn't charge something,
19 my friends and family would talk bad about me. But my
20 retainer is \$2,500, and I have a flat \$100 an hour rate,
21 and when I added it up, I was up a little over 100 hours.
22 But, but I ended my retainer myself without anyone asking
23 me to a little over a week and a half ago, and I'm now
24 working off of a mutual aide agreement, and my sheriff is
25 allowing me to do that, Sheriff Leroy Ravenel from

1 Orangeburg. So, I'm not charging anything from a little
2 bit before last week on.

3 Q So, 100 hours, \$100, is that --

4 A That's roughly -- I've spent -- I have expended
5 roughly -- not all of it was daytime, but if I take off, I
6 have to use personal leave from work to do this work. So,
7 roughly 75 or 80 hours I have used of time from work.

8 Q Okay. So, you made 7,500, \$10,000?

9 A Well, I've spent way more than that running up and
10 down the highways Mr. Griffin. I've probably been to
11 twenty meetings or so. But, yes, sir, if you look at it
12 that way.

13 Q Okay.

14 MR. GRIFFIN: Now, Doug, back to Exhibit --

15 A But I will be going up next week.

16 MR. GRIFFIN: Exhibit 140. And if you would go to
17 Slide 31, please. I think this is -- yeah.

18 Q So, this is a -- for Mr. Sutton, and it's got -- let's
19 just focus on the angle going in the quail pen. This is
20 not a height issue. This is the angle. Do you have any
21 disagreement with this angle?

22 A I don't. The only problem I have with it, I know
23 there was a side-by-side there, and I don't see the side-
24 by-side depicted on this photograph. So, looking at it I
25 could not tell you how that would play into that angle.

1 Q Okay, but -- and in the -- well, the quail pen is
2 4 feet -- the defect in the quail pen is 4 feet, 2 inches
3 off the ground, and according to Agent Worley the shot
4 angle is rising either 1 degree or 1 half degrees or 3
5 degrees. Is that --

6 A That's accurate, yes, sir.

7 Q And let me ask you. Do you believe the shot angle is
8 rising? You may not agree with that exact angle, but do
9 you believe it's rising toward the quail pen?

10 A Well, I believe it could be, yes, sir, I do.

11 Q Do you believe it could be a downward --

12 A I do not believe looking at it that it could be
13 downward, no, sir.

14 Q So, we can eliminate downward.

15 A Well, if you're going by my results, I'm saying that I
16 don't believe it's downward.

17 Q Okay, and so if it's going upward and you take that
18 line back -- and you see this line? At some point in time,
19 it's going to go into the ground, will it not?

20 A It should, yes, sir.

21 Q And do you know where that terminal point is roughly?

22 A I have no idea, Mr. Griffin. As I said, I know I've
23 got a moving victim. I know I've got a moving suspect. I
24 know there's a lot of movement. I don't see where that's
25 worth 25 cents or a quarter one way or the other. It gives

1 me an idea that this is a fluid and dynamic crime scene.

2 Q Well, if you had confidence in the vertical angle,
3 then, then you would be able to determine the -- depending
4 on where along the way you would be able to determine the
5 height of the muzzle of the gun if you had confidence in
6 that.

7 A Well, I would have to know a bunch of unknowns also.
8 How the shooter is holding the gun. How tall the shooter
9 is. The distance. Did he move a shell casing? Did he
10 not? I don't know those things, and I'm not going to make
11 them up.

12 Q No. I mean, wouldn't you have to know all of those
13 things to know how high the muzzle is off of the ground at
14 any point along that line?

15 A If you give me a fixed point and I knew that I had a
16 strategic fixed position I was shooting, I could -- sure, I
17 could run a tape measure and know where they were at.

18 Q And it doesn't matter if it's is 7-4, 6-4, 4-4 person.
19 The muzzle is going to be at a fixed spot, right?

20 A That's the way angles work, yes, sir.

21 Q Okay. Thank you. Now, on this FARO -- and FARO is
22 the -- SLED does FARO work, do they not?

23 A Yes, sir.

24 Q And it is the state of the art technology in scanning
25 and getting measurements?

1 A It is the new thing. We use a sketch pad and pencil,
2 but I do understand the technical part of it.

3 Q And would you agree with me that the feed room would
4 be about right in here? Can you see that? Do you want to
5 come down and point out where the feed room would be at on
6 this angle? Excuse me, on this FARO. And I'll give you
7 a --

8 A I believe it's right here.

9 Q Right there at the end of the structure.

10 A Yes, sir.

11 Q Okay. All right. Thank you.

12 A Yes, sir.

13 Q And I guess you don't have the measurements, but do
14 you know roughly how far this line, this angle would be
15 away from the corner of that structure?

16 A I have no idea, Mr. Griffin.

17 Q You've not done that math.

18 A No, sir. And I saw no need to if all of the shell
19 casings are up here by the shed.

20 Q Okay. Now, I want to go back to Paul and his injuries
21 and the -- and I guess the -- first off, I want to talk
22 about your analysis. You were being critical -- y'all have
23 been critical of Mr. Palmbach and Dr. Eisenstat, but under
24 your analysis, the shot of the gun was up through the left
25 shoulder jaw and out the top of the head, right?

1 A Yes, sir, that is my opinion.

2 Q And you -- do you want to come up here? And this is
3 the food room door here. I just want to understand where
4 you have Paul under your analysis. Is Paul on this side?

5 A Which shot, Mr. Griffin?

6 Q The last shot.

7 A The fatal shot?

8 Q Yes, sir.

9 A Well, as I mentioned in my report, I would assume he's
10 closer to this wall because I've got a void six inches
11 beyond that light switch. If you look at the outside
12 photograph of that building, there's a silver light cover
13 on the wall, and about 6 inches below that I've got one
14 stray satellite drop of blood, and then it's fairly clean.
15 You've got some outliers, but it's fairly clean going down.

16 Q Okay. So, you think Paul is closer -- and this would
17 be the door that swung open, so you think Paul is closer to
18 this side.

19 A Well, I think it would have to be Paul because the
20 angle wouldn't match up. If the shooter was here and Paul
21 was over there, it wouldn't match up either way. Whether
22 it was down the head or up in the head, it still wouldn't
23 match up either way if Paul was against the inside of the
24 door.

25 Q And Paul was standing roughly how I'm standing?

1 A No, sir. As I demonstrated, when we tried to
2 demonstrate, me and Mr. Harpootlian were kind of dancing
3 over here, but I believe he come out with his head down,
4 he's drooped on the left side, and he come out on this side
5 with his shoulder just outside of the room. Yes, sir,
6 about like that.

7 Q Okay, and then the shooter is off to Paul's left?

8 A Yes, sir, on this side. Yes, sir.

9 Q And the shooter has a shotgun, right?

10 A Absolutely.

11 Q And he is some 2 and a half feet away? I mean, the
12 barrel is 2 and a half feet away?

13 A Well, that's what Dr. Riemer said, yes, sir.

14 Q What do you say?

15 A I don't believe he was that far away, but I'm not --
16 like I said in my earlier testimony, I'm not going to
17 contradict a pathologist. She knows more about the human
18 body than I do.

19 Q All right, but you don't mind contradicting Dr.
20 Eisenstat.

21 A Well, because I've been to the scene and I did view
22 all of this evidence, yes, sir, that is correct.

23 Q Well, let's -- we'll do it.

24 A Uh-huh.

25 Q So, if you -- say let's take 2 and a half feet from

1 the end of the muzzle, is that where we're talking about?

2 A Yes, sir, that is.

3 Q And then you've got to back the shooter up to hold the
4 gun, and I guess you've got it 45 degrees, right?

5 A Well, as mentioned a dozen times so far, I don't know
6 how long this shotgun is.

7 Q Okay.

8 A Okay, but it would be here. And I don't know where
9 he's standing, most probably behind this wall because Paul
10 is stumbling toward him, so here.

11 Q So, the shooter is shooting left-handed you think?

12 A Well, I don't know if he's left or right-handed, Mr.
13 Griffin.

14 Q Okay.

15 A I mean, I don't know that part. But that angle would
16 match up despite all of the --

17 Q That matches up.

18 A Yes, sir, that would match up.

19 Q Now, tell me in that angle and this barrel of the gun
20 where that shotshell is going if it ejects.

21 A If I'm pointing into the room, it could go inside the
22 room.

23 Q Well, you just raised it up unless -- I mean, on your
24 angle --

25 A I'm behind the gun. I'm behind the gun so that's

1 going to push the weapon out a little bit. The ejection
2 port is on the right, so the shell could easily end up in
3 that room.

4 Q If Paul is standing there and the end of the muzzle is
5 2 and a half feet away --

6 A Yes, sir.

7 Q -- you're saying it would eject in the room?

8 A The door is this wide, yes, sir, absolutely.

9 Q At 45 degrees.

10 A Yes, sir.

11 Q Okay.

12 A It's doable, yes, sir.

13 Q And then under your analysis --

14 A Your analysis --

15 Q Your analysis --

16 A Oh, my analysis.

17 Q Your analysis.

18 A Yes, sir.

19 Q We are not there. We're still in court. The shot is
20 going up through Paul: chest, jaw, out the top of his head.

21 A Yes, sir.

22 Q Number two birdshot.

23 A Number two steel shot Drylok 3 Inch, yes, sir.

24 Q And you counted and I think you said 150, 156. Is
25 that --

1 A Well, the literature says 156. I was, like, 150, but
2 I kept getting tired of counting and I think I kept messing
3 up, so I'm going to say the literature is probably correct.

4 Q Okay, and, and I think there were some 60 to 70 that
5 were found in his body at least.

6 A I have no reason to doubt that, no, sir. I didn't go
7 one, two, three, four, and count them on the x-ray, but I
8 believe that.

9 Q Okay.

10 MR. GRIFFIN: And, Doug, if you'll pull up, please,
11 Defendant's Exhibit 188, which is in evidence. I don't
12 want to do that one, hang on. Do the crime scene photo.

13 And folks, this is going to be a sealed exhibit, so
14 please cover your monitors.

15 And, Doug, this is Defendant's 193. It's in this when
16 you're ready.

17 Q So, you tell us -- do you recognize this photo?

18 A Yes, sir.

19 Q And this is the door?

20 A Yes, sir.

21 Q And this part of the door is the blood spatter?

22 A Yes, sir, it is.

23 Q And this -- and then there's hair?

24 A There is hair, there's a little bit of bone, and
25 there's some other body tissue.

1 Q Okay, and there do you think -- where is Paul in
2 relation to the door?

3 A He would be right back where I showed you, off 135ish
4 give or take a few degrees closer to this side so you could
5 make that angle. You can look -- you can look in the
6 directionality in the blood and tell which direction it's
7 going.

8 Q Okay, and coming out the top of his head would be 75
9 steel pellets?

10 A Yes, sir. That's the only other way for them to get
11 out, yes, sir.

12 Q And you went out there and you found one indentation.

13 A Well, it's an indentation, but that is a little
14 deceptive because you can see the paint damage to the top
15 of the door. It -- one indent is what I found, but I said
16 bullet defects. The X got dropped -- I mean, the S got
17 dropped from that. But if you zoom in on that, you can see
18 where the door -- the paint was disturbed around that
19 indentation. But one proves it doesn't go back the other
20 direction, Mr. Griffin. It doesn't take a lot.

21 MR. GRIFFIN: So, if you'll pull up 188, Doug,
22 Defendant's in evidence 188. And this is not under seal.
23 18. And zoom in on the indentation.

24 A There's actually several if you --

25 Q All right.

1 A -- I mean, you couldn't on that one, but.

2 Q All right. So, you said there are more defects on the
3 door.

4 A Yes, sir.

5 Q Did you document any defects that you observed on the
6 door?

7 A I got them in a photograph I can show you. I mean --

8 Q Okay.

9 A -- what other documentation did I need to do it to
10 verify that that's the same door?

11 Q No, no. I'm just talking about other pellet marks --

12 A There are other pellet marks on there, yes, sir. You
13 just cut that one down. But if you move up a little bit,
14 you can see the little indentions right there in the paint.

15 MR. GRIFFIN: All right. Back it up, Doug.

16 A Right above the hinge, right here. One, two, three,
17 four, five, six, seven.

18 Q Okay.

19 A There's several of them there.

20 Q And then you see this pellet here in the --

21 A I did not see that, but I'm vertically challenged, and
22 I wish I could have looked up and saw that pellet, but I
23 did not see that pellet lodged in that doorframe. But I'm
24 glad, Mr. Maloch -- Palmbach, however you said his name,
25 I'm glad he found it because that even proves my point a

1 little bit more.

2 Q Well, so let me ask you.

3 A Uh-huh.

4 Q According to your shot angle, how would the pellet get
5 there?

6 A Really? I mean it -- the cone, it's a cone,
7 Mr. Griffin. I've already described how a shot pattern
8 works. It's a cone.

9 Q So, this missed his head, you think?

10 A No. No. It come out of his head. And the ones in
11 the floor in the feed room probably also come out of his
12 head. They bounced off that door, OSB, and in the feed
13 room.

14 Q Okay, and so you believe that, that, that this pellet
15 that's in the door jam came through his shoulder, through
16 his neck, out the top of his head, and ended up at that
17 location?

18 A Well, they didn't turn around and come back out the
19 top of his head, yes, sir, I do believe that.

20 Q Well, now, you said there's blowback 8 to 10 percent.
21 What do you mean? You testified earlier the blowback was
22 about 8 --

23 A If someone is behind the stock of a long gun, and you
24 shoot someone within distance to have high velocity spatter
25 come back at you, it's going to be 8 to 10 percent of, of

1 what is in front of the gun is going to come back at you,
2 and a lot of the literature supports that.

3 Q Well, were you -- let me show you --

4 MR. GRIFFIN: And this is under seal so cover up, and
5 it's Defendant's Exhibit 192. Under seal, 192.

6 Q Do you see that?

7 A What?

8 Q This photo.

9 A Yes, sir.

10 Q Now, this blood spatter down here where you said Paul
11 would be standing, what's your explanation for that?

12 A What do you mean what's my explanation?

13 Q What is it?

14 A That is medium directional blood spatter.

15 Q From what injury to Paul?

16 A Probably his brain hitting the sidewalk would be my
17 best guess, but that's not high velocity.

18 Q Now, you understand what Mr. Palmbach said was that
19 that's more consistent with Paul being shot from the top of
20 the head, going through his neck, out his shoulder, and
21 producing that stain.

22 A I also understand Mr. Palmbach said there's no damage
23 over here from those shot pellets, and you can't have one
24 without the other. I disagree with that result.

25 Q So, you believe this is from Paul's brain landing

1 where?

2 A Either his brain -- either his brain landing on the
3 sidewalk, bouncing off the door, or either his body falling
4 in body fluids outside. That's low velocity, low to medium
5 velocity. That's not high velocity blood spatter. That's
6 stomping in a puddle of blood, or something moving in a
7 puddle of blood. That's not the projected blood like you
8 would have a millimeter or less in high velocity blood
9 spatter. That's large. It does show some directionality.
10 It's coming from the doorframe, or either right outside the
11 doorframe, but it's large. That's way too large to be
12 associated with the exit hole of a gunshot.

13 Q So, you understand that the brain landed feet
14 outside --

15 A I do understand, Mr. Griffin. But I also know his
16 brain made contact with that door and the top of that
17 doorframe before it landed, and I know gravity works and
18 brings body fluids back down to earth. You've got one or
19 the other. Either that, or when he fell in the exiting
20 blood, that is low velocity. Like I said, that's
21 associated with something in a puddle or something large.
22 That's not associated with a gunshot or high speed
23 machinery.

24 Q Okay. Now, would you agree this is a voiding area
25 over here on the door?

1 A I wouldn't agree it's a void area because I don't see
2 the outline of shoes, or I don't see the outline of a
3 implement, or the outline of anything else. I would say
4 there's more concentrated blood droplets over here on the
5 side opposite the hinge, but I would not necessarily agree
6 that's a void area. I see downward spatter on the door
7 right here. In order for that to be a void, that would
8 have to be absent blood.

9 Q Well, you see a little bit.

10 A I do, yes, sir.

11 Q But you don't -- you don't see very much blood on the
12 door.

13 A Not compared to the other side, you're correct.

14 Q Okay. Now --

15 A But if there's something there, Mr. Griffin, blocking
16 that spot, you're not going to see a little bit. You're
17 going to see none. If you are standing there and I splash
18 you with blood, there's going to be two perfect bloodless
19 footprints there, so that's why I'm not considering this a
20 void.

21 Q Unless it goes up and comes down.

22 A Gravity brings it down, that is right, and if your
23 person had time to move or whatever, I guess that could
24 account for it, but I don't --

25 Q What if it went over the person and came down?

1 A And that would do what?

2 Q Body matter went over, brain matter went over, hit the
3 top of the door, and then bounced out, and blood came down,
4 that would account for a drop here or there, would it not?

5 A It could account for a drop here or there, but like I
6 told you, the majority of that force is applied upward.

7 Q Right.

8 A Upward. That's why you've got the hair on the
9 ceiling; that's why you've got the demarcation line on the
10 containers. That body fluid was directed upward with
11 force.

12 Q Okay, and the -- you mentioned there's no footprints
13 here. Was any effort made to eliminate footwear
14 impressions through any protein enhancers?

15 A I didn't see any of that, Mr. Griffin, if they did. I
16 see no -- I saw no evidence of that when I went back to the
17 scene. Generally when you use dye stains and that kind of
18 thing, it's just going to be there forever.

19 Q A dye stain would have picked up perhaps stained
20 footwear impressions you can't see with the naked eye,
21 wouldn't it?

22 A It may have if someone had stepped in blood and left a
23 footwear impression.

24 Q Right. Well, there was a shooter somewhere inside or
25 outside the door, correct?

1 A Yes, sir, I agree with that.

2 Q And there was no effort to determine footwear
3 impressions of the shooter.

4 A Mr. Griffin, obviously I don't know. I don't know
5 what the process was. I know they examined some partial
6 footwear impressions.

7 Q Okay.

8 MR. GRIFFIN: You can take this down Doug.

9 A But I don't know how far they went beyond that.

10 Q Well, they certainly should have gone further than
11 they did, would you agree with that?

12 A Mr. Griffin, I can only judge what I would do, and
13 sometimes I would, sometimes I wouldn't. If I saw evidence
14 that I had something that I needed some more detail, I may
15 would use chemicals, but it just depends on the situation.

16 (Break in proceedings.)

17 Q Dr. Kinsey, I'm going to show you what we've marked as
18 Defendant's Exhibits 197 and 196, and I'll ask you first.
19 In 197, do you recognize that as potentially a picture
20 outside of the feed room door?

21 A Yes, sir, I do.

22 MR. GRIFFIN: And, Your Honor, we would move 197 into
23 evidence at this time, without objection I believe.

24 MR. WILSON: Without objection.

25 THE COURT: Are you offering both of them?

1 MR. GRIFFIN: Yes, sir.

2 THE COURT: Any objection to either?

3 MR. WILSON: No objection, Your Honor.

4 THE COURT: They're both admitted.

5 (PHOTO MARKED AS DEFENDANT'S EXHIBIT NUMBER 196 WAS
6 RECEIVED INTO EVIDENCE.)

7 (PHOTO MARKED AS DEFENDANT'S EXHIBIT NUMBER 197 WAS
8 RECEIVED INTO EVIDENCE.)

9 Q 196. Dr. Kinsey, what do you make of those pop marks
10 on the concrete outside the feed room door?

11 A I don't know, Mr. Griffin. I don't know what they
12 are.

13 Q Could it be pellets?

14 A I guess they could be.

15 Q All right.

16 A Or they could be from a pressure washer also.

17 MR. GRIFFIN: Do you have these?

18 Q So, you're seeing for the jury 197.

19 MR. GRIFFIN: And then can you zoom in there? Doug,
20 go to 196, please.

21 (Break in proceedings.)

22 Q So, those could be from a pressure washer, and those
23 could be from a number two birdshot pellets, correct?

24 A Well, I don't know. I have to see the cement
25 everywhere else to see how it's weathered.

1 Q All right. Now, the last few questions. You
2 mentioned that you had seen some twelve execution style
3 killings with contact wounds to the head.

4 A I said I've worked about three dozen total. Probably
5 twelve of them were homicides to the head. The execution
6 thing, I don't know if it's execution or just contact, but
7 I was saying self inflicted as opposed to someone else
8 doing it.

9 Q So, let's get it right. Thirty-six total --

10 A Probably three dozen total, yes, sir, and two-thirds
11 of that was probably self inflicted, so that would leave
12 twelve.

13 Q And self inflicted are usually under the chin, in the
14 mouth, on the side --

15 A Well, the one that I witnessed was to the forehead.

16 Q The forehead.

17 A Yes, sir.

18 Q And of the thirty-six, how many were shotguns?

19 A No. I've worked a lot of self-inflicted gunshot
20 deaths. I was saying shotguns, all thirty-six of them.

21 Q So, thirty-six shotguns.

22 A Yes, sir.

23 Q Roughly twelve --

24 A And a couple of them were accidents, too, but yes,
25 sir.

1 Q Okay, and the -- and how many involved number two
2 birdshot?

3 A I don't recall. I had some birdshot. I don't
4 remember if it was number two, four, eight, nine. I don't
5 know.

6 Q And how many were to the back of the head?

7 A A dozen. Probably a dozen that were to the head,
8 contact either the back, or the sides, or the one I told
9 you about in the front.

10 Q Okay, and in any of those, did the brain evacuate from
11 the -- from the skull cavity?

12 A I have seen them -- I have seen the brains come out.
13 Usually that was from one ear. I'm not going to say I
14 haven't seen it. I probably have seen it. But most
15 definitely it -- like I said earlier when I described it,
16 it looks like it goes away. It's really still there. It's
17 just not something you can quantify. I mean, it's just a
18 mess. That's the only way I can explain it.

19 Q In your career, have you ever worked a case where the
20 victim's brain has been evacuated the way Paul's was in
21 this case?

22 A Yes, sir, I have, and tongues also. Tongue and brain,
23 I have seen it, yes, sir.

24 Q And were those self inflicted?

25 A Both. Yes, sir, both.

1 Q And you're talking about shotguns?

2 A Yes, sir, shotguns.

3 Q And I think you described those execution style
4 killings.

5 A Yes, sir. If you put it on somebody's head from the
6 side or the top, I would -- that's how I would describe it.

7 Q Well, let me ask you. Would you describe Paul's
8 murder here as an execution style killing?

9 A In the context that someone executed him, yes, sir,
10 but it wasn't in the top of the head.

11 Q I understand.

12 A Yes, sir.

13 Q And that there was no signs of struggle, would you
14 agree with that?

15 A I saw none, no, sir.

16 Q And would you agree with Mr. Palmbach that it appeared
17 that Paul got caught by surprise?

18 A I've said that from the start. That would account for
19 his arms being down, yes, sir.

20 Q And --

21 A Or someone he was real comfortable with.

22 Q And even under your analysis, the shooter would have
23 blood, blowback blood on them. Is that correct?

24 A I believe they would, yes, sir.

25 Q It's just a matter of the quantity between you and

1 Mr. Palmbach as to how much blood would have --

2 A Well, as I mentioned in my report, as you get closer
3 to the muzzle of the gun, I think proportionately it's
4 going to increase. You know, when I said 8 to 10 percent
5 is what most of the literature says, that's behind the
6 stock. But as you get proportionately closer to the muzzle
7 end of gun, that's going to increase because you're down at
8 the business end where those pellets are coming out doing
9 damage.

10 Q And in this case, you're talking about brain matter?

11 A Yes, sir.

12 Q Blood?

13 A Yes, sir.

14 Q And would he get it from some skull fragments?

15 A Yes, sir, that's possible.

16 Q Under your scenario as well.

17 A Yes, sir, absolutely.

18 Q And lastly, how many murders have you worked where one
19 person brings a high powered assault weapon that has a
20 magazine capacity of twenty or more rounds and a shotgun
21 with maximum capacity of maybe three shells?

22 A Well, I have worked multiple murders where the
23 available weapons there were used and several calibers were
24 used, but I can't tell you from memory of the other ones.

25 Q Logically it would make sense that if you're going to

1 go kill two people and you have a high powered weapon with
2 a high capacity magazine, that that was all you need to do
3 the job, right?

4 A Well, if the weapon is available, Mr. Griffin. If
5 it's there and it's available, and maybe it wasn't
6 something that I put a lot of thought in, I'm probably
7 going to use whatever is available.

8 Q Well, here we know there were two weapons available.
9 There was a 12 gauge shotgun and a AR15 style 300 Blackout.

10 A Yes, sir.

11 Q And both were used.

12 A Yes, sir.

13 Q And there was sufficient capacity in the 300 Blackout
14 to kill both Maggie and Paul, wasn't there?

15 A Well, in a perfect scenario, a shotgun is what I would
16 want at night with moving targets. But in a perfect
17 scenario, a young man doesn't take a double-ought buckshot
18 to the middle of the chest and walk away from it, so I
19 don't know. I don't think like that. I don't know. But
20 in the dark, I would rather have a shotgun than that rifle.

21 MR. GRIFFIN: Court's indulgence for just a second.

22 (Break in proceedings.)

23 Q One more question. You demonstrated Mr. Palmbach's
24 shot from the top of the head with Attorney General Wilson
25 a moment ago?

1 A Yes, sir.

2 Q Now, that was -- Mr. Palmbach never put anybody inside
3 the door the way y'all demonstrated in your testimony, did
4 he?

5 A That was the way I understood it, yes, sir.

6 Q Well, I mean, he said that -- well, can you come up
7 here --

8 A I mean, with the void -- you're talking about the
9 void. He said there's a void here, and this is where I
10 believe the shooter would be, if I'm not mistaken.

11 Q Right.

12 MR. GRIFFIN: So, if you'll come up here, Mr.
13 Harpootlian.

14 Q And let me help you find a dowel.

15 A Let me bend down. Don't let him bend down like that.

16 (Break in proceedings.)

17 Q So, if you're coming out -- so, get -- you're going to
18 get down. Yeah. Almost to the ground. Further. All the
19 way. Yeah, you probably need to get back down further but
20 you probably can't do that. But the shot to the head as
21 he's coming out, right? Boom.

22 A You would have to be twisted this way for it to work
23 out the way that he said. Yes, sir.

24 Q Okay, but that's fine, that's -- but Mr. Palmbach
25 never said that they passed in the doorway, did he?

1 A He might not have said those words, but that was my
2 inference that there's a void there. And when he's in the
3 picture holding his hands here, I took that to be Paul's
4 head, so that's --

5 Q All right. Well, okay. Did you not understand when
6 he was in the picture there he was demonstrating what your
7 angle had to be to make it work?

8 A Well, I wasn't in the door with my angle.

9 Q I understand.

10 A Yeah.

11 Q Okay. All right. Thank you.

12 A Yes, sir.

13 MR. GRIFFIN: That's all we have.

14 THE COURT: Any redirect?

15 MR. WILSON: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. WILSON:

18 Q All right, Dr. Kinsey, you've had an opportunity to
19 speak with Dr. Riemer, the pathologist that actually
20 examined Maggie and Paul, correct?

21 A Yes, sir, I have.

22 Q And you've had an opportunity to observe and listen
23 to the testimony of Dr. -- I think it's Eisenstat who was
24 the pathologist that did not examine Maggie and Paul,
25 correct?

1 A Yes, sir.

2 Q And you've also had an opportunity to go to the crime
3 scene and observe the feed room, and observe the areas
4 where both Maggie and Paul were murdered, correct?

5 A That is correct.

6 Q You've had an opportunity to observe all the brain
7 matter and tissue in the defects in the doors and the wood
8 and everything and get a complete context for what happened
9 that night, correct?

10 A Yes, sir, that is correct.

11 Q Is Dr. Riemer or Dr. Eisenstat's conclusions about the
12 trauma to the bodies, which one of them is more consistent
13 with what happened at the crime scene as you observed with
14 your expert background?

15 A Well, I'll start by saying I don't know either of them
16 from a can of paint. This was my first time ever meeting
17 Dr. Riemer, but my opinions are consistent with hers. I
18 vary a little bit on the distance, but like I said, I'm not
19 going to argue with a pathologist. That's not my -- I'm
20 not that kind of doctor.

21 Q Real quick. You differ with her a little bit on the
22 distance of what?

23 A Of the fatal shot to Paul's shoulder. I believe it
24 was a little bit closer, and I can't account for that lack
25 of stippling. But other than that, her opinions and my

1 opinions are fairly consistent.

2 Q But that would not change -- that difference of
3 opinion will not change your conclusions either way.

4 A No, sir, they will not.

5 Q For the sake of this redirect, let's assume for a
6 moment that the angles -- the angle of impact and the
7 direction that the defense posed were accurate. Are there
8 other variables that the defense expert didn't account for
9 that could change the height of the shooter?

10 A Well, as I demonstrated, positioning, distance,
11 height, the way you're holding the weapon, that could place
12 those cartridge cases there. It's nothing uniform about
13 it. As I said, it's static and dynamic.

14 Q So, the shooter is running around and the victim is
15 moving, correct?

16 A Yes, sir.

17 Q It's chaotic.

18 A Yes, sir.

19 Q It's crazy.

20 A Yes, sir, I would imagine it was.

21 Q There's no way to know unless you were there how the
22 gun was being shouldered, where it was being held, the
23 angle, there's no way to know that.

24 A I have no way of knowing that.

25 Q You were asked about how much you were being paid to

1 be here today. Do you recall what the hourly rates of the
2 defense experts were when they testified?

3 A I do.

4 Q Can you go ahead and tell me what those were?

5 A Some was \$350 an hour, some was \$650 an hour, and I
6 think one was \$5500 a day, if I'm not mistaken.

7 MR. WILSON: Jim, the pictures you just put into
8 evidence.

9 MR. GRIFFIN: I don't know. I don't have them over
10 here.

11 MR. WILSON: I've got them over here. I just found
12 them. Thank you.

13 (Break in proceedings.)

14 Q Okay. I'm showing you what's marked as State's
15 Exhibit 197. Do you know when that picture was taken?

16 A I have no idea.

17 Q Okay. I'm showing you what's been marked as State's
18 -- excuse me, Defendant's Exhibit 196. Do you know when
19 that picture was taken?

20 A I have no idea, no, sir.

21 Q Is there any anything about the defects of that photo
22 that stand out to you other than just concrete defects?

23 A Well, they're not very uniform, but no, sir, other
24 than that.

25 Q Does that photo tell you anything?

1 A It tells me nothing, no, sir.

2 MR. WILSON: That's all I have. Thank you.

3 THE COURT: Anything further?

4 MR. GRIFFIN: No, Your Honor.

5 THE COURT: Thank you. You may step down.

6 (The witness exited the stand.)

7 THE COURT: Any further witnesses by the State?

8 MR. WATERS: Your Honor, in the rebuttal case, the
9 State rests.

10 THE COURT: All right, ladies and gentlemen, the State
11 has rested. I'm going to have you go to the jury room for
12 a break. Please do not discuss the case.

13 (The jury left the courtroom.)

14 THE COURT: If everyone will be seated.

15 Any comments you want to make, Mr. Harpootlian or
16 Mr. Griffin, about surrebuttal?

17 MR. HARPOOTLIAN: About what? I'm sorry.

18 THE COURT: About surrebuttal, surreply.

19 MR. HARPOOTLIAN: No, thank you.

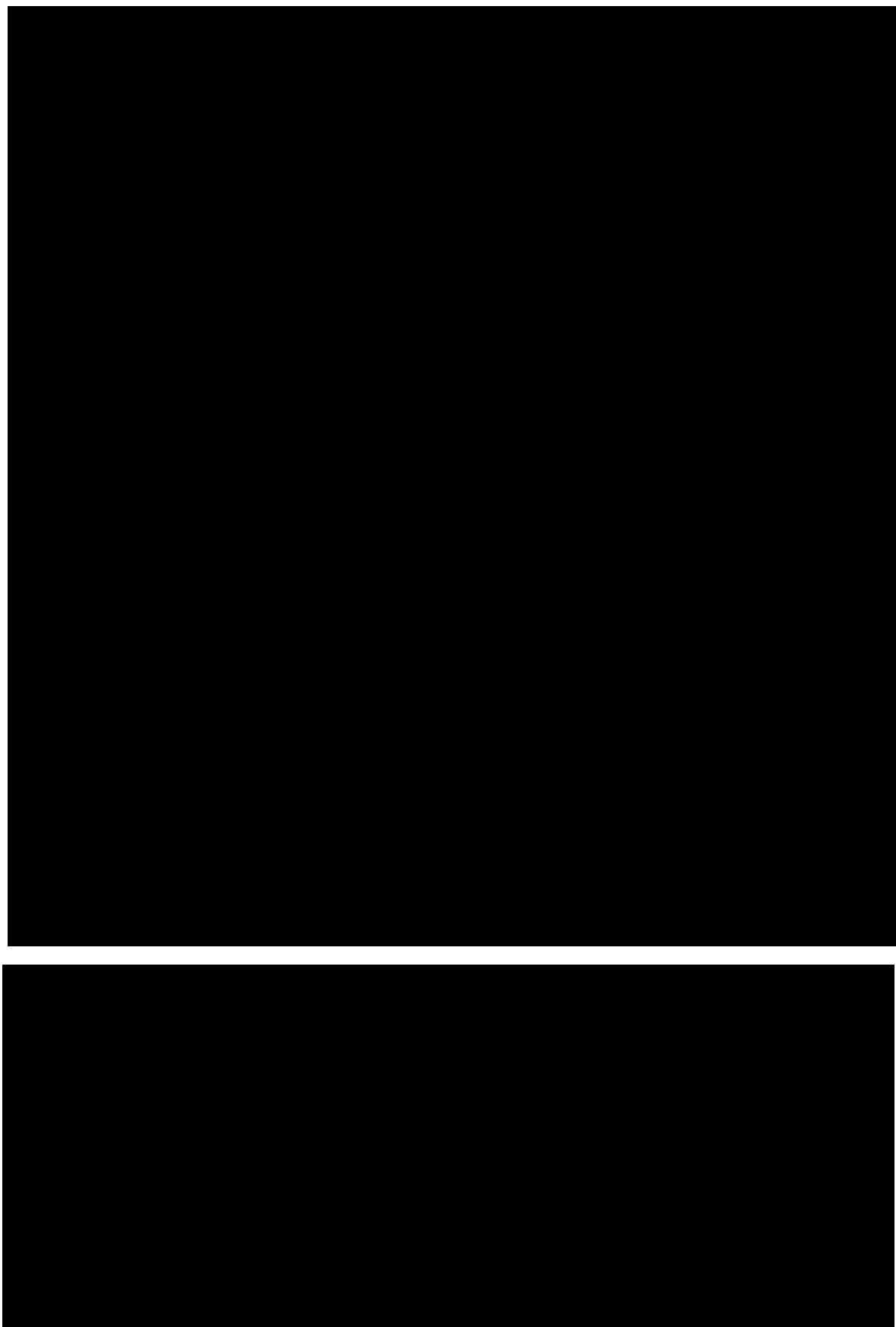
20 THE COURT: All right. So, the -- we have run out of
21 time today as far as the jury view. We're going to take a
22 recess for me to confer with counsel.

23 (Break in proceedings.)

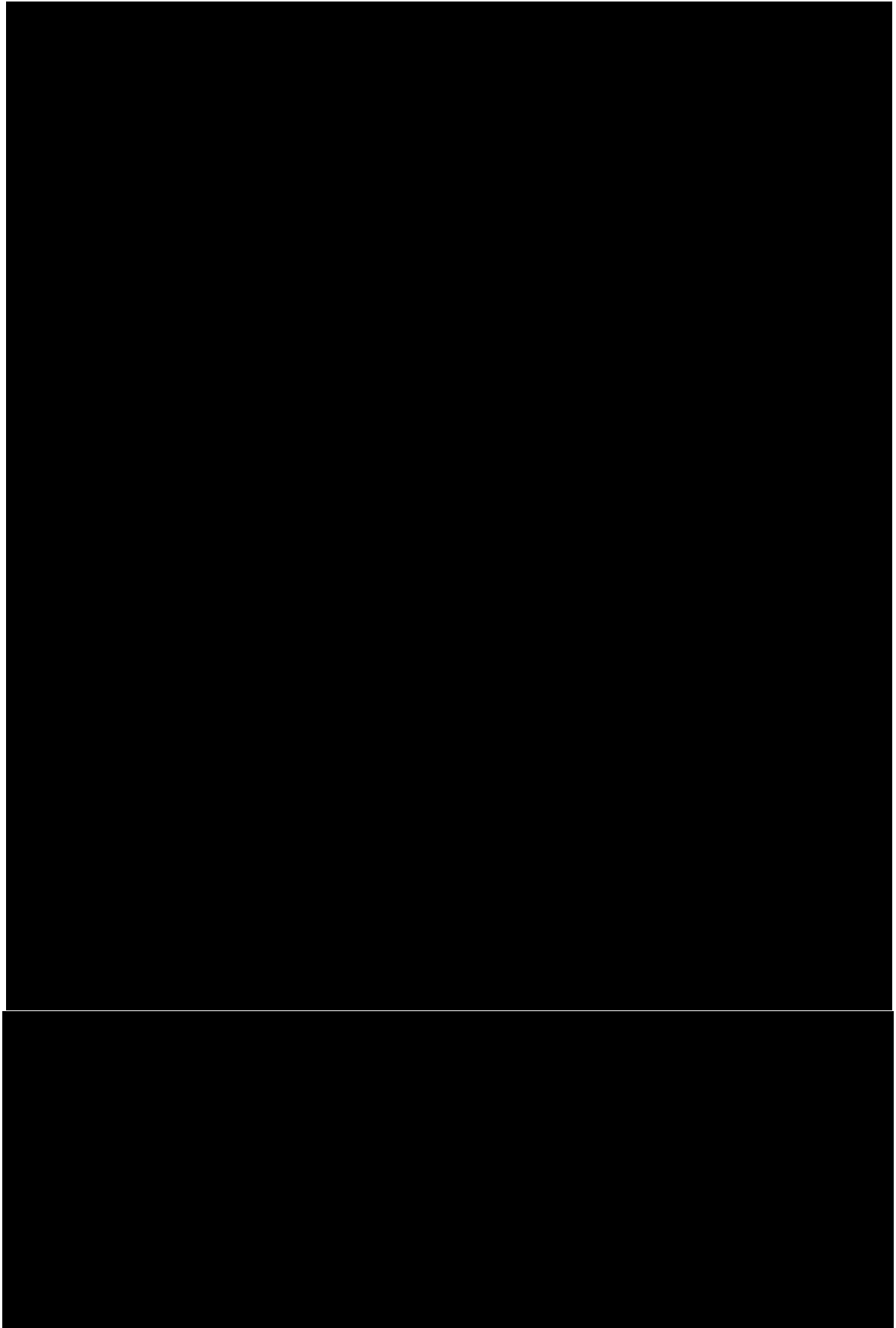
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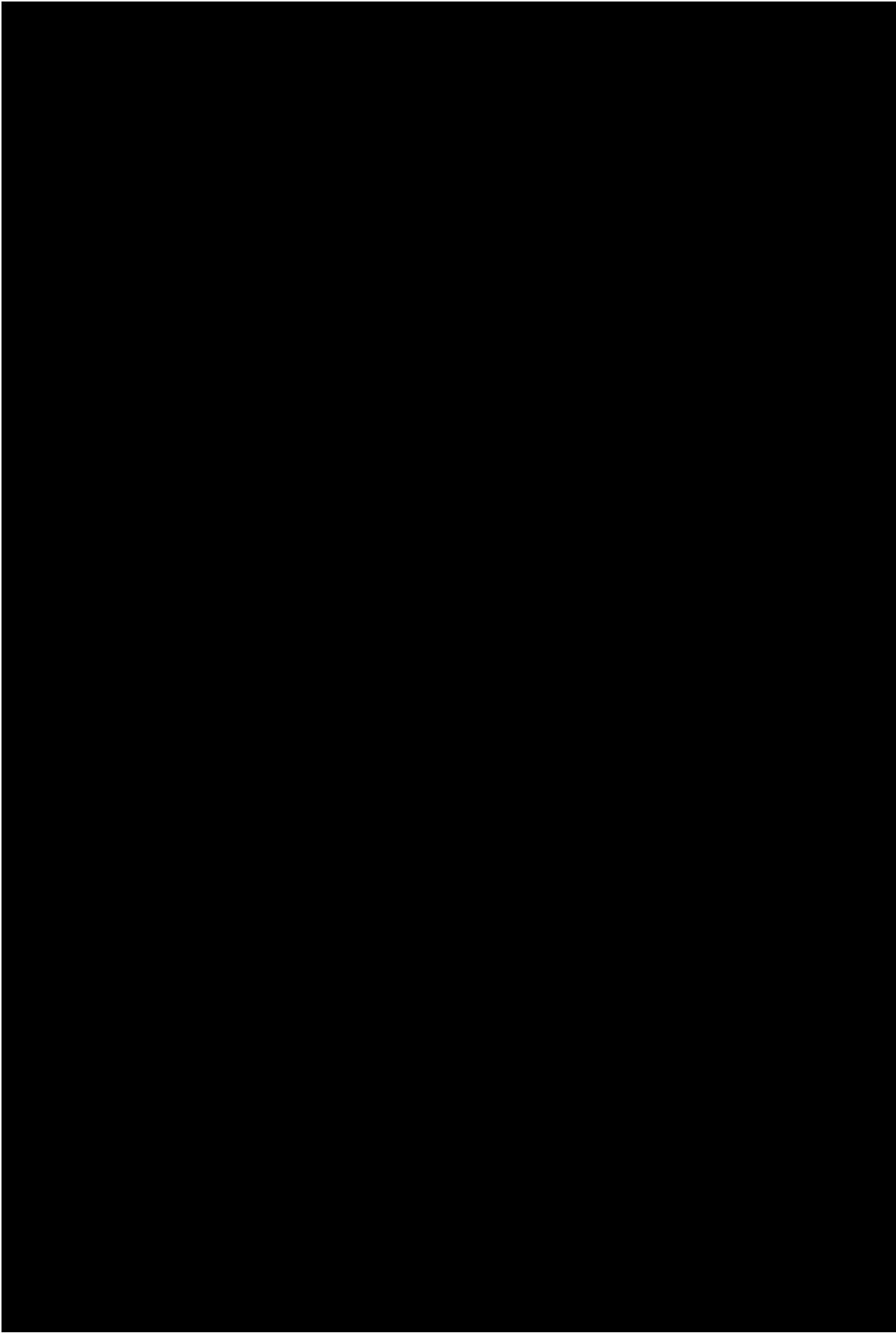
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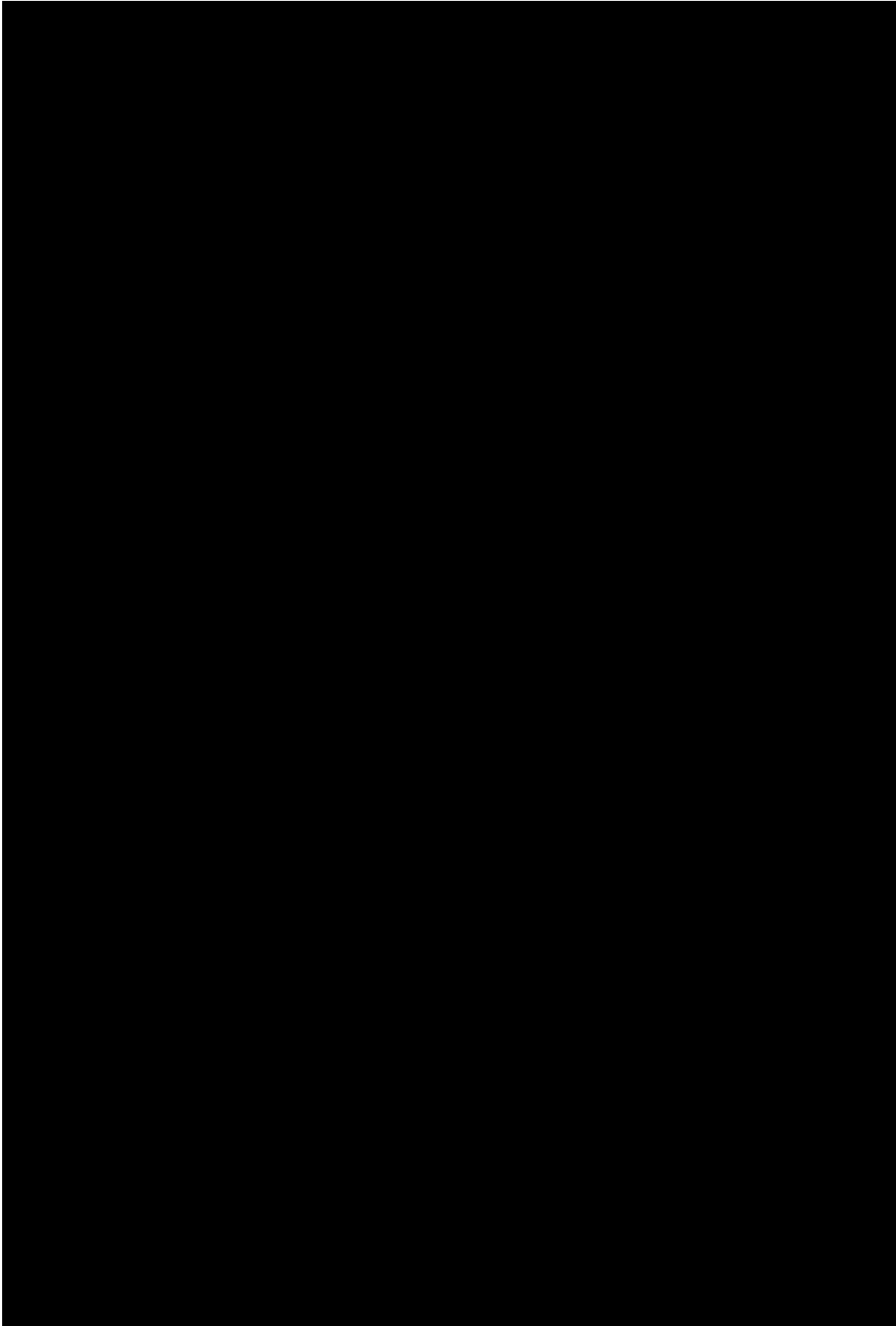
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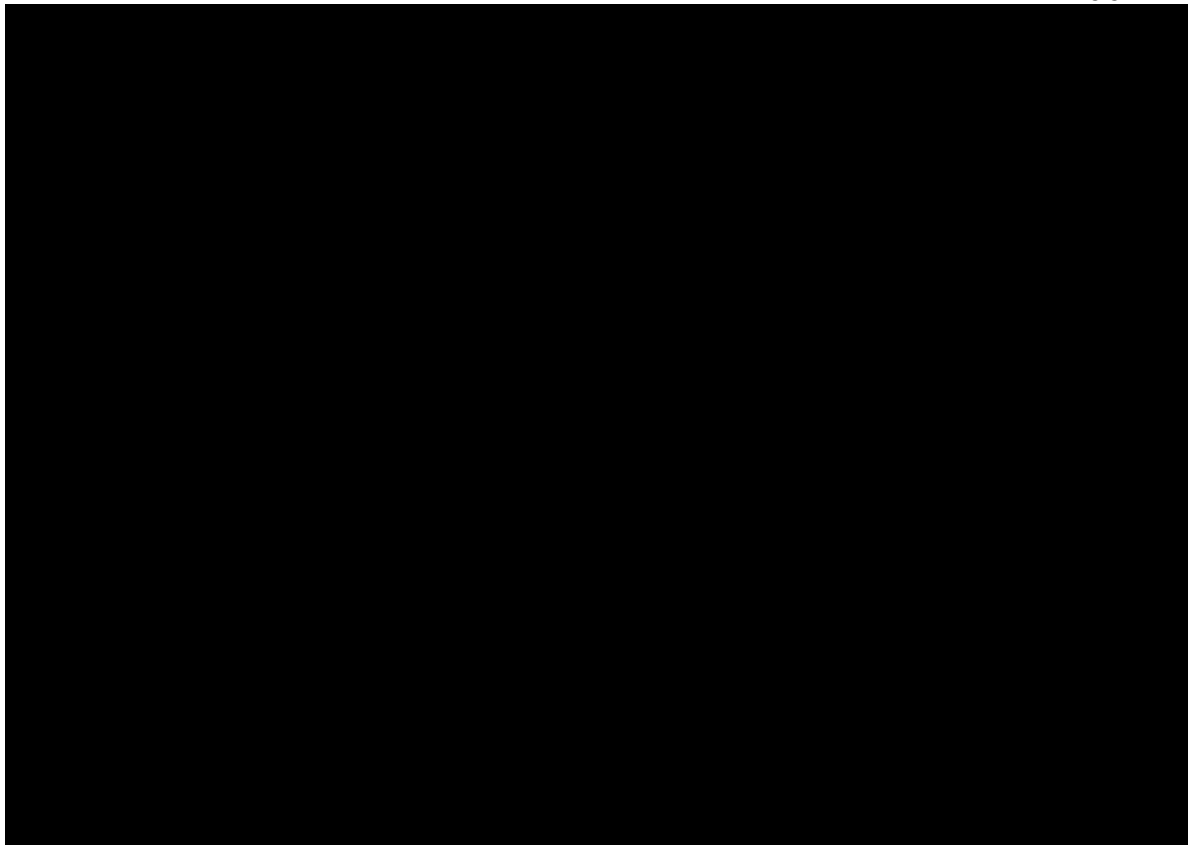
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(All parties returned to the courtroom.)

THE COURT: Okay. That's the end of all of the testimony. I don't know whether or not another motion or matter of law needs to be addressed at the end of reply.

MR. HARPOOTLIAN: Yes.

THE COURT: Do you need to preserve the record any further?

MR. HARPOOTLIAN: No, sir.

THE COURT: All right. So, we need to discuss jury charges. Also the jury view.

MR. HARPOOTLIAN: Your Honor, just in an abundance of caution --

THE COURT: Yes, sir.

1 MR. HARPOOTLIAN: -- we just want to -- I'm not sure
2 we have. I've read a case on this, but renew all previous
3 motions concerning a directed verdict, I would just
4 preserve those. I'm not going to argue the grounds
5 anymore.

6 THE COURT: Yes, sir. That's what I was suggesting to
7 preserve the record. And the Court denies any motions
8 regarding dismissals or directed verdicts.

9 So, we need to have the jury come. If you'll bring
10 the jury.

11 (The jury returned to the courtroom.)

12 THE BAILIFF: The jury is present, sir.

13 THE COURT: Okay. Very good.

14 Ladies and gentlemen we have now -- you have now heard
15 all of the testimony and received all of the evidence in
16 the case, and we are essentially done for the day. But
17 when you return tomorrow morning, we're going to have
18 the -- an escort take you all to the subject property,
19 Moselle, to have a view, a jury view of the location, and I
20 will be there as well to ensure things go as they should.

21 But I need to instruct you as to how it happens, and
22 give you these instructions, and that is that you will be
23 taken to the scene of the alleged crimes, and while you are
24 on your way to the scene and from the scene, you are not
25 allowed to discuss the case with anyone, including your

1 fellow jurors. And you're not allowed while there to ask
2 any questions of anyone who may be there, including any law
3 enforcement personnel or any other court officials. If you
4 have any questions you can only ask me. You're still --
5 you still have not heard closing arguments. You have not
6 begun deliberating.

7 So, the way tomorrow is expected to go, you will come.
8 You'll have the jury view. After the jury view, you'll
9 return for closing arguments. Then I will instruct you as
10 to the law that you are to apply. Then you will deliberate
11 in an effort to reach a verdict. But it's absolutely
12 essential that you understand that you're being taken there
13 to view the scene.

14 Now, it has been a year and a half or more since June
15 the 7th of 2021, since the alleged crime occurred, and
16 things have changed, or most likely have changed. You'll a
17 different season of the year, just change of circumstances
18 as far as the property is concerned, so you have to take
19 that in mind and certainly consider that, but still it's
20 the same location. I've determined that it will be
21 beneficial to you to be able to observe the scene that
22 everyone has been talking about. And we will do that
23 tomorrow morning.

24 So, I want you to -- we'll prepare to leave now. I'm
25 going to have you go back to the jury room and talk with

1 the bailiff for a moment, and then you all will be
2 dismissed for the day. And I'll instruct the personnel to
3 take you directly to the scene at the designated time
4 tomorrow morning, which will be 9:30. Do you all get here
5 before 9:30? Like 9:00?

6 (Break in proceedings.)

7 THE COURT: So, we'll say 9:30, but you may leave
8 before 9:30 since apparently you all get here pretty early,
9 so we'll see how that works tomorrow morning.

10 So, if you will go to the jury room now, and we'll
11 prepare to dismiss for the day, and we'll see y'all after
12 the viewing, after the view tomorrow morning. So, if
13 you'll go to the jury room.

14 (The jury left the courtroom.)

15 THE COURT: Okay. As I stated, the scene will be
16 secure and the -- law enforcement will ensure that no one
17 is there to distract or to interfere with the jury view.
18 I'm going to administer an oath to the people who will be
19 transporting the jury: bailiffs, deputies, whoever they
20 are.

21 Danny Gregory -- if y'all will come forward now.
22 Danny Gregory, Reuben Carter, Dale Polk, and Taylor Flynn.
23 All right. If you'll -- I'm going to give y'all an oath.
24 If you all will come and I'll administer the oath to you.
25 All right, and if you first just state your names.

1 SPEAKER: Reuben Carter.

2 SPEAKER: Taylor Flynn.

3 SPEAKER: Daniel Gregory.

4 SPEAKER: Bill Polk.

5 THE COURT: All right, if you all will raise your
6 right hands, please.

7 (All four complied.)

8 THE COURT: Do you swear that you will keep the jurors
9 during the time you escort them to the property on Moselle,
10 or at Moselle, and you will return them to the jury room,
11 and that you will allow no person to speak to them,
12 including yourself, while you have them in your custody,
13 unless the Court otherwise gives you permission? If you
14 accept that oath, please say I do.

15 (All four said I do.)

16 THE COURT: All right. Thank you very much.

17 And as I said to the jury, the plan is to -- since
18 I've told them now about the jury view, is that when they
19 meet in the morning, I intend to go, and maybe the Clerk or
20 one, two other court folks, but we'll go there prior to the
21 jurors, prior to them coming here. Any questions about
22 anything? Okay. Very good.

23 And Mr. Polk, if I may speak to you for just a second,
24 to you for a second?

25 (Break in proceedings.)

1 THE COURT: All right. I'm going to meet with the
2 lawyers and discuss jury charges. Anything else before we
3 adjourn for the day?

4 MR. HARPOOTLIAN: Nothing from the defense, Your
5 Honor.

6 MR. WATERS: Nothing from the State, Your Honor.

7 THE COURT: All right. Very well. We're in
8 adjournment. Let's see, I want to say adjourn until 9:30,
9 but we'll have the jury view at 9:30. We'll need the court
10 reporters. If you all will stand by.

11 We going to adjourn until 10:30. We're not
12 adjourning. We've got to discuss jury charges.

13 MR. HARPOOTLIAN: Yes, sir. I guess what I'm saying
14 is if you go out there -- and, I mean, I understand we're
15 allowed to go out there and watch the jurors the way they
16 look at things and --

17 THE COURT: Yes.

18 MR. HARPOOTLIAN: -- and not speak with them. Do you
19 think they'll be back here by what time?

20 THE COURT: I'm thinking 10:30.

21 MR. HARPOOTLIAN: They're going to leave here at 9:30?

22 THE COURT: Maybe before 9:30. We're going to figure
23 all of that out. We may not be back exactly at 10:30, but
24 we're going to shoot for 10:30. It may be 11:00.

25 MR. HARPOOTLIAN: Yes, sir.

1 THE COURT: It may be 11:30. Well, let's say 11:00,
2 how about that? I mean, I don't know. It's whenever we
3 get back really.

4 MR. HARPOOTLIAN: Statistically if I'm at Moselle
5 with the jurors and they're not -- it takes 25 minutes to
6 get there, they're going to be probably there for an hour,
7 add 25 to that, about 2 hours total. I just didn't want
8 to --

9 THE COURT: We'll say 11:00.

10 MR. HARPOOTLIAN: That's great. Thank you.

11 THE COURT: 11:00, yeah. We'll be in adjournment
12 until we --

13 MR. HARPOOTLIAN: And you're talking about when they
14 get back arguing and charging tomorrow.

15 THE COURT: Yes. Argue, charge, deliberation
16 tomorrow.

17 MR. HARPOOTLIAN: All righty then.

18 THE COURT: All right.

19 MR. WATERS: Yes, sir.

20 MR. HARPOOTLIAN: Thank you, Your Honor.

21 THE COURT: And whether we deliberate will depend upon
22 what time argument ends.

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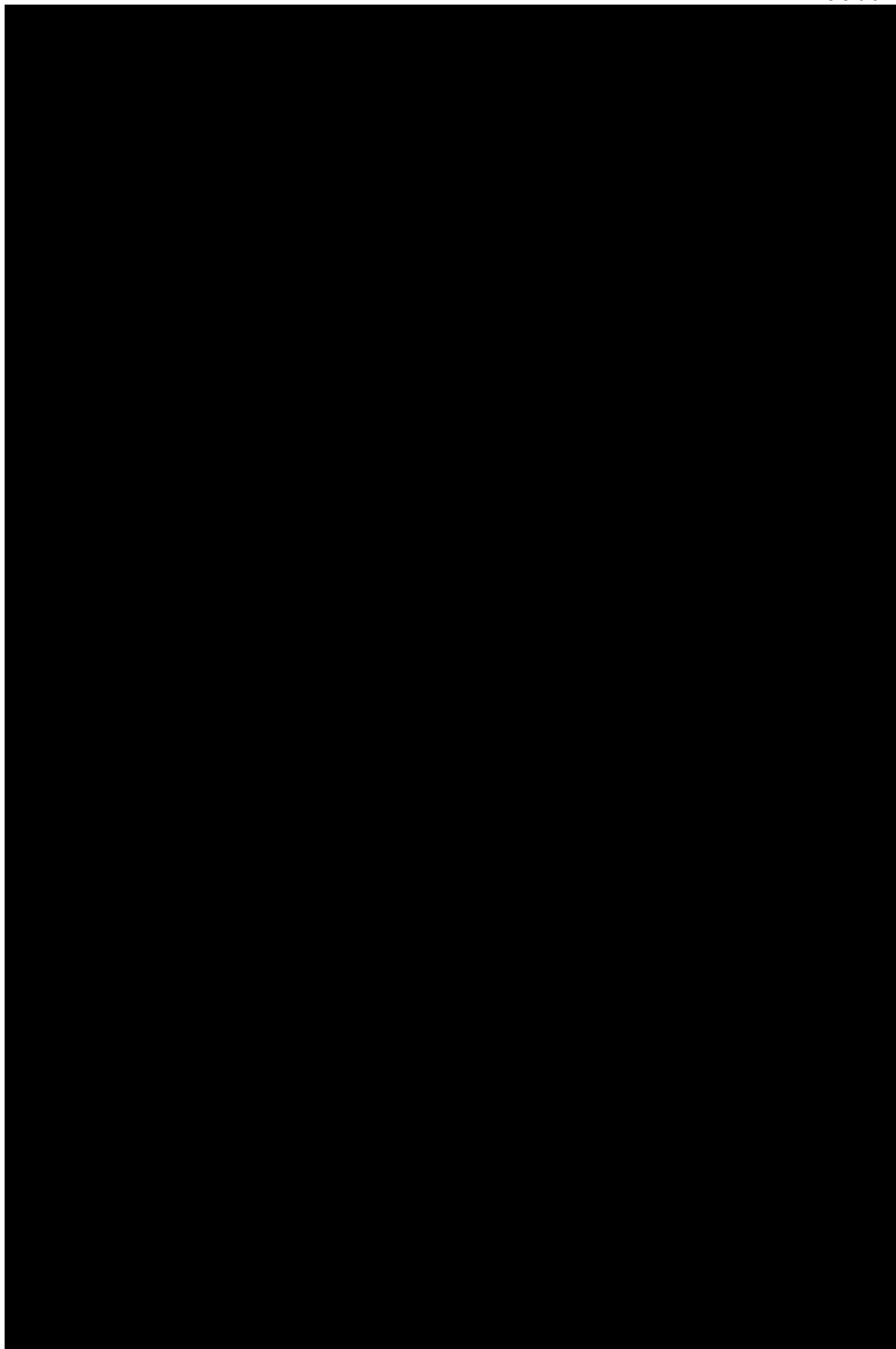
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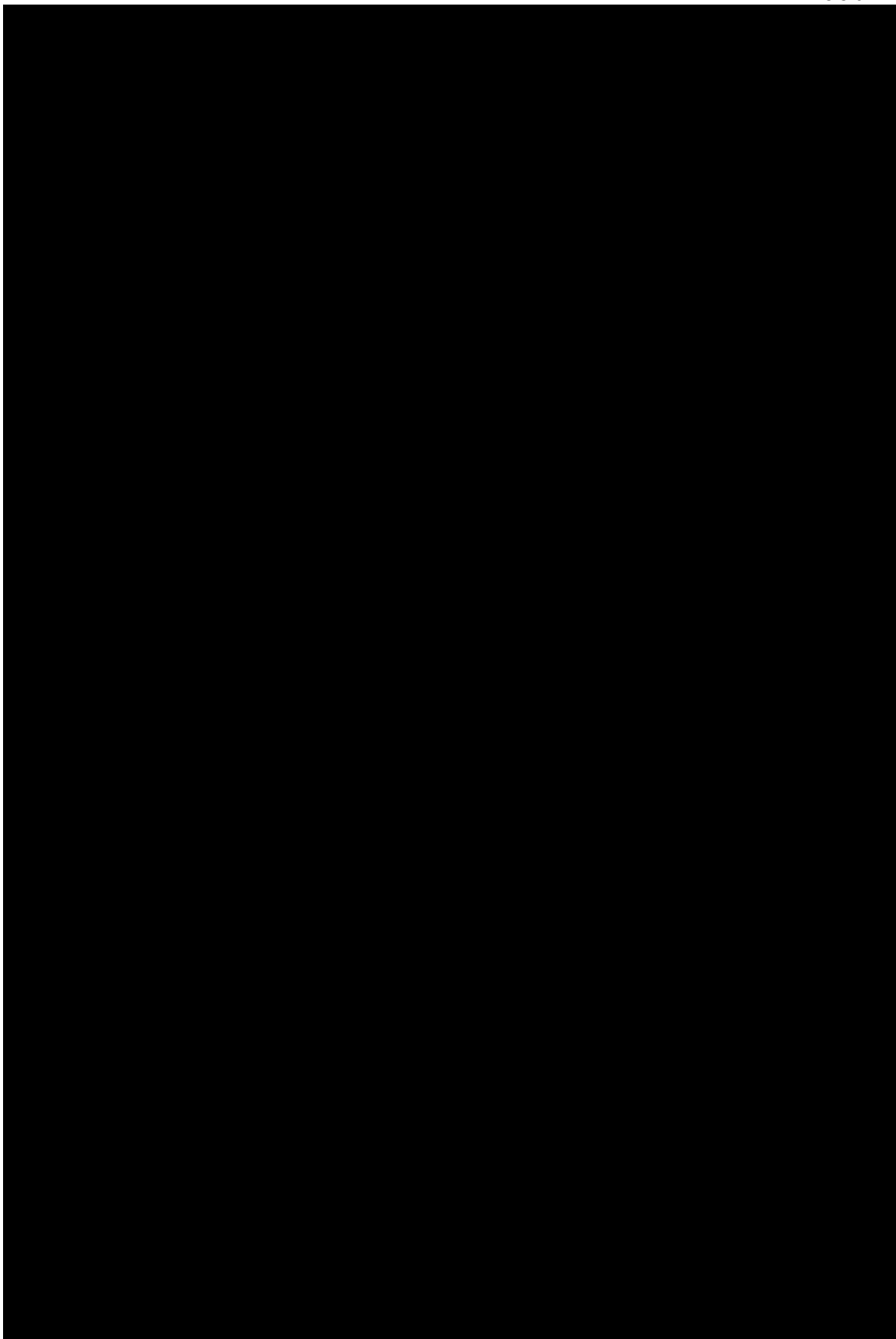
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[REDACTED]

(All parties returned to the courtroom.)

THE COURT: Okay. Requested jury charges.

(Break in proceedings.)

THE COURT: Yes, sir?

MR. HARPOOTLIAN: Your Honor, maybe we can save a little time. Okay. Well, I think if we went through the State's proposed instructions we have, like, four we disagree with.

THE COURT: All right.

MR. HARPOOTLIAN: If we go through those maybe we can move this along quicker.

THE COURT: All right. Tell me the four you disagree with.

MR. HARPOOTLIAN: I'm sorry, sir?

THE COURT: Yeah. Tell my which four.

MR. HARPOOTLIAN: Yes, sir. Let me make sure I don't -- Mr. Griffin is taking a pen to them. That's the way I have to find them. I'm sorry. Okay. If you go to page 6, section 4, which says other bad acts and crimes, we would like -- number one is motive. We would like you to not charge two, three, four, and five, but your intent in regards to commission of the offense charge in this case, which it's not absence of mistake, it's not common scheme, it's not identity of the person or not. So, we would like

1 you to leave -- restrict it to just motive.

2 THE COURT: All right. What says -- well, we'll get
3 all of yours down and then we'll talk about them.

4 MR. HARPOOTLIAN: Yes, sir. If you go to page 10 of
5 14B, malice not impacted by voluntary intoxication. I'm
6 not going to argue at this point. I'm just going to tell
7 you which we want and then we can go back and deal with
8 those. If you go to page 11 of 14, we object to the alibi
9 charge, which is number 11. 11? 11. And then that may be
10 it. I believe that's it.

11 THE COURT: All right. Motive, intoxication, alibi,
12 and what else?

13 MR. HARPOOTLIAN: Other bad acts and crimes on page 6.

14 THE COURT: Yes, sir. That's part of motive, yeah.

15 MR. HARPOOTLIAN: Okay. I'm sorry. Voluntary
16 intoxication --

17 THE COURT: Okay.

18 MR. HARPOOTLIAN: -- on page 10. Oh, no, and alibi.
19 Did I say alibi?

20 THE COURT: Yeah.

21 MR. HARPOOTLIAN: Okay. Voluntary intoxication and
22 alibi, and I think that's it. Yeah.

23 THE COURT: So, I have only three: bad acts,
24 intoxication, and alibi.

25 MR. HARPOOTLIAN: No, there was more than that.

1 THE COURT: Is there something else?

2 MR. HARPOOTLIAN: I should have written them down. I
3 apologize. Motive, voluntary intoxication, alibi. Is that
4 it? Yeah, that's it. How many is that?

5 THE COURT: And bad acts.

6 MR. HARPOOTLIAN: Yeah, that's it.

7 THE COURT: All right, and regarding the State,
8 objection to any defense request number?

9 MR. WATERS: Yes, sir. I provided the defense with a
10 memo, and if I can approach and hand it up to Your Honor?
11 And we can send an electronic copy later.

12 Your Honor, a few things. Number one, we object to
13 the mere presence instruction. *State v. Stokes* cited in
14 the memo, that instruction is only warranted if there is
15 issues raised as to whether the defendant is guilty as an
16 accomplice in the crime, or if he's charged with possession
17 of contraband as a result of being present when the
18 contraband was found. Neither of those circumstances are
19 present. As it relates to the circumstantial evidence
20 charge, I think we have the -- what's the accepted and
21 corrected language in there. They have all of the
22 circumstances language.

23 MR. HARPOOTLIAN: We agree with that. We're --

24 MR. WATERS: With all of them?

25 MR. HARPOOTLIAN: With all of what?

1 MR. WATERS: Just the first one or all of them?

2 MR. HARPOOTLIAN: No, just the circumstantial
3 evidence.

4 MR. WATERS: Okay. All right.

5 MR. HARPOOTLIAN: That is, I didn't object to yours.

6 MR. WATERS: Okay. So two and three, I guess, Your
7 Honor, that's --

8 THE COURT: Your *Logan* -- your circumstantial evidence
9 is the *Logan* charge?

10 MR. WATERS: Yes, sir.

11 THE COURT: Is what you requested.

12 MR. HARPOOTLIAN: So, we agree.

13 MR. WATERS: As modified by *Herndon*, Your Honor.

14 THE COURT: Well, the one word is taken out, two words
15 taken out?

16 MR. WATERS: All of, exactly, yes, sir.

17 MR. HARPOOTLIAN: Do what now?

18 MR. WATERS: All of.

19 THE COURT: All of, yeah.

20 MR. HARPOOTLIAN: Yeah.

21 THE COURT: Okay, and we've been through that on some
22 other cases. Okay.

23 MR. WATERS: All right. Again with the reasonable
24 doubt instruction.

25 MR. HARPOOTLIAN: We agree.

1 MR. WATERS: You agree? Okay. They had their
2 suggested language, which we had some issues with. It's in
3 the memo verifying the State's language.

4 MR. HARPOOTLIAN: We're fine with his version. It's
5 so easy.

6 MR. WATERS: Let's see here. With the other crimes
7 and bad acts, again we have -- I should say there's the
8 audio recordings charge, which that's on page 5 of our
9 memo, and also the charge on the defendant as a witness.
10 We think with both of those, those are specific
11 instructions on the type of evidence that are unnecessary,
12 and we would object to those, particularly identifying one
13 particular sort of instance of evidence to the distinction
14 of all others.

15 And then as it relates to the bad acts, there's a
16 couple of things there, going back to the defense
17 objections to the State. We have the various things that
18 are listed. That's just a citation of the rule, and so,
19 you know -- with the various things in there, and so we
20 would assert that that's proper law under Rule 404.
21 Additionally, there was also the context of --

22 THE COURT: Well.

23 MR. WATERS: Yes, sir?

24 THE COURT: It's proper under the law but it was
25 not what the Court allowed. The Court allowed it for the

1 purpose of the motive. And anything else other than
2 motive?

3 MR. WATERS: I think common scheme or plan at one
4 point, and then I think ultimately motive is identity
5 evidence, and so those are the three. I would agree with
6 you with just the general intent and absence or mistake or
7 accident, we can certainly take those out. I think the
8 other three have been made applicable by the development of
9 the evidence in this case as it -- you know, as it's
10 developed from what the original ruling was. So, those
11 would be the three that we would argue are appropriate
12 here.

13 MR. HARPOOTLIAN: Your Honor, we believe motive --
14 while we disagreed with your ruling, motive is what it was
15 allowed in for. Identity? The fact that he committed
16 these financial crimes, it goes to identity? What was the
17 other one? Common scheme. Certainly it was a common
18 scheme to steal, but -- and he's proved the identity of the
19 thief, but this is not an embezzlement financial case.
20 Those -- you specifically allowed those in to show the
21 motive, not anything else. And I think it would be
22 confusing to the jury, and it gives rise to some sort of
23 inference that if he did that, then he must have done this,
24 and you're going to specifically tell them not.

25 I assume you will recharge the charge you gave

1 concerning the financial crimes only being allowed in for
2 motive.

3 THE COURT: Anything else on that issue?

4 MR. HARPOOTLIAN: On that specific issue, Jim?

5 MR. WATERS: I think as the evidence developed, common
6 scheme and plan came up with the reference to the side of
7 the road, and it ultimately -- so, I think that that's
8 certainly applicable.

9 MR. HARPOOTLIAN: The common scheme for the side of
10 the road was to kill them and then kill himself?

11 MR. WATERS: I think that the common scheme as
12 alleged, there was the attempt by the defendant to, when
13 accountability was at his door, to engage in some sort of
14 activity that's ultimately violent and that results in him
15 becoming the victim.

16 MR. HARPOOTLIAN: Well, he meant to be dead. I think
17 it was determined that everybody agrees he was supposed to
18 be dead.

19 THE COURT: Okay. I agree with the defense on this.
20 The evidence of bad acts can only considered by you as it
21 relates to motive.

22 MR. HARPOOTLIAN: Thank you.

23 MR. WATERS: Your Honor, moving on to voluntary
24 intoxication, certainly there's been ample evidence put
25 into this record as it relates to his pill use, and I

1 believe that was a --

2 THE COURT: As it relates to what now?

3 MR. WATERS: His pill use, and then extensively
4 testified by the defendant as to that as well. So, I think
5 it's an appropriate statement of law and was squarely
6 raised by the issues in this particular case.

7 MR. HARPOOTLIAN: Your Honor, there's no evidence he
8 was intoxicated on the day of the crime. No one has
9 testified that he appeared to be intoxicated. He hasn't
10 said he was intoxicated. He may have a habit, but this
11 is -- we're not going to raise intoxication. I mean,
12 just -- I don't quite understand why there's a need for the
13 charge, and I think it's pejorative to the defendant if
14 we're not raising that defense, and we're not raising the
15 defense of voluntary intoxication.

16 MR. WATERS: Well, that's the point, Your Honor. It's
17 not a defense, and that's why it's been put into issue
18 here. It's appropriate for the jury to understand that
19 voluntary intoxication is never a defense to any crime.

20 MR. HARPOOTLIAN: He hadn't raised the issue of
21 voluntary intoxication as a defense to anything except
22 maybe the financial crimes, which are only being introduced
23 to show motive.

24 MR. WATERS: Court's indulgence one moment, Your
25 Honor.

1 (Break in proceedings.)

2 MR. WATERS: I mean, he testified extensively -- first
3 of all, we have his discussion of it on the side of road,
4 but he also testified extensively about his paranoia and
5 his agitation and those sorts of things. He testified
6 about being clean. He made the statement I would never
7 intentionally hurt Maggie and Paul. I think the issue was
8 squarely raised particularly from the defendant's testimony
9 in as much as it could confuse the jury as if
10 intoxication -- voluntary intoxication can somehow preclude
11 intent from existing. These are issues that are raised in
12 the case, and again, they keep saying they're not raising a
13 voluntary intoxication defense and that's the whole point,
14 that it's not a defense. He, of course, you know, said
15 that he was taking 60 pills a day.

16 THE COURT: Well, you know, the defendant mentioned
17 that he was under the influence, or that affected his
18 questioning or ability of -- being distrustful of SLED. In
19 part, that all of that was triggered by his heavy drug use,
20 but he -- it wasn't a defense to the crime, but as a
21 defense to maybe the voluntariness of his statement or
22 something, or the truthfulness of the statement because he
23 was under the influence.

24 The problem that I have seen with regard to voluntary
25 intoxication, and I love you and I would never harm you and

1 all of that, it comes in quite often with the issue -- in
2 the issue of malice. And, of course, the State says malice
3 is not impacted by voluntary intoxication.

4 Jurors really get -- they get hung up and have been
5 getting hung up most recently in deciding malice versus
6 manslaughter because of the whole issue of intent. And so
7 if the facts in these case -- in this case is the jury
8 concludes, well, yes, he killed her, but he loved her, he
9 killed them but he loved them dearly, then the jury could
10 conclude, well, he didn't have malice. And he didn't have
11 malice because he killed them because he was under the
12 influence, because he was strung out on drugs, and that was
13 his reaction to drugs. So, the charge that addresses
14 this -- really this case addresses that issue, that
15 voluntary intoxication does not impair a person's ability
16 to act with malice aforethought, which is directly from
17 that case. You know, that's -- it's worth strong
18 consideration in this case.

19 MR. HARPOOTLIAN: Your Honor, is the State asking for
20 a voluntary manslaughter charge? Because, I mean, that has
21 been the problem where they -- you know, the voluntary
22 intoxication may in their minds --

23 THE COURT: Well, that's where it comes in. You know,
24 my -- you know, I've been arguing a lot with solicitors
25 lately because jurors have found many people not guilty of

1 murder, where they really think that the person is guilty
2 of unlawful killing but they can't find the malice --

3 MR. HARPOOTLIAN: Well --

4 THE COURT: -- aforethought. Now, and as a matter of
5 law, I mean, I'm arguing with the solicitors, saying, well,
6 give the jury an option and then you'll get a verdict as
7 opposed to losing a case or getting a hung jury. You know,
8 the all or nothing proposition often works against the
9 State. But as a matter of law, what I've been telling them
10 is not correct because of this case that says exactly what
11 this case says. It doesn't reduce -- it's not a substitute
12 for malice, voluntary intoxication. But, you know, jurors
13 will read into things whatever they want to read into it,
14 but, you know, it says that voluntary intoxication does
15 impair a person's ability to act with malice and is not a
16 defense to the crime.

17 MR. HARPOOTLIAN: Your Honor, all I would say is this.
18 Are they contemplating voluntary manslaughter?

19 MR. WATERS: We have not requested one, Your Honor.

20 THE COURT: Pardon?

21 MR. WATERS: We have not requested one, Your Honor.

22 THE COURT: Yeah. The State loves all or nothing
23 generally, and that's what ties up jurors -- juries in
24 deliberations.

25 MR. WATERS: It's not -- yeah. I mean, that's

1 ultimately the issue is -- and, you know, I know this from
2 a case that I argued, *State v. Starnes*, as to whether or
3 not there's evidence in the record of the elements of
4 voluntary manslaughter, which would be sufficient
5 provocation and heat of passion. And --

6 THE COURT: Or lack of -- or lack of malice.

7 MR. WATERS: Of lack --

8 THE COURT: An lawful killing without malice is
9 manslaughter, isn't it?

10 MR. WATERS: Clearly without malice it would be
11 involuntary if you have the elements.

12 THE COURT: A voluntary killing without malice.

13 MR. WATERS: Yes, sir.

14 MR. HARPOOTLIAN: We would oppose this charge. And
15 the Attorney General can maybe contemplate overnight
16 whether he wants a lesser included as opposed to
17 the voluntary. And we, by the way, I think we would just
18 oppose that. We would oppose the charge except murder up
19 or down. We think --

20 THE COURT: Yeah. So, you all are on the same page
21 with that. And generally if both sides are on the same
22 page, I'm on the page that you all are on. If so, that's
23 a -- but it still raises the -- that makes more valid the
24 State's requested charge, and that is --

25 MR. HARPOOTLIAN: But, Your Honor, we're not

1 raising -- very haven't raised voluntary intoxication. I'm
2 afraid this is going to confuse the jury. Maybe as to the
3 statement, but not as to the homicides. Our defense is he
4 didn't do it. He didn't pull the trigger. He didn't -- he
5 wasn't there. So, I think this is confusing the jury, and
6 I'm afraid it's going to cause a matter of consternation to
7 the jury. And, again, there's nothing that was raised by
8 the defense it was voluntary intoxication as to the
9 admission of these crimes. Now, there's been no, you know,
10 not a shred of evidence -- the defendant testified and said
11 he didn't do it. Not that he did it when he was impaired,
12 not he did it under those drugs.

13 THE COURT: They are good arguments on both sides of
14 this, so we'll put a question mark on that one for the time
15 being.

16 MR. HARPOOTLIAN: Okay. Thank you.

17 MR. WATERS: The final one, Your Honor, is alibi. And
18 again, the defendant expressly pled in response to the
19 State's request for notice of alibi, so we believe
20 obviously this is a correct statement of law and applicable
21 by the defendant's own pleadings in this case.

22 MR. HARPOOTLIAN: Well, this is -- I think this charge
23 is burden shifting. We raised the defense of alibi. In
24 order to establish an alibi, it must be shown that the
25 defendant was in another specified place when the crime was

1 committed and it was, therefore, impossible for the
2 defendant to have been at the scene. Mere denial of
3 presence at the scene does not constitute an alibi. Well,
4 there's no burden on the defendant to prove alibi. The
5 burden is on the State to prove beyond a reasonable doubt
6 that the defendant was actually present at the scene and
7 actually participated and was not somewhere else. In other
8 words, State has the burden of disproving the defendant's
9 alibi beyond a reasonable doubt. Let me check with
10 Mr. Griffin.

11 THE COURT: Is alibi statutory or what? Is that a --
12 notice of alibi, is that a --

13 MR. HARPOOTLIAN: Well, it's in the --

14 MR. GRIFFIN: Rule 5.

15 THE COURT: Yeah, a rule, okay. Well, it's statutory.

16 MR. GRIFFIN: Well, Your Honor, they asked for us to
17 provide notice of alibi. They didn't give a specific time
18 or any time initially. Then we objected. Your Honor ruled
19 that they had to give some time period. Then they gave
20 sort of a broad time period of, you know, between the hours
21 of -- I've forgotten what it was, it was pretty broad, and
22 we said in response we don't know when the murders occurred
23 because we were not there, but here is where we were. We
24 were on the property until 9:06.

25 THE COURT: Well, assuming you get over that hurdle,

1 how do you get over the hurdle of mere presence requiring,
2 as Mr. Waters says --

3 MR. GRIFFIN: Well, we think they're probably right on
4 that --

5 THE COURT: -- where the defendant is -- say it again.

6 MR. HARPOOTLIAN: We think they're probably right on
7 that, Your Honor.

8 THE COURT: So, it can't be both. I mean, if you --
9 you can't have mere presence, according to the State,
10 unless you are --

11 MR. HARPOOTLIAN: We agree, Your Honor.

12 THE COURT: -- actually there at the time.

13 MR. HARPOOTLIAN: We agree.

14 THE COURT: Okay.

15 MR. GRIFFIN: Yeah, we withdraw that.

16 THE COURT: So, you withdraw your mere presence, but
17 the State wants alibi.

18 MR. HARPOOTLIAN: Yes, sir, we oppose that.

19 THE COURT: And you want alibi though they've
20 withdrawn mere presence?

21 MR. WATERS: Court's indulgence.

22 (Break in proceedings.)

23 MR. WATERS: If they will withdraw mere presence, then
24 we will withdraw the alibi.

25 THE COURT: All right. So, you all are in agreement

1 on that.

2 MR. HARPOOTLIAN: Done.

3 THE COURT: All right. No alibi, no mere presence.
4 So, what do y'all disagree on?

5 MR. HARPOOTLIAN: It's a kumbaya moment, Your Honor,
6 in these proceedings. Did we deal with audio recording?

7 THE COURT: Of course, the defendant is a witness.
8 That's -- I've never seen that given as a charge where the
9 defendant has testified, putting special emphasis on the
10 way they're to look at the defendant's testimony as opposed
11 to any other witness.

12 MR. GRIFFIN: Your Honor, our point on that particular
13 charge is really more directed to the 608 evidence that was
14 admitted.

15 THE COURT: 608 evidence.

16 MR. GRIFFIN: You know, the character evidence, that
17 the jury could consider evidence of character to assess the
18 credibility. You allowed that as an alternative ground,
19 which was some of the bad conduct evidence, and we're just
20 trying to get the limitation that that is only -- that's
21 all it could be considered for and nothing beyond that. It
22 can't be considered as propensity evidence. That's the
23 point of that charge.

24 THE COURT: But that's not defendant as a witness.
25 That's prior bad acts, isn't it?

1 MR. GRIFFIN: Yes, sir, but they argued under 608 also
2 and you've admitted that.

3 THE COURT: Mr. Waters.

4 MR. WATERS: Your Honor, again, and I appreciate the
5 defense bringing that up. I mean, we have the 404, but
6 ultimately issues of credibility are always in play,
7 particularly when the defendant testifies. And so I think
8 their particular instruction again of, you know, as you
9 just stated would unduly emphasize one particular aspect of
10 the evidence. And again, I know that there's going to be a
11 prior bad acts charge, but I don't know that there needs to
12 be a specific emphasis on the defendant distinct from all
13 other classes of evidence in this particular regard.

14 Ultimately, you know, as to this second paragraph, you
15 know, we have introduction of this evidence, or
16 introduction of things related to this that are based in
17 other theories than just 404, and so I think that the
18 clearest means of instruction on this particular subject
19 would be a 404 instruction, and no other specific
20 instruction as it relates to the defendant need to be
21 given.

22 THE COURT: Okay, and one issue or concern that I have
23 with regard to the other crimes and bad acts charge, not --
24 it's not the limiting instruction requested by the
25 defendant, but the comment about Mr. Murdaugh facing

1 hundreds of years on other charges, and the jury is not to
2 consider any other crimes or any other possible punishment
3 that the defendant may be facing as it relates to any other
4 crimes. And if I give this limiting instruction regarding
5 other crimes, which the defendant has, in effect, admitted
6 to, the jury needs to be instructed that they cannot
7 consider that at all in deciding whether he's guilty or not
8 guilty of this particular crime. And I'm trying to
9 contemplate the best place in the jury charge to include
10 that. Quite often it's put in -- well --

11 Yes, sir?

12 MR. MEADORS: May it please the Court?

13 THE COURT: Yeah.

14 MR. MEADORS: Judge, is that to go along with that --
15 they won't be able to argue that he's looking at a bunch of
16 time on these other charges, correct?

17 THE COURT: The jury cannot consider that. They
18 cannot consider the fact that he's charged or may have
19 committed other bad acts. I mean, in this particular
20 instance, it's sort of a two-edged sword because the other
21 crimes are not admissible to prove character in order to
22 show action in conformity therewith, or he's more likely to
23 have committed the crime for which he is accused of. You
24 may not consider evidence of other crimes and bad acts for
25 this purpose, or for any purpose other than as it relates

1 to defendant's motive. You know, basically nor can you
2 consider any other crime or criminal acts for which the
3 defendant may be facing punishment.

4 MR. MEADORS: Okay.

5 THE COURT: I mean, you know, the wording of that, I
6 don't know, but it needs to be included because a jury
7 cannot consider that, and that was put out there. I mean,
8 basically that was -- actually, that was one of the most
9 egregious violations, I think, that's come up during the
10 course of the trial and the jury needs to be -- needs to
11 be -- it needs to be -- there's -- some instruction should
12 be given on that.

13 MR. MEADORS: Thank you.

14 THE COURT: Now, where it should be put in this
15 instruction, you know, I'll leave for you all to figure
16 that out and how few words it needs to be expressed in by
17 using, but it must be included.

18 MR. WATERS: Yes, sir, Your Honor.

19 THE COURT: So, I'm going to give you all an
20 opportunity to insert it somewhere.

21 MR. WATERS: We'll be working on that this evening,
22 Your Honor.

23 THE COURT: And copy the other side. All right. Now,
24 on all of these, almost everything the State has sent, I
25 mean, those are, for the most part, standard charges. You

1 know, these are what i give every time on a murder case,
2 and it's -- you know, every time we do a trial, by the time
3 we do the next one, something else has occurred and we have
4 to refine it and refine it and refine it. But, you know,
5 we did two murder cases in December, so we've been giving
6 murder charges pretty frequently lately. And this request,
7 I know you all have citations and all and it's -- and so
8 what you've requested is a basic murder charge. And so
9 we're going to include whatever y'all have agreed on here,
10 take out what needs to be taken out, and then we'll email
11 it to you all tonight, and we'll include some
12 language referencing not considering any other crime that
13 he might have been charged and may be facing in their
14 deliberations.

15 So, we'll send that to you all, and then I welcome any
16 comment or criticisms, whatever, you know. I use the
17 lawyers and my editorial board to correct, suggest modify,
18 or suggest modifications, and so there's no pride and
19 ownership. And then I blame my law clerk whenever there is
20 an error, so there's no problem.

21 MR. GRIFFIN: Your Honor, will you send the
22 instructions back?

23 THE COURT: Yes. We'll give them a copy of the
24 charge.

25 Again, regarding audio recording, what's the story

1 there, that request to charge involving audio recordings?

2 MR. WATERS: Your Honor, our only comment on that one
3 is, again, it's just a specific on a class of evidence that
4 we believe is unnecessary to single that out, and that is
5 our only basis for objection to that.

6 THE COURT: All right. Any other comment about that?

7 MR. GRIFFIN: Your Honor, I mean, there is audio
8 coming in, and there was testimony about what was on the
9 audio, and so I don't think it's a charge on the facts.
10 It's just how the jury deals with the issue.

11 MR. WATERS: And, Your Honor, what they cite, of
12 course, are which -- are cases in federal court where they
13 were referring to transcripts that have been admitted into
14 evidence, and none of that ever happened. So, these
15 instructions are unnecessary and are not even justified by
16 the cases that they cited in support of that instruction.
17 There have been no transcripts admitted, and so, again, I
18 don't believe that this instruction is necessary even under
19 the cases that they've cited.

20 THE COURT: Well, the standard instruction is that --
21 let's see, recollection of counsel, let's see --

22 (Break in proceedings.)

23 THE COURT: Part of the standard charge is that
24 arguments of counsel, that while the arguments of counsel
25 are a beneficial part of every trial, counsel refers to the

1 evidence, but you should base your verdict on the evidence
2 as you remember it. If there are conflicts between
3 recollection of counsel about the evidence and your own
4 recollection, you are to rely on your own understanding of
5 the evidence. I mean, that's, in effect, saying the same
6 thing. I mean, we've had these number of weeks of
7 testimony and conflicting accounts of the testimony and all
8 of that. I don't think I should single that out more so
9 than any other part. The jury will be tasked with
10 utilizing their own recollection as to the evidence, so
11 that's more argument than jury charge, so I'm not going to
12 charge that.

13 All right. Anything else?

14 MR. WATERS: Nothing from the State at this time, Your
15 Honor.

16 MR. HARPOOTLIAN: Nothing from the defendant, Your
17 Honor.

18 THE COURT: All right. So, we plan to get together at
19 9:30 and go out to Moselle.

20 MR. HARPOOTLIAN: Your Honor, is it okay if I meet you
21 at Moselle? I'm staying not far from there.

22 THE COURT: No, it's fine. You can meet us there.

23 MR. HARPOOTLIAN: And you believe we should be
24 starting final arguments at 11:00?

25 THE COURT: Yeah. If we can get there and get back

1 out of there, that's like -- by 11:00 sounds good.

2 MR. WATERS: I probably will not attend that, so I'll
3 have another counsel member of the team attend that, the
4 jury viewing.

5 THE COURT: So, you'll be ready --

6 MR. WATERS: I'll be ready to go.

7 THE COURT: -- at 11:00, so --

8 MR. HARPOOTLIAN: Mr. Griffin is not coming either.
9 He'll be ready.

10 THE COURT: Oh, so you all will be ready, yeah, as
11 soon as we get back. Okay.

12 MR. HARPOOTLIAN: So, he probably will be ready at
13 2:30 or 3:00, whenever Mr. Waters finishes his opening.

14 THE COURT: If you all intend to use any PowerPoints
15 in your closing, if you'll email a copy to the Court so
16 that we can see it is as you're presenting it, or in
17 advance.

18 MR. WATERS: Yes, sir.

19 MR. HARPOOTLIAN: Thank you, Your Honor.

20 THE COURT: All right. See y'all tomorrow.

21 (Whereupon, the case was at ease.)

22 *WEDNESDAY, MARCH 1, 2023*

23 (Court resumed at 11:58 a.m.)

24 THE COURT: Good morning.

25 (Audience responded good morning.)

1 THE COURT: Anything before we bring the jury?

2 MR. WATERS: May we approach, Your Honor?

3 THE COURT: Yes, sir.

4 (A bench conference was held.)

5 THE COURT: Anything before we bring the jury?

6 MR. WATERS: Nothing from the State, Your Honor.

7 MR. HARPOOTLIAN: Nothing from the defense, Your
8 Honor.

9 THE COURT: All right. You may bring the jury.

10 (The jury returned to the courtroom.)

11 THE BAILIFF: The jury is present, sir.

12 THE COURT: All right, thank you. Wait until everyone
13 gets settled.

14 (Break in proceedings.)

15 THE COURT: Welcome again, once again. Day number
16 twenty-seven. And you have heard all of the testimony and
17 received all of the evidence. You've visited the scene of
18 the alleged crimes, and now it's time for closing
19 arguments, first by the State.

20 Mr. Waters.

21 MR. WATERS: Thank you, Your Honor. May it please the
22 Court?

23 THE COURT: Yes, sir.

24 MR. WATERS: Good morning.

25 (The jury responded good morning.)

1 MR. WATERS: It's been a long trial, hasn't it? On
2 June 7, 2021, at the Moselle Property in Colleton County,
3 Maggie Murdaugh and Paul Murdaugh were brutally and
4 maliciously murdered at the kennels by Alex Murdaugh.
5 Paul, as you know, suffered two shotgun blasts, Maggie
6 suffered five Blackout rifle wounds, and after an
7 exhaustive investigation there is only one person who had
8 the motive, who had the means, who had the opportunity to
9 commit these crimes, and also whose guilty conduct after
10 these crimes betrays him. The defendant was the one person
11 who was living a lie. The defendant is the person on which
12 a storm was descending, and the defendant is a person where
13 his own storm would actually mean consequences for Maggie
14 and Paul, and consequences for those who trusted him, and
15 that person is the defendant, Richard Alexander Murdaugh.

16 I know this has been a long trial because it's a
17 complicated case, and I'm not going to talk forever, I
18 promise, but I am going to try to distill this down for
19 you. And the first thing I want to do is set the stage,
20 and to set the stage we have to understand a little bit
21 about Alex Murdaugh and who he was and who he is.

22 He was a person of singular prominence and respect in
23 this community, but he's also a person who's been able to
24 avoid accountability for all of his life. While he was
25 outwardly giving the illusion of wealth and a very

1 lucrative law practice, some bad land deals and that sort
2 of thing exacerbated by the economic recession led to some
3 financial problems. And then he had some big cases in the
4 early 2000 -- 2011, 2012, and all of his partners, and
5 you've heard testimony to this, thought that that had taken
6 care of things. You've heard cases like the *Thomas* case
7 and the *Pinckney* case and the *Plyler* case and the *Badger*
8 case. But the evidence that you've heard shows that the
9 defendant became so addicted and so dependent on a velocity
10 of money that the millions of dollars in legal fees that he
11 was receiving was not enough, so he started to steal.

12 And how did he steal? He stole by billing personal
13 expenses to the firm. He stole by stealing from his own
14 family. You heard the testimony about the check he stole
15 from his brother Randy. But then the main ways were two
16 schemes that he developed, and the first one was to get
17 checks made out from the client trust account to Palmetto
18 State Bank, to fast talk the staff and fast talk the
19 clients with those disbursements, and then take it to
20 Palmetto State Bank where his buddy Russell Laffitte would
21 convert those and use those to pay personal expenses. And
22 each time until the end it worked because the client was
23 also getting a big check, and they were walking out of
24 there thinking that everything had been fine when it was
25 not.

1 But then in 2015 he opened up the fake Forge account,
2 and then all had he to do was get disbursements made out to
3 the Forge account, and once he did that, he would convert
4 those to his personal use. And to do that, though, he also
5 had to fast talk staff and fast talk clients, and that
6 scheme continued up until everything fell apart in the end.

7 The other thing you have to understand is during this
8 time when he's earning millions of dollars and stealing
9 millions of dollars, he's also borrowing millions of
10 dollars from wherever he can: the bank, his law partners,
11 his father. And it still wasn't enough. And this slow
12 burn was continuing and continuing until the boat crash
13 happened in February of 2019, and that changed everything.
14 That set in motion things that were going to happen because
15 of the criminal charges related to that case, as well as
16 the civil charges related to that case.

17 In the aftermath of the boat case, things changed.
18 The pace of his stealing increased. In fact, that's when
19 he stole the money from Tony Satterfield that you heard
20 from, ultimately stole about 4.5 million between the
21 Satterfields and others, and unlike other cases, Tony
22 Satterfield, who was the son of his longtime housekeeper,
23 he took all of the money, took every bit of it. And that
24 was coming to a head as we move into the spring of 2021
25 because there had been some publicity. And you heard from

1 Tony Satterfield that he was -- the defendant reached out
2 and in the spring of 2021, because there had been publicity
3 -- and saying, hey, I'm still working on the case.
4 Everything is fine. I'm still working on the case. It's
5 good.

6 But the reality is the defendant didn't have that
7 money to pay it back, and he had one saving grace because,
8 as you've heard, they don't get paid until the end of the
9 year, and his saving grace was the *Faris* case, which they
10 tried in December. They get the verdict and get paid in
11 March, and that's when he convinces Chris Wilson to send
12 those \$792,000 of fees to him. But the problem is that
13 only lasted for about two months, \$792 only lasted for
14 about two months, and then he is running out of money
15 again.

16 Meanwhile, you've heard in the boat case that Mark
17 Tinsley was seeking to get a large personal recovery from
18 Alex Murdaugh of \$10 million because he thought, as many
19 people did, that he was wealthy and had a lot of money, and
20 when they said he didn't, he filed a motion to compel. And
21 you've heard testimony about whether that would have been
22 granted, but it doesn't change the fact that that's what
23 Mark Tinsley was seeking to do, and that boat case hearing
24 had been scheduled for June 10th.

25 In May of 2021, as we move into June, that's when

1 Alex's own paralegal got the expense check for the *Faris*
2 case but not the fee check and tried to raise that to Alex
3 and couldn't get a straight answer, tried to raise it to
4 Chris Wilson and couldn't get a straight answer, or to his
5 office, and so it goes to Jeannie Seckinger. And Jeannie
6 Seckinger goes to the partners and they can't get an answer
7 about that either, and they want to -- an answer to that
8 because they're worried because Alex has been talking about
9 structuring fees, and they're worried he may be trying to
10 hide assets because of the boat case, and they don't want
11 to be a part of that. All of these things are coming to a
12 head, and his finances are falling apart. And you heard
13 from the banker there. You heard where his finances were
14 at on June 7, 2021, and you saw what happened in the wake
15 of that. Within a short period of time, he was negative
16 \$347,000.

17 On June 7, 2021, he was in the office. He was working
18 on the boat case, working on those financial disclosures
19 when Jeannie Seckinger came in and confronted him about
20 those fees that he no longer had and couldn't pay back.
21 And on June 7, 2021, and he tells this to Jeannie
22 Seckinger: his father, Randolph, was having a very
23 difficult time, and while they might have said it was some
24 positive news, the reality is, is that he was very, very
25 sick. And he had always been someone that the defendant

1 could go to, that he could borrow money from, and so that
2 pressure is happening as well.

3 And on June 7, 2021, as all of these pressures were
4 mounting, the defendant killed Maggie and Paul. And how do
5 we know that? We're going to talk in detail about that,
6 but the timeline puts him there. The forensic timeline
7 puts him there. The use of his family weapons corroborates
8 that, and his lies and guilty actions afterwards confirms
9 it, and we'll go over each of those in great detail.

10 Before we get to that, though, I want to finish out
11 because in the wake of this, everything changes. All of
12 those things that were coming to a head immediately go
13 away. It's a different world now. They're not asking
14 about the *Faris* fees anymore, and you heard testimony to
15 that. Mark Tinsley doesn't believe the case is going to
16 have the same value anymore because the sympathies of the
17 case have changed after this tragedy, and you heard that,
18 and who would better understand that than Alex Murdaugh who
19 does the same work? The boat case hearing goes away, and
20 everyone immediately rallies around Alex Murdaugh.

21 And it worked because it allowed him to borrow
22 \$250,000 from Johnny Parker, his law partner, who, of
23 course, wouldn't have loaned him that money if he knew what
24 Alex was up to. And allowed him to go to Palmetto State
25 Bank and get \$350,000 for an off-the-books loan that hadn't

1 been applied for, and to send that money to Chris Wilson
2 and convince Chris Wilson to pay \$192,000 of his own money,
3 and to send an email to the firm that everything was okay.
4 And that made it another month or so until Annette Griswold
5 found that Faris check in his office, and Jeannie Seckinger
6 looked up the Forge accounts.

7 And what happened in the wake of that? What was the
8 reaction of Alex Murdaugh? Within a day of September 3rd,
9 of him being forced to resign, his buddy, Chris Wilson, is
10 trying to see him, comes and sees him on September 4th and
11 confronts him about what he's been doing. And then within
12 2 hours, the side of the road happens and Alex is a victim
13 again.

14 When accountability was at his door, he was a victim
15 again, and he told an extremely detailed lie, and went so
16 far as to draw a composite sketch with the police of this
17 assailant. And the accountability that had arrived at his
18 doorstep again, he tried again, he tried to get it to go
19 away, and it worked for a little while. People thought oh
20 my gosh, what's happened here? Should we be suspicious of
21 Alex anymore? But this time it fell apart a little quicker
22 because his own brother figured out that he was trying to
23 buy drugs, and the case fell apart very quickly.

24 This is the setup for what we look at and what's going
25 on, and it seems like a story that's far removed from most

1 people's experience because it is. It is a different story
2 like has never been seen before, but the reason is, is that
3 he is a different man than the kind of stories that we've
4 seen before. This is a different set of circumstances than
5 we've seen before, and it's certainly easy to understand
6 when you have a middle aged man who is outwardly
7 successful, who has a strong family legacy, who has a
8 prominence in the community and a reputation, but is living
9 a lie. Is living a lie. And that leads to and can lead to
10 those pressures being overwhelming and actions like this
11 happening. Husbands have been killing wives unfortunately
12 for years, and husbands killing sons goes back as far as
13 King Herod, probably further, and those pressures mount
14 when someone becomes a family.

15 Can I have the computer input, please?

16 All right, we've got to do a little of law school.
17 I'm certainly not a professor, but let me go through a few
18 of the concepts here. And one of the most important
19 concepts is the fundamental role -- one of the fundamental
20 roles while y'all are here. As the judge has told you,
21 he's the judge of the law, but y'all are the judge of the
22 facts. And what does the judge of the facts mean? Well, a
23 big part of that is that you determine credibility. You
24 determine believability. You determine which witnesses you
25 want to rely on or not rely on. You can rely on a part of

1 a witness's testimony or all of the witness's testimony,
2 one against many, many against one. It's up to each one of
3 you individually to make that determinations and decisions,
4 and then to collectively discuss those into a group
5 decision, but credibility is important. Is it believable?
6 Is what somebody is telling you believable?

7 And there's many things you can consider in
8 credibility, but a few of those are the demeanor of the
9 witness on the witness stand. Whether the witness has a
10 reason to be biased. Whether the testimony of a witness
11 was contradicted on one hand, or supported or corroborated
12 on another. Whether the witness has been dishonest in the
13 past. And, again, you can believe witnesses all against
14 one, one against others, and you can believe portions of
15 the witness's testimony as you see fit.

16 The same thing goes for experts. Expert is a legal
17 determination that allows them to give an opinion. Just
18 because someone is qualified as an expert doesn't mean that
19 you have to accept their opinion. You can judge that based
20 on the -- your assessment of the credibility, and the
21 relevance, and the believability of that testimony.
22 There's nothing different about that when someone is an
23 expert.

24 Beyond a reasonable doubt. I talked about this at the
25 beginning of the case. And it's our burden, and it's a

1 burden that we welcome. It's how this system works, that
2 we have to prove the guilt beyond a reasonable doubt. And
3 what is a reasonable doubt? A reasonable doubt is a doubt
4 that makes a reasonable, honest, sincere juror hesitate to
5 act. It's proof that a reasonable person would not
6 hesitate to rely on in their affairs, but a reasonable
7 doubt is not -- and leaves you firmly convinced of the
8 guilt of defendant, but it doesn't have to overcome every
9 possible doubt. It doesn't have to overcome every possible
10 doubt.

11 I used to try a case against a defense attorney, and
12 he would pull up a picture of something. Right here I have
13 the *Mona Lisa*, and he would tear off a piece like that and
14 say ladies and gentlemen, that's reasonable doubt. My
15 response to that is you still know what this is, right?
16 You still know what it is, and that's reasonable doubt.
17 Okay, if you still know what it is and you're firmly
18 convinced, then it's your duty under the oath that you've
19 taken and it's the law, as the judge will give you the law,
20 to convict the defendant.

21 Direct and circumstantial. Direct directly proves the
22 existence of the a fact. And circumstantial evidence is
23 proof of a chain of facts and circumstances indicating the
24 existence of that fact, and we talked a little bit about
25 that at the beginning. Sometimes people in common

1 discussions will say, oh, the case is just circumstantial.
2 But the law says that it doesn't matter, that
3 circumstantial evidence can be just as good as direct
4 evidence. It is just as good. It makes no distinction
5 between that, and the judge will charge you on that.
6 There's no greater degree of certainty required of
7 circumstantial evidence than of direct evidence. The
8 circumstances must be consistent with each other, and when
9 taken together point conclusively to the guilt of the
10 defendant.

11 And I gave y'all an illustration at the beginning, and
12 I'm not going to redo the whole thing. But about being
13 inside, and you go outside and it starts raining, then you
14 know it's raining. Okay? Because you've got direct
15 evidence. You're getting wet. But if you go inside and
16 you're in a closed room, all of a sudden it gets dark and
17 you hear thunder, and you hear the wind rustling, and hear
18 the rain coming down on top of the roof, and then after an
19 hour or so you go outside and the sun is shining but
20 there's limbs all down in the yard and it's wet as far as
21 the eye can see, and there are puddles in the yard, and
22 puddles in the driveway, is there any reasonable doubt what
23 happened, that it rained?

24 Now, again -- I'll say it again. Supposedly, I guess,
25 somebody could have sprayed the whole neighborhood and hose

1 and blown a fan to blow the wind down -- or blow the limbs
2 down and simulate winds, but that's not a reasonable doubt,
3 ladies and gentlemen. Circumstantial evidence can be just
4 as strong as direct evidence. It is just as strong. The
5 law makes no distinction just because it's circumstantial.

6 All right, let's talk about murder. Murder is the
7 willful killing of someone with malice aforethought. It's
8 the unlawful and willful killing of any person by one with
9 malice aforethought. The crime of murder is really, as far
10 as the elements go, fairly simple. The operative terms
11 here, the most important terms are malice, which is the
12 mental state that the person must have, and aforethought.
13 But let's talk about those. What exactly do they mean?

14 Malice, and it can be any of these. It can be the
15 hatred, ill-will, or hostility towards another, but it also
16 can be the intentional doing of a wrongful act with an
17 intent to inflict an injury under the circumstances that
18 the law would infer an evil intent. It can be a general
19 malignant recklessness of the lives and safety of others.
20 It can be a wicked or depraved spirit intent on doing
21 wrong. It can be using firearms, a shotgun, and a Blackout
22 to blow somebody away. That can be malice, ladies and
23 gentlemen, if that's what you decide.

24 Aforethought. Sounds like it has to be planned, and
25 certainly planning would account for aforethought, but it

1 may be conceived at the very moment, a split second, or in
2 conjunction with the act. So, aforethought doesn't require
3 planning for that malice to occur. All it has to do is
4 exist in the moment, just a split second or in the moment
5 that the act occurs. So, when that trigger is pulled, as
6 long as there is that intentional doing of a wrongful act,
7 intent to inflict an injury, it would be an evil intent, a
8 malignant recklessness, which you can infer from the
9 circumstances of the case, and that's all you need.

10 And how do you do that? I said infer because people
11 don't always yell out what their intentions are. You would
12 have to infer it from the circumstances of the case itself.
13 Look at the crime scene, look at what happened, look at the
14 back story, look at all the circumstances that come
15 together, and you can infer malice from those.

16 Last little bit of law school. Malice and drugs.
17 Voluntary intoxication does not impair a person's ability
18 to act with malice aforethought. That's a legal principle.
19 If you voluntarily get intoxicated, it is not a defense to
20 a crime, and it does not negate the malicious nature of
21 that crime. If one voluntarily intoxicates themselves,
22 they are just as responsible for their actions as when they
23 are not intoxicated. And the judge, again -- take what --
24 the law comes from the judge, but this is a legal principle
25 that you will hear. Voluntary intoxication is not a

1 defense to a crime. Why does the law say that? Well, you
2 can't take whatever it is and deny responsibility for what
3 you've done under the law.

4 All right, I'll move through this quickly because
5 we've already talked about it. And just for scheduling,
6 I'm going to have to stop my argument so that we can all
7 eat, but that will give y'all a chance to get away from
8 this for a little bit. But I'm going to go ahead and go
9 through some of this that we just talked about but very
10 quickly. Gathering storms in Alex's life. We talked about
11 the family legacy, you've heard about how important that
12 was to him, and how important that was to this family, and
13 how it was in danger because of the boat case. The
14 criminal charges as well as civil charges, that legacy was
15 in danger, and it was threatening also to expose him for
16 who he really was, which would totally destroy his part of
17 that legacy. Lose his career, lose his bar license, face
18 consequences like he's never seen. He's also a successful
19 lawyer and a part-time prosecutor.

20 And as we go through and talk about the circumstances
21 of this case and talk about the crime scene and the
22 timeline and all the rest of it, think of it with that in
23 mind, that this is an individual who was trained to
24 understand how to put together cases, complex cases. He's
25 been a prosecutor, he's done complex car wrecks, he

1 understands the law. He's given closing arguments to
2 juries before. So, when you have a defendant like that, be
3 thinking about whether or not this individual is
4 constructing a defense and constructing alibis.

5 We've talked about his law practice; you've heard how
6 lucrative it is. I had to struggle with him to get him to
7 admit that he was wealthy, making more than a million
8 dollars a year. I'll let y'all decide whether that was
9 wealthy. But he admitted ultimately, you know, that that
10 was not uncommon for him to make that much money on top of
11 stealing and borrowing on top of that. The important
12 thing, though, to remember -- again, and I want to
13 highlight this -- is that they get -- the way that firm
14 worked, they get their money at the end of the year, and
15 then it's up to them to make it last, and that's the big
16 problem that he had. That's why he had to get the Faris
17 fees. He can't -- if he's out of money in May, he's not
18 going to -- unless he can borrow it or steal it, he's out
19 of luck. And the hounds were at the gate.

20 All right, we talked about this. He's got -- you
21 heard -- I think Jeannie described him as having
22 intentional chaos. We had the land deals, he's serving
23 this huge debt load, he constantly needs new money coming.
24 And this has been going on for more than a decade, a
25 constant hamster wheel. The stress and the pressure of

1 that would be extreme because it's been going on for so
2 long, always having to stay one step ahead of the game.
3 Always having to beg, literally beg, borrow, or steal for
4 over a decade to have the truth from being exposed. That's
5 been going on all that time.

6 The big cases. His partners think he's, he's
7 straightened it out and paid off his debts, but he hasn't.
8 He's been paid millions of dollars but he's stealing on top
9 of that. It's not enough to keep that hamster wheel going.
10 So, he borrows and he steals.

11 The methods I mentioned, you've got the PSB checks.
12 You've got the fake Forge. You've got fake business
13 expenses. Running the firm card. And from his family and
14 his law partners. Each one of these depends on him being
15 able to sit down and look someone in the eye and convince
16 them that what they're doing is right, when in reality that
17 wasn't happening, and all of those clients trusted him
18 based on that. And he sat there and went through that, and
19 it may have been exhausting, and I apologize for that, but
20 he couldn't tell you about one conversation that he had
21 that stuck with him. That's how easily it came to him.

22 Is that relevant to your consideration to what he had
23 to tell -- say to you? That's for y'all to decide. He
24 couldn't name one conversation. Just had that same answer
25 that he had rehearsed. He didn't want to talk about any of

1 those individuals that trusted him as he looked you in the
2 eye and asked you to do the same for him. Down at the
3 bottom, it's not just the clients. Too, it's his staff.
4 They're doing the paperwork; they're filling out that. He
5 had to fast talk them as well.

6 Alex's situation I think is akin to a Ponzi, and a
7 Ponzi is kind of like a pyramid scheme where it depends on
8 new money coming in to pay old investors. And it works.
9 It'll work for a long time as long as you can keep that
10 money coming in, but the second you can't, the second that
11 you're out of options, it crashes he's and burns. That's
12 how every upon Ponzi crashes and burns, and that's the
13 situation that fundamentally his finances were like, and
14 that's the situation that was arriving in June of 2021 when
15 he was at the scene with the victims minutes before they
16 died and lied to everyone who would listen. A gathering
17 storm: the boat case, other factors that were arising, each
18 one leading to that inevitable day of reckoning.

19 He had the trial lawyers conference where he was
20 confronted -- Mark Tinsley was confronted by Alex. Alex,
21 of course, denied it. Everybody is lying on Alex. Alex is
22 telling you truth, even though everyone who knew him had no
23 idea who he was, everyone. No one knew who he really was.
24 The people who came in here and said we thought this about
25 him, not a single person knew who he really was. That's

1 how convincing he was.

2 But he denies this conversation when Mark Tinsley is
3 like -- he bows up on Mark Tinsley and he's, like, what you
4 doing, man, about the boat case? And Mark says you're
5 going to have to pay money to the Beach family, millions of
6 dollars. Alex doesn't have that; he's barely one step
7 ahead of the game at this point. He doesn't have insurance
8 coverage anymore, or at least not a big umbrella policy.
9 And why? Because his insurance company dropped him after
10 the *Satterfield* case. The insurance company thinks the
11 money went to the Satterfield boys, but it didn't. They
12 don't know that he's stolen it all, but they don't want to
13 insure him anymore, so he doesn't have that to help him pay
14 the *Beach* case.

15 And so what's the one hope he has? And that's the
16 *Faris* case, and it's tried. They get a verdict in February
17 of 2021 of \$792,000, and eventually he tells Chris Wilson
18 I'm going to structure those, which is a lie, and gets the
19 fees sent to him in March, and it's spent in two months.
20 But the boat case isn't going away.

21 Mark says show us your books if you're telling me
22 you're broke. And I think his testimony was they said that
23 he could probably cobble together a million dollars, which
24 I guess that's broke for him, but it wasn't enough, and so
25 they refuse, and that's what leads to the motion to compel.

1 And there's been a lot of argument about, oh, is that
2 going to be granted or not, and the judge had granted it.
3 What we do know is that Mark Tinsley said that's what he
4 was seeking to do, and he was seeking to do it because he
5 had been told by the defense that he didn't have money, so
6 he, like, prove it. None of us believed that, knowing what
7 we know about you in this community. Prove it.

8 Well, Alex can't have anybody scanning his financial
9 records because it's all going to be apparent. That Forge
10 account is going to open right up. He can't have that
11 happen; it will all end. He'll lose his career. He will
12 lose his livelihood. He will face investigations and
13 consequences like he's never -- like he's been able to
14 avoid his entire life. But if he can just stay one step
15 ahead just one month longer, one day longer, then he's
16 never going to have to face that accountability that he has
17 to face.

18 The hearing is scheduled for June 10, 2021, and no one
19 is here to argue to you that it's definitely going to be
20 granted. All we're to be arguing to you is what the
21 witnesses said they were intending to do. And as you've
22 seen in court over the past six weeks, things happen and a
23 process starts, and once that process starts, there's a
24 conclusion to it. There's a conclusion to that.

25 And then you heard from Tony Satterfield, who got up

1 on the stand and talked about the fact that there was some
2 coverage about this case as we move into the spring of
3 2021, and he hears from Alex. And Alex lies to him and
4 says yeah, we're hoping to get this case moving. And you
5 saw the text message to that effect, when the reality was
6 it had already been stolen. How is he going to pay that,
7 ladies and gentlemen? That's millions of dollars. That's
8 million of dollars. And eventually, eventually, they're
9 going to figure out that this money has already been paid.
10 The insurance company thinks it's going to the right place.
11 At some point, the question is going to get asked, and that
12 alone is going to break everything apart.

13 The *Faris* case, this is when his paralegal finds the
14 expense check and not the fee check, and we've already told
15 you this part of the story and y'all have heard the
16 testimony, but it sets off that inquiry from Ms. Seckinger.
17 So, now we have this on top of everything else that we've
18 mentioned.

19 This is like nothing he's ever experienced. He's
20 always been able to stay one head -- step ahead of the
21 game, but after the boat case, his appetite has increased
22 greatly. He has started stealing millions of dollars and
23 now he's running out of options, and all of these factors
24 are converging, all of them are converging, and they're
25 converging on one week and one day. And that arrives.

1 His father is in the hospital. There's a
2 confrontation with Jeannie. Alex tells her -- he manages
3 to ward off the conversation by saying Mr. Randolph is
4 terminal. He, of course, denies that, so I guess Jeannie
5 is lying on him, too, but that's what she says happened.
6 He's working on the boat case, and then the tragedy
7 happens, and it worked. It's not the only reason, but it's
8 part of the reason. The pressures on this man are
9 unbearable, and they were all reaching a crescendo the day
10 his wife and son were murdered by him, all on that day.

11 And in the wake of this, everything changes. People
12 stop asking about these things. The community has changed,
13 like you would expect. People were concerned. They're
14 scared; they're worried. And everything has changed. The
15 backlash from the boat case has gone away, and all of that
16 has changed, and that's why Mark Tinsley thought his case
17 was over.

18 This may seem like, really? But who would understand
19 this better than him? This is exactly the kind of work he
20 did. His skills as a lawyer were understanding the
21 emotional value of a case, understanding the sympathies of
22 the case. If you have a sympathetic plaintiff and an
23 unsympathetic defendant, that is -- in the civil courts,
24 that's a big case. But if those get reversed, if those
25 change, if all of the sudden your defendant is more

1 sympathetic, it changes it. It changes the entirety of
2 what Mark Tinsley's position on this case was for the Beach
3 family, that Alex was going to have to pay money, and
4 that's what he told you from the stand. He said the
5 second -- if Alex had been the victim of some
6 unsuspected -- or some random vigilante, the entirety of
7 the case has changed, and I'm not taking the same position.
8 I'm not trying to demand that level of recovery.

9 He gets his 750. Well, he gets 600 of it. He
10 ultimately gets the 750 loan. He convinces Chris Wilson.
11 That heads off *Faris*. It's pretty much the main thing he
12 did after this was to make sure he could get that money, or
13 enough of it to Chris Wilson, so that he would send an
14 email to the law firm saying everything -- hey, everything
15 is cool. I've got it. It's all good. And that's what the
16 law firm thought. It's the main thing he did in the wake
17 of the murders of his wife and son was he made sure to stay
18 again one step ahead of the game because he had more time
19 now. He had time he didn't have on June 7th, but he had it
20 now, and that's the first thing he did. It's the first
21 thing he did. It's the main thing he did was keep the
22 hamster wheel going.

23 I know it seems like a lot, but you have to consider
24 the unique circumstances of this particular man. This
25 particular man who has proven over and over again that he

1 will do anything to keep that hamster wheel going, and to
2 avoid accountability, and he's been doing it for over ten
3 years. It just finally reached a point that he'd never
4 reached before.

5 Of course the hearing on the motion to compel gets
6 canceled. Who would go forward with that in the wake of
7 what's happened? That goes away. It doesn't -- I think
8 you heard from the testimony up there it doesn't get
9 rescheduled until long after everything crashes and burns
10 in September. Then it'll get rescheduled in the wake of
11 this. He doesn't have to worry about that either and the
12 potential that had for exposing who he was. Because the
13 second somebody looks at this accounts, the second his own
14 partner, Danny Henderson, looks at his accounts as -- in
15 representing him, says, well, let me see them, he can't do
16 that. He can't do that. He can't even show them to his
17 own partner because what's going to happen? They're going
18 to see it, too. He can't let that happen or everything
19 falls apart and he loses everything, including that legacy
20 that you heard from individuals up there that's so
21 important to him, more important than anything.

22 I'm not going to go through all of this, but this is
23 the timeline, and you can see as we -- and I'll let y'all
24 look at that, but you can see how this developed. How this
25 hamster wheel continues. How he always has to be one step

1 ahead of the game.

2 You know, we've talked about the Red Beard and the
3 Zero United. Those are the land deals that went bad. They
4 get charged off, but yet, you know, Palmetto State Bank is
5 still dealing with him. He then appoints Russell Laffitte
6 a conservator and borrows up to \$1 million dollars from the
7 Plyler girls' accounts without their knowledge. And then
8 he has to steal money from the *Badger* case where he's
9 already making a huge amount of legal fees. He has to
10 steal money from the *Badger* case to pay off the Plyler
11 girls before they turn eighteen, and then there's an
12 accounting of that.

13 And then he opens up the Forge account, and it
14 continues. 338,000 from Deon Martin, Johnny Bush, Rico
15 Santis-Cristiani, 225. He's maxing a million dollar line
16 of credit. The only way to stay afloat is to beg, borrow,
17 and steal. He's maxing out a million dollar line of
18 credit. He's steals some more money, but he's right back
19 to where he was. March of 2018, he has not maxed out not
20 only a million dollar line of credit, but also a \$600,000
21 line of credit. A lot of credit, almost like a credit
22 card, maxed out. Then the boat crash happens, and look
23 what happens to the figures. 3.7 million, 1.1 million,
24 \$1 million. And then you have the double homicide. This
25 is some of the exhibits. This is some of the exhibits.

1 This is -- as you recall, there'll be statements, and
2 they're in evidence, showing the defendant's assets on
3 June 7, 2021, and the reds are his liabilities. That one
4 is green but it's negative. And then over here, that's
5 where he was a couple of months later. He borrowed
6 \$750,000 and still ended up \$347,000 in the hole, which
7 part of that had to cover. I think it was called the most
8 generous overdraft policy ever conceived because -- I mean,
9 in fairness, though, he did get a \$5 overdraft charge from
10 it, but anyway.

11 All right, what else do we have? Because we talked
12 about a lot of things about the finances, and I know that
13 there's been a lot of that, but it's really the only way to
14 understand all the things that were affecting this middle
15 aged, outwardly successful, professional man who had all of
16 these pressures on him like no one had ever seen. Well,
17 we've got the pills.

18 He claims he's had a pill addiction for twenty years,
19 and what does he say about that? He says it makes him
20 paranoid; he says it makes him agitated. His says opiates
21 give him energy. Use your common sense about that. But he
22 also says, and he even said this in the telephone interview
23 after the side of the road that withdrawals will make you
24 do anything, anything to get rid of them. That's common
25 sense as well. We know how powerful opiates can be, and

1 how the addiction of opiates can be extremely powerful.
2 The withdrawals, not being dope sick can be extremely
3 powerful.

4 But he's also saying he's taking 1,000 milligrams a
5 day, and he's trying to blame all of this theft on that.
6 But that's not what these records reflect. They reflect an
7 insatiable desire for money, and a hamster wheel that's
8 been going on for a long time, and you don't really see the
9 escalation from his drug dealer until March of 2021.

10 I would ask you -- also, one of the tenants of juries
11 is common sense. That's what you're here for is for an
12 individual and a collective common sense. Common sense.
13 1,000 milligrams a day, does that sound survivable? He sat
14 there on that stand and told you that's what he was taking,
15 and as we're going to go through this process, we're going
16 to talk about what he said on the stand and how many times
17 on the fly that he looked you in your eyes and didn't tell
18 you the truth. He's very good at it. His own partner said
19 that. He's very, very good at it.

20 I'd leave it to you to decide whether a thousand
21 milligrams a day is survivable with opiates. And if it
22 was, that you could still engage in work, have a successful
23 practice, and then on top of that engage in these complex
24 conspiracies to steal and fool everyone, and live a life,
25 and how people outwardly think that you're, you know, who

1 you profess to be in public if you were taking 1,000
2 milligrams a day. Does that make common sense? I submit
3 to you, ladies and gentlemen, it doesn't.

4 I have no doubt that he was taking opiate pills, but I
5 think he looked you -- and I would submit to you to decide
6 whether or not he looked you in the eye and claimed an
7 amount that's inconsistent with whatever else we know about
8 this man. And it's really inconsistent with the
9 survivability as a matter of common sense. He can never
10 function at the level he's been functioning, keeping up
11 with these pressures, staying one step ahead for over a
12 decade if he was taking that much dope, I would submit to
13 you. Just one other lie that I would submit to you is a
14 lie that he's trying to get you to believe to feel
15 sympathetic for him, as if the dope was the cause of the
16 money and the cause of his issues, when the reality is it
17 wasn't. This had been going on for a long time, and the
18 finances proved differently.

19 But what else about this? You've seen the interviews.
20 And we're going to play some clips of these interviews, but
21 I'm not going to play them all for you again. You've
22 watched them, but if you have any question, go back and
23 watch them. He talks about being paranoid. Watch those
24 interviews with -- when he's with David Owen. He doesn't
25 look like he's withdrawing from any drugs. His responses

1 are appropriate. He's not displaying any paranoia. He's
2 smooth. He's focused on the events. He's focused on
3 trying to get information about the case from law
4 enforcement officers, which is interesting in its own
5 right. Why is he so focused on that?

6 And in Savannah, where supposedly he was detoxing, he
7 sat down, as you've heard the testimony, with a composite
8 sketch artist and went through the whole process to come up
9 with this picture, which I swear is not me. How do you do
10 that? How do you do that if you're on that much dope?
11 So, why did he tell you that, ladies and gentlemen? Why
12 did he look you in the eye and tell you that as he sat
13 there on that stand trying to explain what was going on?

14 It's interesting, also, that in one of the interviews
15 with law enforcement -- there were three interviews:
16 June 8th, June 10th, and August 11th -- before we get to
17 the side of the road that he mentions that Paul was a
18 little detective. And that's very interesting for him to
19 mention that because you heard from Marian Proctor,
20 Maggie's sister, that Maggie called Paul that, the Little
21 Detective, specifically in reference to Paul paying
22 attention and trying to keep Alex from taking pills. Why
23 would he bring that up? That's an interesting thing to
24 bring up because that was what that was in reference to.

25 And what do we know? We know about in May if we talk

1 about all of the pressures that are coming upon him, all of
2 these financial things that we've talked about, this
3 exhausting hamster wheel that's going on forever, the need
4 to beg, borrow, and steal to stay one step ahead and he's
5 running out of options there, on top of that we know in May
6 that Paul sends a text to him saying Mom found some pills.
7 We need to talk. Mom found some pills, and we need to
8 talk. Another pressure from Paul and Maggie on him. And
9 if you look at the texts the weekend of the ballgame on the
10 June 7th, and those are in evidence, Alex is not at the
11 game. And he's texting back and forth and Maggie is, like,
12 don't come if you feel bad. And he's, like, well, they're
13 making me -- you know, I think I can get a late checkout.
14 And then he's, like, at 1:00 they made me leave. I submit
15 to you it's a reasonable inference they were on to him this
16 time. They were watching him like a hawk. Opiates, the
17 most powerful of withdrawals, and everything is coming to a
18 head, including this as well.

19 He's run out of money. Running out of options.
20 Doesn't get paid in any significant way until December.
21 Already stole the Faris fees and spent that money in two
22 months. Has an expensive pill habit. And accountability
23 and consequences will do everything -- undo everything in
24 his life, everything that is his self identity,
25 everything -- the only things that he cares about. Because

1 he doesn't care about lying to his partners, and his
2 family, and his friends, and his clients. If it will delay
3 accountability for him, he'll do it in a heartbeat, and all
4 of that is about to be undone.

5 THE COURT: Are we at a good stopping point?

6 MR. WATERS: Yes, sir, Your Honor.

7 THE COURT: All right. Ladies and gentlemen, we'll
8 take one hour and 15 minutes for lunch. Please do not
9 discuss the case.

10 (The jury left the courtroom.)

11 THE COURT: We'll be in recess one hour and 15
12 minutes.

13 (A lunch break was taken.)

14 THE COURT: You may bring the jury.

15 (The jury returned to the courtroom.)

16 THE BAILIFF: The jury is present, sir.

17 THE COURT: Thank you.

18 You may continue.

19 MR. WATERS: May it please the Court, Your Honor?

20 THE COURT: Yes, sir.

21 MR. WATERS: All right. I hope everybody had a good
22 lunch.

23 Motive, means, opportunity, guilty acts, that's the
24 basic way to determine identity. So, let's talk a little
25 bit now about means, the tools to commit the crime.

1 The family weapons were used to commit this crime, and
2 this is forensic evidence that was presented to you. First
3 of all we'll talk about the Blackout, and you've heard
4 testimony that there were two Blackouts purchased in
5 December of '16, and that one went missing around Halloween
6 of '17, years prior to these murders, and that a
7 replacement without a thermal scope was bought in April of
8 2018. Three Blackouts that the defendant purchased, he
9 could only account for one of them, and its this third
10 Blackout which is the one that's at issue.

11 You heard from Paul's friend, Will Loving. And first
12 of all let me say this. You heard the defendant in his
13 various statements, and he's very concerned about saying
14 that there's no -- they didn't have a Blackout. There was
15 no Blackout along with them, even though he slipped up once
16 and said yeah, we were out looking for hogs. And you heard
17 from his law partners that do the same thing saying, yeah,
18 you could look for hogs in the daytime. Very, very,
19 concerned early on in his statements in saying they didn't
20 have a Blackout. They just had a .22 pistol. And he also
21 said -- eventually he was, like, well, I think I replaced
22 it. Well, I guess I replaced it. I'm certain I replaced
23 it.

24 If you listen to his various statements, very vague
25 and fuzzy about this third Blackout until the friends,

1 Paul's friends, who one of whom -- both of whom testified,
2 but Will Loving in particular, and what did Will Loving
3 say? The defendant said the gun went missing around
4 Christmastime of 2020, but Will Loving said no, I was with
5 Paul. I was with Paul in turkey season, which is in the
6 spring. I was with Paul in turkey season, and we sat out
7 at the steps right outside the house that y'all went to
8 today, right on that side entrance that goes into the gun
9 room. And if you look down, you can see how they were
10 digging a pond and how you could fire down in that area,
11 and they set up some targets to sight it in. And we were
12 shooting that other gun. We were shooting that other gun,
13 that replacement gun, and it had a red dot sight on it.
14 Not a thermal scope but a red dot. A red dot, which is not
15 good at shooting at night, but they were shooting it and
16 sighting it in with the red dot, the tan gun. He was with
17 Paul while they were shooting that gun right there.
18 And what did Jeff Croft, who testified before you, find
19 right there? Weathered cases, or casings. Weathered cases
20 right where Will said and he Paul were shooting that gun
21 just a couple of months prior to the murders.

22 S&B 147 grain Blackout rounds, and those rounds and
23 empty boxes, and the pictures were in evidence, and the
24 rounds are in evidence, were found all over that property.
25 S&B 147 grain Blackout. There were full clips found, there

1 were empty boxes found, and there were also cases found,
2 S&B 147 grain Blackout rounds found across the street at
3 their shooting house. Two separate locations on the
4 property. But what's really important, again, goes back to
5 what Will said: I was with Paul when he shot that
6 replacement gun right there. Right there.

7 And you heard the forensic scientist Paul Greer
8 testify that the six cases, Items 2 through 7, the six
9 cases found around Maggie that killed her were loaded into,
10 extracted, and ejected through the same firearms that fired
11 those weathered cases right outside the door where y'all
12 went to today and at the shooting range across the street.

13 A family Blackout killed Maggie. It was present just
14 a couple of months prior to the murders, and it's gone now.
15 It's gone now. The family weapon the defendant cannot
16 account for killed Maggie.

17 But what about the shotgun, the 12 gauge shotgun that
18 was loaded with one Federal Double Ought Buck, and one
19 Drylok Number Two Steel Shot? Well, first of all you heard
20 that the two weapons that Paul often favored and often
21 carried were this shotgun right here and the Blackout.
22 Those were his two guns, his favorite guns aside from his
23 deer rifle. The defendant had that gun with him when
24 Daniel Greene, the first deputy on the scene, showed up.
25 And shotguns, as you heard, are a little bit different than

1 rifles. And the conclusion there was was that the two
2 fired shells that were inside the feed room that killed
3 Paul had class characteristics similar with that Benelli
4 Super Black Eagle Three but insufficient individual,
5 identifying marks to either match or exclude it, that
6 shotgun right there.

7 But what did you -- else did you hear about the
8 shotguns? Paul had this Benelli Super Black Eagle Three.
9 That was his gun, camo print, camo strap. Nolen Tuten,
10 Nathan Tuten, Will Loving, Rogan all identified that as
11 Paul's gun. It's the one that Alex had. It's got Maggie's
12 DNA and blood on the receiver, you heard from the DNA
13 expert, and it was loaded with a 12 gauge and a 16 gauge
14 misloaded round. What else did you hear? You also heard
15 about the Super Black Eagle Two, and you heard from Nolen
16 and Nathan that this was Buster's gun. This is the Super
17 Black Eagle Two that had the Mojo sticker on it, and that
18 was recovered during SLED's search of the residence the
19 next day.

20 But what else did you hear? You heard from Nathan and
21 Nolen that the defendant's favorite gun was a Super Black
22 Eagle One. You remember Nathan going through each one of
23 these guns and how knowledgeable he was as to the
24 differences between them? SLED searched Moselle for every
25 12 gauge. No Super Black Eagle One. Family weapons.

1 Family weapons killed them. And on top of that, just like
2 the S&B 147, while not as much but they're in evidence,
3 Federal Double Ought Buck, and the Winchester Drylok Steel
4 Two Shot, rounds were recovered at various locations on the
5 property. What does that mean?

6 At the start we talked about motive, means. The
7 defendant had the means to commit these crimes. At the
8 beginning of the case, I talked to you about some of the
9 evidence that you would hear, and I held up my cell phone,
10 and there's been a lot of that evidence, but the last
11 witness you heard in the State's case in chief was Peter
12 Rudofski, and he went through that timeline. What does it
13 show? Motive, means, opportunity. Opportunity to commit
14 the crime. And what does this timeline show? These are
15 all of the information, the various sources of information
16 that were in this timeline, and let's look at what it
17 shows.

18 The first thing right here is that the defendant
19 arrived at Moselle at 6:42. And I'll say one thing.
20 You've heard a lot of testimony about what he said about
21 times: what time he got home, what time he went to the
22 office, how long he was at Alameda. Certainly people can
23 have some variability in assessing that, but he almost
24 never was right. Almost never was right.

25 6:42, he arrives at Moselle. Paul, according to his

1 extraction, gets there about 7:04. At about 7:03, you see
2 the defendant, steps registering on his phone. And then
3 over the next 30 minutes or so we see a symmetry, general
4 symmetry between the steps between Paul's phone and Alex's
5 phone as he described walking the property. At 7:39, we
6 have creation of the Snapchat video that had the clothes on
7 it. When that ultimately was recovered, and you saw the
8 interview, it was shown to the defendant who had provided
9 his clothes that night, and the first time then he started
10 talking about changing his clothes, and we'll talk more
11 about that later. Again, 7:55 to 8:05, we have some
12 symmetry with the steps. We have Paul Murdaugh's battery
13 life, and you hear from the experts that have reviewed
14 Paul's usage that like many kids his age, he's constantly
15 flirting with it being low. That didn't stop him from
16 using that, and you'll see that in the evidence in this
17 case as well. 7:56, again, that's when Paul sends the
18 Snapchat to his friends. And then at 8:08, we see Paul
19 leave the kennel area at 8:06, and 8:08 make his way down
20 to the residence. 8:05 to 8:09, around that time that Paul
21 is getting here at 8:08, that's the last step activity on
22 Alex's phone, and it's the last step activity until 9:02,
23 which we'll talk about in a minute.

24 Alex's phone pretty much goes with no activity for
25 that time period. And also he has no cell activity from

1 6:52 to 9:04, which is right in that time period we'll talk
2 about in a little bit.

3 So, eating dinner. You heard the defendant talk about
4 eating dinner. Paul was at that residence, if you look
5 right here, from 8:14 down to 8:35. And, again, that
6 timeline exhibit, there's the big one and then there's the
7 condensed one, and all of that is in there in evidence for
8 y'all to look at. He's at that residence from 8:14 to
9 8:35.

10 Now the defendant, again despite having a photographic
11 memory -- a new photographic memory about things that he
12 told y'all that people are hearing for the first time --
13 still can't remember specific things about Maggie's
14 activities as to when Maggie arrived, as to what they
15 talked about. He can remember dropping his phone down in
16 the console, but he can't remember things like that. He
17 wants to remember things that help him try to explain to
18 you why he never told the truth about maybe the most
19 important thing he could tell law enforcement, but he can
20 remember very specific details. He still gets this wrong.

21 When she arrives at 8:17 at Moselle, they're already
22 there. And how do we know that? Because her cell phone
23 disconnects from her Mercedes at 8:17, and that's when she
24 starts showing steps. And Paul, what's he doing? He's
25 still using his phone like always. We see the battery

1 life, but he's still sending snaps, receiving snaps --
2 bless you -- he's sending to his friends, all of these
3 friends right here. He's receiving these snaps all during
4 that time from 8:17 to 8:30, continuing to communicate with
5 his friends using his phone like always. And then what
6 happens? About 8:30 time Maggie's phone registers some
7 steps, and consistent with that, consistent with her and
8 Paul going down to the kennels, riding down to the kennels,
9 we see Paul's Mora phone start showing steps. And then
10 down here at 8:38, he's in that kennel area where those
11 dots are. And if you look at that particular slide from
12 8:38 to 8:44, that's going to be the last GPS reading on
13 Paul's phone, 8:44.

14 You heard from Rogan, and you've heard from Rogan as
15 it references this timeline. And Rogan tells you, and told
16 you from that witness stand, that he was having a
17 conversation with Paul about Cash and the dog's tail. They
18 were having an active conversation about that. Paul calls
19 Rogan at 8:40, and they're talking about it, and Rogan says
20 send me a FaceTime, but if it doesn't work, send me a
21 video. At 8:44, 4 minutes and 14 seconds, we have right
22 here the FaceTime but it only lasts 11 seconds, and then at
23 8:44:55 that's when the kennel video was recorded, the last
24 50 seconds.

25 At the beginning of this investigation, as you'll

1 recall the testimony, they didn't have Paul's password and
2 couldn't get in. And you heard in the defendant's
3 August 11th statement that when he was asked about Rogan
4 saying he may have heard Alex on the phone during this
5 time, he said, well, I'd be surprised if that were the
6 case. Because law enforcement didn't have this kennel
7 video. They didn't have this kennel video until April of
8 2022 when Paul's phone was finally unlocked, and that
9 changed everything.

10 And why did it change everything? Opportunity. Being
11 at the scene of the crime when the murders occurred.
12 Opportunity. And, more importantly, exposing the
13 defendant's lies about the most important thing he could
14 have told law enforcement: when was the last time I saw my
15 wife and child alive.

16 Why in the world would an innocent reasonable father
17 and husband lie about that, lie about it so early? Because
18 he didn't know that was there, and he could always say,
19 well, Rogan must be mistaken. I'm surprised. Not if my
20 times are right is what he said.

21 Rogan told you I was expecting that video right there.
22 That was supposed to be the next thing that happened. Send
23 me the video because we were worried about Cash, the dog's,
24 tail. He talked about how his girlfriend was going to call
25 a veterinarian, or she had some association with one.

1 There was an active conversation going on right then and
2 right there. And what's going on still? Paul is still
3 also texting his friends.

4 You might recall that in opening statement the defense
5 counsel said, oh, he was texting after that video for 10
6 minutes. It's not for 10 minutes. It's for barely a
7 minute. Down here, 8:48:58 to 8:49:01, that's the last
8 time that Paul's phone was unlocked. And what do we know?
9 We know that the defendant was there just minutes earlier
10 at the scene of the crime with the victims. 8:49:01,
11 Paul's phone locks. He never sends that video to Rogan.

12 You heard Rogan say that when he watched that video,
13 you heard him say that that's the video I was supposed to
14 receive. That is the video that my friend was supposed to
15 send to me, and he never did. In fact, Rogan responds at
16 8:49:35 and says:

17 See if you can get a good picture of him.

18 Marianne --

19 His girlfriend.

20 -- wants to send it to a girl we know that's a
21 vet. Tell him to sit and stay and he shouldn't
22 move around too much.

23 And even though this is an active conversation with
24 Paul, who you heard from multiple friends was one to
25 respond and use his cell phone, Paul never reads it. Paul

1 never reads it. What happens at 8:49:31 -- or 8:49:01 for
2 Paul?

3 8:49:31, Maggie reads Lynn's response to the group
4 thread about Mr. Randolph, and then her phone locks
5 forever. It was never unlocked again until it was
6 recovered the next day, down here 6/8 at 1:10. 8:49 for
7 both of them.

8 The defendant, after hearing multiple individuals of
9 his family, and friends, and law partners get on the stand
10 and listen to that video and say that's him on that video,
11 got on the stand for the first time and said okay, I was
12 there. He was forced into doing what he does all the time,
13 and that's coming up with a new lie when he's confronted
14 with evidence he can no longer deny. And the only reason
15 he did that, the only reason he did that is because all of
16 those witnesses at that witness stand said yeah, that's
17 him. He's there.

18 Why would he lie about that, ladies and gentlemen?
19 Why would he even think to lie about that if he were an
20 innocent man? Why would he even think about that? But he
21 got on the stand and has told you a story, and we're going
22 to talk about that story in a minute, but his story was was
23 that he didn't want to go down there, and then he went down
24 there, and he went down there really quick and got --
25 carried the chicken and went straight back, and can't

1 remember anything about what he talked about with Maggie.
2 He can't remember their conversation at dinner, but he's
3 dadgum sure about the fact that he got down there and went
4 straight back.

5 But even if you give him the benefit of the doubt, his
6 story can't make sense because that kennel video is 50
7 seconds. It's over at 8:45:45. Even if you give him the
8 benefit of the doubt that he could take care of the
9 chicken, and maybe the fastest dog and chicken chase ever,
10 and put that chicken up and not say a word to Maggie and
11 Paul, and get on that golf cart and drive all the way back
12 to the house, where does that put you? It puts you right
13 at 8:49, at which point he claims he went inside and he
14 managed to dose for a second, but then he's up at 9:02,
15 perhaps the quickest nap ever.

16 It doesn't make sense, ladies and gentlemen. It's a
17 new story to fit facts he can no longer deny, from a person
18 who -- not a single person who was close to him knew who he
19 really was. Not a single person close to him hadn't been
20 lied to by this man. And I will submit to you that this
21 one is the most blatant one yet, and we'll talk more about
22 that in a second.

23 What happened at 8:49? Y'all have been to the scene.
24 That feed room door is probably a bit tighter than this.
25 But you saw the evidence from Kenny Kinsey and all the rest

1 of them that clearly Paul was in the middle of that room.
2 It's a kill zone. There's nobody in there with him; he's
3 in that room. No defensive wounds at all. His hands are
4 down, and he takes that shot, buckshot to the chest. And
5 any person who did that could probably think that took care
6 of business because it's buckshot, but for some reason he
7 was canted this way, and it went through, it was a million
8 to one shot that it didn't kill him. Alex thought it did:
9 Alex, the lawyer; Alex, the prosecutor; Alex, who's
10 thinking through that. We see he's manufactured an alibi,
11 and he's also manufacturing the fact that there's two guns
12 used.

13 But we know, unlike the expert they called from
14 Connecticut where they can't even get ARs -- he doesn't
15 know about people riding around on property. He doesn't
16 know Paul and the two guns he likes to use. He doesn't
17 know about this family and how common those guns are
18 together. Says, well, his only conclusion is, oh, it
19 wouldn't be practical for somebody just to fire out the
20 clip. But this is him. This is Alex the prosecutor, the
21 lawyer. He's thinking through this. He's thought this.
22 He's going to use two guns because it's going to confuse
23 people that perhaps there were two shooters. But again, it
24 doesn't make sense. Two family weapons? But he thinks
25 Paul is shot.

1 And you heard the testimony that Paul appears in the
2 feed room doorway. Is Alex putting down that shotgun to
3 pick up the Blackout and is startled by Paul, and that's
4 why the angle is like that, and catches Paul like that, and
5 it goes up into the ceiling, as you've heard the testimony
6 from Kinsey, and blows his brains out?

7 And what happens with Maggie right here? We see
8 activity on Maggie's phone. You heard about sandal prints.
9 You heard from Kenny Kinsey about the mark on her leg from
10 the Polaris over there by the overhang next to the feed
11 room. You've seen the diagrams and the crime scene photos
12 that all of those cases are in that area between the
13 doorway and the feed room and where Maggie was found. You
14 heard that Maggie had no defensive wounds.

15 You also heard Paul had stippling from that first
16 shot, a close range shot, with no indication that he
17 detected a threat from the person who fired that weapon.
18 And why? Because it was him. The same with Maggie.
19 Because Maggie sees what happens, and she comes running
20 over there, running to her baby. Probably the last thing
21 on her mind, thinking it was him who had done this. She's
22 running to her baby while he's got -- picked up the
23 Blackout and opens fire at close range, again with no
24 defensive wounds. And she takes those two shots that you
25 heard Dr. Riemer say were parallel, and it crumples her

1 over, and those cases, you can see them move around, and
2 takes that shot that goes through her, and she goes down
3 flat, and then there's the shot in the back of her head.
4 Malice.

5 Is that malice, ladies and gentlemen? Is that malice
6 to do that? Is that intentional harm to another with a bad
7 intent, with an evil intent to do those things? Clearly, I
8 submit to you, clearly it's malicious. Clearly it's
9 malicious. She was running to her baby. Heard that shot
10 and was running to her baby, and she got mowed down by the
11 only person that we have exclusive proof was at that scene
12 just minutes before, and who lied about that very fact
13 until he could no longer do it to you last week.

14 Alex told you he went down there in the golf cart.
15 We'll talk about this in a little bit, but they had their
16 expert come up here with the two 5-2 people and all of the
17 rest of it. He's sitting in the golf cart, but he comes up
18 in the golf cart, but what we don't see, as I said before,
19 is any activity on his phone until 9:02.

20 If the crime occurred around 8:49 to 8:53 down there
21 at the feed room -- State's Exhibit 516, it's just a
22 diagram. Remember what Roger Dale Davis did about the
23 kennels and the hose there and how it wasn't put up the way
24 he would put it up? If you're going to wash off real
25 quick, what better place to do it? The water, the pictures

1 of the water in State's 199 and 190, it wouldn't take long
2 to strip down and wash yourself off, get in that cart, and
3 head back to the house.

4 And then at 9:02, the defendant over there, who
5 wouldn't even admit until forced to that he was even at the
6 scene, all of a sudden he is as busy as he has ever been.

7 9:02 to 9:06, 283 steps. 9:03, we see the system start up
8 on the car, and that could mean that he's close by the car.

9 Has he returned with Maggie's phone and placed it in that

10 car? And then what we do we see from 9:02 to 9:06? Not

11 only is he 283 steps in that 4 minute period, but he is

12 making calls like crazy. And I asked him, I said what were

13 you doing? What were you doing? And even though he has a

14 photographic memory about things that he thinks will

15 convince you, he could not answer what he's doing during

16 this 4 minute period that is so illustrative of what we're

17 talking about here. That for 4 minutes he is not only

18 going 283 steps -- and this is a defense exhibit, Defense

19 156, 283 steps. And they put in the distance. You heard

20 the distance isn't as accurate, but it's a -- it

21 illustrates the point: that's 208 meters. Meter, you know,

22 roughly is a yard, a little bit more, a little bit less, I

23 don't remember, but let's say it's 600 feet. That's a lot.

24 And he couldn't remember what he was doing. I asked him,

25 had you been on a treadmill? Were you doing jumping jacks?

1 What were you doing at the same time you're calling all
2 these folks?

3 Why is he calling multiple times? We can see right
4 here he calls Maggie, he calls Randolph, he calls Maggie
5 again, all in that 4 minute period where he's moving
6 around, but he couldn't remember what he was doing. Just
7 getting ready. Is the prosecutor, the lawyer,
8 manufacturing his alibi? Because he knows he's got to get
9 to Alameda quick. He's got to compress those timelines, and
10 that's exactly why he knew to lie about being at the
11 kennels to start with. He's got to compress timelines so
12 that it would convince whoever down the road that he
13 couldn't have done it. He's got to compress them, and
14 that's why he's doing all of that right then and there.

15 System startup, 9:05:56 on the Suburban. And then
16 this is interesting, Maggie's phone has that orientation
17 change to portrait 2 seconds before Alex's second call goes
18 into her phone. If it's some random vigilante, some random
19 vigilante who knew to hide out there and counting on family
20 guns being there, did he have ESP? Did he have ESP to move
21 that, or was that Alex turning the phone as he got to the
22 Suburban checking, as he manufactured his alibi, that it
23 was coming through?

24 And we saw how quickly out of the gate when law
25 enforcement arrived and in his first interview how he's

1 immediately referring to his phone. And besides that,
2 you've heard about Alex, you heard from witnesses he went
3 down to the kennels but he didn't take his phone. Is that
4 also the lawyer and the prosecutor making sure his phone
5 was not with him when he went down there? You heard
6 testimony it would be unusual for him not to take that
7 phone down to the kennels. And then he gets underway with
8 this call right here, too. All of those calls, all of
9 those steps when his phone finally goes active just minutes
10 after he was at the scene with the victims and he lied
11 about it, and he's so busy.

12 But let's take him at his word. Again, why in the
13 world if he's calling her so much? If he's so busy and so
14 concerned to call her as many times as that in a 4 minute
15 period, why would he not just drive by the kennels? Why
16 would he not just drive down there and say, hey, hey,
17 Maggs, I'm going to Alameda. What you guys doing? Hey
18 Paul, you want to go? Why is he so busy and making so many
19 calls but doesn't drive the less than a minute down there
20 to see what they're up to? Why would he not do that?

21 And you've heard testimony from Marian. You even
22 heard it from the defendant's on mouth about whether or not
23 Maggie was going to go with him to Alameda, that Alex had
24 actually asked her to come home that night, which he
25 denies, and said in his statement that he found out later

1 that that was the case. But you saw the text from Blanca,
2 and you heard from Marian that Alex wanted Maggie to come
3 home that night, and made sure of it. Malice. With all of
4 that, why would he not just turn and drive down there? He
5 was just there in a golf cart. Why would he not drive down
6 there? Why is he so anxiousness to have missed calls with
7 her and he was just there and not drive down there?

8 About the same general time period that he lied until
9 he tried to tell you what he told you from the stand last
10 week, right here the Suburban connects to the -- Alex's
11 iPhone. He calls Maggie at 9:06:52, and he's getting in
12 the Suburban right at that time. Maggie's backlight goes
13 off from 9:07 to 9:31. And you've heard the testimony from
14 the various experts about the backlight, and then he leaves
15 Moselle Road at 9:07:06. All of this is fitting together.
16 He's on the move. At 9:08:36, he's right here doing
17 42 miles an hour, and there's Maggie phone location, and at
18 9:08:42 he's just passing. And at 9:08:58, just 20 seconds
19 after, he's almost at that location, he texts Maggie's
20 phone and says: Going to check on M, be right back. That
21 text was unread.

22 Now, there's been a lot of discussion from all of the
23 experts about the backlight issue, and every single one of
24 them said that there's a lot of variables about that light
25 coming on. Every single one of them said it's not going to

1 record an orientation change unless that light is on. And
2 you heard from each one of the experts about those
3 variables, and about the fact that there's no guarantee
4 that it's going to come on or not come on. And you heard
5 from Paul McManigal about that issue, and they cross-
6 examined him about that and all the rest of it, but it's
7 just a common sense determination about how iPhones work,
8 about how they work.

9 That Raise to Wake feature is set for actual --
10 somebody lifting it up in the normal course. It is not set
11 to respond necessarily to violent motion, like flipping it,
12 and every single expert testified to that. Every single
13 one of them did. And then besides that, you would have to
14 accept the fact that Alex is driving by just moments prior
15 to that time. All of this, all of these circumstances
16 would have to go the other way of the reasonable inferences
17 in this case.

18 Paul McManigal got up there and testified as to these
19 issues, and as to the fact that there's no guarantee, in
20 fact, more likely than not, that the -- if a phone is
21 violently thrown or flipped or frisbee'd or whatever, it's
22 not going to light up, and that's consistent with what
23 every or expert said.

24 9:07 to 9:22, the defendant is on the way to Alameda.
25 And you heard testimony from Mr. Rudofski about this, from

1 Agent Rudofski. He's hitting 74 miles an hour at night on
2 that particular route. What's he in a hurry about? That's
3 faster than he drove to work. Why is he in a hurry?
4 Because he knows he has to compress that timeline. And
5 then along the way he's manufacturing the alibi by making
6 these short calls. 60 seconds. He calls Chris Wilson. He
7 calls John Marvin. Chris Wilson calls him back. He's on
8 the phone the entire way. Does he say to any of them, hey,
9 I can't get Maggie on the phone? Does he say anything like
10 that? They're very short. And he doesn't talk about much.
11 And then we get down here at 9:20. There's a 131 second
12 call, which means that call is over at 9:22:45, and that's
13 also when we see the vehicle go into park. That's when we
14 have the arrival at Alameda as well.

15 And you heard from defense witnesses that, well,
16 people would park around back right there. Okay. It's
17 also, though, near these structures. There's that line
18 right there. But what do we see? From 9:22 to 9:32, we've
19 got 195 steps taken. We have him calling Libby Murdaugh,
20 which would be calling the house, 2 minutes later. And
21 then from there we have at 9:31 and 9:32, we have system
22 startups on the Suburban, which you've heard from the
23 experts could be from having that remote key in your pocket
24 and walking near the car. 9:22 to 9:32 is the steps, and
25 9:31 you've got two system startups.

1 And what did you hear from Shelley? That he called
2 but it still took a number of minutes before he came in.
3 Well, that's about 6 minutes right there. Meanwhile,
4 what's he so busy right there at Alameda?

5 Meanwhile, Rogan was trying to call his friend to no
6 avail. He tries to message Maggie: Tell Paul to call me.
7 Neither one of them can respond.

8 Still a busy guy at Alameda. 9:35 to 9:45, we've got
9 60 steps. We've also got another -- at 9:36 at the
10 beginning of that time period another hit on the system
11 startup. 9:36 to 9:41, down here, about a 5 minute period,
12 we've got another hit. And then at 9:43:05, the Suburban
13 moves out of park. He's not there very long. And he's
14 moving around a lot and he's hitting off that car while
15 he's at Alameda.

16 He told law enforcement multiple stories about his
17 trip there. You heard Ms. Shelley Smith talk about that.
18 You heard her talk about him trying to tell her how long
19 he'd been there. He says he was just trying to tell her
20 the truth, but that's not how she felt. And Blanca didn't
21 feel the same way when he tried to talk to her about what
22 he was wearing that night, both of these being people
23 that's worked for that family for a long time. But he's a
24 business guy during all of this.

25 Leaving Alameda, we have a pause. 9:44 and no seconds

1 to 9:44 and 54 seconds, and that's during the time period
2 that Alex calls that phone of Maggie's again. This is the
3 time period where he remembered -- because I asked him on
4 cross and he remembered very specifically about his phone
5 falling down in the console and that whole story.

6 Is that true, ladies and gentlemen? Or is he coming
7 up with some details on the fly and he can't remember more
8 important things, like what was the last conversation you
9 had with your wife and child when you jetted down to the
10 kennels and back? What did y'all talk about at dinner?
11 What were you doing from 9:02 to 9:06? Those are questions
12 he doesn't want to answer. But would a reasonable person
13 remember those things? Would they not replay in their mind
14 every day the last conversations that they had? Why would
15 you remember that console story? Because he lies
16 convincingly and easily, and he can do it at the drop of a
17 hat, and you've heard testimony about that.

18 He's been doing it to all of the people who trust him
19 for years, and he did it to y'all. He's manufacturing an
20 alibi. He's smart. He's a good lawyer. His hand --
21 family has a history of prosecution; he understands these
22 issues. That's why this case is a case that had to be
23 figured out this particular way because he knows what to do
24 to try to prevent evidence from being gathered. And if you
25 listen to his statements again and listen to the questions

1 he asks, he's asking questions like that and he's trying to
2 figure out what do the police have. What do they know?
3 He's a prosecutor trying to manufacture his alibi.

4 And we see this again because Paul -- he sends a text:
5 Call me, babe. Of course, none of that is read or
6 responded to. And then at 9:52:15 he calls Chris Wilson:
7 Call me if you up. Call me if you up. And Chris calls
8 back, and they chat for about 2 minutes, including the
9 connection time. 2 minutes. And what does Chris Wilson
10 say? Well, he says it was a normal conversation. Well, of
11 course it is with this guy. He's convincing.

12 But what does Chris say? The only thing that they
13 talk about was Chris bringing up some case then, and then
14 Alex was, like, hey, I've got to go. I'm at Alameda. Did
15 Alex say, hey, I'm trying to get home, I can't get Maggie
16 on the phone, I've called her, like, six times, Paul won't
17 answer either? Did Alex say -- he said: Call me if you up.
18 Did he say -- did Chris say that Alex said I've got to ask
19 you a question, or let's talk about this? No.

20 Chris brought up some case and it was mundane. It was
21 mundane. It's manufacturing an alibi. He's calling
22 anybody who will answer the phone for these short
23 conversations, and it's the first -- one of the first
24 things out of his mouth on the first interview: look at my
25 phone. I called this person, I called this person, I

1 called this person, I called this person. He's
2 manufacturing this alibi.

3 Also throughout all of this, all of this relevant time
4 period, you see from the Dylan Hightower extraction, and
5 you'll see that over and over again, all of these call logs
6 that are deleted from the extraction, they're deleted,
7 which occurred on June 10th. What's up with that? On the
8 way back -- and these are Defendant's Exhibits 141 and 142,
9 -- rolling pretty heavy at 75 to get there, and I'm sure
10 the defense will point out that that 80 miles an hour was a
11 peak. Still running pretty good there. What's he in a
12 hurry about in the dark doing 80 miles an hour? At
13 9:51:42, rolling 80 when he texts Chris: Call me if you're
14 up. Hits peak speed when he's texting that.

15 10:01, he arrives at Almeda, and this is going to be
16 important. Rogan, of course, is trying to call Paul, and
17 he texts Paul: Yo, which is unread, but hits Paul's phone.
18 And then he gets to -- it says Almeda, sorry about that.
19 That's obviously back to Moselle. He gets there, and he's
20 shifting in and out of park from 22:00, which is 10:00, to
21 10:01:43. He's calling Maggie at 10:03:58. And then at
22 10:05:06 he leaves for the kennels. At 10:05:57, he
23 arrives at the kennels about a minute later. You can make
24 it in a minute in a Suburban. How long is it going to take
25 in a golf cart? 10:05:57, he arrives at the kennels, and

1 10:06:14 is the 911 call.

2 Now, there's a lot of back and forth with him about
3 that, but in his statements with what he told his law
4 partners that he went in great detail over about his
5 activities that night, including lying to them about ever
6 going to the kennels, he was very clear that he got out of
7 the car and went and checked Paul and Maggie. One time he
8 said to see if they were breathing, another time to say he
9 checked the pulse. And you've seen the horrific injuries
10 they suffered. 19 seconds. Is that enough time for a
11 surprised human being to come across that scene and process
12 what they are seeing? Get out of the car, go over there,
13 check both of those bodies, and then call 911. He's
14 changed the story now, yet again because he's confronted
15 with this evidence. The reason why it's so quick, the
16 reason why it's so quick is because he knew exactly what
17 scene he was going to find. 19 seconds.

18 During that 911 call, and you could hear it on the 911
19 call, he leaves for the residence from 10:11 to 10:14, and
20 you can see the map points on there, and those are the
21 speeds on the Suburban on those trips. It took just under
22 a minute doing 35 and 30 miles an hour. Think about that
23 when you go back to his story about a casual trip down to
24 the kennels in the golf cart and you look at his times that
25 he's trying to convince you of.

1 10:17, he gets off the 911 call. He calls Randy; he
2 calls Randy again. He calls John Marvin. And then we see
3 at 10:20 and 8 seconds, Paul's phone reflect that auto lock
4 thing. That could be, as you heard from the testimony, it
5 not recognizing a face. And this is interesting because
6 we'll see over the next few slides, he spends a whole lot
7 of time trying to call Rogan Gibson.

8 He told you, oh, well he's a good boy that lives down
9 the street. They live close by. He's calling Rogan before
10 he calls many of his family, before he calls Buster. He's
11 calling Rogan multiple times. And those texts would have
12 come in on Paul's phone. What's he so concerned about?

13 He said he turned Paul over and his cell phone popped
14 out. This is a sealed exhibit. Popped out? Manufacturing
15 an alibi, concerned about the evidence. Worried about what
16 Rogan may have known or may have heard.

17 I put it down. Can I have this back, please?

18 (Break in proceedings.)

19 MR. WATERS: There 10:24, Imessages: Call me. 10:25.
20 10:29. 10:25, the first deputy is on scene. 10:29,
21 calling Randy. 10:30, Rogan again. And then finally at
22 10:34 is when Paul's phone powers off.

23 Opportunity. Motive, means, and opportunity. Guilty
24 conscience. I've already kind of talked about these so I'm
25 not going to belabor the point, but you heard from Blanca

1 Simpson. Blanca Simpson said he was wearing like a polo
2 shirt when he left. He was wearing this shirt in the --
3 Vinny Vines. She recognized both of those. He, of course,
4 turned over the t-shirt that he was wearing when law
5 enforcement arrived. And then you heard Blanca say he
6 later tried to convince her that he was wearing a Vinny
7 Vines shirt. Three shirts in one day, and a fourth one he
8 tried to get Blanca to say. And you heard her testimony:
9 she felt very uncomfortable by that. Multiple changes of
10 shoes in the day. He wouldn't be wearing those shoes if he
11 were out riding the property.

12 I've already mentioned the text from Maggie that Alex
13 wants me to come home, but he can't even be clear about
14 that point because that doesn't fit with his narrative.
15 Marian Proctor says the same thing, but he can't admit that
16 because that doesn't fit with his narrative. She was
17 surprised that Maggie didn't go along to Alameda.

18 And then she said Alex made an interesting comment,
19 one of many, some of which came from that stand that we'll
20 talk about in a little bit: whoever did this thought about
21 it for a really long time. Why would he say that? Because
22 he told you that it was just random vigilantes from the
23 boat case, of which there is no evidence whatsoever that
24 you've seen in this record.

25 Trials depend on evidence. There has to be evidence

1 to make a decision. And his claims, trying to manufacture
2 something about the boat case, there's been no evidence
3 whatsoever of any specific other individual. There has to
4 be evidence to consider, not just mere allegations that
5 have no basis in any sort of evidence.

6 Whoever did this thought about it for a really long
7 time. I think if you think about the defendant's
8 statements and some of the things he says, a lot of times
9 he says things in context but he means them in another when
10 he says things like I hurt the ones I loved the most.

11 We talked about Shelley. After Randolph's funeral he
12 shows up early. She might have said Wednesday, but there
13 was other information that Randolph's funeral was on
14 Monday, but anyway, shows up with something blue. Shows up
15 early. Wants to come in. Goes and moves the vehicles.
16 And then there's that rain coat, huge rain coat. She calls
17 it a tarp, but it's a huge rain coat. And it's got a ton
18 of GSR on the inside, and it's found in the closet
19 upstairs. State's 411. He was a busy guy at Alameda as we
20 just saw. He was moving around, kept hitting off of his
21 Suburban.

22 And then, of course, as you heard, he was with family
23 for the next few days. After the funeral, he's back. And
24 it was weird enough and interesting enough that Shelley
25 said something about it. I'm also saying that in her

1 experience, it was unusual for him to come that late.

2 Then we have the defendant and his many statements.
3 Went through a lot with the defendant, who told you that
4 the reason why he was telling this you this new story was
5 because he was paranoid because he had a bag of pills in
6 his pocket. Because he had a distrust of SLED because Dave
7 Owen asked him about his relationship with Maggie. And his
8 law partners told him that he should have an attorney
9 present, which one is here, one of his law partners sitting
10 in the back.

11 (Interview of the defendant, Alex Murdaugh, was
12 played. Audio not transcribed.)

13 MR. WATERS: I asked him repeatedly: is this the point
14 where you decided to lie? At this point did you decide to
15 lie?

16 (The video continued to play.)

17 MR. WATERS: Or was it this point when he first says I
18 was at the house?

19 (The video continued to play.)

20 MR. WATERS: Or was this the point? He said he
21 mentioned specifically, and he kept adding factors, and one
22 of the things was, well, Dave Owen asked me how my
23 relationship was. This question? This is when he decided
24 to lie?

25 (The video continued to play.)

1 MR. WATERS: But he digs in on the point.

2 (The video continued to play.)

3 MR. WATERS: This is June 8th at 1:21 in the morning.
4 And he's admitted to you that he's lying right there. Look
5 how easily he did it about such a crucial thing.

6 (The video continued to play.)

7 MR. WATERS: It was odd but not that big a deal. But
8 again, it was enough to say it was odd. It was enough to
9 make all of those calls while he's doing 283 steps, but he
10 doesn't drive 50 seconds down to the kennels?

11 Going to the next interview. Again, what's the tone
12 of this interview? How was he being treated?

13 (Interview of the defendant, Alex Murdaugh, was
14 played. Audio not transcribed.)

15 MR. WATERS: Is that an aggressive interview? Is that
16 something that makes somebody paranoid?

17 (The video continued to play.)

18 MR. WATERS: He mentions the boat case.

19 (The video continued to play.)

20 MR. WATERS: It was so easy for him to do.

21 (The video continued to play.)

22 MR. WATERS: Adding more detail that's just lies.
23 Watch how he responds to this one; watch what his head
24 does. See if you observed that yourself when he was over
25 there looking you in your eyes and trying to convince you

1 of something.

2 (The video continued to play.)

3 MR. WATERS: Going to the third interview on August
4 the 11th.

5 (Interview of the defendant, Alex Murdaugh, was
6 played. Audio not transcribed.)

7 MR. WATERS: Had some very specific recollections for
8 y'all when he testified with his new story that had never
9 been heard until last week.

10 (The video continued to play.)

11 MR. WATERS: Lying right there. He was down at the
12 kennels. Shaking his head for you.

13 (The video continued to play.)

14 MR. WATERS: I'll come back to that, but I want to
15 talk a little bit about the crime scene and what it
16 indicates. I want to advise everyone there will likely be
17 sealed exhibits.

18 I don't need the ELMO quite yet. Thank you, Ms. --
19 I'll let you know, Ms. Sherry.

20 You guys went out to the scene today, and you saw how
21 it looks now, but take a good look at those trees and where
22 they were back on the day of the incident. I'll put this
23 up on the ELMO in a second, and you can see the proximity
24 of the kennels to that residence back on June 7, 2021.

25 Could I have the ELMO, please?

1 (Break in proceedings.)

2 MR. WATERS: May I have the PowerPoint back, please?

3 All right, Dr. Riemer. You've heard from Dr. Riemer,
4 you heard from Kenny Kinsey, and you heard from the defense
5 experts.

6 So -- could I have the computer back?

7 (Break in proceedings.)

8 MR. WATERS: Paul. First blast to the chest,
9 stippling, arms down, not fatal for a buckshot blast to the
10 chest. This is where there was some dispute from the
11 defense experts. The second injury went into the left
12 shoulder into the cheek with an exit wound on the top of
13 the head, instantly fatal, and terminal collapse.

14 Dr. Riemer has done 5,500 autopsies. She does an
15 independent autopsy. She actually physically examined the
16 victim. And she was very clear that it could not have
17 happened from the top without destroying Paul's face. And
18 I can show the image again. I'm reluctant to because I
19 know y'all have seen it enough, so I'll rely on y'all to
20 recall that his face was intact. I'll rely on y'all to
21 recall -- and this is sealed -- all the evidence up top
22 here at the top of the door.

23 I'll rely on y'all to recall Kenny Kinsey's testimony
24 that buckshot don't reverse course, that kinetics energy,
25 it's going in one direction. I'll rely on y'all to recall

1 all of the biological matter that you see at the top of
2 this door. I'll rely on y'all to recall looking at State's
3 339, which is the wadding from the shot that killed Paul
4 because, if you recall, the wadding from the chest shot was
5 found still in his chest right here. This is the wadding
6 on the ground from the shot to his head. And if -- one of
7 the things you recall from Dr. Riemer's testimony in
8 looking at Paul's face was the abrasions around that cheek
9 wound that came from the wadding as it entered there.

10 You heard from Dr. Riemer that the reason for the
11 shape on the shoulder was because it went along the
12 shoulder and opened up that area there. It still was
13 focused, and then expanding as it entered in here. But she
14 also testified that if it was here, that force would not
15 have left his face intact. Manner of death: homicide.

16 Then you heard from Dr. Kenny Kinsey. What we
17 described earlier, Paul was first shot in the feed room.
18 Largely agrees with her. Arms were not up. He believes
19 the shot was a little closer, and the lack of stippling
20 could be chalked up to the black t-shirt. But also agrees,
21 as she does, no defensive wounds.

22 Looking at the blood spatter locations there, and he
23 testified in great detail and testified yesterday, there
24 was no high velocity blood spatter on the ground at the
25 entrance to the feed room, which would be necessary for the

1 shot to have occurred in the manner in which the defense
2 suggested. The spatter travels upward in an upward
3 directory -- in an upward direction, and you can see that
4 on the door.

5 He spoke to the void area, and then he spoke of the
6 blood on the ground that was around where Paul drops, and
7 that it's low speed spatter. He talked about the dents in
8 the feed room door, the pellet lodged in the doorframe
9 upper. It's only possible if it's traveling through Paul's
10 head. Not possible if it's from a ricochet as the defense
11 suggested. And steel is much less malleable than lead.
12 What else did he say? Dr. Kinsey said that he -- I think
13 three dozen times that he's observed contact wounds to the
14 head with a shotgun, including one that happened in front
15 of him, actually observed it. And he also said that any
16 sort of contact wound like that would have destroyed the
17 head and destroyed the face, and he was clear about that,
18 and he's actually seen it.

19 And I think what you see with the defense experts is
20 they're coming to you with absolutes to try to make you
21 consider that there's the possibility that a crime scene
22 can definitively establish whether there's one or two
23 shooters, or whether or not they're of a certain height,
24 and that's just not how it works, and you heard that from
25 Dr. Kinsey. That's not how it works. That's not how to

1 worked in this scene. It's a red herring, ladies and
2 gentlemen; it's a red herring.

3 You've seen the testimony from Kenny Kinsey, who
4 returned to talk about these issues. You saw the
5 demonstration over there in the doorway. Does that seem
6 realistic to you, or is Kenny Kinsey's explanation
7 consistent with the evidence, consistent with his
8 experience? Consistent with Dr. Riemer's 5,500 autopsies,
9 who actually observed the victims? Consistent with the
10 blood spatter? The lack of high velocity on the floor but
11 the existence of high velocity on the top and the low
12 velocity blood spatter on the floor? What's consistent
13 with the evidence?

14 Maggie. Again, no defensive wounds. The first two
15 shots to her abdomen and her leg on a parallel path and
16 likely in close succession. Stippling close range. The
17 mark on the back of her leg. Running to her baby, didn't
18 see it coming. Bends over maybe on her hands and knees in
19 pain. You saw me demonstrate that with both Dr. Riemer and
20 Kenny Kinsey, and that's when she suffers that third rifle
21 injury.

22 And you heard their expert come in and say, no, it had
23 to be going this way instead of this way. Going up with
24 that graze, hitting her breast, and into her head here.
25 And Dr. Riemer actually performed the autopsy physically.

1 She looked at the hole; she described the hole. She talked
2 about the injury coming up into the head, and she showed
3 you that. And she took issue with this idea that you can
4 look at skin tags and that sort of thing and come to any
5 conclusion about directionality.

6 But what she told you is I looked at this wound. I
7 saw the hole as it went up into the brain. This was an
8 entrance wound up into the head. Instantly fatal, internal
9 collapse. The wrist wound could have been an extraneous
10 wound, or it could be associated with this. Third rifle
11 injury, and then, of course, the fourth rifle injury to the
12 back of the head that had the canyon effect. It would have
13 been instantly fatal except for the fact that this one,
14 there has to be some clearance for that third shot to come
15 up. Again, manner of death is homicide.

16 So, what did Dr. Kinsey say? Again, he took issue
17 with an expert coming in and trying to tell you that he can
18 determine the location or the height of the shooter in this
19 manner. He told you that cardboard, that cannot be relied
20 upon. And while he did agree with the angle on the dog
21 house, he showed you how changing the aspect of the shooter
22 can easily fit with Alex. And that it's too far and way
23 out over the skis to try to assert that you can determine
24 from such information that the shooter had to be 5-2.
25 That's not what you can do.

1 Dr. Kinsey is a crime scene analyst. How many crime
2 scenes did he say he had done? Hundreds of homicides,
3 thousands of pieces of evidence. Real world stuff, that's
4 what he comes and talks about. You simply can't make those
5 determinations in a real world environment, come in here
6 and try to tell you that from that sort of thing the
7 shooter had to be a particular height. You just can't do
8 it. You can't do it.

9 I submit to you that Dr. Kinsey knows what he's
10 talking about, and Dr. Kinsey has the years of experience
11 in real world applications of crime scenes to make those
12 judgments. And I also submit to you that Dr. Kinsey isn't
13 going to get out over his skis and try to make assertions
14 to you in absolutes. The guy with the two 5-2 people
15 refused to even concede the possibility of variables, but
16 Dr. Kinsey knows that that's how reality works, and he's
17 not going to get out over his skis and try to tell you
18 something that simply cannot be supported by the evidence.
19 And that's what the defense expert did. The shooter can
20 usually be 6-4 or taller and fill out of those bullet
21 trajectories.

22 Of course, one thing that the defense expert didn't
23 consider, and wouldn't even consider, is all of his little
24 gray people, they're holding guns down like this. No
25 consideration of kneeling, of sitting, of being in any sort

1 of different position, but the reality is these are fluid.
2 Maggie is running to her baby, she is moving, and when she
3 gets hit, it's most likely when she hits her leg against
4 that Polaris. There's biological evidence on that Polaris,
5 and she comes forward and collapses as Alex is moving
6 around her firing. They had that expert come in
7 yesterday -- I kind of mentioned it but I'll mention it
8 again, who came in either yesterday or the day before --
9 even I've lost track of time at this point -- but tried to
10 get out over his skis again and testify to you that it had
11 to be two shooters because there were two guns, and why
12 would you not just use the Blackout. Is that opinion
13 helpful or make sense, knowing what you know about this
14 case? And knowing what you know about the firearms of this
15 particular house? And knowing what you know about Alex
16 Murdaugh as you look at the rest of this evidence and what
17 he's trying to manufacture to confuse these issues?

18 Kenny Kinsey told you that it's just as likely that it
19 could be one shooter, and -- I'm sorry, where is the big
20 board -- and although this is not to scale, you have the
21 feed room right here, the Polaris is right here, and the
22 cases. While they can't be relied upon as specific
23 location, and they still are -- can be illustrating general
24 area, and they're all in that area moving from here to
25 here.

1 GSR on the defendant. Hand on the seatbelt.

2 THE COURT: We're going to take a break now. Ladies
3 and gentlemen, we're going to take a 15 minute break. If
4 you'll go to the jury room. Please do not discuss the
5 case.

6 (The jury left the courtroom.)

7 THE COURT: We'll take a 15 minute recess.

8 (A break was taken.)

9 MR. GRIFFIN: Your Honor, may we approach for just a
10 moment?

11 THE COURT: Yes, sir.

12 (A bench conference was held.)

13 MR. GRIFFIN: For scheduling, Your Honor, I don't know
14 how much longer he's going to take, but my closing is going
15 to be 2 hours or longer. I know we have another matter we
16 need to take up, so I was hoping after he closes we
17 would --

18 THE COURT: What do you want to ask me?

19 MR. GRIFFIN: Well, I was just curious. I was going
20 to --

21 THE COURT: I'm curious as well. I don't know --

22 MR. GRIFFIN: Well, I was letting the Court know how
23 long I would be and that if we went at 5:00, I wouldn't be
24 done until seven 7:00 or 7:30.

25 THE COURT: Okay. You'll have an opportunity to fully

1 argue during the time where the jury's attention span won't
2 be frayed.

3 MR. GRIFFIN: Thank you.

4 MR. HARPOOTLIAN: And, Your Honor, are you considering
5 dealing with that other matter if we, for instance,
6 adjourn --

7 THE COURT: Yes.

8 MR. HARPOOTLIAN: Okay. I think the Attorney General
9 is thinking he'll go on about 45 minutes.

10 MR. WATERS: Probably less than that, Your Honor.

11 MR. HARPOOTLIAN: Thank you, Your Honor.

12 THE COURT: Okay. Did you say you'll be done in how
13 many minutes, or do you know?

14 MR. WATERS: I think less than 30, Your Honor.

15 THE COURT: Less than 30. I thought I heard 45.

16 All right, let's bring them in.

17 (The jury returned to the courtroom.)

18 THE BAILIFF: The jury is present, sir.

19 THE COURT: Okay. Thank you.

20 You may proceed.

21 MR. WATERS: Thank you, Your Honor. May it please the
22 Court?

23 THE COURT: Yes, sir.

24 MR. WATERS: GSR and the defendant's hands and
25 seatbelt. Maggie's DNA on that Super Black Eagle. DNA on

1 the Suburban steering wheel. No DNA or blood identified on
2 the floorboards. I'm showing y'all State's 7. That's the
3 how you doing comment when the second officer walks up.
4 How you doing? State's 5, also from the body cam. It's
5 very dark out there, and you can see how well lit it can be
6 when the lights are on. 22, 93, 47.

7 I'm almost done. I want to talk finally a little bit
8 more about the defendant's story to you that he told on
9 Thursday, and we've already talked about it. Just a couple
10 of more things.

11 I asked him when he went down there -- those dogs are
12 clearly out on the kennel video. I asked him if the dogs
13 were alerting on anybody nearby or in the woods as dogs do,
14 and he said no. He said that the dogs were not doing that.
15 You heard about the fact that he changed clothes, and you
16 also heard testimony that his clothes smelled fresh and
17 like laundry. Again, manufacturing this scene.

18 You heard from his law partners that he was not -- and
19 also from Marian that he was not overly concerned with
20 figuring out what happened, or any threats to Buster. And,
21 in fact, you heard in the telephone interview after the
22 side of the road they specifically asked him. Are there
23 any threats to Buster? And he said no. Why is there no
24 threat to Buster? Because he was the threat to Maggie and
25 Paul. He knows there's no vigilante out there. That's why

1 he was never concerned about it. That's why he called
2 Rogan first the night of. He knows the only threat is him.

3 I asked him if he could remember lying to all of those
4 close to him, the people that he trusted, that he stole
5 from, and he couldn't detail one single conversation. He
6 couldn't remember his last conversation at the kennels. To
7 use his own words, when you hear what he has to say when he
8 was asked after the kennel video and his new story what he
9 did, he said I got out of there. He's got that
10 photographic memory that can't remember what he was doing
11 when he was his most active on that day. He didn't say if
12 only I had been there. If only I had gone to the kennels.
13 If only I could have stopped them. If only I had been
14 there a little longer. He says I got out of there.
15 What father would hold anything back if he were innocent?
16 What father would care what happens to him after that?

17 He claims he told you that he had cooperated with
18 SLED, but he hadn't. There's nothing more important if
19 someone is innocent than telling law enforcement when the
20 last time the victims were alive. I just saw them. I saw
21 them at 8:50. I saw them at 8:49. They're still out
22 there. Go get them.

23 He mentioned paranoia and tried to convince you that
24 there was paranoia about some case ten years ago, and he
25 confused David Owen with David Williams. He got on the

1 stand, ladies and gentlemen, and as he got confronted with
2 things, as he was allowed to keep talking, he kept adding a
3 new factor, and a new factor, and a new factor to justify
4 why he's lying to you, why he had lied to law enforcement,
5 and to justify why he's telling what he's telling you now.
6 He kept adding them. He can remember those, ladies and
7 gentlemen, he can remember a new one, he can remember this,
8 and the problem with that is, is that there's no mistaking
9 David Owen for David Williams. We showed you that picture
10 of David Williams.

11 This is a man who rides around with a badge in his
12 windshield, who had blue lights installed on his private
13 vehicle. And if you need any proof that he makes up lies
14 and tries -- and is very convincing with them and makes
15 them up on the fly, he kind of got caught flatfooted with
16 the badge hanging out of his pocket. And he tried to
17 assert to you that sometimes -- it was an accident that
18 this badge is hanging out of his pocket. How is that an
19 accident? See how quickly he was able to lie?

20 But more importantly, the blue lights. He sat there
21 and told you three times, I think he said his name three
22 times, that Sheriff Smalls, the former sheriff for Hampton
23 County, gave him permission to put blue lights in a private
24 vehicle for a part-time assistant solicitor, and blue
25 lights in a private vehicle. He told you three times,

1 effortlessly got up there, pivoted and lied to you because
2 Sheriff Smalls came in here and of course not. That never
3 happened. I've never heard of such a thing.

4 This is a man who made his trade on lying. He lied
5 about the most important fact in the case, and he sat there
6 and effortlessly and easily pivoted to a new lie when
7 confronted with something he wasn't prepared for. And the
8 sheriff came in here and said, no, that never happened. Of
9 course not. But he looked y'all in the eyes and told you.
10 He looked you all in the eyes and told you that, as if
11 what's your problem, Mr. Waters? Sheriff Small said it was
12 okay.

13 He tries to tell you that he was paranoid about having
14 a bag of pills in his pocket. The man who had blue lights
15 in his car, and had a badge, rides around with a badge in
16 his windshield. That's what he thinks of his power and
17 prestige, and that's what he thinks of appropriate use of
18 authority is to put it up there. That only serves him.
19 It's only there to serve him.

20 But he's tried to also tell you that he gets paranoid,
21 and so he's tried to lie about the most important fact that
22 he could offer law enforcement when his wife and son were
23 brutally murdered because he had a bag of pills in his
24 pocket, but yet in the same breath says, meh, I wasn't
25 concerned about the law firm and that Faris stuff. Meh,

1 I'm not concerned about the boat case.

2 Why would he lie about that time unless he's
3 manufacturing an alibi? And that's just why it took him
4 only 19 seconds to call 911: because he knew what he was
5 going to find out there. This has all been constructed by
6 him to try to confuse the situation.

7 That lie that he told you to try to make it seem like
8 he'd been trying to tell this, but he also admitted on the
9 stand that -- as did his brother -- that his own brothers
10 heard it for the first time last week, that his own
11 attorney was repeating the story that he was napping the
12 whole time and never went to the kennels on HBO in November
13 just a couple of months ago. Why do people lie, ladies and
14 gentlemen? Why do people lie? When it's really important,
15 something like this, this brutal murder, most people are
16 going to come clean about a bag of pills, but why do people
17 lie? People lie because they knew they did something
18 wrong. That's why he lied, ladies and gentlemen. And just
19 like always when confronted with new evidence that he no
20 longer can deny, he backtracks, he pivots, and he tells a
21 new story from that stand and looks you all in the eye, and
22 then when new evidence comes up on cross, he backtracks,
23 and he pivots, and he tells another new lie.

24 And I'm sure if he could get up there again he'd
25 be telling -- well, let me rephrase that. He's told --

1 he's said so many witnesses are lying on him, they're all
2 lying on him, but the one thing we know is a constant is
3 that he lied to them. Mark Tinsley is lying. Jeannie
4 Seckinger is lying. Shelley Smith is lying. Blanca is
5 lying. Everybody is lying on the master liar.

6 You heard him answer the questions about whether or
7 not he killed his wife and son. You heard me ask him if he
8 was a family annihilator. When he answers those questions,
9 did you see him do this? Did you see him do that on those
10 videos, too, when he was asked questions where now we know
11 he was lying? Is that the most classic tell ever? I'll
12 leave that to you to decide.

13 One thing I will agree with him that he said up there,
14 oh what a tangled web we weave when we first practice to
15 deceive. How appropriate coming from that man. This man
16 is trying to sell you on an idea that he was at the
17 kennels, that he jetted back, that he went inside so
18 quickly, and quickly dosed off in the shortest nap in the
19 history of the South, and then he got in his car just
20 seconds after the supposed vigilantes. These vigilantes
21 that apparently are 5-2, that knew somehow that Paul and
22 Maggie would be both at Moselle on the evening of June 7th
23 between 8:44 and 9:02. That also knew that they would be
24 alone at this time. That they knew that Alex would not be
25 at these kennels. And they also knew the property well

1 enough to get to the kennels. They also assumed that they
2 would find ammunition and guns there, so they didn't bring
3 those. And they traveled the same route as Alex after his
4 short 20 second nap. And knew that he would be visiting
5 his mother at Almeda during that time.

6 Those are the circumstances that you would have to
7 accept. The 5-2 vigilantes that arrived somehow in that
8 tiny time period between 8:49 and 9:02, and that's giving
9 him every bit benefit of the -- of the doubt as to the
10 story he told you sprinkled with a bunch of new lies as
11 well. But somehow they arrived during that time.

12 The dogs never heard them or ran to them. Somebody
13 put the dogs up put, put the dogs up in the wrong kennels.
14 Somebody rolled up the hose. And these vigilantes were
15 just lucky enough to find these family weapons there, which
16 he's clear on the other side of it that he says were never
17 there. He's so clear: oh, we never had the Blackout. We
18 never rode around with the Blackout.

19 No one knew who he was; no one knew who this man was.
20 He had avoided accountability his whole life. He relied on
21 his family name. He had a powerful family. He carried a
22 badge and used that authority. He lived a wealthy life.
23 But now finally he was facing completely ruin.

24 His father who he idolized, who I worked with on
25 occasion, was dying. His son was facing charges for the

1 boat case. He was facing a civil action that not only
2 could potentially ruin him but expose the reality of what
3 he'd been doing for years. He had an opioid addiction.
4 The entire illusion of his life was about to be altered.
5 He couldn't live for that. He's the kind of person for
6 which shame is an extraordinary provocation. Shame is an
7 extraordinary provocation. His ego couldn't stand that,
8 and he became a family annihilator.

9 I was thinking that the people who get the last word
10 in this courtroom are y'all. And a lot of witnesses have
11 testified over the last six weeks, but there's a couple
12 that never get to testify that are important, and that's
13 common sense and human nature. And there's two more that
14 don't get to testify. We couldn't bring you any eye
15 witnesses because they were murdered, but common sense and
16 human nature can speak on behalf of Maggie and Paul when
17 you look at this in its totality. Common sense and human
18 nature can speak for them, and they deserve a voice.

19 Everything he did was meant to try to frustrate the
20 forensics as lawyer and a prosecutor. The two guns and a
21 manufactured alibi. And not taking his phone down to the
22 scene. Deleting call logs. Making short phone calls.
23 Bringing up the boat case. Moving Maggie's phone.
24 Changing clothes. Looking at Paul's phone. Calling Rogan,
25 or trying to call Rogan. One man controlled this crime

1 scene initially, and that was Alex. But there were some
2 things he couldn't control, and we brought those to you.

3 Couple of things that the defendant said that I agree
4 with. He said whoever did this had anger in his heart.
5 Whoever did this planned it for a long time. That he hurt
6 the ones who were closest to him. It may be hard to
7 fathom, ladies and gentlemen, but when you put all of those
8 circumstances together and really understand who he was for
9 the entirety of his life, and the pressures that he was
10 facing from what he had been doing for so long, you can
11 understand it.

12 There was one mistake, though, he didn't expect, and
13 this is why he was worried about Paul's phone. This is why
14 he was trying to get in touch with Rogan, and it was that
15 kennel video that came up late in the investigation. One
16 of the things I asked him -- and we've talked about this.
17 The last question I had to him and the first question I had
18 to him was what is the most important part of your
19 testimony here today? And he wouldn't even concede that,
20 but he at least conceded that the most important thing was
21 to look you in the eye and try to explain to you why, after
22 his entire history, you should believe him when he says,
23 okay, I was down at the kennels for one brief minute, but I
24 had nothing to do with this. We went through that long
25 cross in which he identified all of these factors, from his

1 partner saying having an attorney -- you need to have an
2 attorney present, to his distrust of SLED, to Dave Owen
3 asked him about his relationship. And I asked him at what
4 point did you decide to lie? And he finally agreed, okay,
5 it was in this interview. It was that moment in the
6 June 8th interview; it was during that interview.

7 And in his 911 call, ladies and gentlemen, at 10:06,
8 when he was asked when he last saw them, he said an hour
9 and a half, and then changed it to approximately 2 hours,
10 consistent with what he would later say before any of those
11 factors that he sat there and ran through with y'all is the
12 reason for his decision even ever existed.

13 And if that's not enough, ladies and gentlemen, you
14 saw, and I played it for him, Daniel Greene's body cam
15 where he was asked the same question, and he said that it
16 was 1 and a half hours plus 45 minutes. And all of those
17 factors that he identified to you as to why he supposedly
18 lied, he was lying to you, ladies and gentlemen, when he
19 made those up. He was lying to you when he made those up,
20 just like he has lied to everyone close to him. And he's
21 good at it. He's good at it.

22 (A video was played. Audio not transcribed.)

23 MR. WATERS: Motive, the means, the opportunity, and
24 ample evidence of guilty conduct and guilty conscience.
25 All four factors are present. And Maggie and Paul deserve

1 a voice. They need a voice because they can no longer
2 speak. And this has been a tough job, but the system
3 depends on people who take that oath as jurors, and are
4 willing to honor that oath and make that tough decision to
5 vindicate these victims, to vindicate Maggie and Paul who
6 were cut down in the prime of their lives.

7 This is a sealed exhibit. This is what he did. This
8 is what he did right here. This defendant, on the other
9 hand, has fooled everyone, everyone. Everyone who thought
10 they were close to him. Everyone who thought they knew he
11 was -- who he was, he's fooled them all. And he fooled
12 Maggie and Paul, too, and they paid for it with their
13 lives. Don't let him fool you, too.

14 On behalf of the State of South Carolina, I ask you to
15 return a verdict of guilty against the defendant, Richard
16 Alexander Murdaugh, for the murder of wife, Maggie, and his
17 son, Paul, and for his possession of firearms during the
18 commission of those malicious offenses. Thank y'all for
19 your attention during this long trial.

20 THE COURT: All right, ladies and gentlemen, that will
21 be it for this day. We will resume at 9:30 tomorrow
22 morning. If you'll go to the jury room and you'll be
23 dismissed in just a few minutes from the jury room. Please
24 do not discuss the case at all with anyone, including your
25 fellow jurors.

1 (The jury left the courtroom.)

2 (Break in proceedings.)

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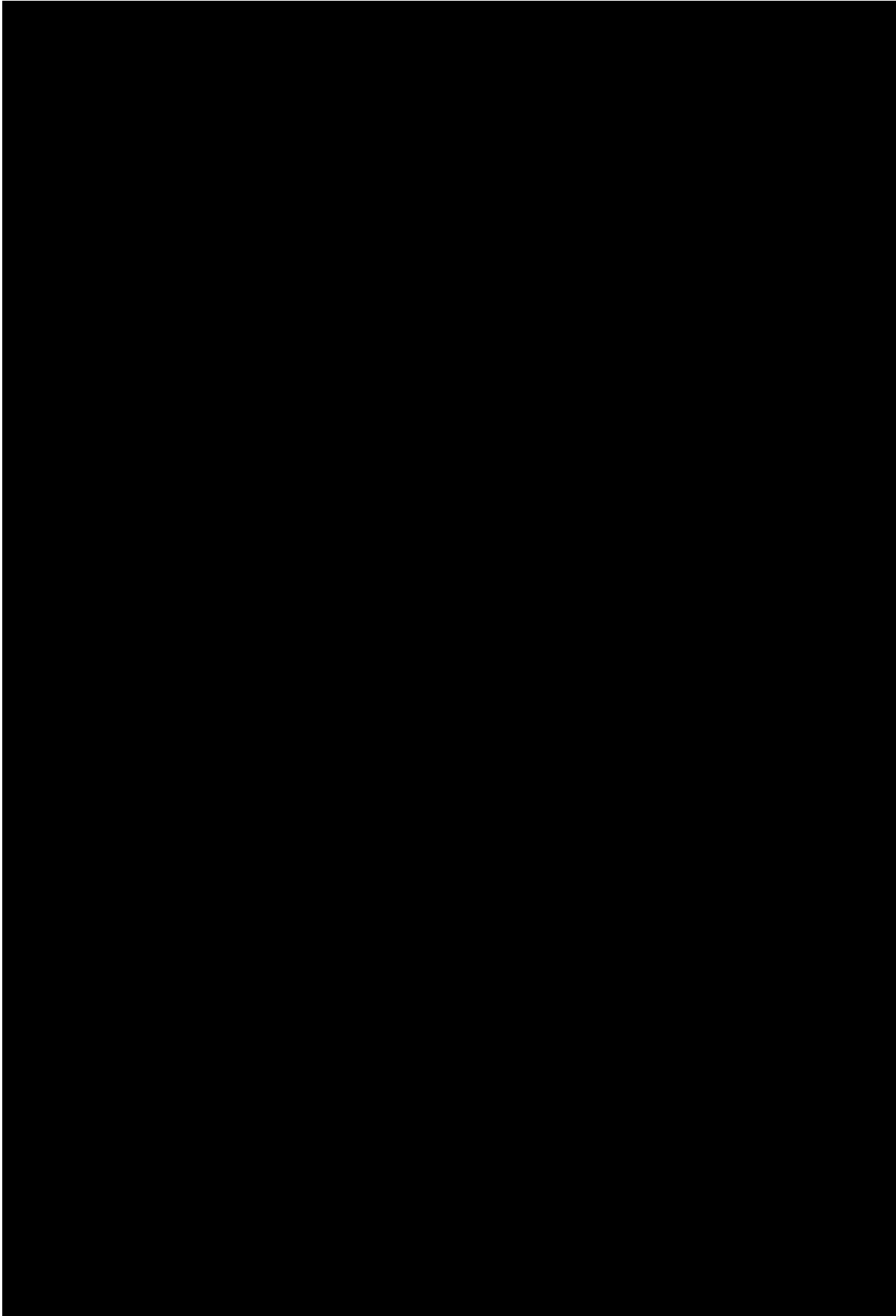
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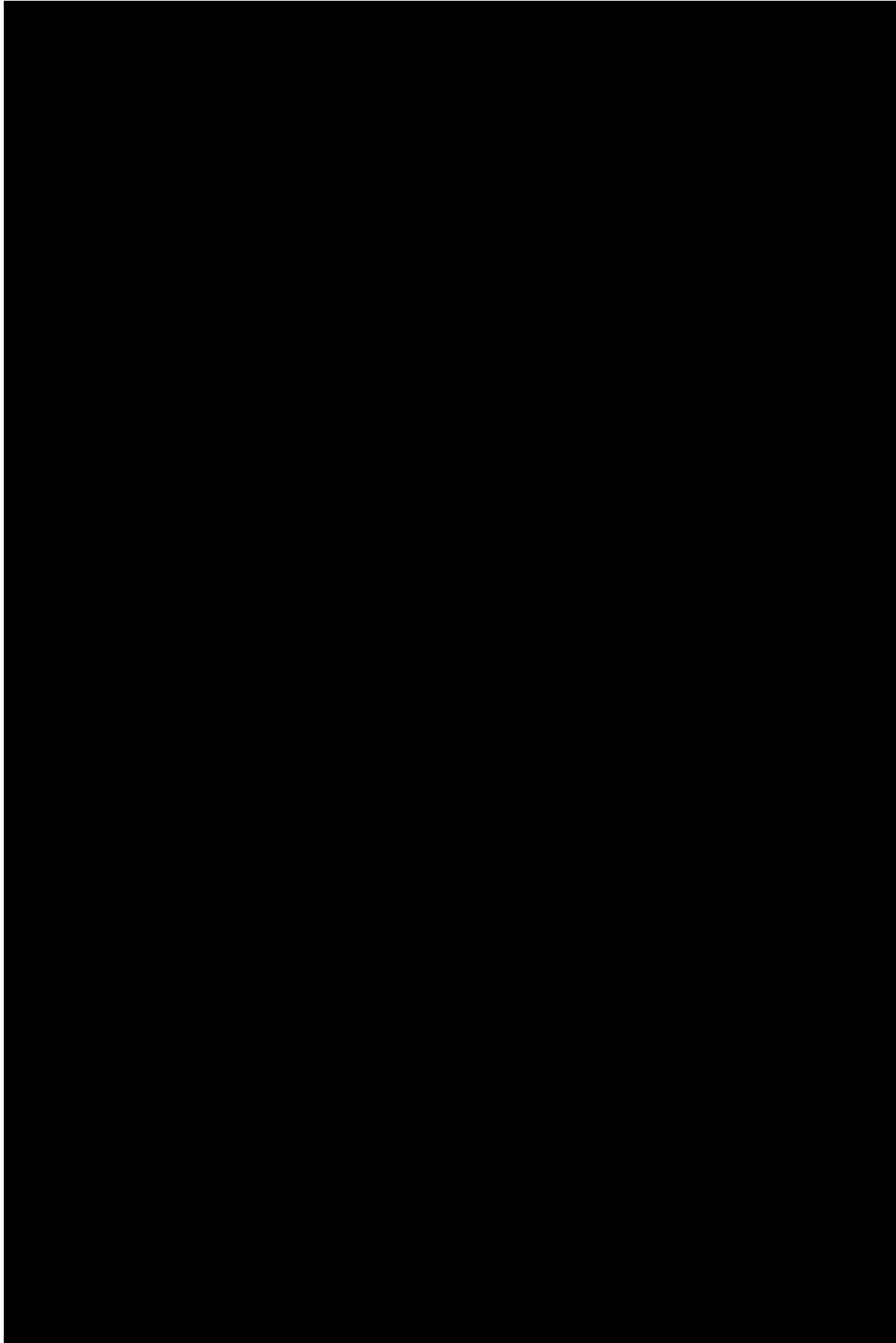
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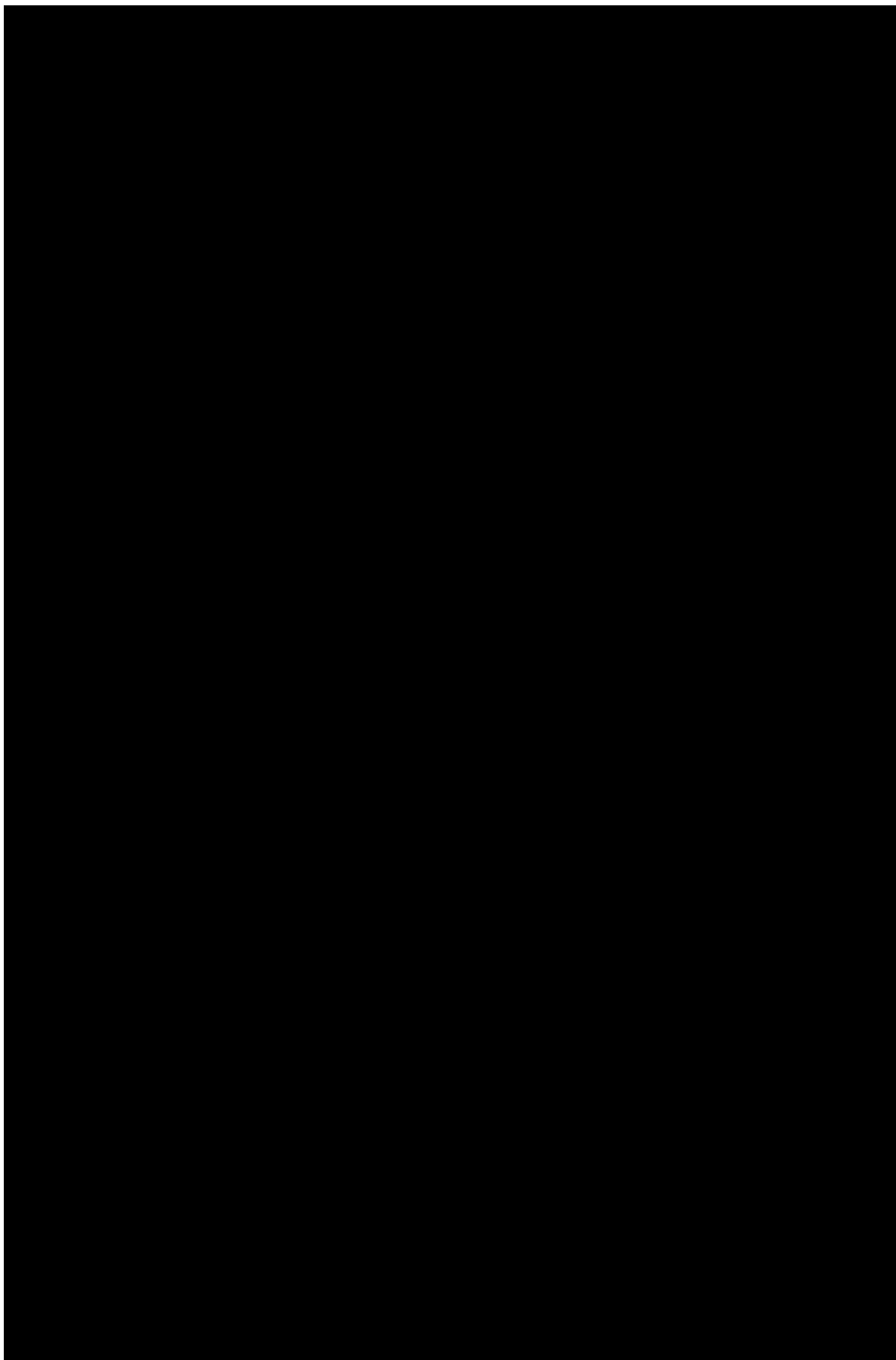


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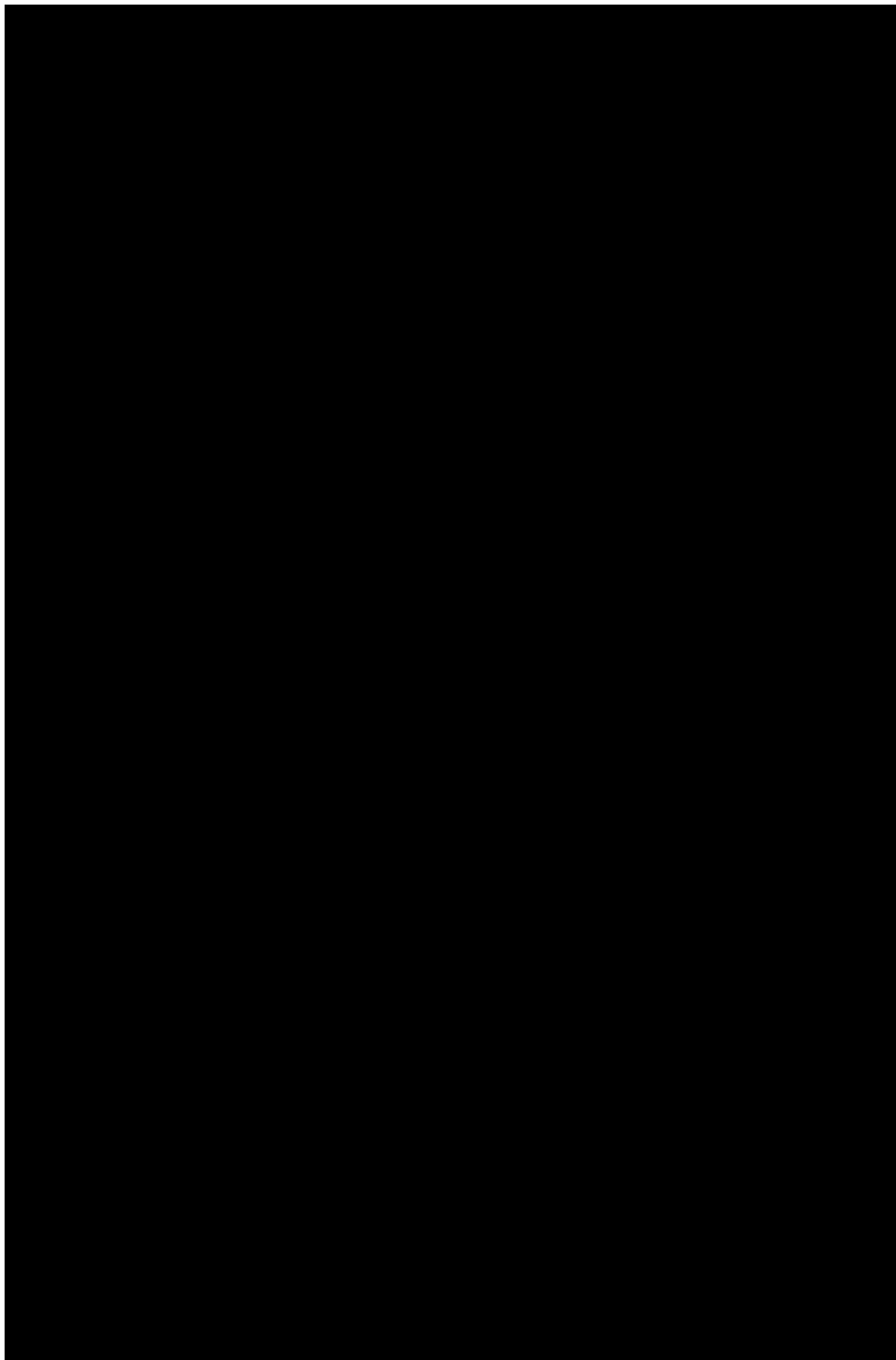


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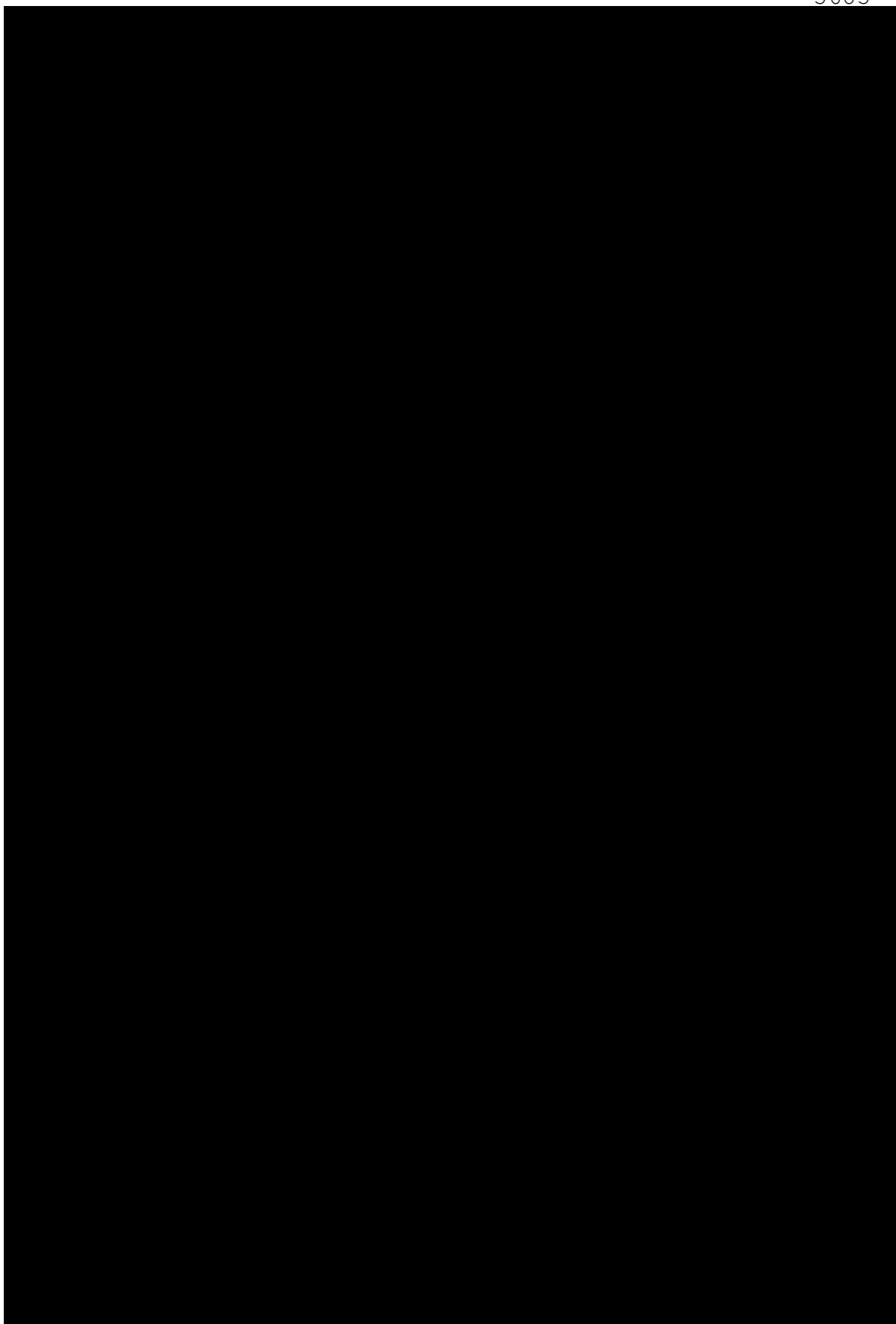
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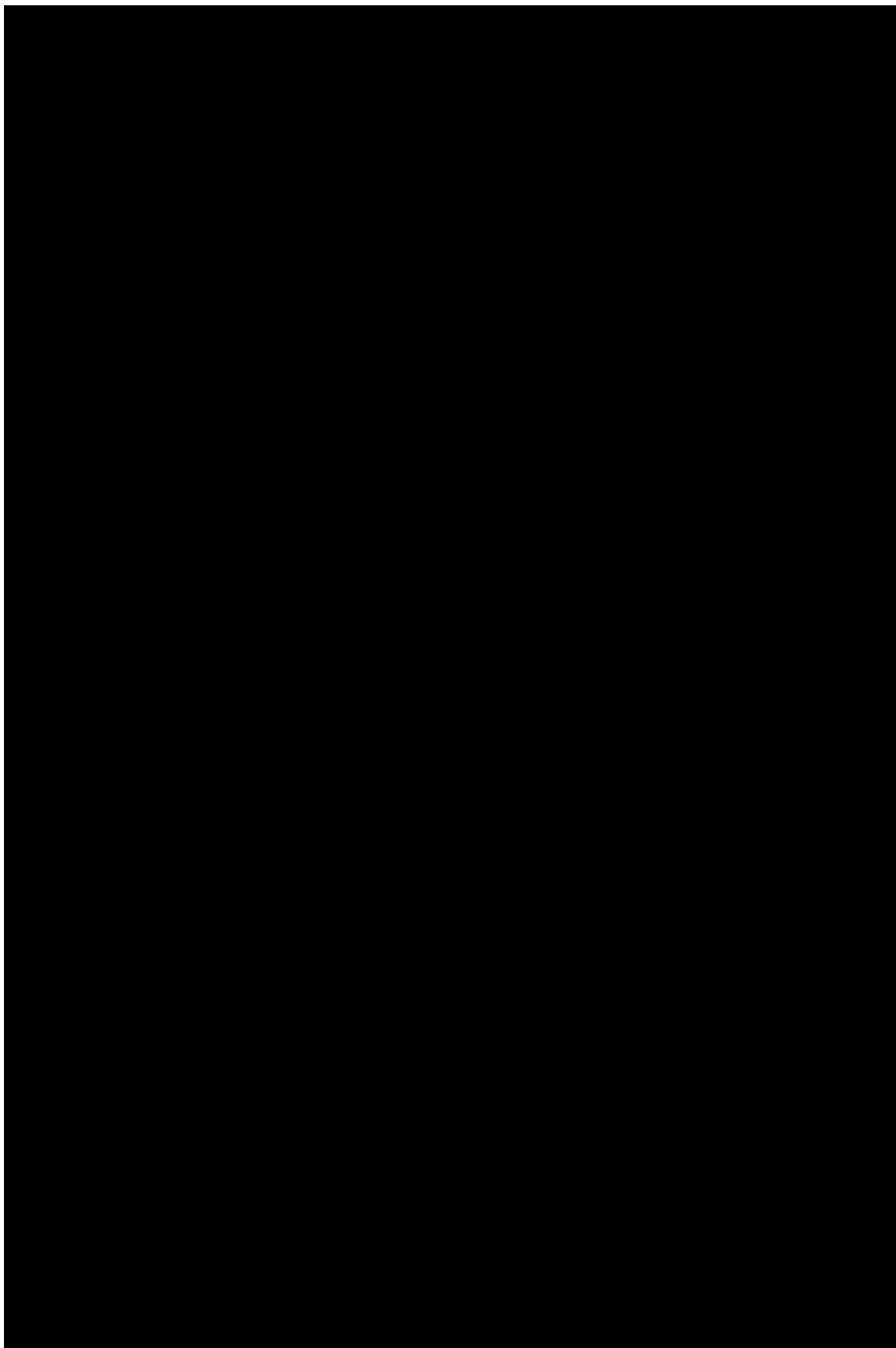
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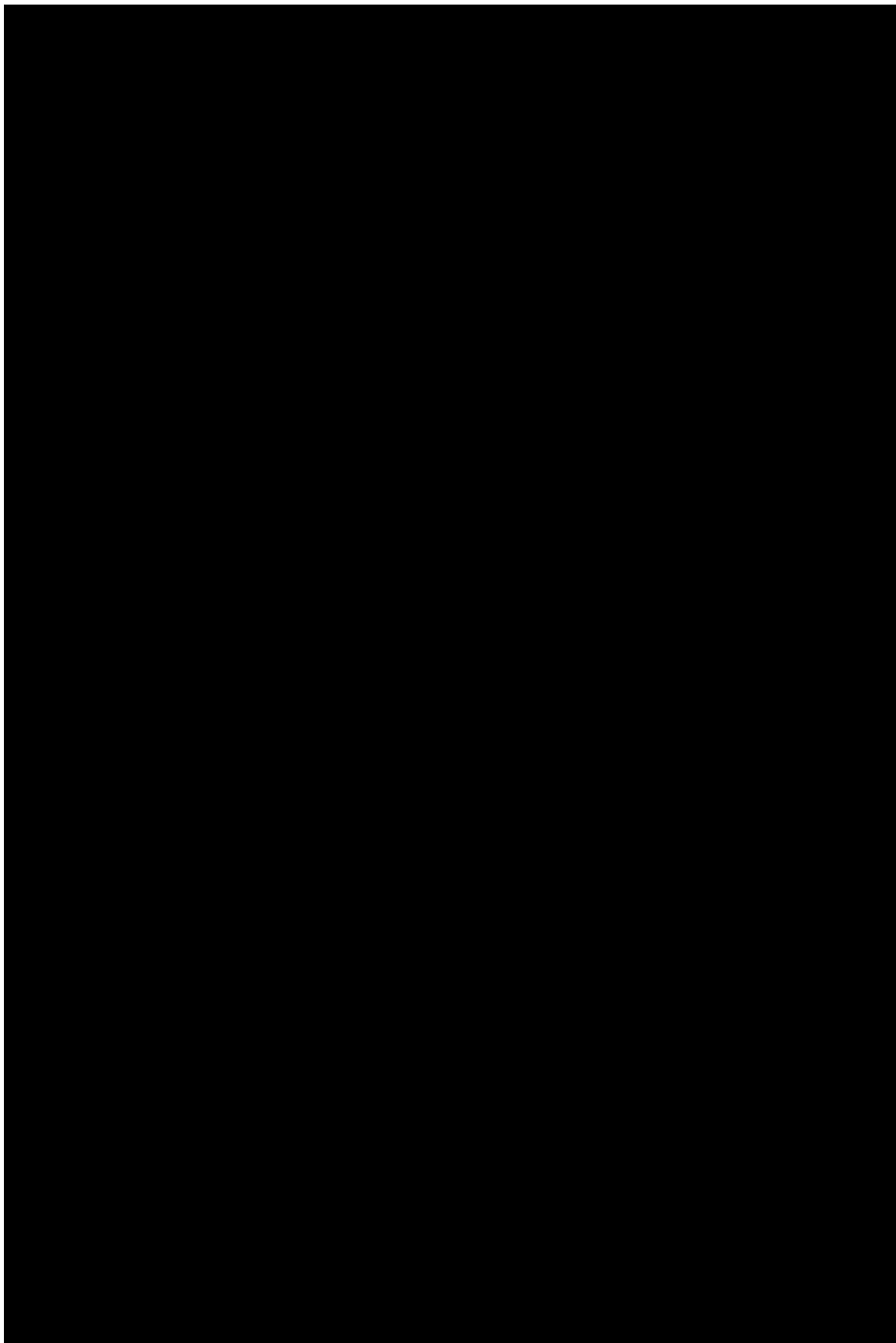
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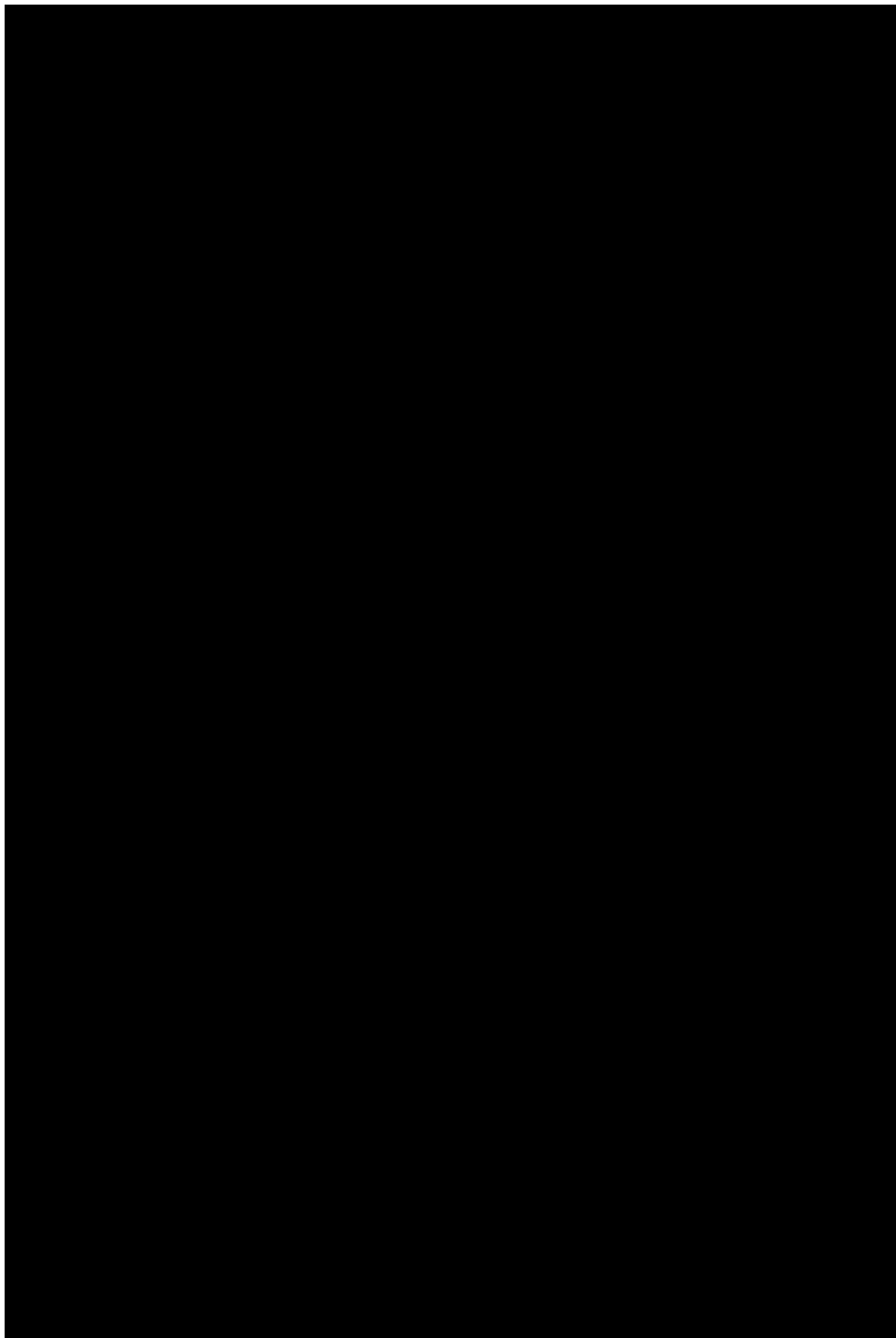
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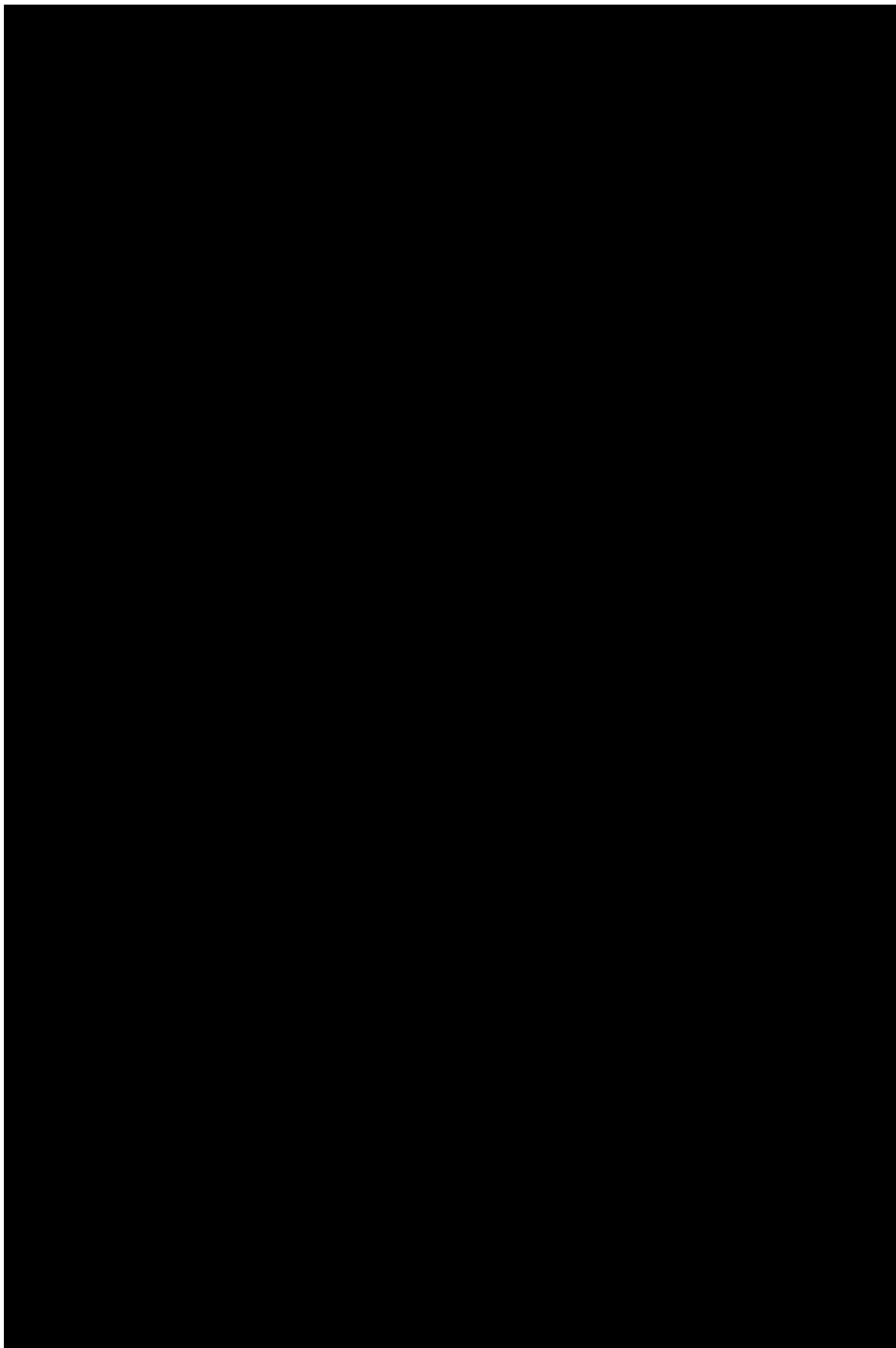
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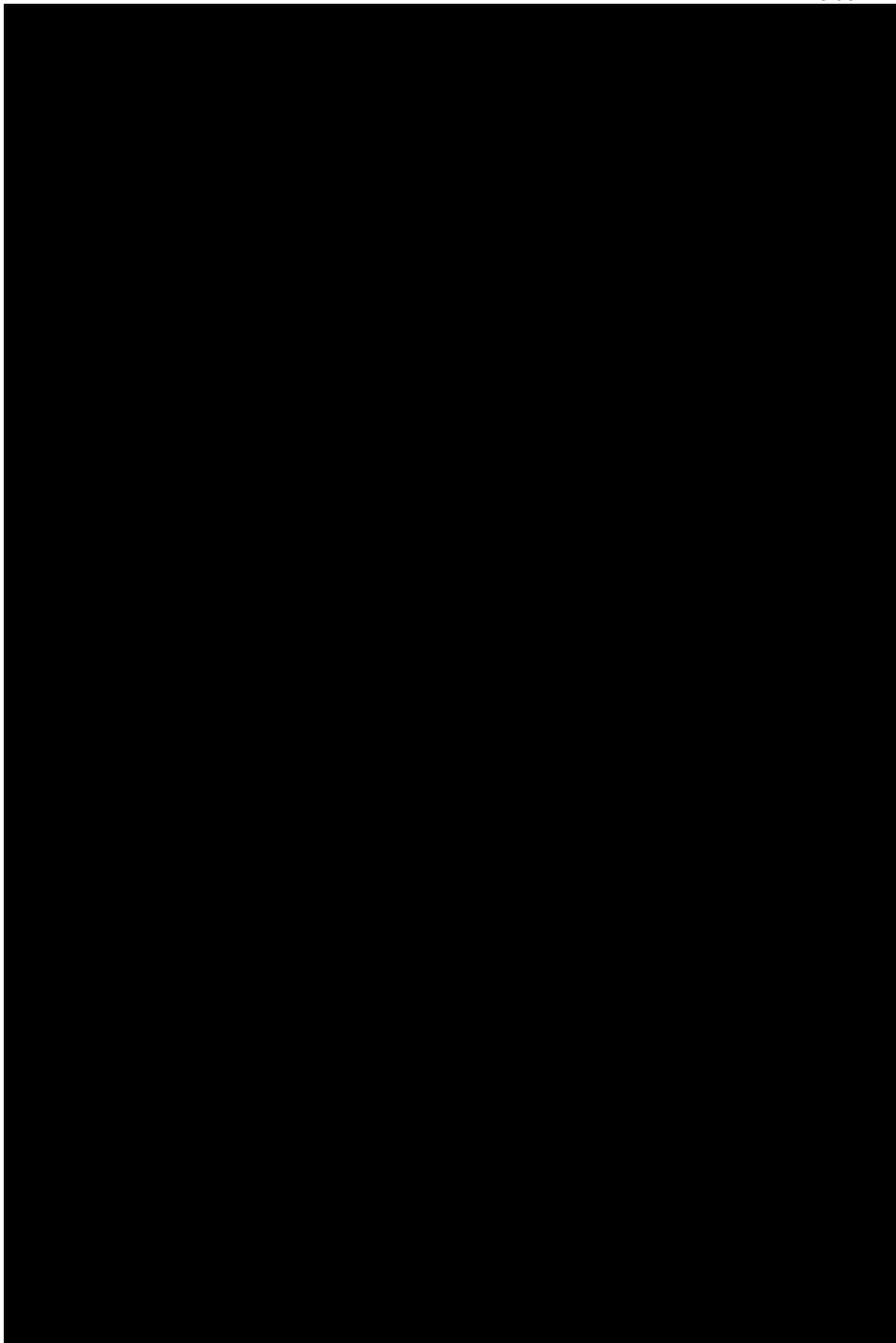
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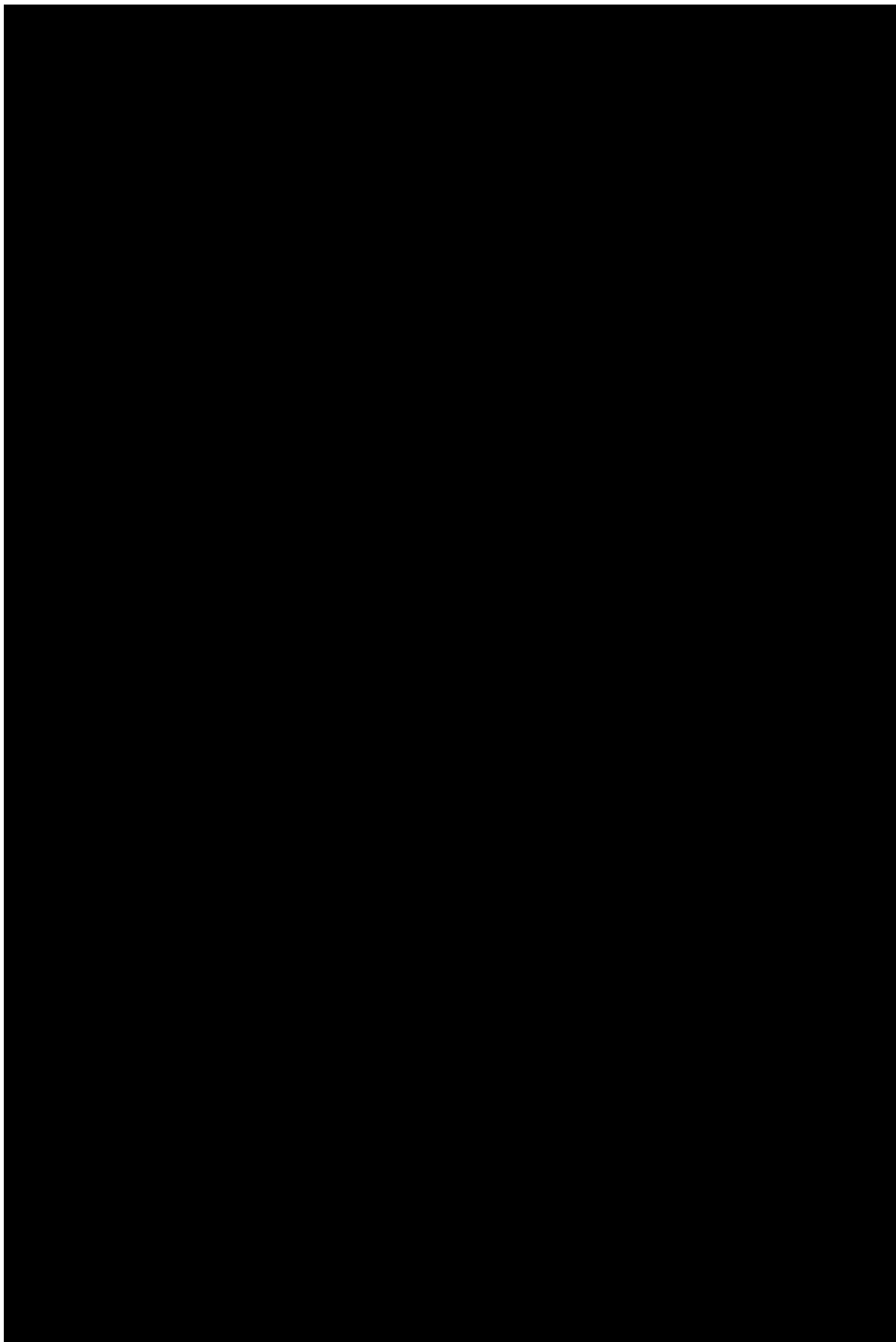
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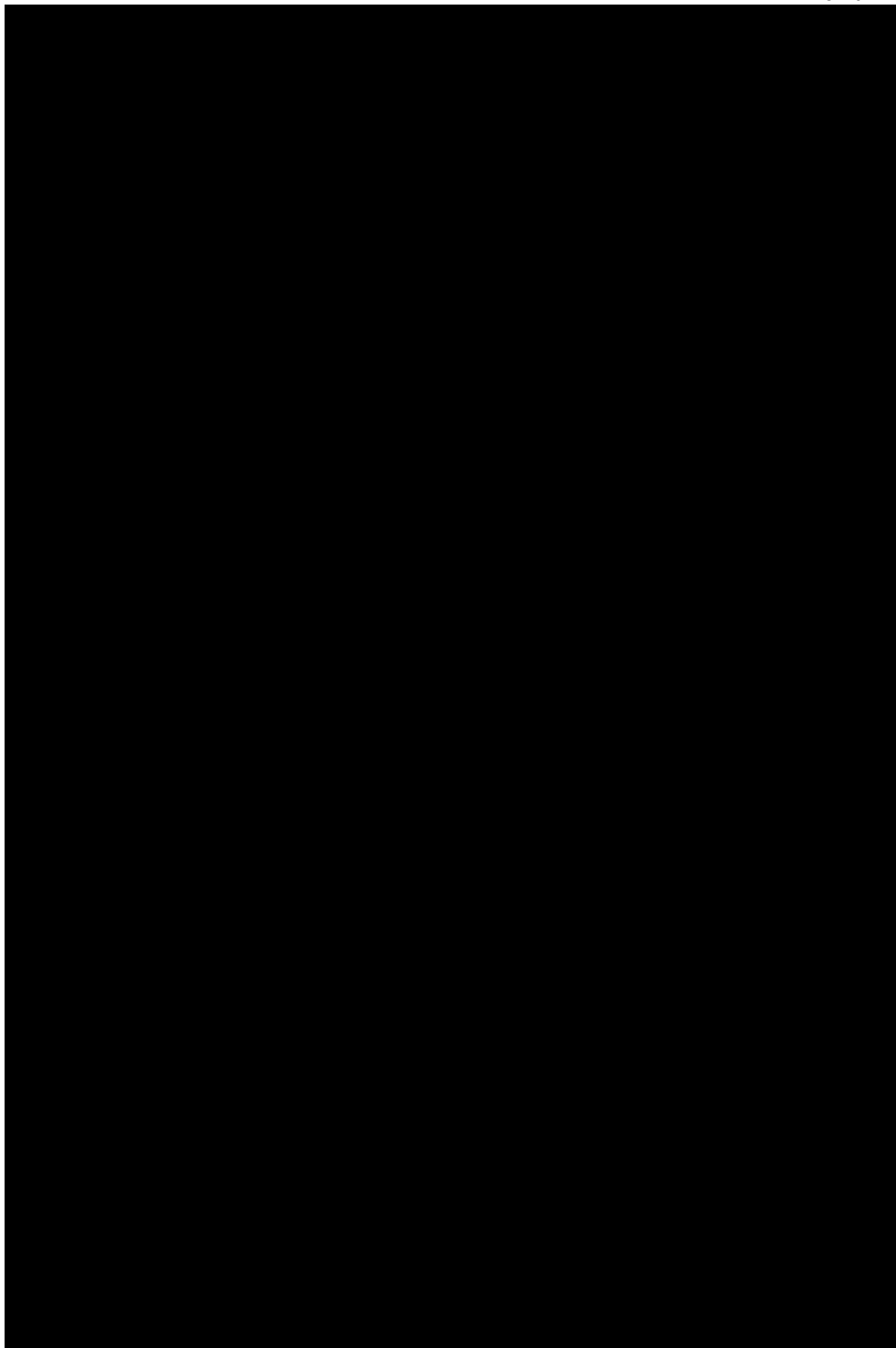


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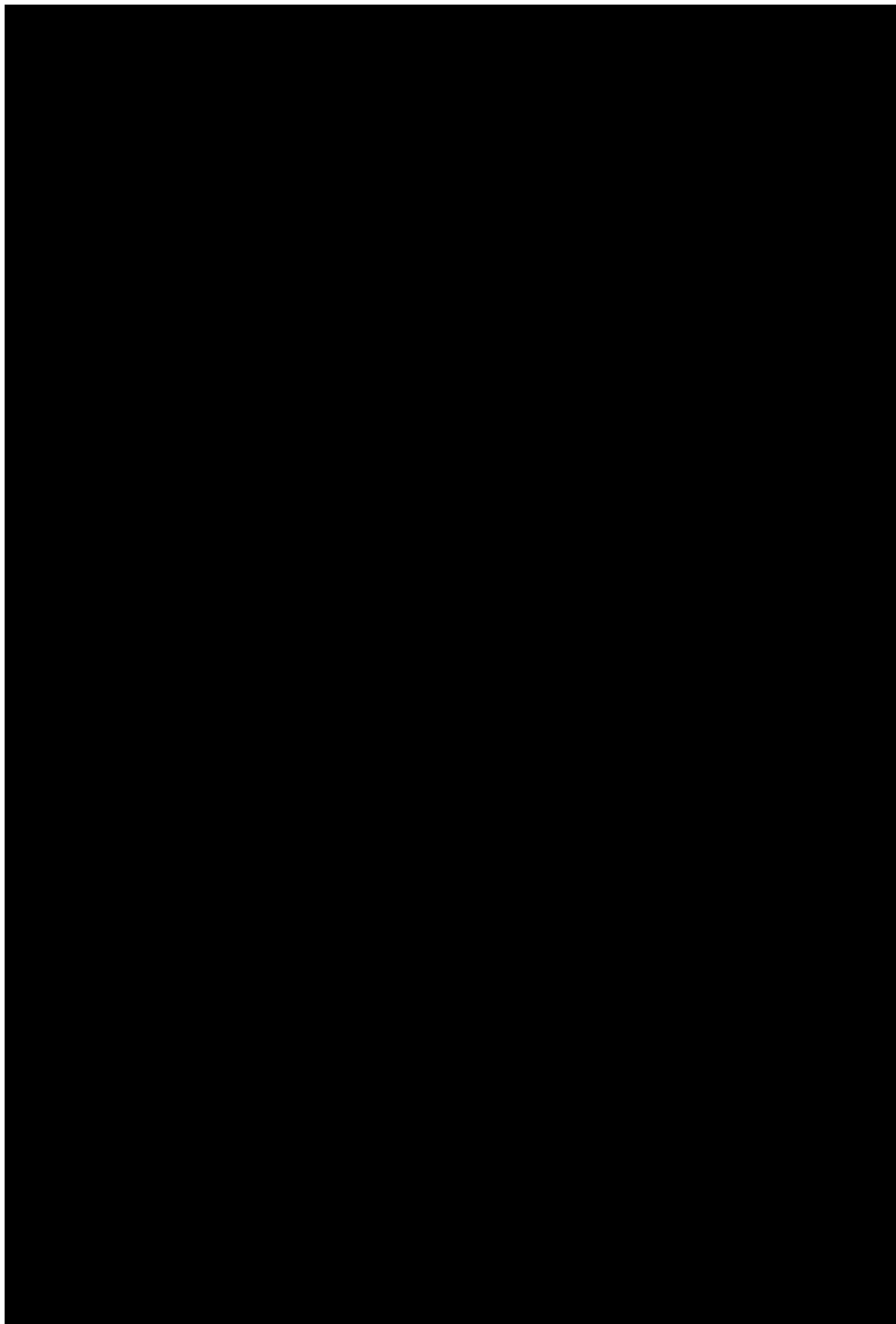
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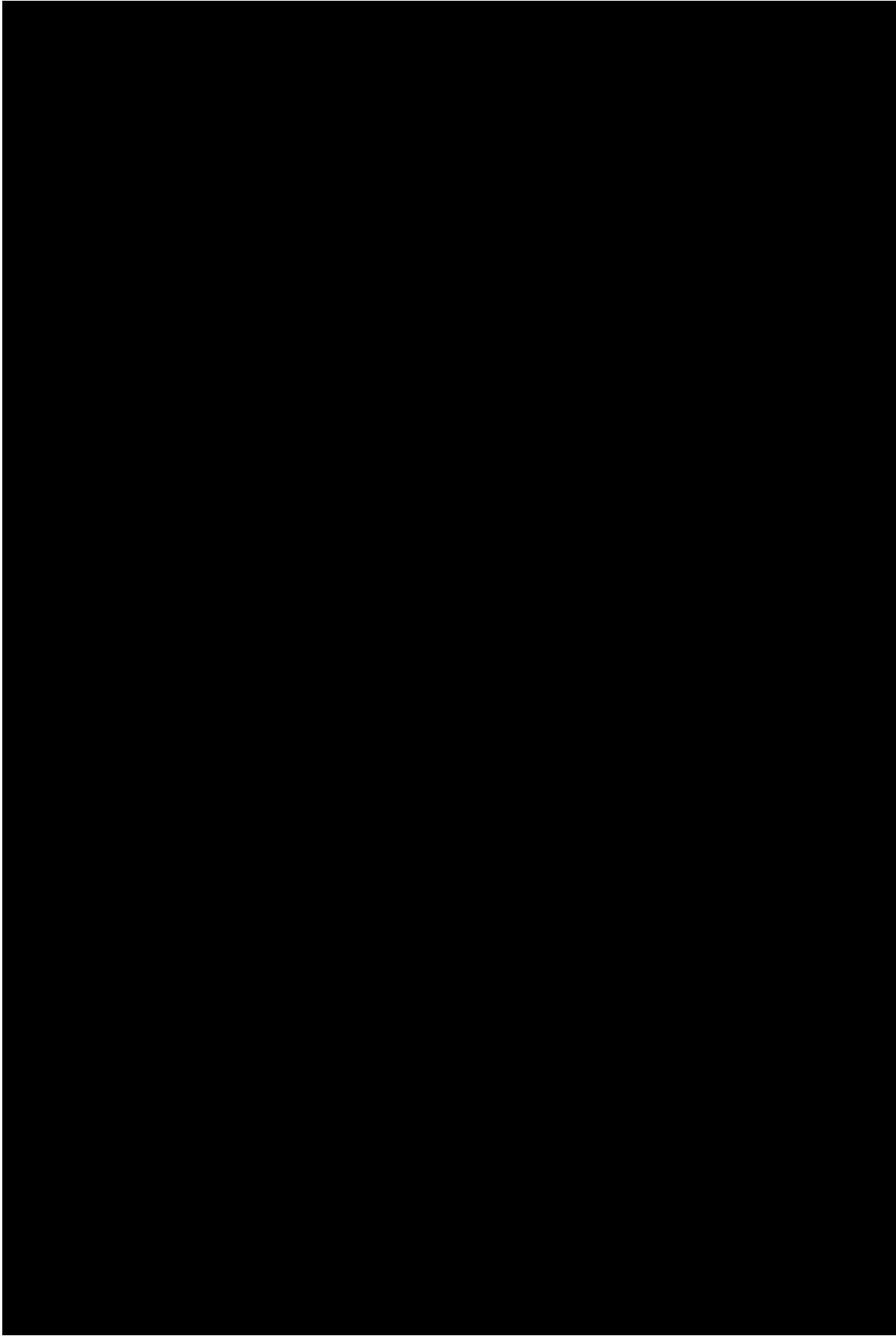
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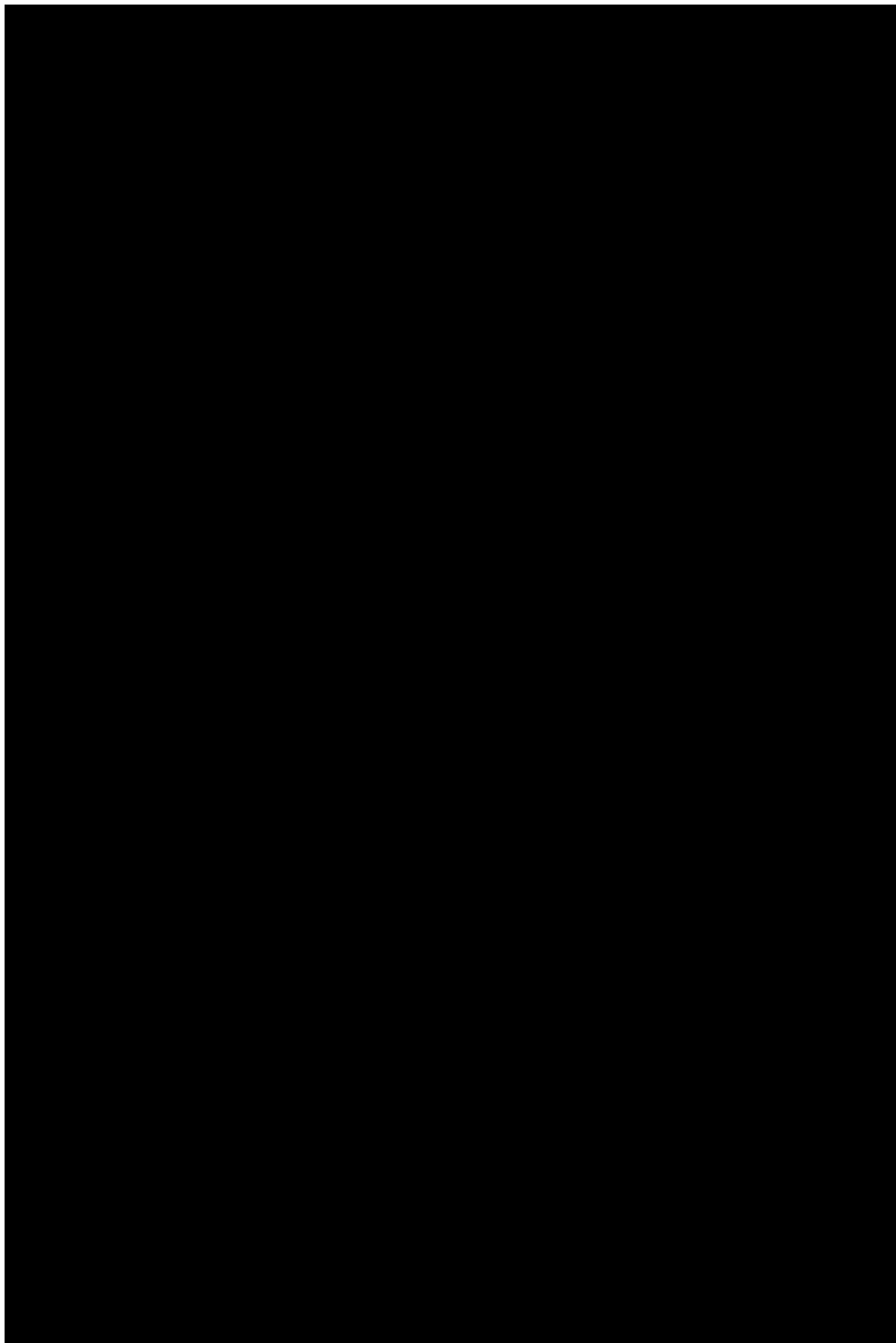


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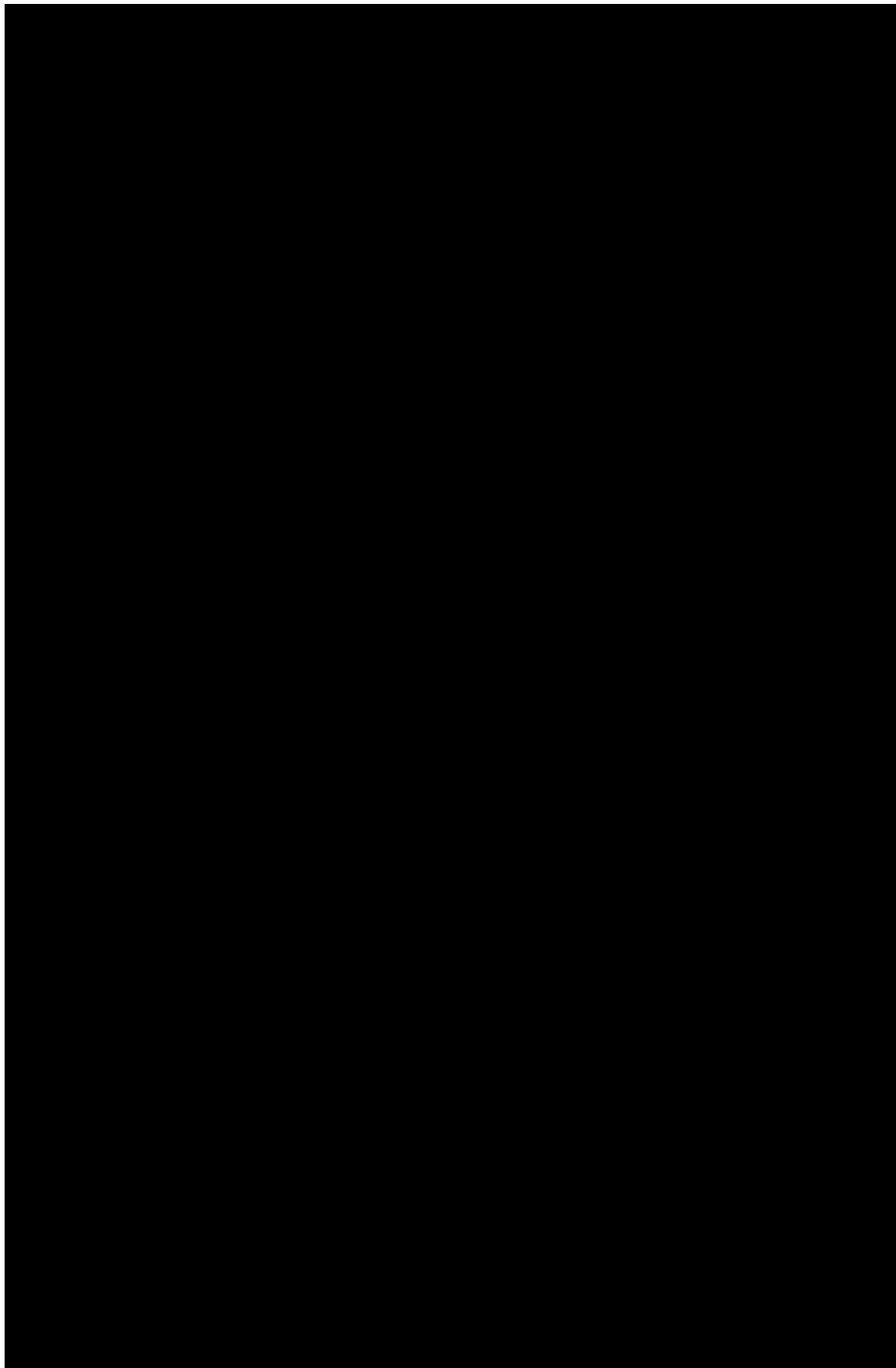
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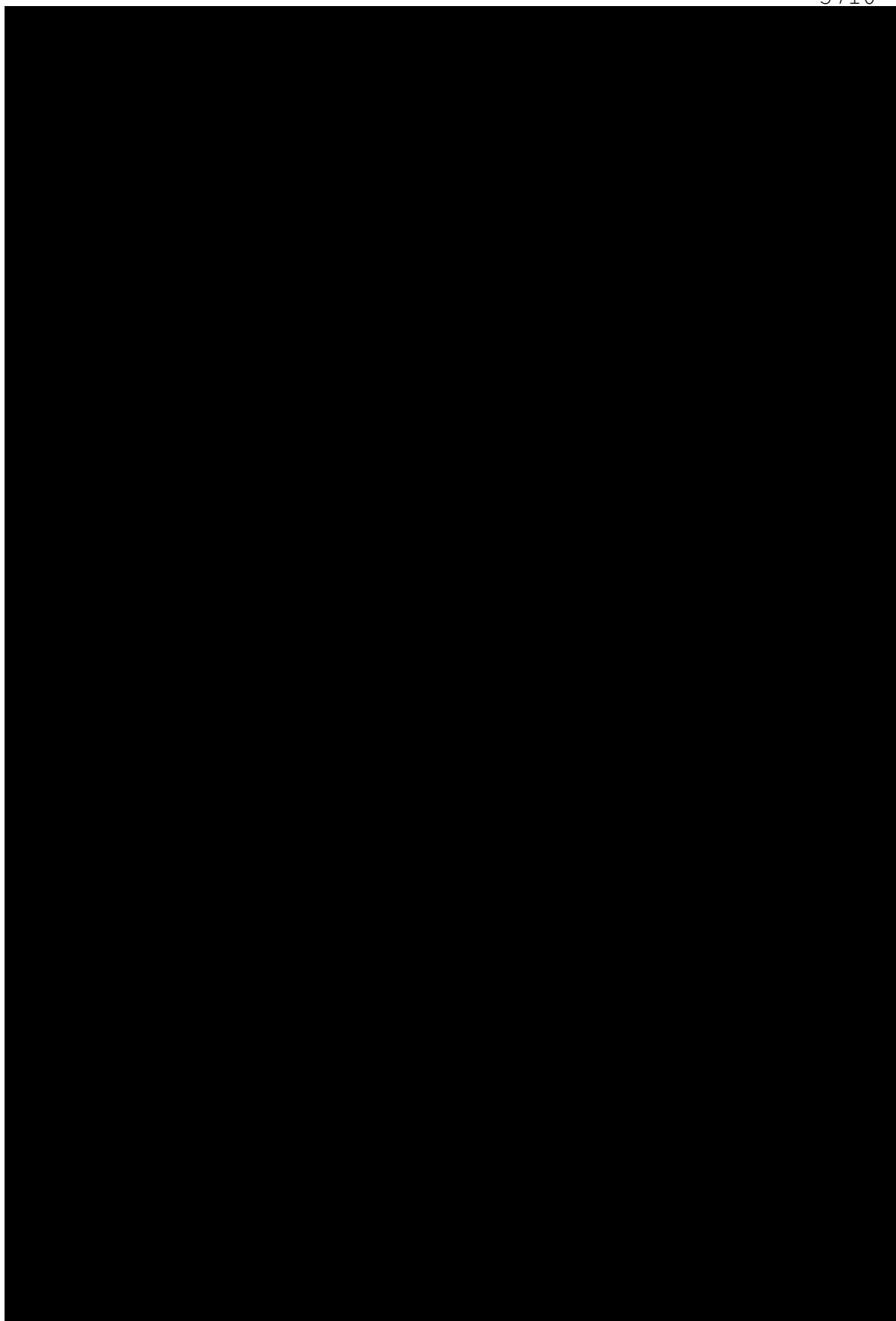
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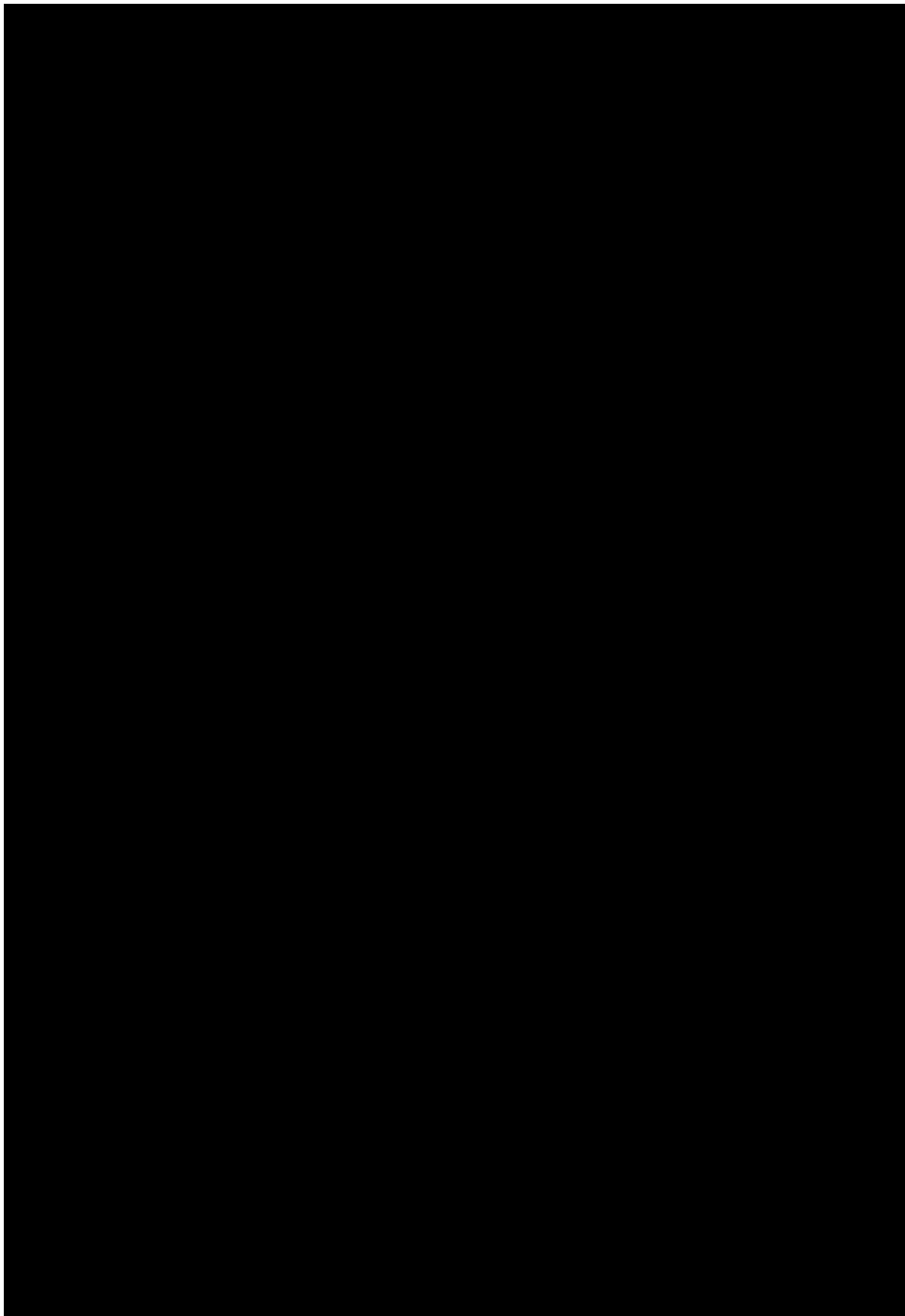
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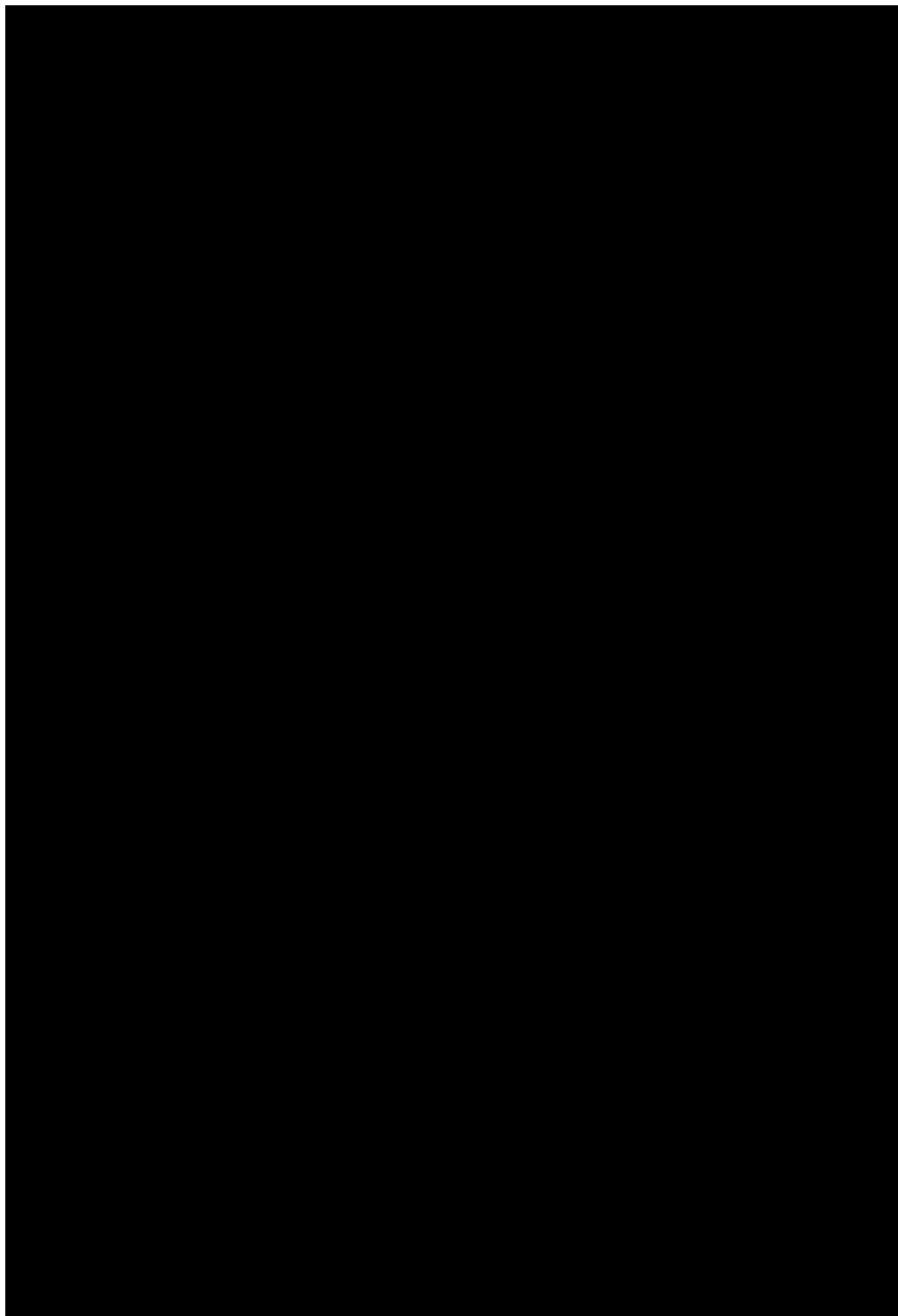
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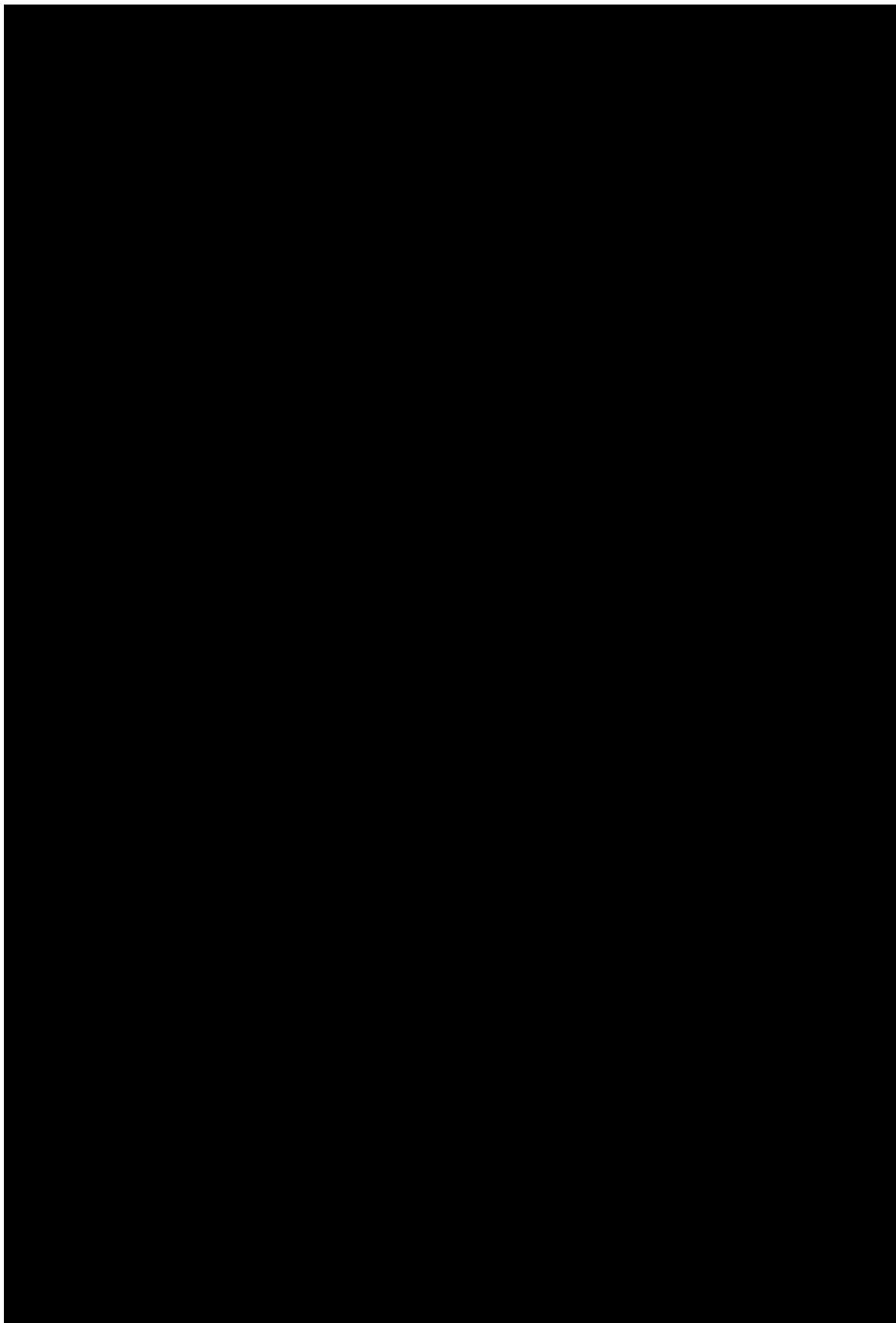
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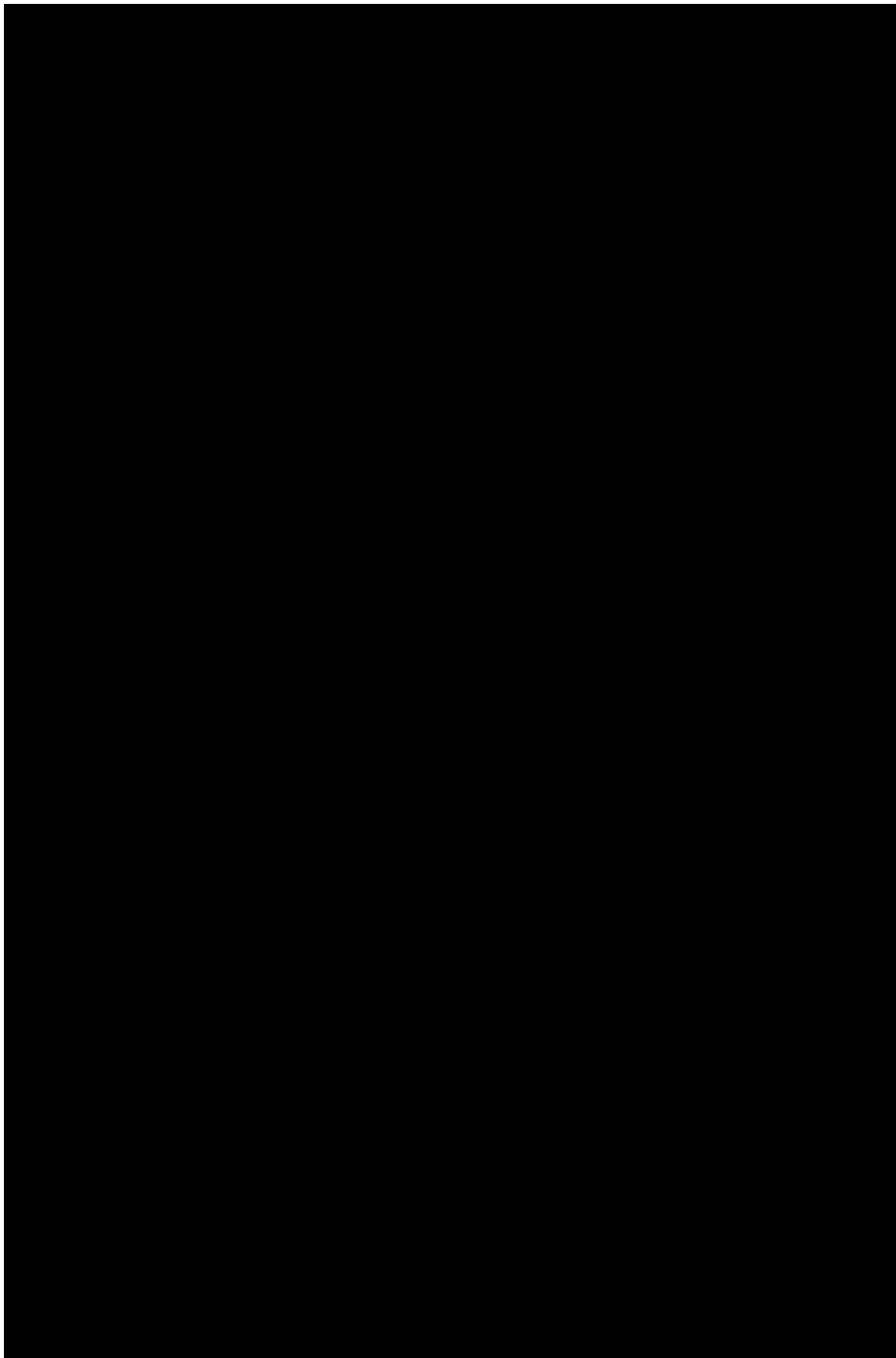


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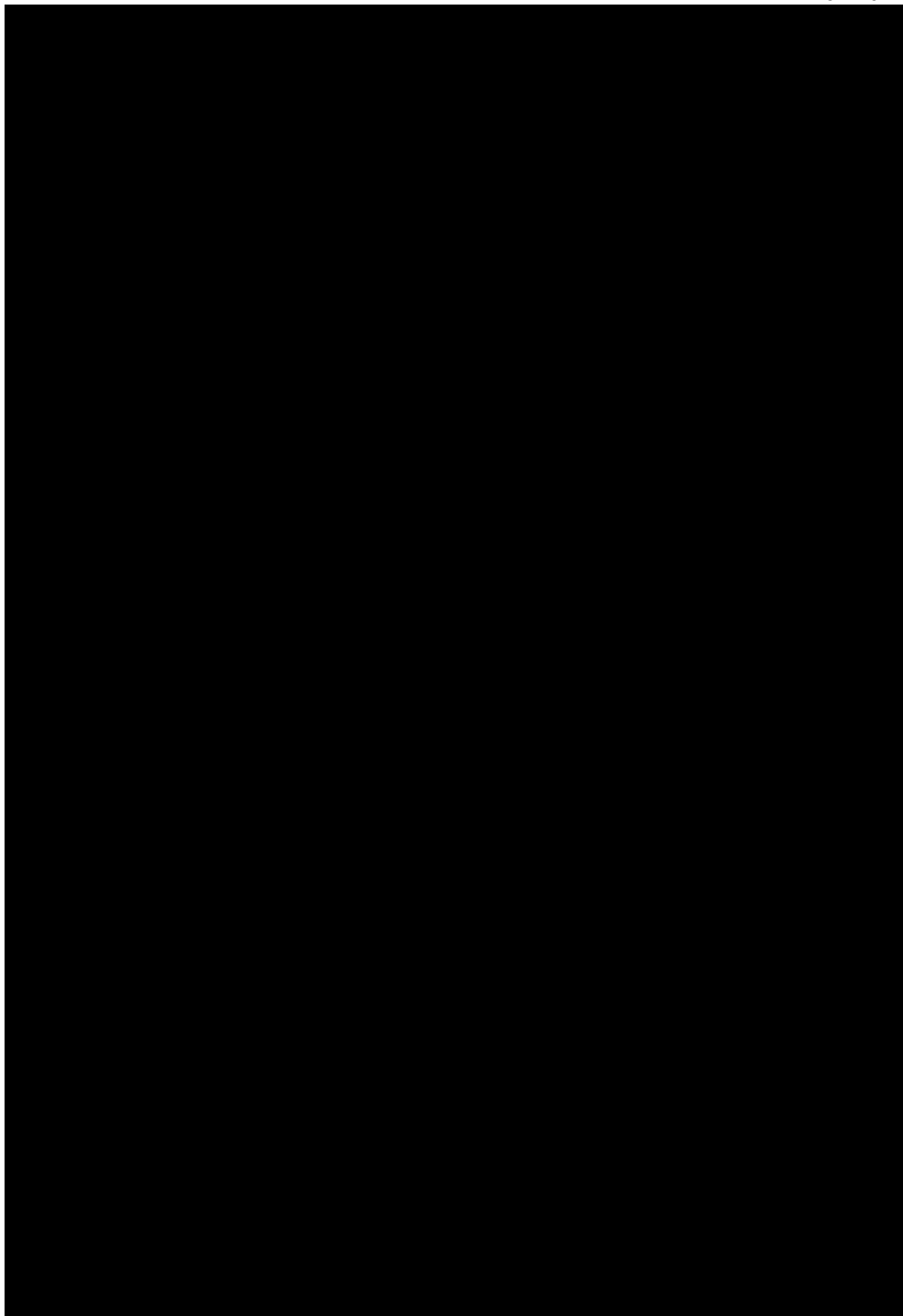
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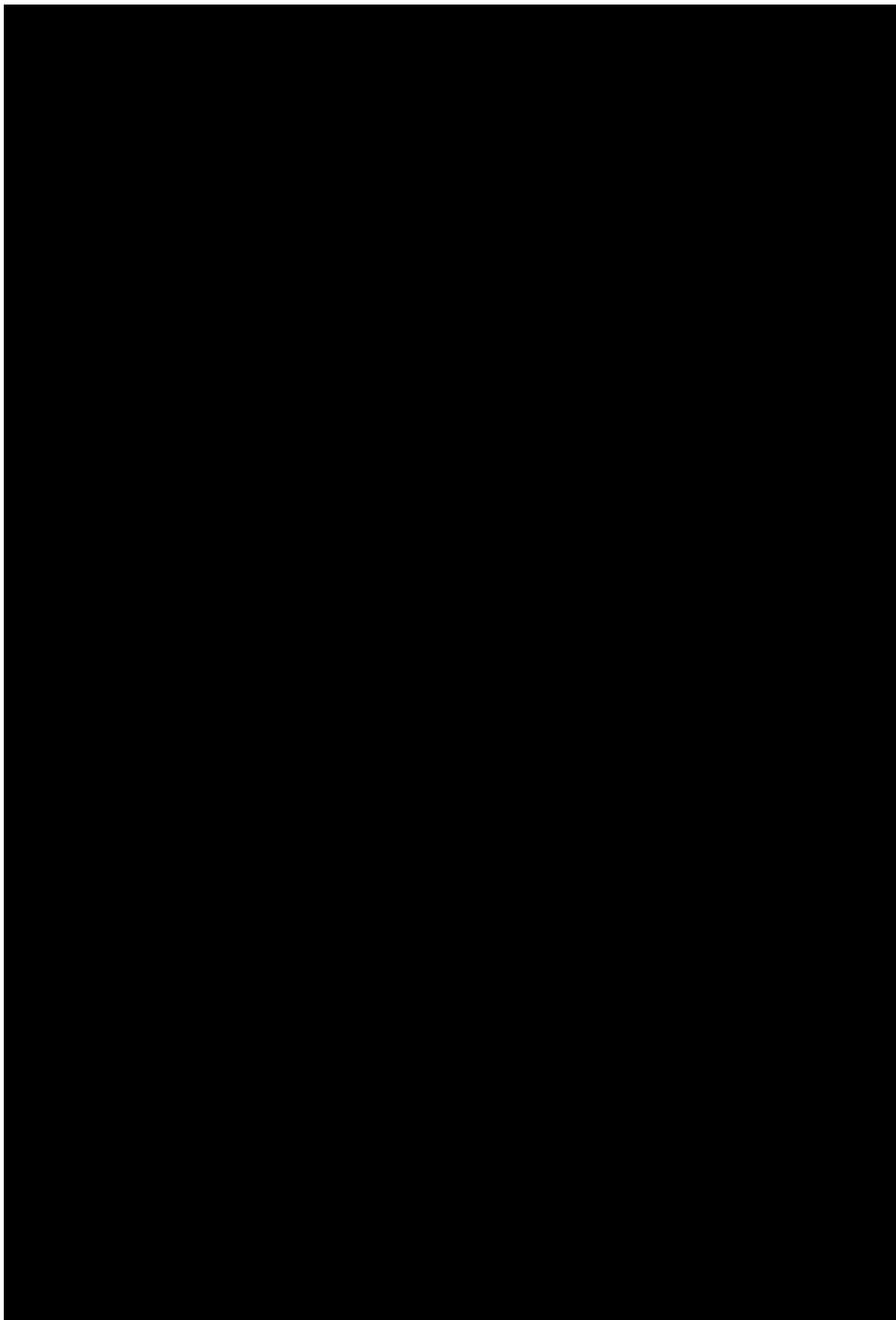
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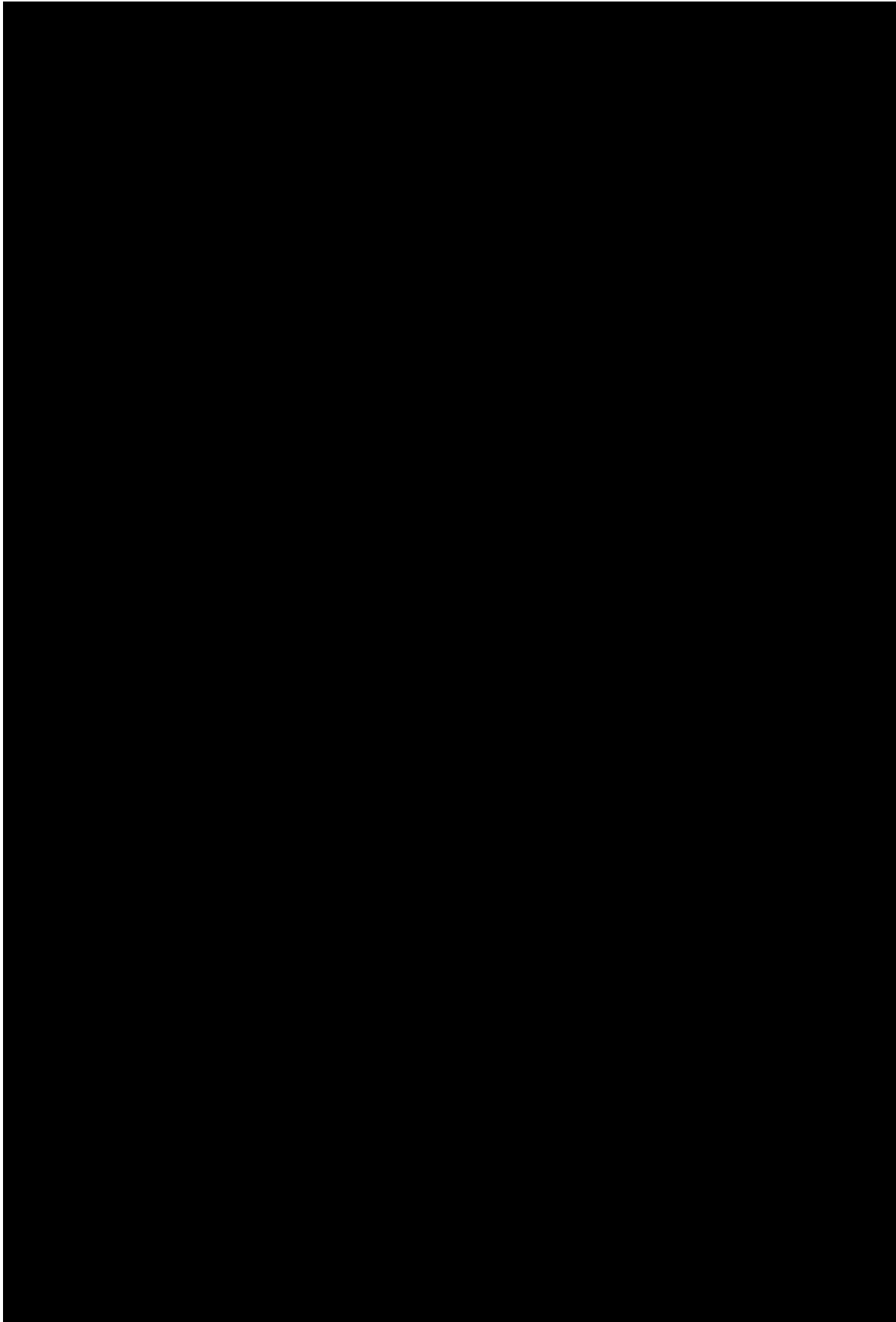
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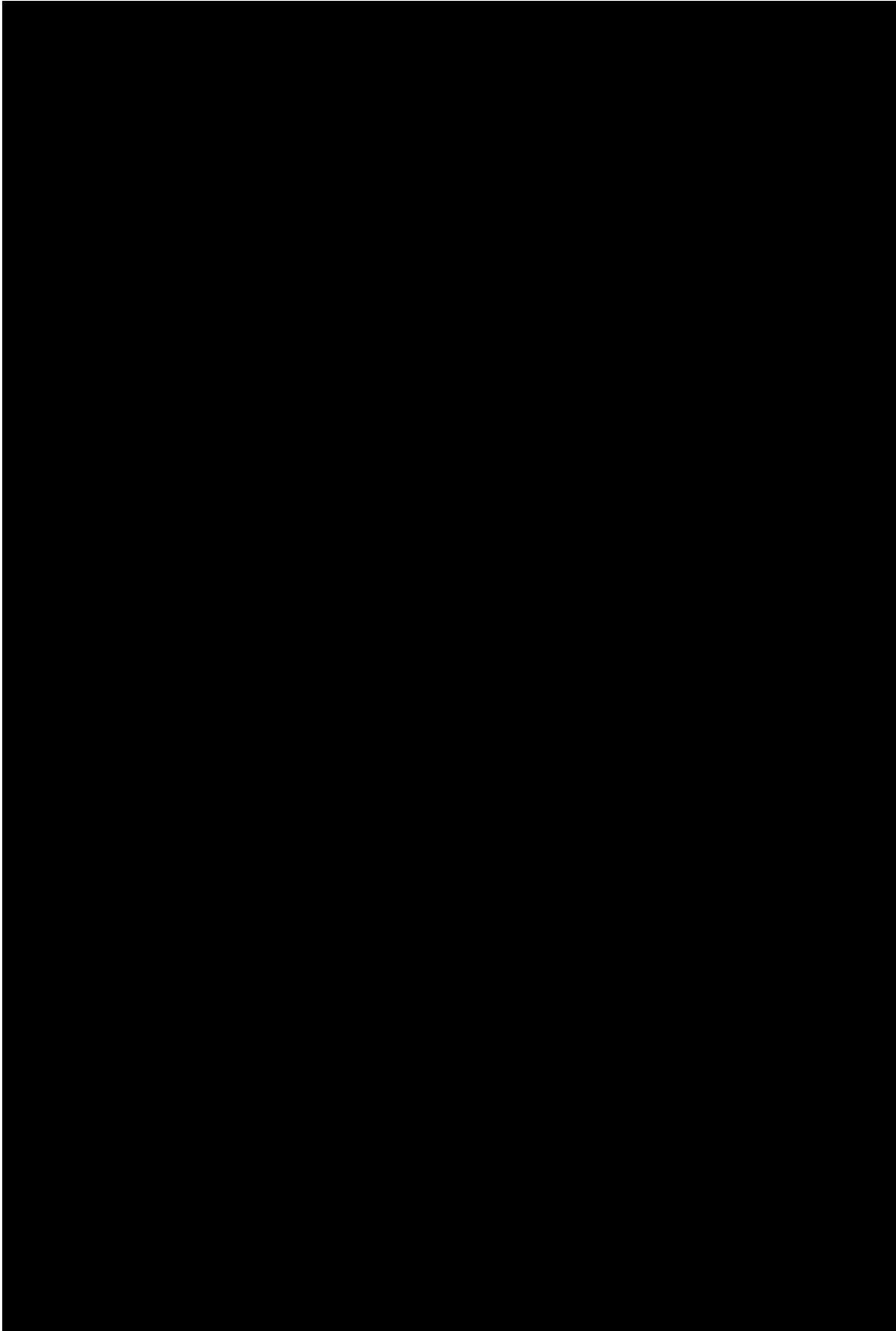


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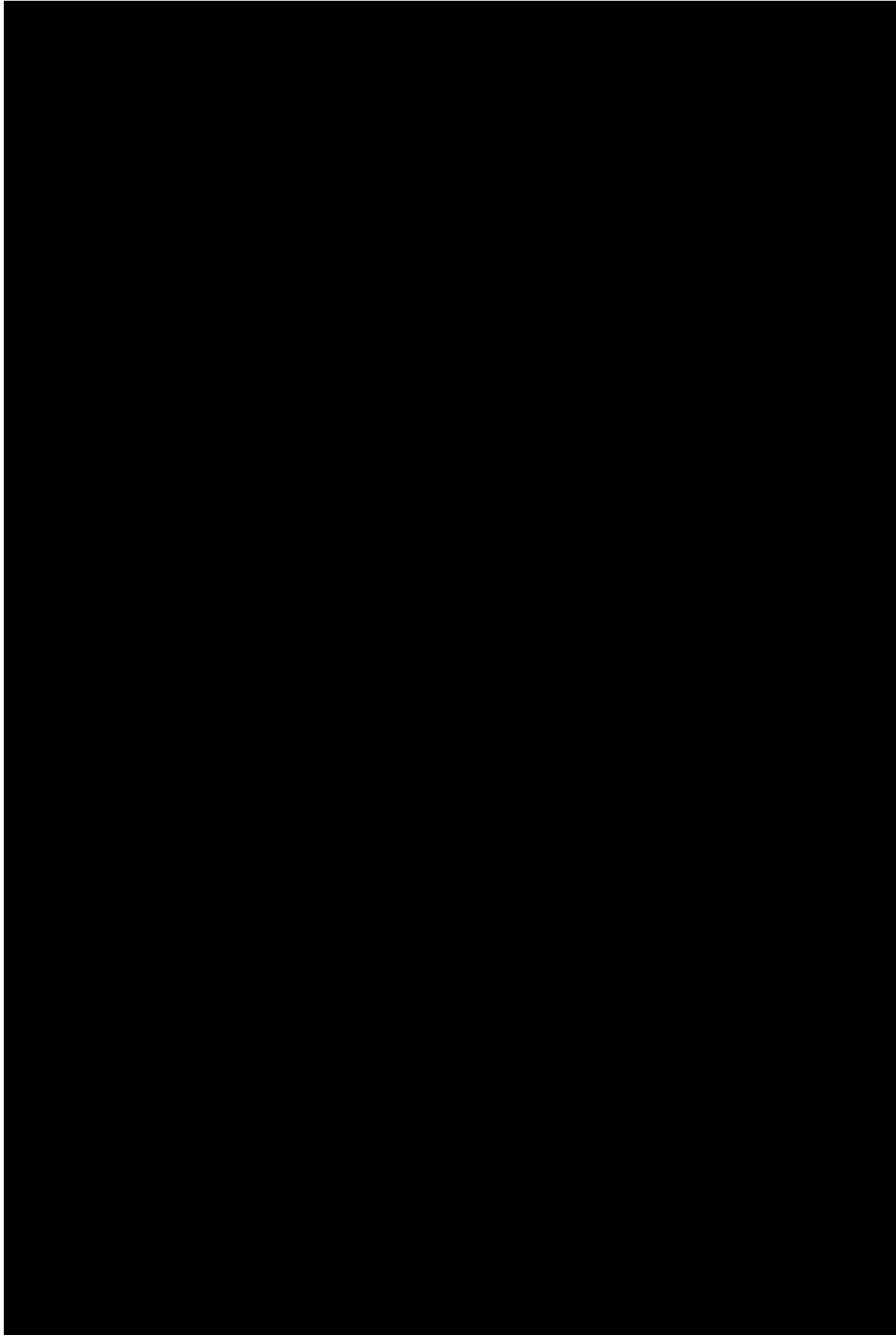
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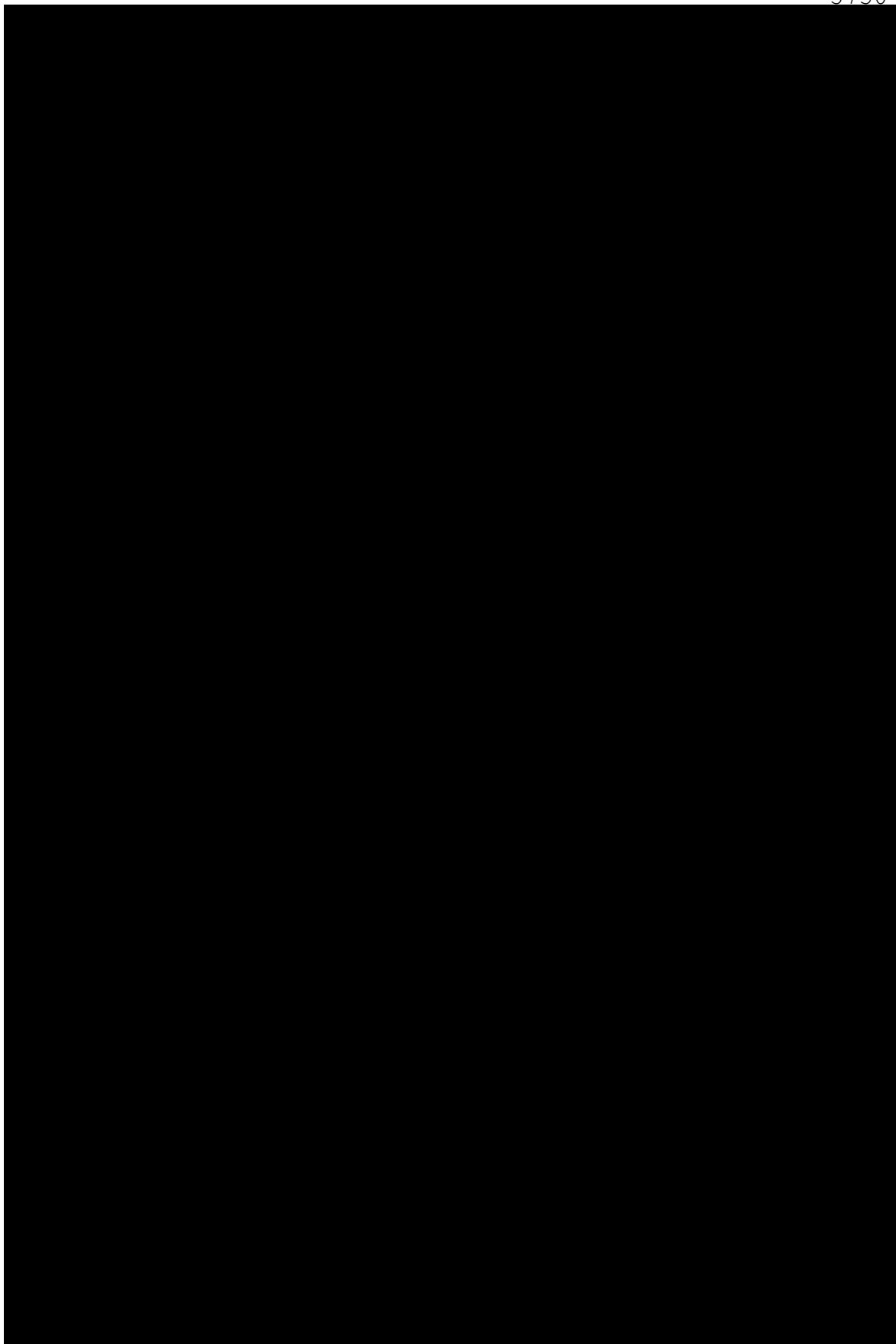
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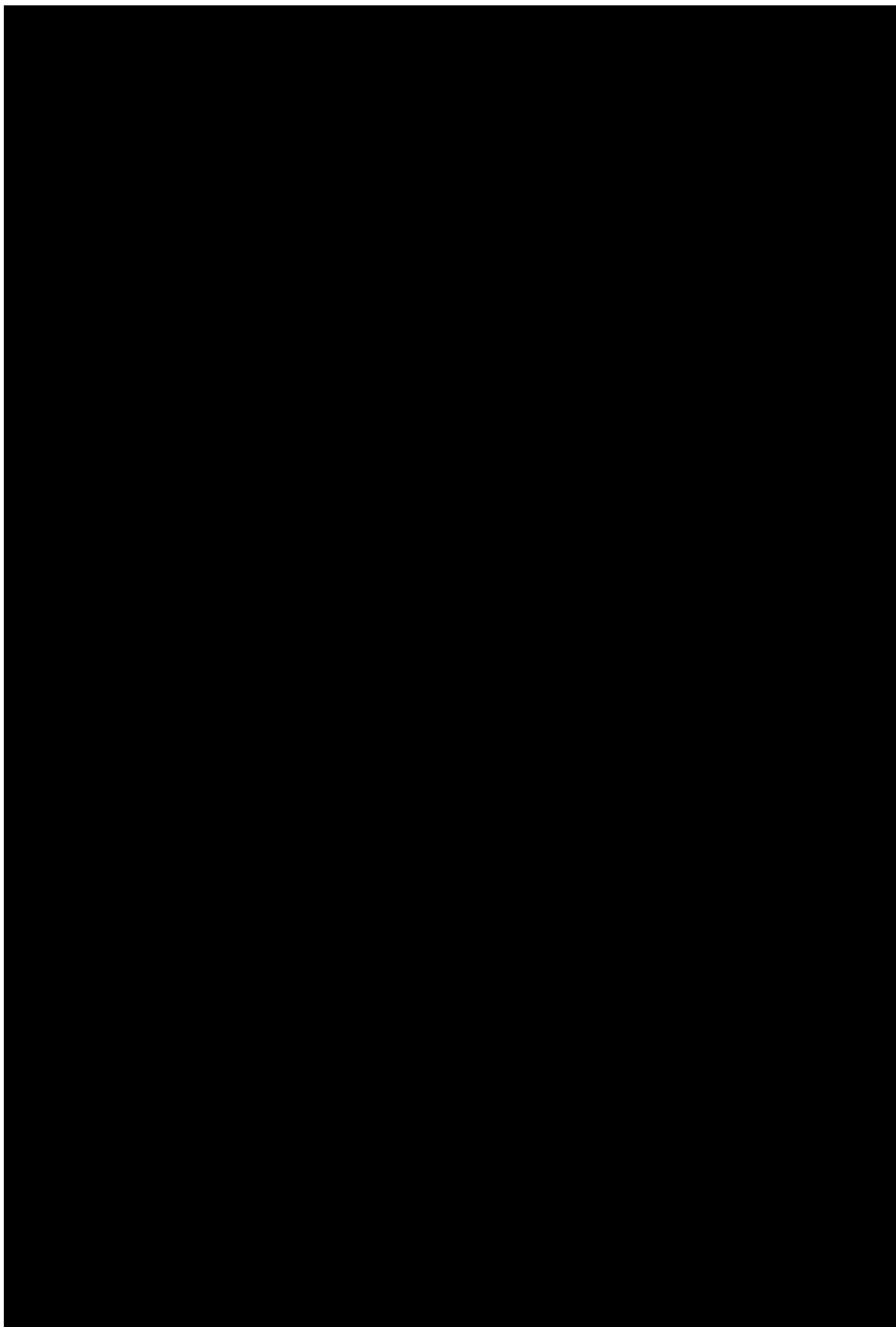
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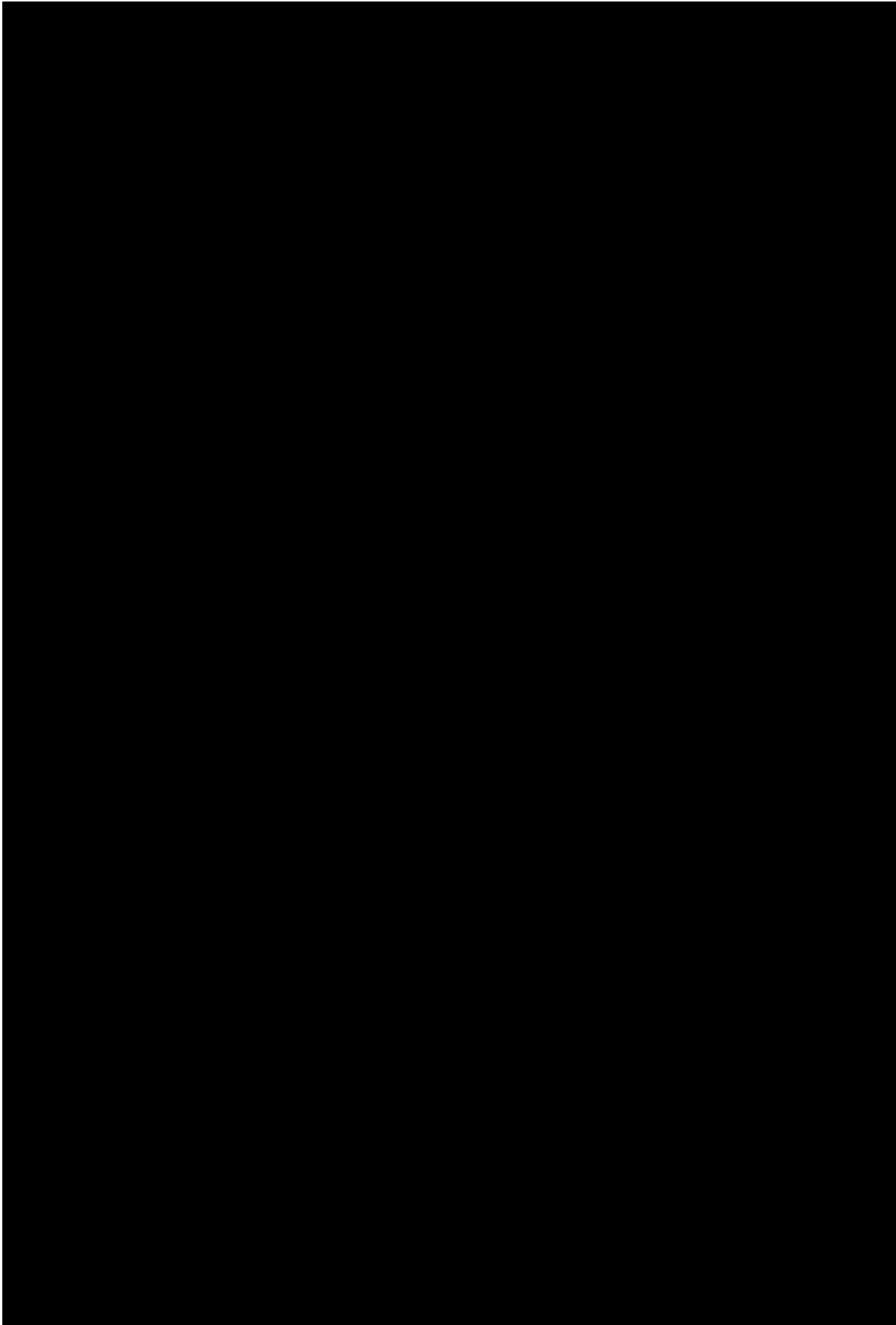
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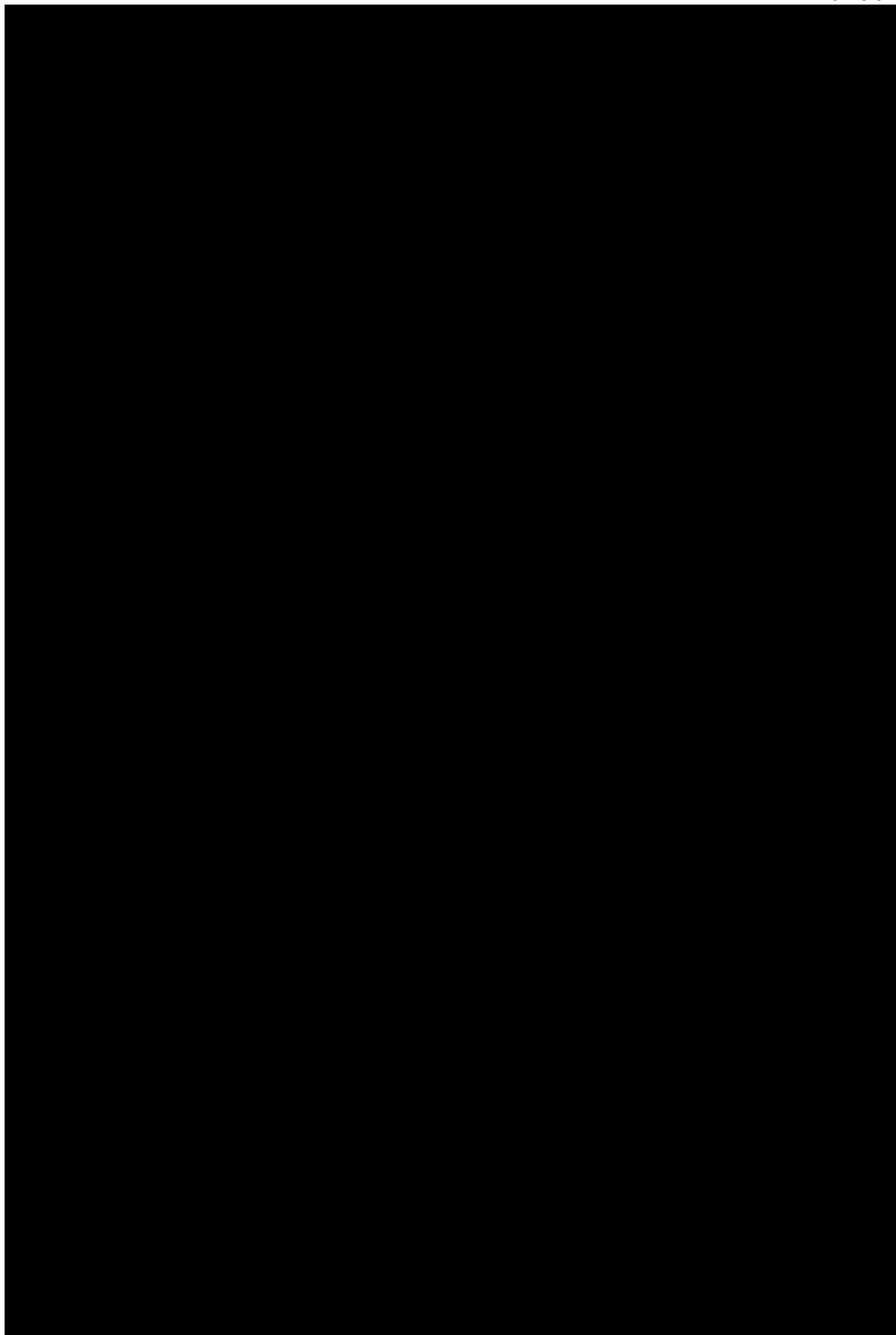
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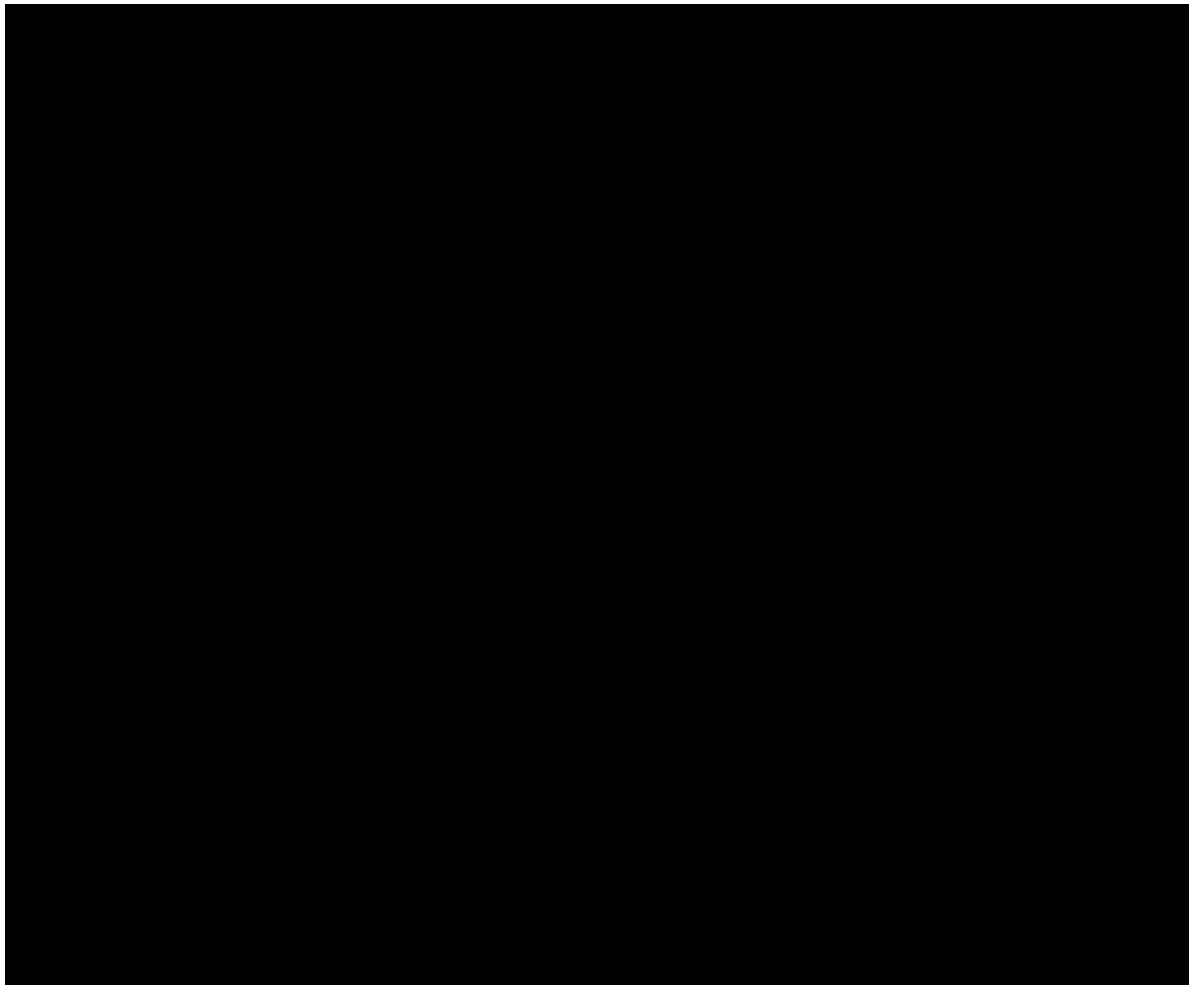
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THURSDAY, MARCH 2, 2023

(Court resumed at 9:40 a.m.)

(DVD OF INTERVIEW RECEIVED INTO EVIDENCE AS COURT'S
EXHIBIT NUMBER 4.)

(PACKET OF EMAILS RECEIVED INTO EVIDENCE AS COURT'S
EXHIBIT NUMBER 5.)

THE COURT: Good morning.

(Audience responded good morning.)

THE COURT: First off this morning, we have to deal
with the issue involving the removal of a juror. A few
days ago I received a complaint from a member of the

1 public indicating that a juror had engaged in improper
2 conversations with parties not associated with the case.
3 I communicated and provided a copy of the communication to
4 defense counsel. After court we then met with the juror
5 on the record, and the juror denied any -- denied
6 discussing the case with anyone not on the jury, or with
7 anyone on the jury. She provided information that led us
8 to -- the Court to contact the persons that she was
9 suspected of having conversations with concerning the
10 case.

11 Those individuals were interviewed and provided an
12 affidavit regarding the contact that the jury had -- juror
13 had with them. We then also brought those two individuals
14 in and had a hearing on it in chambers and on the record
15 in the presence of counsel yesterday, in which both of
16 those individuals waffled on the nature and the extent of
17 the contact. They also provided a recorded interview, or
18 the State provided the Court an interview with the jurors,
19 and I've reviewed that interview last night.

20 So, the juror has had contact or discussions
21 concerning the case with at least three individuals. And
22 though it does not appear that the conversations were that
23 extensive, it did involve the juror offering her opinion
24 regarding evidence received up to that point in the trial
25 that the conversation took place. And in order to

1 preserve the integrity of the process and the interests of
2 both the State and the defense in a fair trial, that juror
3 will be removed and replaced by another juror.

4 I will make a part of the record, under seal because
5 of maintaining the confidentiality or identity of the
6 jurors, I will place under seal the Court interview,
7 affidavits received, and the -- and both discussions with
8 counsel taking place on the record. And all of that will
9 be made a part of the record in the case. And we will
10 bring the juror out to inform her that she will no
11 longer -- her services will no longer be needed. We will
12 then replace her with an alternate juror.

13 Any additional comments by the State or the defense?

14 MR. WATERS: Not from the State, Your Honor.

15 MR. HARPOOTLIAN: Your Honor, we do not except from
16 your ruling. I just sat through everything you sat
17 through, and it's muddled, but we would defer to your
18 judgment.

19 However, I think it's important for you to note on
20 the record the interviews of these two people were done by
21 SLED agents, one of who was named a witness in the case,
22 and the other who is -- was listed in the notes as being
23 one of the investigating officers. Just to note that
24 again SLED has made some bad -- another bad judgment in
25 this case. I'm not excepting from your ruling.

1 THE COURT: Yes, sir.

2 MR. HARPOOTLIAN: I'm just pointing out that this is
3 just a continuum of a calamity of errors. Thank you.

4 THE COURT: And the Court has not had any discussion
5 with any SLED agents concerning this issue. And all of
6 the inquiry by the Court has been directly with the
7 suspected parties involved and with the juror.

8 And this is a matter that -- this long trial, with
9 the intense publicity, is certainly difficult for any
10 individuals to not have some exposure outside of the
11 courtroom to information concerning the case, and to also
12 be tempted to engage in discussions with others. But it
13 is improper, it is contrary to my instruction to the jury
14 daily, multiple times per day, and this juror
15 unfortunately violated that order.

16 So, if you will bring out Juror Number 785.

17 (Juror 785 entered the courtroom.)

18 THE COURT: Good morning. In your normal -- your
19 normal spot is fine. Just remain standing for me. Good
20 morning.

21 THE JUROR: Good morning.

22 THE COURT: Are you doing okay today?

23 THE JUROR: Yes, sir.

24 THE COURT: Okay. I have -- as you know we've had
25 some discussions with you over the past couple of days

1 concerning indications of conversations with a few folks
2 not on the jury concerning the case and expressing some
3 opinion about the case. I have reviewed everything,
4 including statements given by individuals and the recorded
5 interviews, and concluded that despite my order to not
6 discuss the case with anyone, that intentionally or
7 unintentionally you've had some discussions with some
8 folks not on the jury and -- which is going to require me
9 to remove you from the jury.

10 You have been, by all accounts, a great juror and
11 smiled consistently, and seemingly been attentive to the
12 case and performed well, and I'm sure that with all of the
13 time you've invested in it, you probably hate not to
14 continue, or maybe you're ready to go, I don't know. But
15 I certainly want to thank you for your service.

16 I'm not suggesting that you intentionally did
17 anything wrong, but that in order to preserve the
18 integrity of the process and in fairness to all of the
19 parties involved, we're going to replace you with one of
20 the other jurors.

21 Have you brought everything that you have outside --

22 THE JUROR: It is in the jury room.

23 THE COURT: You left some stuff in there?

24 THE JUROR: Yeah.

25 THE COURT: What do you have in there?

1 THE JUROR: A dozen eggs and my purse.

2 THE COURT: Say again?

3 THE JUROR: A dozen eggs and my purse.

4 THE COURT: A dozen eggs?

5 THE JUROR: Yeah. One of the other jurors -- one of
6 the other jurors brought in eggs for everybody from the
7 farm, so eggs, my purse, and a water.

8 THE COURT: Are you going to leave the eggs? You
9 want to leave the eggs or take the eggs?

10 THE JUROR: I'll take the eggs.

11 THE COURT: You want to take the eggs.

12 So, Mr. Bailiff, will you retrieve from the jury room
13 her dozen eggs, her purse, and --

14 THE JUROR: A bottle of water.

15 THE COURT: And a bottle of water. You can get those
16 things from the jury room.

17 As you know, the identity of the jurors are
18 confidential, not known to the public, and the reason you
19 are still where you are is that cameras are not allowed to
20 videotape the jurors. And we have operated by juror
21 numbers throughout the process, and we will continue to do
22 so, and your identity will be kept confidential as far as
23 the Court is concerned.

24 We trust that in the event you decide you want to
25 speak publicly about this case, that you wait until after

1 the case is over. You're not encouraged at all to do so,
2 but you have a right to speak to anyone you want to if you
3 decide to do so.

4 THE JUROR: A conversation with morning with
5 Ms. Becky, was that related to you?

6 THE COURT: No. I have not spoken with her today.
7 No, this is not related to -- I know you also had -- some
8 conversation was brought up concerning your ex-husband,
9 but that's not a part of this consideration at all. This
10 is totally independent of any other conversation that he
11 might have had concerning you; that's not part of the
12 order of the Court.

13 So, they're going to get your things, and then --
14 once you're removed from the jury, you can't go back in
15 the jury room. You just -- we'll have to tell them
16 goodbye for you. Thank you very much.

17 (The juror exited the courtroom.)

18 THE COURT: We get a lot of interesting things but
19 now a dozen eggs. Give her a chance to leave. She's
20 gone?

21 (Break in proceedings.)

22 THE COURT: Anything else before the jury comes?

23 MR. HARPOOTLIAN: Your Honor, have we picked an
24 alternate?

25 THE COURT: Oh, right. When they come out we'll need

1 to select an alternate, and the clerk has --

2 Do you have the remaining alternates in a box?

3 THE CLERK: Yes, sir.

4 THE COURT: Any objection to a blind selection of
5 that alternate out of the box?

6 MR. WATERS: Not from the state.

7 MR. HARPOOTLIAN: Nothing from the defense, Your
8 Honor.

9 (Break in proceedings.)

10 THE CLERK: Juror Number 254.

11 MR. HARPOOTLIAN: 254?

12 THE CLERK: 254.

13 THE COURT: Number 254 will become part of the panel,
14 of the deliberating panel at this point. 254.

15 Yes, sir, Mr. Griffin?

16 MR. GRIFFIN: Your Honor, before the jury comes in,
17 early in my closing argument we have a blow up of the
18 photos of Maggie, Paul, and the crime scene. I'm going to
19 hold it up so the jury can see but the audience cannot
20 see, and I'm just notifying *Court TV* to please don't
21 display this blow up during the proceedings.

22 MR. MEADORS: Your Honor, can we look at it?

23 MR. GRIFFIN: Oh, sure. I apologize.

24 (Break in proceedings.)

25 THE COURT: You may bring the jury.

1 (The jury returned to the courtroom.)

2 THE COURT: Good morning.

3 (Jurors responded good morning.)

4 THE BAILIFF: The jury is present, sir.

5 THE COURT: Yes, sir. Thank you.

6 And good morning one more time.

7 (The jurors responded good morning.)

8 THE COURT: Day number twenty-eight. Welcome back.

9 Juror number 254.

10 THE JUROR: Yes, sir.

11 THE COURT: You are now part of the first twelve
12 jurors. We have thirteen. You are part of the first
13 twelve panel at this time.

14 THE JUROR: Yes, sir.

15 THE COURT: And we continue with closing arguments as
16 the defense's turn.

17 Mr. Griffin.

18 MR. GRIFFIN: Thank you, Your Honor. Good morning.

19 (The jurors responded good morning.)

20 MR. GRIFFIN: Wow. We're at the stage of the case
21 that's called closing arguments. I don't know why they
22 call it argument. I'm not here to have an argument with
23 you in any form or fashion, but what I'm here to do today,
24 this morning, is to review the evidence with you that you
25 have heard in the courtroom over the last six weeks. In

1 reviewing this evidence, my goal is to address questions
2 that you may have about what you've heard.

3 And the jury system that we have, frankly, is the
4 greatest criminal justice system in the world because it's
5 the only system, jury system, that a criminal defendant's
6 fate is put in the hands of his or her peers. In this
7 country, we don't leave the decision of guilt or innocent
8 up to the governor, the attorney general, to the
9 prosecutors, or to the presiding judge. You, ladies and
10 gentlemen, make that decision.

11 And as perfect as our jury system is, there's one
12 thing that I wish it provided: an interchange during the
13 course of the trial between us. Y'all are sitting there
14 and listening to what we say, and we don't know what
15 questions you have and what you want answered. By the
16 same token, you know, we may have questions of you that we
17 can't ask. Here is my opportunity to try and answer the
18 questions that I think you have. There may be some things
19 that I go over that you've already decided and I'm wasting
20 your time, and if I do that, I apologize, I truly do. But
21 I don't -- this case is so important, I don't want to
22 leave anything out that one of you may have a question
23 about.

24 I think I can probably speak to everybody in this
25 courtroom, that's there one thing that we on this side

1 have no questions about is that y'all have been ideal
2 jurors. We've been here six weeks, and each of you have
3 come every day on time, and you've been very attentive,
4 and it has not gone unnoticed, and we do appreciate you
5 for your service. We know what a sacrifice it is being
6 away from your home, your work, your family, your personal
7 obligations. Maybe some of you missed vacations, but
8 you've been here in a three week trial and here we are at
9 the end of six weeks. And I want to thank you personally,
10 I want to thank on behalf Mr. Harpootlian, Mr. Barber,
11 Ms. Fox, and especially on behalf of Alex Murdaugh.

12 In his opening statement, Mr. Harpootlian explained
13 to you that the law of governing your service requires
14 each of you to engage in an unnatural task. In every
15 criminal case, jurors are required to begin the process by
16 presuming the defendant innocent. In this case, you were
17 required under your solemn oath as we began to presume
18 Alex Murdaugh innocent of these charges, and frankly, as
19 he explained, that's not natural. When you hear on the
20 news that a crime has occurred and an arrest has been
21 made, you feel a little bit relieved. Thank God they
22 caught him. And, frankly, I would not be surprised if
23 some amongst you when you read in the paper that Alex
24 Murdaugh was charged with the murders of his wife and son,
25 that you thought, oh good, they got him. But those

1 opinions -- and each of you when you filled out your
2 questionnaire agreed and affirmed that you would leave
3 those at the door of the courthouse, and that you would
4 decide this case solely on the evidence, and that's what
5 the law requires. And when we began, the law also
6 requires you to presume him innocent of these charges.

7 Now, I've been doing this a long, long time, and
8 I've -- up until the advent of instant replay in sports,
9 it's been very difficult to explain just how to do that to
10 jurors, how jurors can do this, apply this presumption of
11 innocence. And if you're not interested in sports, I
12 apologize for this analogy, but the analogy is the instant
13 replay. Whether you're a Clemson fan or a Georgia fan,
14 that on a Saturday afternoon there's a play called on the
15 field, and then it's reviewed. And under the rules, the
16 call on the field stands unless there's visual and
17 incontrovertible evidence that the call on the field was
18 wrong. We see that every weekend on sports.

19 Here the call on the field is that Alex Murdaugh is
20 innocent, innocent of these charges. That's what the law
21 requires, and that unless and until the State proves his
22 guilt to each one of you individually, voting
23 individually, proves his guilt beyond a reasonable doubt,
24 then that presumption of innocence stays with him. You're
25 not being tasked here to give your opinion in this trial.

1 You're being tasked to apply the constitution, the bedrock
2 principles that protect us all from the government, and
3 those bedrock principles are, first, you get tried by a
4 jury of your peers. Second, that the jury of your peers
5 begin with presuming innocent. And third, that you will
6 remain innocent until the government, if they can, proves
7 to you individually in your mind that the person is guilty
8 beyond a reasonable doubt.

9 Now, the Judge will give you jury instruction on what
10 that means, beyond a reasonable doubt. But the definition
11 has been defined that reasonable doubt is doubt that would
12 cause a reasonable person to hesitate when making an
13 important decision in their personal affairs, such as to
14 buy a house, get married, any consequential decision. And
15 you will be making, you will be making, when you get this
16 case probably later this afternoon, you will be making one
17 of the most consequential decisions that you will have
18 ever made in your life, I suspect. I don't know all of
19 your backgrounds, but it will be a very consequential
20 decision. And if the proof that the State has put before
21 you causes you to hesitate when you go to fill out that
22 vote as you're deliberating in your jury room -- each of
23 you will have a vote, and you will have the right to vote
24 guilty or not guilty, and each of you will write it down.
25 If there's any reasonable cause for you to hesitate to

1 write guilty, then the law requires you to write not
2 guilty.

3 This burden of proof that we have -- many of you may
4 have experience with civil cases, and in civil cases the
5 burden of proof is much lower, and it's called by a
6 preponderance of the evidence. And you may have seen
7 lawyers, or judges, or watched on TV as they give a visual
8 image of Lady Justice, who's blind, and who's blindfolded
9 so she doesn't -- is not biased for one side or the other,
10 and there's scales on Lady Justice, and those scales are
11 the scales of justice. And in a civil case, if one party
12 proves their case by a preponderance of the evidence,
13 meaning ever so slightly tilt those scales in their favor,
14 then they're entitled to the verdict.

15 There's another heightened level of burden of proof
16 in a civil case called by clear and convincing evidence,
17 and the law requires things like to prove fraud or some
18 intentional acts, you have to prove by clear and
19 convincing evidence, and that's an intermediate level of
20 proof. And so it's not just tilt the scales ever so
21 slightly in the favor of the party that prevails, but you
22 have to get sort of three quarters of the way there.

23 But now proof beyond a reasonable doubt is the
24 highest standard of proof the law recognizes, and it is
25 you have to tilt the scales all the way to one side in

1 order for the State to meet their burden.

2 A little bit about the verdict. You will have an
3 option of guilty or not guilty. My friend Dick
4 Harpootlian over here, is a -- he travels a lot. He has
5 been to a lot of countries, and he frequently -- he
6 recently returned from Scotland where he attended a jury
7 trial in Scotland. And he tells me it's much like this
8 except the lawyers wear a wig. I might benefit from
9 something like that, but in Scotland it runs about the
10 same until it gets time to the verdict in a criminal case.
11 And the jury in Scotland, where we derive our laws from,
12 they are given three options. One option is guilty, the
13 second option is not guilty, and the third option is not
14 proven. Not proven.

15 Now, here in America we have combined the verdict of
16 innocent and not proven into one of not guilty. And so
17 when you go to render your verdict, if it's a verdict of
18 not guilty, it's either you concluded that the defendant
19 is innocent of the charges, or that the government has not
20 met their burden of proof, their heavy burden of proof
21 beyond a reasonable doubt.

22 Now -- and one of the reasons that defendants are
23 presumed innocent and the government has such a high
24 burden is because in criminal cases, the defendant really
25 doesn't have the ability, doesn't have the resources,

1 doesn't have the lawful authority to execute search
2 warrants, subpoena documents to prove his or her
3 innocence. And so a defendant cannot secure a crime
4 scene, cannot lift a crime scene for fingerprints, shoe
5 wear impressions, cannot secure telephones to get
6 electronic data in the course of an investigation, so the
7 defendant is limited on what they can do.

8 In this case on 9 -- on June 7, 2021, Alex Murdaugh
9 called 911, and Officer Deputy Greene, and then followed
10 by other deputies, rolled up on the scene. And he is
11 standing on his property, his wife and son lie dead in a
12 pool of blood each -- she's within yards of him -- and
13 he's just put a shotgun down. He just put a shotgun down.
14 And what would that look like 90 out of 100 cases when the
15 officer rolls up? It would look like the person who had
16 the shotgun and two dead bodies may have done it, probably
17 would have done it. Certainly it's someone who should be
18 strongly considered, and all of the officers in this case
19 told you that. Deputy Rutland said, yeah, Alex Murdaugh
20 was a suspect. But there were a lot of suspects out
21 there. Everybody was a suspect. Fair enough. Agent Owen
22 says, well, you know, we have a circle, an investigative
23 circle, and it starts with immediate family members,
24 particularly if they found the deceased, the victims. So,
25 he's in the circle by virtue of calling 911, and that's

1 fair enough.

2 But what doesn't strike us as fair is that the next
3 morning on June the 8th, after the gruesome murders of
4 Maggie and Paul, this is what is issued, a joint press
5 release by Colleton County and SLED that says: At this
6 time, there's no danger to the public. At this time,
7 there's no danger to the public.

8 You have two people who have been executed within --
9 y'all were out there. I don't know, is it 100 yards,
10 200 yards from Moselle Road? They've been slaughtered.
11 And at this time there's no danger to the public? Does
12 that tell you that on June 8th, law enforcement had
13 decided it had to be Alex Murdaugh? It's a fair question
14 for you to ask yourself. It's a question that's not been
15 fairly answered in this trial. But we know from the
16 June 7th or June 8th, Alex is a suspect and he's in the
17 circle, and from that day forward he is at the mercy, he
18 is at the mercy of the ability of SLED to exclude him from
19 that circle.

20 They have the ability to do the forensic work, they
21 have the ability to interview witnesses, and they have the
22 ability to gather electronic data, and we believe that
23 we've shown conclusively that SLED failed miserably in
24 investigating this case. And had they done a competent
25 job, that Alex would have been excluded from that circle a

1 year ago, two years ago, but he would have been excluded.

2 What did you hear from the witness stand? You heard
3 from Chief Barry McRoy. I didn't know Chief McRoy until I
4 got involved in this case, but his reputation is
5 outstanding and he's a consummate professional. And he
6 explained that when he got there, he was concerned that
7 cars would be pulling up, and there's some tire tracks
8 that were not being protected, and that they could have
9 evidentiary value. And then you heard from Mark Ball, who
10 had a conversation with chief -- I mean, excuse me,
11 Sheriff Hill, who's another fine public servant here, and
12 he also -- I mean, we've got to stop cars from coming in
13 here to preserve these tire impressions, and it was not
14 done. It was not done. Captain Chapman from the Colleton
15 County Sheriff's Office, he testified about seeing other
16 sets of tire tracks.

17 As you have come in off Moselle Road, you probably
18 saw where Deputy Greene's vehicle had stopped right at the
19 kennels, but then on the other side where you saw that
20 Alex was parked and pacing on some of these videos, that's
21 where Captain Chapman had talked about seeing tire tracks,
22 and he tried to track them. SLED was coming on, and then
23 it was -- it was like a trail to nowhere. It was a trail
24 to nowhere.

25 Deputy Rutland talked about seeing hair in Maggie's

1 hands, as you'll recall. You didn't hear anything about
2 the hair in Maggie's hands from that moment forward. Was
3 it tested? Was it sent off for analysis? There was no
4 evidence of what, if anything, happened to the hair in
5 Maggie's hands. Was it as a result of a struggle with her
6 assailant? Was it her own hair? We don't know the answer
7 to that.

8 We know they failed to take fingerprints from the
9 feed room, and they should have. They failed to properly
10 take footwear impressions from the feed room, or at the
11 apron right outside, and I think that's -- I mean, I don't
12 think that's contradicted. The -- Agent Worley, who was
13 doing the best she can, did not go there to document
14 footwear impressions, did not do that. You heard from our
15 expert, Mr. Zerci, what is required. And I believe
16 Dr. Kinsey also agreed that it was not done. I know
17 Mr. Palmbach did. And both -- now, I'll get to the shot
18 angles in a little bit, but both Dr. Kinsey and
19 Mr. Palmbach have this murder for Paul standing on the
20 concrete, standing on the concrete, whether one foot is
21 in, one foot is out, both feet are in. But there should
22 have been footwear impressions but we'll never know
23 because it was not preserved. It was not taken.

24 The thing that has baffled us, has completely baffled
25 us is why do they never take DNA samples off of Maggie's

1 clothes, her dress? Why did they never take DNA samples
2 off Paul's clothes? They never did. They never did. And
3 we asked their investigator. Why didn't you? Well,
4 that's somebody else's job. That's somebody else's job.
5 It was never done.

6 But you know whose clothing they took DNA off of
7 extensively? Alex. And you heard Agent Zapata talk about
8 all the different grids on the shirt where DNA was --
9 samples were taken. Was Alex assaulted on June the 7th?
10 No, he wasn't assaulted. Was Alex wrestling with the
11 assailant on June the 7th? There's no evidence of that.
12 So, why are they taking DNA evidence off Alex's clothing
13 in June of 2021?

14 And there's only one reason, and it goes back to this
15 right here. There was only one reason, only one reason is
16 that they had decided that, unless we find somebody else,
17 it's going to be Alex. Unless we find somebody else, it's
18 going to be Alex.

19 The -- and I'll get into more detail about Maggie's
20 phone, and Maggie's phone was not secured properly.
21 Maggie's phone was -- well, let me just go right into it.
22 Maggie's phone was found on the side of the road in the
23 morning of, or early afternoon, on June the 8th. Whoever
24 killed her threw that phone on the side of the road
25 without a doubt, without a doubt. Alex from the get-go

1 has said you get Maggie's phone, you get my phone, and you
2 get my OnStar data, and you will not see my car traveling
3 down the road with Maggie's phone because it did not
4 happen. It could not happen. Detective Owen, have you
5 gotten it yet? No, no, we've not. We sent the black box
6 from -- on the Chevy to the FBI. It was a new model.
7 Turns out the data is encrypted, and so we haven't got it
8 yet. Well, what about General Motors? I'll do what I
9 have to do, whatever I can do and said, well, you know,
10 we're looking into it. We're looking in to it.

11 Well, what we learned during this trial is, sure,
12 SLED sent a subpoena via fax machine to somebody in
13 Detroit, I believe, and whoever got it in Detroit, whether
14 there was a number off, I have no idea what the reasoning
15 was, but we do know the initial response was we don't have
16 anything. We don't have any OnStar data that you're
17 looking for. There's no indication that SLED followed up
18 with a phone call; there's no indication that SLED
19 followed up with a letter. There's no indication SLED did
20 anything other than put it in a file, put the response in
21 a file, and that was it. That was it, ladies and
22 gentlemen, until somebody watching this trial somewhere
23 contacted somebody at General Motors and said why don't
24 you guys cooperate with the FBI and SLED on this
25 investigation? Well, what are you talking about?

1 So Friday, you know, during some time the last six
2 weeks, low and behold, here comes all of the OnStar data
3 that you got to see. And that would be great, that would
4 be great but for the fact that when they seized Maggie's
5 phone it had -- they put it in airplane mode. They knew
6 how to put it in airplane mode.

7 Excuse me. I'm losing my voice. Let me get some
8 water. I apologize. That pollen is something else.

9 The -- they put it in airplane mode. But what you'll
10 see -- I've got a photograph -- is the location services
11 were still on, meaning still pinging off GPS satellites,
12 and the phones don't hold that much memory. They hold a
13 lot of data, as we have learned, but they don't hold that
14 much memory, and it writes over itself. And for GPS
15 location services, the ping points that we see from Paul's
16 phone on all of that data, that would have been on
17 Maggie's phone for the 7th but for the fact that it wasn't
18 extracted until some time in -- like, June 16, I think
19 that's the date. If I'm wrong I apologize, but it was
20 around the middle of June. And that pinging information
21 that we see on Paul's phone from Maggie's phone, it goes
22 back to June the 9th. Well, a lot of good that does, a
23 lot of good that does, but we don't have it. We would
24 have had it had they extracted it earlier.

25 Now, Agent Dove says we didn't have enough data and

1 upgraded software that would read it. It took us awhile
2 to get it. I don't know why it took them awhile to get
3 it. There was really no explanation about that. But you
4 heard about Faraday bags, put it in a Faraday bag so it's
5 not pinging against satellites, not overwriting. They
6 didn't do that, and it's lost. And had they done it, I
7 hope we wouldn't be here, I hope because I know it would
8 say, because we have enough evidence in the record, and we
9 have to go around our elbow to get to our thumb to get
10 there, but there is evidence in the record to show that
11 Alex Murdaugh was not driving down the road, Moselle Road,
12 with Maggie's phone in the car and tossed it at whatever
13 time when it went by at 9:08. I don't know what time they
14 think it was tossed. But that would have gotten him out
15 of the circle, I would hope, but probably not because
16 they've been so focused on him.

17 Now as I mentioned, Alex asked multiple times -- I
18 think the testimony was five times -- Agent Owen, Agent
19 Owen, you know, if you get this data, it will show I
20 wasn't there. And, you know, we were -- we didn't learn
21 why they didn't get it off of Alex's phone until very
22 recently. Because on -- you'll remember on June 10th he
23 gave SLED his phone. Yeah, you can copy it. Please copy
24 it because it will show -- it'll show that I wasn't with -
25 - driving -- that my phone was not with Maggie's phone at

1 any point in time going down the road, and I did what I
2 said I did.

3 Well, they did extract it, but what we've learned is
4 that the extraction was a superficial extraction, not
5 because Alex requested it. That's just what they did.
6 Said a logical surface extraction. So, they didn't go in
7 and pull out any GPS pinging data like you see on Paul's
8 phone. They didn't get it off Alex's. Now, if Alex had
9 not made those requests to Owen -- and they are disputing
10 that -- it's one thing you can be 100 percent sure of is
11 they would have come, Detective Owen, up here on the
12 witness stand during their rebuttal case to say, no, he's
13 lying. He didn't ask that of me. I mean, they got
14 Sheriff Smalls in here to say I didn't give him permission
15 to put a blue light in his car. They came and challenged
16 whether he had authority from the sheriff, or maybe a
17 deputy sheriff, to put a blue light in his car. But they
18 didn't contradict anything he said about I've been asking,
19 I've been asking, I've been asking for that data that
20 would get me out of the circle.

21 And now we know why it took so long to get the stuff
22 from -- get the stuff from his car is because the --
23 General Motors -- I mean, it's because the FBI wouldn't go
24 to General Motors on this event data and they were -- the
25 FBI was up there and they bought a Suburban. They're

1 riding it around and they're reverse engineering all of
2 these systems to try to come up with reports, and then
3 they come in here and tell you, well, it's not complete,
4 some of it is inaccurate, but this is what we got. And
5 during the middle of all of that, that's low and behold we
6 get OnStar. Thankfully we did, thankfully we did.

7 But -- so then we roll in to Labor Day weekend of
8 2021, where Alex's longtime drug problem, his financial
9 issues, misconduct were exposed, and that made him an
10 easy, easy, easy target for SLED. And I hate to say this,
11 but the evidence is crystal clear: from that moment, they
12 started fabricating evidence against Alex.

13 Now, Mr. Griffin, that's an awful, awful charge.
14 Don't all lawyers accuse law enforcement of fabricating
15 evidence? And, you know, I can tell you this guy right
16 here was a federal prosecutor, was a state prosecutor, and
17 some of my best friends are on law enforcement, and I
18 don't make that claim lightly.

19 Here what you have heard is they came up with a
20 report that says Alex's t-shirt had high velocity blood
21 spatter on it, high velocity blood spatter. What's that?
22 That means you're within feet of a shooting, and they
23 didn't just say any shooting. It said -- in their report
24 it says as a result of Paul's murder, high velocity blood
25 spatter on the shirt as a result Paul's murder. That was

1 number one.

2 Let's stick to number one. Why do I say that it's
3 fabricated? Well, you heard Agent Zapata said we did
4 hematrace confirmatory blood tests on that shirt. That
5 means there was two types of tests. There was a
6 presumptive test, which is when they use a product called
7 LCB that makes it turn purple where it might be blood, but
8 it turns purple on other agents as well, including bleach,
9 you heard. And you also heard that the shirt came out of
10 the bag wet it and smelled like detergent. Anyway, they
11 spray it, it turns purple in places, so they think, well,
12 that must be blood. The next thing they do at the SLED
13 lab is they do a confirmatory test to see if it's blood.
14 Zero for 74, not blood, not blood.

15 That didn't stop -- that didn't stop SLED from going
16 out and pursuing with vengeance this report. They didn't
17 give the no blood test result to the guy in Oklahoma. And
18 when it surfaced, when it surfaced, they had a problem on
19 their hands, and they were pushing it up until this trial.
20 And you heard the testimony from the stand that they went
21 from Mr. Bloody Shirt leading up to this trial to
22 Mr. Clean during this trial, and they asked him, and they
23 raise issues during the trial with Blanca. Where were his
24 clothes? No one is asking about the man's clothes that he
25 had on the Snapchat video back in -- at 7:00 with his son

1 until November or so, I think is what she said.

2 I mean, the issue of changing clothes, it was late to
3 the dance because when they went to -- as you heard, when
4 they went to the Colleton County Grand Jury to get an
5 indictment that you're going to be deliberating on, they
6 told that grand jury they had an expert report that says
7 high velocity blood spatter. And I asked Agent Owen, I
8 said when you went to the grand jury and you fabricated
9 the report, how did you not know -- he was chief
10 investigator -- how did you not know that there's a
11 hematrace test that says there's no blood? Well, I didn't
12 get the email. And I say it in somewhat jest, but, you
13 know, did the dog eat his email? I mean, how does a lead
14 investigator in the case not get the lab report that says
15 there's no blood on the shirt?

16 Now, ultimately it was produced to us and we were
17 raising cane about it and say how can you say this on one
18 hand and that on the other hand? And here we are with a
19 Mr. Clean theory, that he washed off. After brutally
20 murdering Maggie and Paul, he takes a hose and washes
21 himself off, and gets in a golf cart butt naked, I guess,
22 and drives to the house. So, that's the blood spatter
23 fabrication.

24 The other is, is this blue raincoat with GSR, and you
25 remember that testimony. Shelley Smith, who worked for

1 Ms. Libby and Mr. Randolph, had told SLED after September,
2 after Alex has had -- the problems have been exposed,
3 after she had a conversation with a Allendale police
4 officer following an accident investigation where she was
5 in an accident, that on the morning she said in here on --
6 as she told you on Wednesday after Mr. Randolph's funeral
7 -- and that turned out to be, I think, June 16th -- that
8 Alex shows up at the house at Alameda at, like, 6:30 in the
9 morning, knocking, trying to get in, and he has a blue
10 tarp. And in this blue tarp he -- she lets him in and he
11 goes upstairs with this blue tarp. He comes back
12 downstairs, he lays this blue tarp out on Ms. Libby's
13 retirement rocking chair for -- in the living room, and
14 then he leaves. And then she leaves to go to her day job,
15 and when she left, the blue tarp was laying out on
16 Ms. Libby's rocking chair. I mean, that was her
17 testimony.

18 And so SLED gets that, gets a search warrant, goes to
19 Alameda, and they seize a blue rain jacket. They seize a
20 blue rain jacket. And when they do, they take that blue
21 rain jacket, and they show it to just about every family
22 member -- let me get it right quick -- that they can think
23 of, and it's Defendant's 87.

24 Doug, if you can pull it up?

25 But they show this blue rain jacket to as many family

1 members as they can get in contact with, and the rain
2 jacket is -- and no one recognizes it. No one sees it.
3 No one says Alex ever wore it. No one has said Paul has
4 ever worn it. No one has said Buster has ever worn it.
5 No one said Maggie has ever worn it. Have not seen this
6 blue rain jacket. Has not seen this blue rain jacket.

7 One more thing about this blue rain jacket. When
8 they did the search at Almeda, when they did the search at
9 Almeda, John Marvin was there. And John Marvin asked
10 them, well, did you find anything? And they said, well,
11 we found the blue rain jacket back on the property. Back
12 on the property. Back on the property. And he said,
13 well, you know, my dad drives a buggy around. Maybe it
14 fell off the back of his buggy. Clearly John Marvin was
15 understanding that it was back on the property, and then
16 they asked him to come look at the blue rain jacket, and
17 he was told it was found in the closet. He was told it
18 was found in the closet. And he said that didn't sound
19 right. And they never clarified it.

20 Now, here is a picture -- I'm not going to put it up
21 -- but 411 is a picture of this closet, and you can see
22 the blue rain jacket that's sort of folded up and stuffed
23 down here at the bottom right. That's the blue rain
24 jacket. And apparently right before this trial, they
25 showed Shelley Smith this picture and said does that look

1 like the blue tarp you saw? And she goes, well, yeah,
2 sort -- yeah, sure it looks like it. They never showed
3 her this. They never showed her this. And she said
4 this -- and when I'm saying this, it's Defendant's 87;
5 it's on the screen. She'd never seen this. She'd never
6 seen this. But they did GSR testing on this, and it says
7 whew, that's a high. It's high. A lot of GSR on that. A
8 lot of GSR on that. Manufactured evidence, ladies and
9 gentlemen.

10 And then -- and then -- then there's this issue of
11 misrepresenting what are the type ammunition found in the
12 shotguns at the residence at Moselle. Paul was murdered
13 with a -- first shot was a buckshot through his chest. He
14 was turned this way, went in here, and then out under his
15 arm, and that was buckshot. The second shot was in the
16 head, either, depending on what expert and what
17 pathologist, it was either this way or this way, but into
18 the head, and that was steel duck shot. I learned that
19 you can't shoot ducks with anything but steel pellets
20 because they don't want lead in the water, so you've got
21 to have steel pellets. And then Agent Owen testified,
22 admitted begrudgingly, that he had testified to the grand
23 jury that there were four weapons found up on the property
24 in the gun room, 12 gauges, that were loaded -- or I'm not
25 saying 12 gauges, I'm sorry, four shotguns that were

1 loaded with buckshot and birdshot. There's four other
2 ones, so that matches.

3 Well, guess what? Totally not true. That was
4 totally not true. And he admitted on the stand it was not
5 true. He admitted telling Alex during that interview, and
6 he said, well, I can do trickery, and we'll see that
7 shortly, but he -- and I said are you trying to trick the
8 grand jury? Oh, I didn't say that. Well, we walked
9 through it and he did say it, and he didn't remember it.
10 And you'll remember the testimony, and I said, well,
11 people make mistakes, don't you? Yeah, that was a
12 mistake. And it's okay to make mistakes, right? Yeah.
13 And you can make mistakes about the time. Well, that's
14 the most common things people mistakes about.

15 It's not all right for Alex Murdaugh, who's in the
16 center of the circle, who's -- it's not all right for him
17 to make mistakes about time. It is not all right
18 according to the same investigator who says it's okay
19 to -- missed this part -- but here we go, then Eureka.
20 Eureka. They finally get into Paul's phone in April of
21 2022 and see Alex -- well, they don't see Alex. They see
22 Cash, the dog, and they see Paul's feet walking around,
23 and they hear voices in the background, and one of them
24 sounds like Alex, and off they go. They go off and get an
25 indictment from the Colleton County Grand Jury relying

1 upon high velocity blood spatter, relying on four guns
2 having the same load, and relying upon a rain jacket that
3 has got GSR on it, and Alex is lying about being down at
4 the kennels. Now, we know after we've been here six
5 weeks, of those four things --

6 (Break in proceedings.)

7 MR. GRIFFIN: I am so sorry, that was not -- I'll
8 turn it off. What we know is three out of those four
9 things that was presented to the Colleton County Grand
10 Jury that you're going to be deliberating on for the
11 indictments that were returned aren't true. No blood
12 spatter. No GSR rain jacket that's ever been connected to
13 Alex whatsoever. And there's no loaded gun. So, we're
14 left with the lie. We are left with the lie.

15 Now, Alex lied about being down at the kennels and
16 Almeda. And why did he lie? And that is certainly a fair
17 question, and that's -- and, frankly, I probably wouldn't
18 be sitting over there right now if he had not lied. But
19 he did lie, and he told you he lied, and he told you why
20 he lied. He said he lied because -- I mean, I tell you he
21 lied because that's what addicts do, addicts lie. He lied
22 because he had a closet full of skeletons, and he didn't
23 want any more, any more scrutiny on him, which is the most
24 ironic thing in the world because depending on which day
25 of the week, their theory is that he slaughtered his wife

1 and son to distract from an impending financial
2 investigation, but he puts himself in the middle of a
3 murder investigation, and he puts himself in the spotlight
4 of a media fire storm. That is their mode of evidence,
5 and we'll get to that. But he lied. He lied because his
6 drug paranoia kicked in, and he was clearly in the throws
7 of addiction. He lied for all of those reasons. But what
8 he didn't lie -- what he didn't lie for is because he was
9 covering up for the fact that he killed Maggie and Paul.
10 That is not the reason he did it.

11 Doug, will you play the dog kennels video, please?

12 We're going to -- I'm going to play the dog kennels
13 video. Please listen to the voices.

14 (The video was played. Audio not transcribed.)

15 MR. GRIFFIN: 4 minutes later, the State would have
16 you believe that Alex Murdaugh up and blew his son's
17 brains out of his head and murders his wife after having
18 that conversation about Bubba having a chicken or a
19 guinea. 4 minutes later. Their case wants you to believe
20 that this is a family down at the dog kennels doing what
21 families do. They're checking on a dog tail. Bubba is
22 out running around, and they're saying Bubba, he's got a
23 chicken.

24 Now, why would Alex not want law enforcement hear
25 that? I mean, there's nothing on that tape. There's

1 nothing on that tape that indicates there's any strife,
2 any conflict, any anger, any planning, anybody being
3 afraid, anybody running, anybody scurrying. Nothing.
4 Just Maggie, Paul, and Alex down at the kennels, that's
5 it.

6 And their timeline is based on the fact that -- this
7 automatic thing kind of messed me up, but the point I was
8 going to, to open this up and say under their theory, if
9 your phone is not moving for some period of time, you're
10 dead right then. You could be run over and in the trash 2
11 hours later, but if you're not answering a text 2 minutes
12 after you receive it, you're dead at that point, and
13 that's their case. That is their case on the time of
14 death is the phone stopped moving. You're dead.

15 You've heard testimony from a lot of witnesses. I
16 would say practically every witness who took the stand who
17 actually knew Alex and Maggie and Paul and Buster
18 testified under oath how much Alex adored Maggie, how she
19 was his all. Some people described Paul as Alex's best
20 friend, his relationship awesome, and that was unanimous.
21 Unanimous. I want to just play briefly a clip from
22 Blanca's testimony about Alex's relationship with Maggie.

23 (A video was played. Audio not transcribed.)

24 MR. MEADORS: Your Honor, can we approach?

25 (A bench conference was held.)

1 MR. GRIFFIN: Please continue, Doug.

2 (The video continued to play.)

3 MR. GRIFFIN: Now, this was her testimony from the
4 witness stand.

5 And then in every trial there's -- you hope you find,
6 you know, some very authentic witness, part of the fabric
7 of America that comes in this courtroom, and we had it in
8 this case, and it is Dale Davis. And I want you to
9 remember what Dale testified about Alex's relationship
10 with his family.

11 Will you play Dale Davis?

12 (The video was played. Audio not transcribed.)

13 MR. GRIFFIN: That was Dale Davis.

14 Which brings us to the question. Why? Why, why,
15 why, why would Alex Murdaugh on June 7th execute his son,
16 Paul, and his wife, Maggie, who he adored and loved? Why?
17 The State's theory is that it was a storm a-coming, clouds
18 were arising, and that his financial house of cards is
19 about to collapse and he's about to be exposed, and
20 because of that he does what every rational person would
21 do, go kill your wife and son. That is their theory of
22 motive. That is their theory of motive, that it -- oh,
23 and it worked, too, by the way, because he killed his wife
24 and son guess what? Jeannie Seckinger quit asking
25 questions for a few weeks. Oh, and the boating case,

1 whoa, that won't be anything now that his wife and son
2 have been murdered because he's sympathetic. Have you
3 heard of such?

4 One thing Mr. Waters and I agree on is the best thing
5 about jurors is you bring your common sense in here, and
6 you use your common sense, and that's what it's all about.
7 That's with you're collective wisdom. And just
8 collectively think, individually think. What kind of
9 sense does that make?

10 Alex's financial house is a wreck. He was stealing
11 money from clients. He's got to produce a financial
12 statement maybe in a hearing coming up. And his dad goes
13 back in the hospital that day. His dad goes back in the
14 hospital that day and he dies a few days later. Okay.
15 So, I get a call, Jenny comes in, my dad is in the
16 hospital, Paul is coming home. That would be a good time
17 to kill Paul, wouldn't it? That is their theory of the
18 case, and if you don't accept that beyond a reasonable
19 doubt, ladies and gentlemen, I submit the verdict has to
20 be not guilty because there's no reason for him to do it.
21 No reason whatsoever.

22 Now, you've heard a lot of the testimony about these
23 financial crimes, misdeeds, and he told you he did it. He
24 told you he did it to support a very expensive drug habit.
25 And none of that is an excuse, but he is an addict, and

1 addiction is real, and addicts lie, addicts cheat, addicts
2 steal to keep getting their drugs. The evidence was
3 permitted in this case for you to hear solely to consider
4 did he murder his wife and son because he had this storm
5 a-coming, and he was going to be exposed. Is that why he
6 murdered? That's what they say. That's why he -- and
7 that's why you're allowed to consider it.

8 Now, Judge Newman in his jury instructions will tell
9 you that's all you can consider it for. You can't
10 consider it by saying, man, I never knew he could do that.
11 So if he could do that, he must be able to do the most
12 heinous crimes in the world, kill his wife and son
13 execution style. That's a no-no use of that evidence.
14 The only permissible use of the evidence is, is that
15 sufficient provocation, motive, for him to kill his wife
16 and son? Is it sufficient motive, not provocation.

17 And the evidence in the case is that there was no
18 impending financial doom on June 7th. June 7th was a day
19 which, frankly, was no different than any other day in the
20 frenetic lifestyle of Alex Murdaugh. He had so many balls
21 in the air, and even -- I forgot his paralegal's name, and
22 I apologize to her, I think Kristi, she said he would come
23 in like a Tasmanian Devil. I mean, he was frenetic. And
24 they were on to this \$792,000 fee in the *Faris* case, and
25 they were asking questions of Chris Wilson's office. But

1 the reason they were concerned -- they weren't concerned
2 that he was stealing money. They were concerned he was
3 sheltering money, trying to hide it from being disclosed
4 in the boating litigation, which he was a defendant, and
5 they didn't want any part of that. And that situation
6 with the boating -- I mean, excuse, me with the *Faris* fee,
7 as Ms. Seckinger, Jeannie Seckinger said, that was a
8 one-off. That was completely on its own, different type
9 conduct than all of the other stuff that you've heard
10 about. That was a one-off.

11 And what happened on June 7th? She says I'm in his
12 office, and he gets a phone call that his dad is put back
13 in the hospital and, and she thinks that he told her it
14 was terminal. He may have, I don't know, he may have, but
15 his dad was put back in the hospital. He wasn't terminal
16 that day, but the next day he got a terminal diagnosis.
17 The -- in any event, she takes off her CFO hat and puts on
18 her mama bear hat and hugs him, and a friend hat. And,
19 you know, their theory is he slaughters Maggie and Paul to
20 buy time from her investigation.

21 That is it. That is their theory; that is their
22 theory. And it's totally fabricated. They've got no
23 evidence of that. There's no evidence that Maggie was on
24 to his financial misdeeds. There's no evidence that she
25 was about to blow the whistle on him. There's no evidence

1 that she -- that he had a \$20 million life insurance
2 policy on her, and that if he murdered her that he could
3 get out of a financial bind. None of that. None of that.
4 And I asked Ms. Seckinger, how long of a delay did that
5 buy Alex? Well, a month maybe. A month? A month?
6 That's their theory. That's what their case is built
7 upon.

8 And then this motions hearing. There's a motions
9 hearing scheduled for Thursday. It had previously been
10 scheduled two other times, and it was continued at the
11 last minute on the other occasions because two of the
12 lawyers had cancer and were receiving treatment, but it
13 wasn't sure it was going to be continued previously. Did
14 he go murder anybody, you know, to get out from under
15 those prior hearings? No. It had nothing to do with it.

16 And, you know, so they brought the plaintiff's lawyer
17 in, and he's an excellent lawyer. He's, you know, like
18 any plaintiff's lawyer: I'm going to clean his clock. I'm
19 going to take everything he's got. That's what they all
20 say. So, then we had to bring the defense lawyer in to
21 say that was a negligent parenting case and it wasn't
22 worth the paper it was written on.

23 Folks, that's what we are in the murder case, and
24 that's what we're having to deal with because that is
25 their theory of motive. But even if the financial day of

1 reckoning was impending, if it was right there, Alex would
2 not have killed the people he loved the most in the world.
3 There's no evidence that he would do that. We do have
4 evidence of what he would do and did do.

5 And if you will pull up Defendant's Exhibit 125,
6 which is in evidence?

7 On September 2nd, 3rd, 4th, I forget the day, this is
8 the Labor Day weekend, he gets his drug dealer, Curtis
9 Eddie Smith, to shoot him in the head so he couldn't go on
10 because it was all going to come crashing down and he had
11 a big life insurance policy. So when Alex is at financial
12 collapse, he doesn't go kill somebody else, he tries to
13 end it himself. This is a natural response. You don't
14 want anybody to do it, but this -- people kill themselves
15 from being exposed. They don't kill their wife they
16 adore, his son, the apple of his eye as some people have
17 said. That's not -- that's not -- that's -- I don't have
18 the adjective for that, that is so outlandish. I don't
19 have a word for it. Totally illogical, irrational, and
20 insane, those are the words I wrote down, for someone to
21 kill their loved ones when their criminal conduct has been
22 exposed.

23 You can take that down -- yeah, thank you, Doug.

24 So, yesterday we heard a lot from Mr. Waters, and
25 I've been in Mr. Waters's position. As I explained, I was

1 a federal prosecutor for a number of years. I've been a
2 state prosecutor, part-time mostly, and I have done the
3 job. It's a very rewarding job, and I hold him and I hold
4 his office in very high esteem. But there's just some
5 times folks just get caught up in a case that, you know,
6 they desire to win. They get so intoxicated by the
7 attention that's brought on by the case that they start
8 sort of a win at all cost approach. And I'm going to go
9 through some things that Mr. Waters stated to you that
10 just aren't facts, and aren't supported by the facts and
11 the evidence that you've heard.

12 And before I do that I want to give you a cautionary
13 statement. We lawyers aren't witnesses. I didn't take an
14 oath to stand up here and talk to you. I have ethical
15 obligations about what I can say, and limitations under
16 the rules, but I'm not a witness. I'm here to talk to you
17 about the evidence, and the same applies to Mr. Waters.
18 You decide what the evidence is. You decide. And --

19 THE COURT: Mr. Griffin, before you go farther --
20 further, we're going to take a short break.

21 MR. GRIFFIN: All right. Thank you, Your Honor.

22 THE COURT: For about 10 minutes. Please do not
23 discuss the case.

24 (The jury left the courtroom.)

25 THE COURT: We'll take a 10 minute recess.

1 (A break was taken.)

2 THE COURT: Bring them in.

3 (The jury returned to the courtroom.)

4 THE BAILIFF: The jury is present, sir.

5 THE COURT: Thank you.

6 You may continue.

7 MR. GRIFFIN: Thank you, Your Honor.

8 Yesterday in Mr. Waters's closing argument, he said
9 that the evidence established that Paul and Maggie were
10 murdered with family guns, and that perhaps is his view of
11 the evidence, but that's not a fact. In fact, the State's
12 ballistic expert testified that the 12 gauge shotshells
13 that were found in the feed room were fired by the same
14 shotgun, that the shotshells, the things that rolled under
15 the door, were fired by the same gun. That's all he
16 testified to as to shotgun.

17 Now, they have put a lot of guns in evidence here
18 that have nothing to do with the crime. So, we don't know
19 what shotgun was used. It could have been a shotgun
20 bought at Wal-Mart that afternoon. It could have been a
21 twenty year-old shotgun, but all the evidence, ballistic
22 evidence is the shotshells were fired with the same gun,
23 and that's -- don't know that you really need an expert
24 for that. But that's what the testimony was on the
25 shotgun.

1 With regard to the 300 Blackout, you'll recall that
2 the -- that this guy, Paul Greer, testified that the
3 cartridges found that the -- at the crime scene, and
4 Maggie was shot with a 300 Blackout. That the tool marks
5 -- it's called tool marks -- that the extractor and
6 ejector marks from the cartridges found at the crime scene
7 matched extractor and ejector tool marks on some
8 cartridges found at the house and some found at the
9 driving range -- excuse me, shooting range. And -- but
10 what he didn't say, that where the firing pin breaches
11 that cartridge, which is one of the most reliable
12 indications, it did not match. No match. And he also did
13 not, did not compare projectiles.

14 There was a projectile found -- when I say
15 projectile, that's the bullet, that's the bullet thing,
16 that goes -- that went into Maggie's body and broke up.
17 But one went into the dog house and was found in the dog
18 bed. So they have that, and what they did not do is take
19 that projectile and dig projectiles out of the berm where
20 the shooting range was and compare it to see if they
21 matched, and that's the most reliable way.

22 Now, you know, in David Owen's notes he said that the
23 ballistic expert can't be 100 percent sure until you have
24 the gun. And you heard, you know, my cross-examination of
25 Agent Greer, and this tool mark ballistic examination is

1 somewhat soft science. It has come under criticism. It's
2 what, what, what they rely upon. Not every investigative
3 lab relies upon it. That's what they did here, but it's
4 not gospel. It's not gospel.

5 Another thing about the -- about the 300 Blackout,
6 he -- in his closing, Mr. Waters repeatedly said Alex
7 bought it. Alex bought it. And I assume we're talking
8 about the replacement. I don't know, Alex bought it.
9 Well, Alex didn't buy it. The evidence in the record is
10 Maggie bought it, and he kept saying it's the defendant's
11 and it's not the defendant's. The replacement 300
12 Blackout, which, frankly, no one had seen Paul with it in
13 quite some time except Will Loving on one occasion -- in
14 fact, some time in March -- it was Paul's gun. It wasn't
15 Alex's gun. It was Paul's gun.

16 At one point in time during his closing argument
17 yesterday, Mr. Waters reenacted a shooting scenario, if
18 you'll recall. And I'll do my best, but he stands up here
19 and he says that Alex shoots Paul in the chest one time,
20 and 999,999 times out of a million that person is dead.
21 He puts his shotgun down, and he has a 300 Blackout right
22 here because he is so smart and so diabolical that he's
23 going to stage it so it will look like two shooters. So
24 he's got a 300 Blackout here, a shotgun that he just took
25 his son out, but his son was one in a million, he says,

1 one in a million, comes this way. So, Alex has to put the
2 300 Blackout back down, pick up the shotgun, and shoot
3 Paul. Where in the world does that scenario reside other
4 than in Mr. Waters's mind? It doesn't. It doesn't.
5 There's no evidence to support anything like that. None.
6 None. And the fact that he has to go to such gymnastics
7 to come up with Alex staging a two shooter theory ought to
8 tell you there's two shooters out there. It ought to tell
9 you for someone to do that.

10 Another curious point in Mr. Waters's closing
11 argument yesterday involves Paul's intuitive talent. You
12 will recall that Alex informed agents that Paul was an
13 intuitive little dude, referred to him as a detective.
14 That -- Marian Proctor, Maggie's sister, said that Maggie
15 referred to Paul as Little Detective, her Little
16 Detective, and particularly when it came to trying to root
17 out whether Alex was still doing drugs, and then he sort
18 of left it there. Sort of left it there for you to then
19 take it and run with it, as if, oh, Paul must have found
20 Alex using drugs. There must have been a confrontation
21 down there at the kennels, and that must have been what
22 happened. Now, he didn't go that far in his argument, but
23 he laid it out there for you to run with, but that was
24 clearly the implication. And I want to tell you. First,
25 there are no facts to support that, none whatsoever.

1 Let me add another scenario that's equally as
2 plausible. What if Paul, the detective, learned the
3 source of drugs that were being sold to his dad? What if
4 Paul, the detective, goes to that drug source and says cut
5 it out. That's my dad, you're hurting my family, and if
6 you don't, I'm going to tell on you, turn you in. And
7 what if the source is a member of a dangerous drug gang.

8 MR. MEADORS: Your Honor, I would object.

9 THE COURT: Objection is sustained.

10 MR. GRIFFIN: Well, the point is there's no more
11 evidence to support -- and there was no evidence what I --
12 those were just plausible scenarios that they were
13 throwing out to you, and that you could think up many
14 equally plausible scenarios, but you have to decide the
15 evidence based on the facts that the State puts before
16 you. Not theories, not inferences, not speculation, but
17 cold, hard facts.

18 Mr. Waters also said that Alex, the master liar,
19 accused Shelley Smith, Blanca, and perhaps another witness
20 of lying. He never did such a thing. He never accused
21 anybody of lying from this witness stand.

22 Now, I've been around long enough to know, long
23 enough to know that the witnesses can misremember things
24 and believe them to be true, and frankly I'm the biggest
25 offender of that trait in my household. I have convinced

1 myself that I remembered something accurately, and I will
2 have an argument with my wife until she shows me
3 photographic evidence that I was wrong, and that's what it
4 takes. I mean, that happens. People misremember things.
5 But because we point out that there was an inconsistent
6 fact, that doesn't mean we're saying someone lied, and we
7 never did that. We never did that.

8 The -- one example is sister Marian, one example of
9 misremembering. Sister Marian said that she spoke with
10 Maggie about 7:00 p.m. while she was at Edisto, and that
11 Alex wanted her to come to Moselle so visit her father.
12 Well, we know that her recollection is mistaken because we
13 have cell phone records, we've got FBI records, we've got
14 a phone bill, we've got -- that shows she was in Mount
15 Pleasant and that she was traveling to Moselle around the
16 period of time where sister Marian thought she was at
17 Edisto. Did not happen. That doesn't mean that she was
18 lying about that, absolutely not. That's just how she
19 remembered it.

20 And she also said that when she talked to Maggie,
21 that Maggie was going to go over and visit Mr. Randolph at
22 Almeda. But we know from the records Mr. Randolph had
23 already been readmitted to the hospital, and that's in the
24 records. We've got -- and that Maggie knew it. We've got
25 Maggie's text to Blanca, I think, in the day saying

1 they're putting Mr. Randolph back in the hospital, and,
2 you know, we're scared for everybody, and hope Alex
3 doesn't go down to the hospital. Well, none of that got
4 pointed out. This is how Marian remembered it, but she
5 remembered it incorrectly, and that happens. Because we
6 point stuff out like that, we're not saying they're lying.

7 Now -- and the same with the Shelley and the blue
8 tarp. She remembers something, we're not sure what, but
9 the evidence clearly is she says it was on Wednesday,
10 June 16th. And we've got the FBI cell phone forensics,
11 we've got records, and we've got testimony that Alex is in
12 Summerville. He spent the night with his in-laws, the
13 Proctors -- excuse me, the Branstetters on Tuesday, and he
14 stayed there toward the end of the week, and then they
15 went to the mountains at Keowee. So, Alex could not have
16 been knocking on the door of the Almeda house on the
17 morning of June 16th.

18 And Barbara Mixon came in and told you that she
19 relieves Shelley. Shelley works all night, leaves, and
20 goes to work in the school district. Barbara Ann comes in
21 at 8:00 and relieves Shelley. And Shelley recalled it was
22 -- the tarp was laid out when she left for work. Barbara
23 Ann came in and said I didn't see it. No time during that
24 week when I worked was there a blue tarp. I mean, you
25 know, Shelley remembers something, but it's not a blue

1 raincoat, and it's certainly -- certainly Alex could not
2 have come over there Wednesday.

3 Now, Shelley also says that he spoke to me about
4 times, and I am -- and that bothered me, and I called my
5 brother. We're not disputing that. But what she didn't
6 say is Alex told me say I was here 45 minutes, or things
7 like that, and frankly it doesn't make a lot of sense
8 because Alex kept saying you get my phone records. You
9 can get my phone records, and you'll know exactly what
10 time I was -- when I was there.

11 And I'll get to this a little bit more in a moment,
12 but Mr. Waters keeps talking about, oh, he's hurrying to
13 get over there. He's hurrying to get over there to
14 compress the time, to compress the time so that it looks
15 like he's been gone from Moselle longer than he was. Fair
16 enough argument, and I understand his point, but the point
17 is -- evaporates when you're talking about how long you
18 are at Alameda. It doesn't matter if he's there 45 minutes
19 or 20 minutes. Does it really matter why -- how long he
20 was there?

21 Now, I guess before you had the OnStar data they
22 could be saying, oh, he said he was there 45 minutes but
23 he was only there 22 minutes, and he spent the other 10 or
24 15 minutes traipsing through the woods burying bloody
25 clothes and getting rid of murder weapons. Well, we may

1 have heard that in this trial had we not gotten the OnStar
2 data from General Motors in the middle of the trial, which
3 shows conclusively he drove over there and he drove
4 straight back.

5 Another small point, he said there's biological
6 material on the Polaris. I don't think that was ever
7 tested. It certainly looks like it, but what we've
8 learned in this case is things aren't always as they seem.
9 They thought they had blood on the shirt. It turns out
10 there's no blood on the shirt. And that this biological
11 material showed that Maggie was running toward her baby.
12 Now, I don't know that there's any evidence which way
13 Maggie was running or what she was running to, there's
14 not. I mean, it's a fair inference, and everyone who
15 knows Maggie would know that's what she would do, and
16 we're not disputing that that would be her mother
17 instinct. And did that probably happen? It probably did.
18 But to state it a fact, there's no evidence of that.

19 Now, one thing he also said was the cell phone
20 backlight turning on. And I don't have an Apple phone,
21 but -- so here is the issue, and mine won't do it because
22 I don't have an Apple phone, I don't think, but if you
23 take a phone flat and pick it up, the light comes on. And
24 why is that important? Why is that important? Like I
25 say, I -- and I probably turned this phone off. And if

1 I'm making a point that you all know the answer to, I
2 apologize, but it's important that you do know the answer
3 why this is important.

4 It's important because now that we have the OnStar
5 data, we know that Alex drove his Suburban by the spot
6 where Maggie's phone was found at 9:08. Now, there's
7 probably some seconds in there, but 9:08. And we know
8 that her phone is in the woods at that point. So, the
9 question is did Alex throw it out the window at 9:08? And
10 the answer is no, he didn't, because if you throw it out
11 the window, at a minimum the display light is going to
12 come on, at a minimum, and when that display light comes
13 on, it registers. These phones say a lot. I mean, I
14 was -- lesson learned in this case. Wow. It registers in
15 this KnowledgeC database, and it says display light on,
16 and it has a time that the display light came on.

17 Well, there's no -- on Maggie's phone the display
18 light does not come on at 9:08. Okay? So, it means Alex
19 didn't throw the phone out. And, and, and, and yesterday
20 Mr. Waters says every single expert testified that the
21 backlight comes on, and sometimes it doesn't when the
22 phone is raised aggressively. That's not true. Only one
23 person testified to that, and Mr. Manigault (sic), who,
24 over the weekend, he works for the Charleston County
25 Sheriff's Department. I don't know why they didn't get a

1 SLED agent to do it, but he says, apparently he says -- he
2 got a phone similar to one that Maggie had. Not Maggie's
3 phone, had software but not the same version as Maggie,
4 and he spent all weekend throwing the phone on the ground
5 to see what would happen, or many hours of the day
6 throwing the phone on the ground. And he comes in here
7 and says, hey, folks, sometimes the light comes on,
8 sometimes it doesn't. Well, we -- we -- our expert, Micah
9 Sturgis, says it comes on. It comes on. That's what
10 we're talking about. That's what we're talking about.

11 But, folks, we wouldn't be having this discussion if
12 they had secured Maggie's phone and not allowed -- and
13 not -- put it in a Faraday bag so that -- so that the GPS
14 coordinates on the 7th would not have been written --
15 overwritten, and they were. So, now we've got a guy down
16 in Charleston throwing a phone around all weekend because
17 they're desperate to prove that Alex threw the phone out
18 when he went by there, and they have got no evidence to
19 that. In fact, the evidence to the contrary, he did not.
20 And the evidence supports everything that he had said from
21 the day he had that interview, or a couple of days: you
22 get the OnStar data, you get GPS data, you get my GPS
23 data, and you'll know I'm not traveling with her phone.
24 Never got it, wrote over it, and now we've got a guy
25 tossing a phone in an office, doesn't even work for SLED.

1 Not every expert said that. The guy even said that's not
2 his area of expertise.

3 So -- oh, yeah, the last one is about me. Mr. Waters
4 says that I did a HBO interview in November of '22, and he
5 references some things I said in the HBO interview. Well,
6 I didn't, and he knows I didn't. It was testified about.
7 There is a HBO special. I am on it. I'm not telling
8 anybody to watch it, but that was filmed back in, I don't
9 know, spring/summer of 20 -- 20 -- 2022. I'm -- well
10 before he was charged with murder. And I'm not on TV
11 talking about his murder charges, but he wants you to
12 think that and I don't why, and I took a little bit
13 offense to that, I really did.

14 MR. MEADORS: And we object because he was.

15 MR. GRIFFIN: I was not being interviewed --

16 THE COURT: The objection is overruled.

17 MR. GRIFFIN: Not being interviewed in November of
18 2022. Not.

19 So, I have asked why? Why, why, why, and they can't
20 answer that. They don't have an answer as to why. Now,
21 how, how, how can Alex in the time period we know -- we're
22 going to -- we're going to get to it, but how could he
23 have butchered Maggie and Paul without leaving a trace of
24 evidence within a matter of minutes? How? How? We went
25 from why and now how, and the answer to the how is he

1 couldn't. But this is the wrong question to be asking
2 yourself because the question that you are tasked with
3 answering is has the State presented evidence that proves
4 beyond a reasonable doubt that shows Alex butchered Maggie
5 and Paul without leaving a trace of evidence within a
6 matter of minutes, within a matters of minutes. Have they
7 proven evidence -- do they present evidence of that, proof
8 beyond a reasonable doubt that he was able to make bloody
9 clothes, bloody guns, who knows what, how much, disappear
10 in a matter of minutes without leaving a trace? Without
11 leaving a trace. Of course they haven't. A reasonable
12 doubt is a doubt that causes a reasonable person to
13 hesitate, one of the most important decisions of your
14 life. And then here the -- there's no direct evidence of
15 Alex doing anything other than he's at the kennel, 8:44,
16 and it's just pleasant family talking about Bubba the dog
17 getting a chicken.

18 So, the State is trying to weave this story of his
19 guilt based upon circumstantial evidence, and the judge
20 will charge you on circumstantial evidence, and I have no
21 dispute with what the State put up here yesterday because
22 that's the law. And you're going to get it. He's going
23 to give you the written document with the charge, and you
24 will see in there that when they rely upon circumstantial
25 evidence, it's as good as direct evidence, but there's

1 some things that it has to do to be as good as direct
2 evidence. And what it has to do, the circumstantial
3 evidence, is that the circumstances must be consistent
4 with each other, and when taken together point
5 conclusively, conclusively to the guilt of the accused
6 beyond a reasonable doubt, and if these circumstances
7 portray the behavior of a defendant as suspicious, the
8 proof has failed as circumstantial evidence.

9 So, what are the circumstances that the State relies
10 upon? Well, he was at the kennel at 8:44. Paul last used
11 his phone at 8:48; he replied to a text with a friend
12 about a movie recommendation. Maggie's phone locked for
13 the last time at 8:50. Actually, it was 8:49 and 50 some
14 odd seconds, but 8:50. But, however, her phone recorded
15 significant steps around 8:55, and we're going to see
16 that, and her phone tried to activate the camera at 8:55,
17 and it registered an orientation change at 9:06. And I
18 think we pretty much understand orientation change, but
19 when the phone goes from landscape to portrait or -- well,
20 beats me, but it goes from that to that, that is an
21 orientation change, and the phone will tell you. So, it
22 did that at 9:06. And they've got 300 shell casings with
23 extractor and ejector markings matched with casings found
24 around the house at shooting range. So, that's the pretty
25 much it.

1 And then the circumstantial evidence of his guilt.
2 Now, they want to say, well, he lied about it so it's
3 consciousness of guilt, but I'm talking about what
4 evidence they have that put all of the circumstances
5 together to prove he shot and killed Maggie and Paul, and
6 that's pretty much it.

7 And how have they established the time of death here?
8 Solely on cell phone use. Solely on cell phone use. And
9 using the phone or not using the phone doesn't dictate or
10 define whether you're dead or alive. I mean, I'd say most
11 everybody in this courtroom does not have their phone with
12 them right now. Under the State's theory, as I mentioned
13 before, you know, if they die while they're not using
14 their phone, then they're dead the moment they stop using
15 their phone. That's what we have here; that is their
16 case.

17 There are a number of reasons that Paul would stop
18 using his phone. First -- well, first, I've got two
19 testimonial clips, one from Rogan. You remember Rogan
20 Gibson.

21 If you'll play that quickly, Doug.

22 This is Rogan testifying about Paul's phone.

23 (The video was played. Audio not transcribed.)

24 MR. MEADORS: Your Honor, I'm going to object.

25 They're not showing the witness who is testifying.

1 (The video continued to play.)

2 THE COURT: Just a moment. All right. What is the
3 objection?

4 MR. MEADORS: They're not showing the witness.
5 They're showing the defendant while the witness is
6 testifying. I think the --

7 THE COURT: What's the legal basis for the objection?

8 MR. MEADORS: That it's irrelevant.

9 THE COURT: All right. Mr. Griffin?

10 MR. GRIFFIN: It's a clip from the live feed of this
11 trial, Your Honor. I can't control who was being
12 depicted, but it's the voice -- my voice asking --

13 THE COURT: Well, we've been in trial how many weeks?

14 MR. GRIFFIN: Six weeks.

15 THE COURT: All right. So, we're not going to replay
16 the trial.

17 MR. GRIFFIN: No, sir, it's a clip of a few seconds.

18 THE COURT: I sustain the objection.

19 MR. GRIFFIN: All right. Take it down, Doug.

20 So, you will remember that Rogan said Paul's phone --
21 and, by the way, if you don't remember and you have
22 questions about it when you're in your deliberations, you
23 can always ask to have testimony replayed for you to --

24 (Break in proceedings.)

25 MR. GRIFFIN: Your Honor, can we play the audio

1 without the video?

2 THE COURT: You're asking me what can you do? I rule
3 on objections.

4 MR. GRIFFIN: Can you play the audio then, please?

5 (The audio was played. Audio not transcribed.)

6 MR. GRIFFIN: All right, and so you'll note from the
7 photographs and the evidence in the case that Paul's phone
8 is at 2 percent, at 2 percent, and it was on low power
9 mode at the time he was texting this friend of his about a
10 movie recommendation.

11 And then -- can you play the audio only of --

12 Do you remember Nathan Tuten, and he testified about
13 Paul putting the phone down when he was working around the
14 kennels.

15 (The audio was played. Audio not transcribed.)

16 MR. GRIFFIN: Hey, Doug, take that -- I don't think
17 that's the right clip.

18 The -- so, there -- Mr. Tuten testified that when
19 Paul would work, he would put the phone down, forget where
20 it was at times, and then it was pretty common for him to
21 put the phone down at the kennel so he wouldn't get it
22 wet.

23 And you'll recall that Dale Davis -- they brought him
24 to the stand. I think they brought him to the stand to
25 make it seem like the hose was unraveled, and then it was

1 used and put back. And we know from the video, and you
2 can see it again, the dog kennel video, we pointed it out
3 the hose is on the ground outside Cash's kennels. And
4 Mr. Davis says yeah, that was not how I left it. Someone
5 had put it down.

6 And then I'm going to show you State's Exhibit --

7 (Break in proceedings.)

8 MR. GRIFFIN: Doug, can I have the ELMO, please?

9 (Break in proceedings.)

10 MR. GRIFFIN: Just give it to me, please.

11 So, ladies and gentlemen, you'll have back in the
12 jury room State's Exhibit 503, which is a picture of the
13 dog kennels from the murder scene, and what I'm pointing
14 out on top of these two kennels are the dog beds. You'll
15 see Exhibit 503, the dog beds are up here on top. And
16 you'll recall Dale Davis said that when you clean out the
17 kennels and hose it down, you put the dog beds on top. On
18 top. So, it's pretty clear from these photos, this photo
19 that Paul and/or Maggie had sprayed out the dog runs and
20 put the dog beds on top and that -- and put the hose away.
21 And put the hose away.

22 Alex testified that the -- Bubba and Grady had on
23 collars, and we see the collars in State's 45. And so
24 there are collars hanging here, but -- there are collars
25 hanging here, here, and then there's collars here, and the

1 dogs don't have collars on them in the dog picture. So,
2 it's a fair, fair, fair, conclusion that after Alex left
3 when he said he left that Paul puts Bubba up, Paul puts
4 Brady up -- Grady up, after cleaning out the kennels, and
5 then he goes back into the feed room to get his phone
6 where he was confronted, where he was confronted. Or some
7 time later it happened. I don't know. But they're
8 relying on cell phone usage for time of death.

9 The coroner said he did the armpit test, which is no
10 test at all. It's just a guestimate.

11 The -- can you pull up in evidence --

12 Now I want to talk to you about Maggie's phone.

13 And Defendant's Exhibit 158, please.

14 (Break in proceedings.)

15 MR. GRIFFIN: So this is Maggie's phone, timeline
16 that we put in evidence, and this is going from 8:49 to
17 9:07. And if you'll just walk through it, you'll see
18 8:49:26, last text message read by Maggie.

19 Okay, go to the next one.

20 8:49:28, backlight off.

21 Go to the next one.

22 8:49:31, phone locks and remains locked until
23 recovery by law enforcement. It was locked for the last
24 time and never unlocked. 8:53. And on 8:53 the backlight
25 comes on. The backlight comes on. It's being

1 manipulated. 8:53:12, orientation to portrait starts.
2 8:53:15, phone begins logging 59 steps. 8:53:20, there's
3 a Siri usage, and the testimony is you can get that by
4 squeezing the button. 8:53:24, an orientation portrait
5 completes, so it switches. And then 8:53:28, backlight is
6 off. Next, backlight is on, backlight is off again, and
7 it's on again.

8 Keep going.

9 Then 8:54:34, camera use starts. It's activated by
10 touching the camera icon or by swiping left from the
11 locked screen. The -- there was a question as to whether
12 that could be from facial recognition, and Lieutenant Dove
13 said that that information resides in the KnowledgeC
14 database, but he did not look for it. Micah Sturgis, our
15 expert, looked for it, found it, and came and told you
16 that was not a facial recognition miss. It was from
17 intentionally activating the phone only for 1 second.

18 Go to the next slide.

19 Camera usage ends.

20 Go to the next slide.

21 Orientation landscape starts, 8:54:44. It ends and
22 then 8:55 -- so, the point is there's a lot going on with
23 Maggie's phone at -- around 8:55.

24 Keep going. Keep going.

25 And then at 9:03 the backlight goes off. And at 9:04

1 there's a missed call from Alex, and at 9:04:23, backlight
2 is off. At 9:04:41, the missed call from Alex ends.

3 So, let's back up to -- let's go to 9:04:23, a missed
4 call from Alex. And this was the testimony on 9:04:23,
5 and it's important. Alex calls Maggie, and when that
6 happens, you would -- her backlight was on.

7 Go back one more.

8 Her backlight is on at 9:03:52. At 9:04, missed call
9 from Alex starts at 9:04:23 and instantaneously the
10 backlight goes off. Now, you heard the testimony of that,
11 it means when that call came in, someone pushed on the
12 side to stop the call. Now, was that done by Maggie
13 because she was over on the other side of the workshop
14 where we see those footprints that we heard about that
15 were never really analyzed and that she didn't want any
16 noise coming through? Or was that some bad guy, or bad
17 person, has Maggie's phone and stops the call? But
18 something is going on with her phone at 9:04, I'll tell
19 you that. And then at 9:04 the next one is missed call
20 from Alex ends. 9:05, backlight on. 9:06 orientation
21 changes to portrait. 9:07, incoming call from Alex --
22 excuse me, 9:06:14.

23 Keep going, Doug.

24 And 9:06:52.

25 Keep going.

1 And then at 9:07 her phone stops for good.

2 Now, one of the things that you heard in this case is
3 that orientation change was at 9:06 that we just talked
4 about.

5 And, Doug, if you'll go to the -- if you'll go to
6 Defendant's 156, please?

7 And so these are Alex's steps on his phone that
8 registered during this time period, and if you'll go to
9 entry -- if you'll look at entry 28 --

10 If you'll pull that out, Doug. All right.

11 So, 28, this is between 9:02:18 and 9:06:47, and this
12 is the time period that Mr. Waters in his argument said
13 was scurrying around because he took --

14 Can -- yeah, just bring it back a little bit more,
15 please. Can we do it so we can see the whole line?
16 That's fine.

17 So, that -- so, here we see line 28, between 9:02 and
18 9:06 there's 283 steps, and he went 208 meters. So, I
19 want you to first -- and so they take the position that
20 this is him scurrying around, but if you do the math,
21 which we haven't done here on this document, but 283 steps
22 in 269 minutes -- excuse me, 269 steps turns out to be
23 1.05 steps per second -- .05 -- 1.05 steps per second.
24 Multiply that by 60, you get 63 steps per second. And,
25 ladies and gentlemen, this is a slow walk, one step per

1 second. One thousand-one, one thousand-two, one
2 thousand-three, one thousand-four, one thousand-five.
3 This is Alex scurrying around, according to the State's
4 case. And if you'll look at the distance in meters of the
5 last -- when he gets, I guess, to the house at 7:55 to
6 8:55, he goes 203 meters before it stops registering.

7 And then one thing you'll remember during this time
8 period between 9:02 and 9:06, at 9:06 Maggie's phone has
9 an orientation change. Her phone has moved from here to
10 here, but what her phone doesn't have --

11 If you'd go to the second page?

12 What her phone doesn't have are steps, are steps.
13 And Lieutenant Dove testified that, yeah, it doesn't look
14 like anyone but -- I mean, that her phone is moving at
15 9:06, but there are no steps being registered. Alex is
16 walking from 9:02 to 9:06, so it would bear to reason that
17 Maggie is not -- excuse me, Alex is not walking with
18 Maggie's phone. That's the timeline data that I wanted to
19 review with you.

20 The -- if you'll go to Exhibit 524, Defendant's
21 Exhibit 524, please.

22 SPEAKER: State's 524, Counsel?

23 MR. GRIFFIN: I think it's -- yeah, State's 524, I'm
24 sorry. Do you have that?

25 SPEAKER: Yes, sir.

1 MR. GRIFFIN: If you'll go to the slide where -- no,
2 sir, not 38 -- do you have the whole document or you
3 don't? Well, drop that. Okay.

4 Well, the -- I mentioned earlier -- and so State's
5 Exhibit 524 is all of the OnStar data you will see there,
6 that he goes by this spot at 9:08 where Maggie's phone was
7 found, and there was testimony that he sped up after he
8 went by there. He sped up to, like, from 42 to 45, and
9 went back down to 44 miles an hour when he went by there.
10 He's not speeding up when he goes by the area where
11 Maggie's phone was found whenever it was tossed. And then
12 they have, you know, a chart or a slide that talks about
13 how long it took him to get over there and the speeds that
14 it took, and Mr. Waters was arguing to you that that
15 compressed the timeline. The faster he gets over to
16 Almeda, the -- it means that he's gone longer from Moselle
17 and it gives him a better alibi because, as you know, he's
18 orchestrating this alibi. And so he's driving fast over
19 to Almeda, according to their theory.

20 And we graphed it out, and he's driving. He's
21 passing some cars, and he is -- you know, he's a fast
22 driver. Okay. So they say, oh, he's compressing the
23 timeline. Compressing the timeline is that they say,
24 compressing the timeline. But then they say he drives
25 fast on the way back. Why? He's driving the same speed

1 over there, same speed back. There's no reason to
2 compress the timeline coming back. I mean, you would want
3 to be driving as slow as you can to make it appear you'd
4 been gone a lot longer. I mean, he drives the same speed
5 from Moselle to Almeda, as from Almeda back to Moselle.
6 It takes him the same amount of time. He's not
7 compressing any timeline at all.

8 And what's the most curious part about Maggie's
9 phone -- about Maggie's phone, what's most curious about
10 it is Alex has per password. Alex -- if he is wanting to
11 change the timeline, when he calls her phone, he should
12 answer her phone. When he texts her, he should reply to
13 that text to show activity on her phone that she's still
14 alive. If he wants -- if he's manufacturing a timeline by
15 speeding, the easiest way to do it is use both phones,
16 talk on both phones, and he didn't.

17 This whole thing about using Maggie's phone, driving
18 Maggie's phone, throwing Maggie's phone out is -- it's
19 such a stretch for them to come in and try to put her
20 phone in his hand. And then you start thinking through.
21 Why would Alex take her phone and not Paul's phone? Let's
22 start there. Why would Alex take her phone and not Paul's
23 phone? That's a question I don't have an answer to. It
24 makes no sense. It just makes no sense why he would take
25 Maggie's phone. If there's something on there, he knows

1 her password. Put it in. See what it is. We know from
2 all of this phone data her phone was never unlocked, and
3 he had the keys. So, if he's taking her phone to unlock
4 or to do something with it, he did it.

5 And so why? Why, why, why? And these are
6 circumstances that have to be consistent with each other,
7 and have to point conclusively to the guilt of Alex
8 Murdaugh beyond a reasonable doubt. And these
9 circumstances just raise more questions, ladies and
10 gentlemen, raise more questions that we wouldn't have to
11 be dealing with if they had just simply secured Maggie's
12 phone in a Faraday bag on June the 8th when they got it.
13 We wouldn't be here.

14 So, we do know from the timeline that Alex left the
15 property at 9:07. Were they killed before he left? I
16 don't know the answer to that. I don't know the answer to
17 that. But we do know that if he was in the house when the
18 shots were made down at the kennel that he would not have
19 heard them. We had decibel testing from Mr. Sutton.

20 Now, they were angry with Mr. Sutton's angle test.
21 They were angry -- not angry, but they challenged his
22 conclusions on a lot of things, but they didn't touch his
23 acoustics testing, didn't doubt that, haven't challenged
24 that. And so if he's in the house and shots are going
25 down -- ringing down at the kennel, he doesn't hear them.

1 He doesn't hear them. Now, they say that some time after
2 8:44, and they peg it at 8:48/8:50 because that's when
3 Paul last responded to a text from this, you know, friend
4 of his, but they ignore the fact there had to be clean up,
5 and I think Buster testified that takes 10 minutes at
6 least to get the dogs in, clean up, and et cetera. But --
7 and then there's all of this 8:55 stuff going on on
8 Maggie's phone.

9 But let's take them at their theory. At 8:50, after
10 having a pleasant conversation, talking about is it a
11 guinea or is it a chicken, and Bubba, you know, and
12 getting -- I mean. All right. So, 4 minutes later, let's
13 go ahead and kill my wife and my son because I got
14 questioned at the office today by Jeannie Seckinger.
15 Okay. That's their case. Well, let's run with it and see
16 where it takes us.

17 Well, it takes us that he leaves the property at
18 9:07. So from the moment -- so if he's got, you know --
19 well, if it happens at 8:50, he's got 10 -- he's got 17
20 minutes. 17 minutes. He would have to be a magician to
21 make all of that evidence disappear. As you heard under
22 either Dr. Kinsey or Mr. Palmbach, Dr. Riemer, Dr. Kinsey,
23 Mr. Palmbach, and Dr. Eisenstat, either way, the shooter
24 is covered with blood on Paul's shooter, and that's what
25 all that testimony was about.

1 It wasn't about trying to figure out who's, who's got
2 the right angles. The whole point of that is while -- we
3 ended up having to get our own experts to, to prove the
4 shooter is covered in biological material, covered in
5 blood, covered in everything because of the blowback. And
6 it wasn't until on reply that Dr. Kinsey said, oh, well
7 there would be blowback under my version, too, blowback
8 meaning blood, biological material from killing Paul. So,
9 the shooter is covered in blood. The shooter's gun is
10 covered in blood. And that -- there's not a sufficient
11 amount of time to clean all of that up, and make all of
12 that disappear, and then call your son, Buster, driving to
13 visit your mother, who he had gotten a call from Barbara
14 Mixon earlier today and said your mother is agitated
15 because your dad went back in the hospital. You might
16 want to check on her.

17 He goes to check on her. He calls Buster. And does
18 he say, hey, Bus, I just blew your mom and brother up?
19 You should see the damn mess. Are you kidding me? He
20 calls Chris Wilson, normal conversation. He calls his
21 brother John Marvin, talking about his dad.

22 And then he goes over there and he sits there with
23 Shelley and sits on his mom's bed, and he stays there 20
24 minutes, not 40 minutes or 22 minutes, I don't know. The
25 records show what time. But the fact of the matter is

1 he's got no blood on him. He's acting normal as every
2 day. He is the same old Alex. Yet their theory is he
3 just blew the person he -- the people he loved the most in
4 this world, he blew them away.

5 Now, I talked a little bit about the angles that
6 Mr. Sutton did his reverse trajectories on the shots, and
7 they're having a good time joking about the size of the
8 figure in the FARO, saying, oh, it must have been a twelve
9 year old kid, 5-2, 5-4. And, I don't know, let them have
10 their fun, but that's not what the testimony was.

11 The testimony was that the barrel of the gun has to
12 be at that level to make the shot into the quail pen. We
13 didn't take the measurements. SLED took the measurements.
14 And so, yeah, could a 6-4 person get down to that level?
15 Sure. Mr. Sutton says that's not a natural shooting
16 angle. Could a 6-4 four person get on their knees? Sure.
17 Shooters are in movement, and a 6-4 person is going to be
18 moving around on their knees? I don't think so. But, you
19 know, the most common sense thing here is there were two
20 shooters because there were two guns.

21 And as Mr. Palmbach said, one gun is high capacity.
22 It holds ten, twenty, thirty rounds, and if you're going
23 down to execute somebody, one gun is enough. Why take
24 another gun that only has three shots? It's -- and
25 Dr. Kinsey agreed with the angle coming out of the bird --

1 the quail pen so that the angle puts it pretty far away
2 from the door of the feed room where Paul was killed.

3 But it's not our burden. It's not our burden. It's
4 their burden to prove to you, based on circumstantial
5 evidence, that all of the circumstances are consistent
6 with each other and point conclusively to the defendant's
7 guilt beyond a reasonable doubt, and those facts are just
8 not consistent. Those facts are just not consistent.

9 I want to say a word about the condition of Paul and
10 Maggie, particularly Paul, and I'm not going to show you
11 any photos, but I think you would agree that it was so
12 bad. It was so bad. And Alex, in the back of the car
13 with me in the back of that -- you could see me on the
14 camera sitting there talking to Agent Owen and Agent
15 Croft, and he says: It was so bad, they did him so bad.
16 Agent Croft misheard that and said he said I did him so
17 bad. I think the evidence is to -- everyone who has
18 listened to it and everyone who knows what Alex was
19 talking about around that time was they did him so bad.
20 And Agent Owen was in the car and he doesn't say to you,
21 oh, he actually said I did him so bad.

22 I think we can put that issue to rest, but that issue
23 points to a bigger question. What would they be saying in
24 this trial if that conversation wasn't videotaped? What
25 would they be saying? We know Agent Croft would be saying

1 he said I did him so bad, and then where would we be then?
2 I'm grateful to SLED that they videotaped that so that
3 you'll hear it if you have any questions. I don't think
4 you should, but they did him so bad, that is for sure.

5 Another thing that we're going to clear up right now
6 is Alex's concern for Buster. You heard that, and you
7 heard that in Mr. Waters's closing, that on the -- that in
8 the statements that Alex made on the roadside shooting in
9 Labor Day weekend where he tried to arrange an assisted
10 suicide, that he told officers that there's no danger to
11 Buster. Of course there was no danger to Buster because
12 of that roadside shooting because he knew who shot him:
13 Curtis Eddie Smith. He knew he was trying get himself
14 killed. But from that he was going -- the reason he knows
15 there was nothing to worry about Buster is because he
16 knows he did it. That's what was just argued yesterday.

17 Well, Deputy McDowell in a body cam video that's in
18 evidence captured Alex speaking to Buddy Hill about his
19 concern about Buster's safety.

20 And will you play that now, Doug? It's in evidence.

21 (The audio was played. Audio not transcribed.)

22 MR. GRIFFIN: Will you replay that again because I
23 think the --

24 (The audio was played again.)

25 MR. GRIFFIN: Did you hear that? Can y'all get a

1 police officer for my oldest son in Columbia? What about
2 Buster? What about Buster? Can y'all get a police
3 officer for my oldest son? Buddy, can y'all get a police
4 officer for my oldest son in Columbia? That's Buddy Hill,
5 the sheriff. They want to come in here and tell you he
6 wasn't concerned for Buster's safety. Once again, I'm
7 grateful the Colleton County Sheriff's Department had body
8 cams because now you know. You know Alex was concerned;
9 you know Alex asked for a police officer for his son in
10 Columbia, Buster.

11 Now, I'm almost done, I promise, but I do want to
12 talk about Alex's misstatements about time. Alex told
13 Deputy Owen during interviews that -- well, first, Alex's
14 statements about time are not lies. They were just
15 misstatements. And like I said, Deputy Owen said people
16 make mistakes about -- all of the -- Agent Owen, I'm
17 sorry, Agent Owen, they make mistakes about time all the
18 time, and they do.

19 Now, Mr. Waters is critical because Alex was wrong
20 every time he gave a time estimate. It turns out I think
21 Mr. Waters is probably right about that. Whether the time
22 period is inconsequential or consequential, he's wrong
23 about it. And the -- and we have brought in -- you know,
24 Alex had told deputies in an interview that he got home at
25 5:00, and that's not true. That he went to work that day

1 at 8:30. That's not true, and that -- and so he is just
2 wrong on times. But what was consistent whenever he had a
3 interview, he said you get the records. You get the
4 records and it will show what time I was -- did this, what
5 time I did that. It will all be in the records. And
6 guess what? They're in the records. And when the records
7 show that his time estimate was wrong, you know, they jump
8 up and down. Jump up and down.

9 The statement to Deputy Greene, he says I'd gone to
10 my -- I'd gone to my mom's for about a hour and a half and
11 I last saw them 45 minutes. Now, that -- I don't know.
12 Frankly, I don't know if that's wrong or not. I mean,
13 he's talking to Deputy Greene by 10:30. A hour and a half
14 from 10:30 is 9:00, and he left at -- he left at -- you
15 know, he left at 9:07. But that's at -- the question
16 about what he did when he got down to the scene, and he
17 said he ran up to Paul and Maggie, and he left his phone,
18 and then he went back to get his phone, and, and that --
19 then he's talking to the 911 operator, and you can hear
20 it, and he says I've been up to them now and it's bad. He
21 doesn't remember the sequencing, and I don't think anyone
22 should hold that against him.

23 You know, Mr. Waters gets up here and says Maggie was
24 running to her baby. Alex was running to his baby. And
25 can you imagine what he saw? And is it evidence of guilt

1 that he doesn't remember what the sequencing was in that
2 moment? Is that evidence? Is that evidence of guilt, or
3 is that evidence of trauma? This is a guy that then went
4 to get a 12 gauge shotgun and he put 16 gauge shells in
5 it. He knows the difference, but he didn't know that
6 night.

7 And I'm not quite understanding what the State makes
8 of this. Did he not go up to the bodies? Because the
9 forensic evidence sure speaks to the contrary. What we
10 have is Maggie's DNA all over his t-shirt, and you heard
11 that from Agent Zapata. We have Paul's DNA on his
12 t-shirt. How did he get Paul and Maggie's DNA on his
13 t-shirt if he didn't touch them? If he brutally murdered
14 them, hosed off down there next to their dead bodies, got
15 in the golf cart butt naked, drove to the house, changed
16 clothes, went over to his mom's, goes down, calls 911, and
17 then searches for Whaley's Restaurant menu, and checking
18 emails waiting for the police to show up, how does he get
19 their DNA on his body? Because it's on there. Their
20 forensic lab tells you that because he went up to them and
21 touched them.

22 And then there's a spot of blood on the Suburban
23 steering wheel that was Maggie's. And we know that the
24 Suburban was never down at the kennel thanks to the OnStar
25 information, thanks to -- I'm not sure that was an

1 accepted fact until OnStar sent their stuff in, but the
2 Suburban never went down to the kennel until after he
3 returned back to Moselle. So, we know the blood got on
4 the steering wheel after he checked Maggie like he did on
5 the 911 call.

6 And then there's a spot of blood on the gun that he
7 went to get. And then there's GSR, there's GSR. There's
8 three particles of GSR on the shirt, three particles of
9 GSR on his shorts, and one on his finger. And the SLED
10 agent testified that's consistent with transferred GSR
11 when you pick up a gun.

12 So, really we're back to the lie. We're back to the
13 lie because that's all they have in this case is that Alex
14 lied to them when he was -- when he last saw them, and he
15 shouldn't have, and he shouldn't have. And he said what a
16 tangled web weave when once we start to deceive, and once
17 he lied the first time, he had to stick with the lie, and
18 he continued to lie, and he shouldn't have. He shouldn't
19 have.

20 And he told you, you know, what was going through his
21 mind. Probably wasn't rational, but he was in the throws
22 of an addiction, and he just found his wife and son
23 murdered. And he's being interviewed, he'd been swiped
24 for GSR, and he does think David Owen is the guy that
25 investigated his friend, but he was wrong, and he told

1 you. It turns out he was wrong, but I thought that's who
2 it was that night. And he was under investigation. He
3 was being accused of obstructing the boating accident
4 investigation, and he was under investigation by SLED for
5 that. And he had all of these skeletons in his closet,
6 and he was wanting to get them away from him and looking
7 for the real killer.

8 The State in this case has gone to lengths trying to,
9 through a slight of the hand, convince you of this, show
10 you that, and without mentioning guilt and without showing
11 evidence of guilt convince you that he murdered his wife
12 and son because the financial misdeeds are going to come
13 out, which is about the most illogical thing imaginable,
14 and there's no evidence of that.

15 And then the State brings all of these shotguns in
16 here, and I'm not going to pick every one of them up, but
17 the forensic evidence on these shotguns is they have -- or
18 they can't be excluded. Well, okay. They can't be
19 included either, so you know nothing more about these
20 shotguns than you would have the day you showed up for
21 jury selection because there's nothing to know about them.
22 You can't exclude them, can't include them, according to
23 them, but we do know there's no blood, guts, brains on any
24 of -- on any of the guns that would have been there from
25 the shooting under everybody's interpretation of how Paul

1 was murdered. The -- I mean, they want -- they want --
2 they want you to think that because you own guns that you
3 should be viewed differently. I don't know what else to
4 make of that. I don't know what else to make of that.

5 When this trial began with opening statements on
6 January 25th, Mr. Harpootlian asked why? Why? Why would
7 Alex execute his wife and son in cold blood? And here we
8 are six weeks later, and you've heard weeks of testimony
9 about Alex's financial crimes, drug addiction, and lies,
10 but after all of that, the State has failed to prove, to
11 provide a satisfactory answer to this question, why. Why?
12 Why? The State cannot provide an answer to this question
13 because the answer is he would not. He would not under
14 any circumstances murder those that meant the most to him.

15 Your oath requires that you hold the State to the
16 exact standard of proof, that the State must prove the
17 defendant's guilt beyond a reasonable doubt, and when they
18 rely solely on circumstantial evidence, these
19 circumstances must be consistent with each other, and when
20 taken together point conclusively to the guilt of the
21 accused beyond a reasonable doubt. And if they merely
22 portray the behavior of the defendant as suspicious, you
23 must find him not guilty. The State's evidence fails to
24 meet these requirements. The circumstances don't point
25 conclusively to Alex's guilt, far from it.

1 Mr. Waters wants you to believe that Alex slaughtered
2 Maggie and Paul on June 7th, and repeatedly lied and
3 changed the story to fit the timeline in evidence. As it
4 turns out, as it turns out, in fact, the State is the one
5 that's been manipulating evidence to fit their theories of
6 guilt, which changed over time from the date of these
7 murders until yesterday. And the absence of forensic
8 science and reliable investigation, the guns, blood
9 spatter, the time and opportunity to have committed these
10 murders, you're instead left to make inferences about all
11 sorts of interactions and behaviors.

12 The prosecution wants you to view the evidence
13 through the diabolical monster lens that they have tried
14 to paint, but the law requires you to view it through the
15 lens of innocence where none of these things, individually
16 or taken together, prove conclusively to Alex's guilt
17 beyond a reasonable doubt.

18 Up until now you've not been able to say a single
19 word. I can't imagine how frustrating that must be, but
20 soon, soon you will have the most powerful voice in this
21 courtroom. With your words, you can let everyone know
22 that in a court of law, only evidence and the burden of
23 proof matters, not gossip, innuendo, opinions, and most of
24 all not theories layered on top of speculation. With your
25 words, you can let the State know that they don't get to

1 obtain an indictment by misleading a grand jury and then
2 bring you -- before you a case built on theories and
3 speculation.

4 There are two words that justice demands in this
5 case, and those two words are not guilty. The oath you've
6 taken in this case is to follow the law, and to follow the
7 constitution, and to hold the government to the burden of
8 proof that requires a verdict of not guilty.

9 On behalf of Alex, on behalf of Buster, on behalf of
10 Maggie, and on behalf of my friend, Paul, I respectfully
11 request that you do not compound a family tragedy with
12 another. Thank you.

13 THE COURT: Ladies and gentlemen, we'll send you to
14 the jury room for a break. Please do not discuss the
15 case.

16 (The jury left the courtroom.)

17 THE COURT: If everyone will be seated.

18 Mr. Meadors, are you closing on behalf of the State?

19 MR. MEADORS: Yes, sir, Your Honor.

20 THE COURT: Do you have an estimated length of time
21 that you might go?

22 MR. MEADORS: No more than 40 minutes.

23 THE COURT: Are you ready to go?

24 MR. MEADORS: If you can give me -- I just need to go
25 to the bathroom.

1 THE COURT: Sure. All right. We'll take a 5 minute
2 recess.

3 (A break was taken.)

4 THE COURT: Let's bring the jury.

5 (The jury returned to the courtroom.)

6 THE BAILIFF: The jury is present, sir.

7 THE COURT: Thank you.

8 Ladies and gentlemen, the State gets an opportunity
9 to do a rebuttal.

10 Mr. Meadors.

11 MR. MEADORS: May it please the Court?

12 THE COURT: Yes, sir.

13 MR. MEADORS: Good afternoon.

14 (The jurors responded good afternoon.)

15 MR. MEADORS: On behalf of the Attorney General, Alan
16 Wilson, Deputy Don Zelenka, and Deputy Attorney General
17 Creighton Waters, and this entire team, and I want to name
18 them all, but thank you for being here. Thank you for the
19 attention you've given this case.

20 Being a juror is not an easy job. I'm not a jury
21 watcher, I don't sit and stare at jurors, but goodness
22 knows we've been here six weeks, I have look over
23 occasionally, not to pry, but I've noticed when I have
24 looked, you've all paying attention, so thank you. Six
25 weeks. Thank you. And I'm not going to be that long.

1 Your Clerk, Ms. Hill, has done an outstanding job
2 bringing the world to Colleton County, bringing the world
3 to right here with her hospitality, her grace, making
4 everything as convenient as she can. But the one thing
5 she didn't do, and couldn't do, is give you a booklet on
6 how to be a juror. Five and a half weeks ago when y'all
7 got here, six weeks ago, she didn't have that packet for
8 you because they don't exist.

9 There's not a book on how to be a juror. But you
10 have been preparing for this moment in this courtroom to
11 decide this case your entire life, and it's called life.
12 It's called living. It's called experiences. It's called
13 interacting with your spouse, your children, your
14 neighbors, your coworkers, you're good experiences, your
15 bad experiences, evaluating people, and deciding what is
16 credible, what is believable. It's true in every case
17 I've ever tried in my thirty-four years of doing nothing
18 but murder cases. Credibility, believability.

19 And I agree with Mr. Griffin. When I looked at this
20 case the first time I said to myself this is a CSC case.
21 Now, in our world that means criminal sexual conduct.
22 It's not a criminal sexual conduct case. This is a common
23 sense case, and you didn't leave that common sense with
24 you when you came here six weeks ago. It's with you now,
25 it's been with you during the six weeks here, and you're

1 going to take it back into the jury room.

2 I've been listening yesterday and today -- and y'all
3 have -- about law enforcement didn't do this, law
4 enforcement didn't do that. I think they actually said
5 they fabricated evidence, putting law enforcement on
6 trial. I once called Mr. Harpootlian in a trial the
7 automatic smokescreen machine, and I think what the
8 defense is doing in this case is more like an eclipse.
9 You remember that eclipse on August 17th of 2017 where it
10 kind of got dark for a little bit, and the birds started
11 chirping, and you almost -- you felt like it was dark, and
12 then it cleared. The eclipse went over and the light came
13 back. That's what the defense is doing. Taking away --
14 taking you away from the facts, from the credibility and
15 saying wait a minute. There's an he eclipse here.
16 There's a smokescreen here. Look at that.

17 And I -- somebody said the word offensive. I find it
18 offensive that a family with a great-grandfather, a
19 grandfather, a father, Solicitor Randolph Murdaugh, who
20 was good to me when I was a young prosecutor -- he knew I
21 wanted to do this as my job. He knew I cared about this
22 job. This is the best job in the world. I tried to be
23 solicitor three times. It doesn't get any better than
24 this job, and I find it offensive that the defense through
25 the defendant, who was also a part-time solicitor, is

1 claiming that law enforcement didn't do their job --
2 listen to me, please -- didn't do their job while he is
3 withholding and obstructing justice by not saying I was
4 down at the kennels. I was down at the kennels. I was
5 down at the kennels. And he's going to blame everybody
6 else. Is that offensive? Is that offensive?

7 Mr. Griffin said a minute ago, can you imagine coming
8 up on the scene and seeing? Can you imagine not telling
9 law enforcement, lying that I was down there and I saw
10 them, I was right there. Why wouldn't you tell them that?
11 Maybe get some more evidence? Did you hear somebody? No,
12 I wasn't even down there. Credibility, believability.
13 That really does sum it up.

14 Do you remember six weeks ago today and Mr. Waters's
15 fantastic opening and he talked about direct evidence?
16 And direct evidence is something you get -- you know it
17 when you see it. It's evidence you gather with one of
18 your senses. You hear it, you feel it, you smell it, you
19 touch it, and you come in here and tell. Witnesses: hey,
20 this is what I heard, what I felt, what I smelled, what I
21 touched.

22 But do you remember when he was describing
23 circumstantial evidence? There was a storm that day
24 coming, part of his theme. The storm just happened to
25 come, and you could hear it coming, and then during the

1 part of his opening do you remember it started raining?
2 You could hear it. You could feel it. It's almost like
3 circumstantial evidence morphed into direct evidence, and
4 that's what happened in this case. Circumstantial
5 evidence became direct evidence in many instances.

6 This case is about two things: it's about being real,
7 being real, and choices. My mama gave me a book when I
8 was a little boy about *The Velveteen Rabbit*. I was
9 actually going off to college, being with people, and
10 learning about people, and tough times in life. Go get
11 *The Velveteen Rabbit* and read it if you haven't heard of
12 it, but she just put in the front of that book -- and I
13 love my mama -- always be real. Always be real. And this
14 case is about that defendant never being real, and choices
15 which I'll get to at length.

16 Ladies and gentlemen, they blamed everybody but Alex,
17 everybody but Alex. Let's go back to the first -- I'm not
18 going to bring it out, but this back here. The press
19 release was sent out. There's no danger. There's no
20 danger. What did Alex not do? They showed a tape there.
21 He's asking the sheriff, I think, call Buster. The first
22 time he tried to call Buster -- well, that was -- it took
23 the sheriff awhile to get out there. Do you remember the
24 first time he called Buster? It was about 40 minutes.
25 Well, actually he texted him, didn't even call him. It

1 wasn't his first thought. Wasn't the thing after he did
2 911. It was later, perhaps even when some of his friends
3 had gotten there.

4 Oh, I'd better call. No right off the bat this
5 happened. Call my son. Call him. Buster, stay where you
6 are. You're with your girlfriend up there in North -- in
7 Charlotte, go. We've got some people after us.

8 That's what's real. Do you -- you go to the police
9 station right there. And what else do you do, too? You
10 want to talk about being real? What do you do? Y'all, I
11 left my mama. She's with Shelley. Get somebody over
12 there; get them over there. These people are out here to
13 kill us. Get them over there. Go, please. Get them over
14 there. They're by themselves.

15 I can't do that. That's where I took the guns. I
16 can't tell them that. That's what's real.

17 And he brings up the boat case right away, right away
18 a year and a half previous. He's coming up for a hearing.
19 Nobody is thinking about that boat case except Alex, and
20 right then he's using it to throw off here is your first
21 suspect. Does that make any sense? They have a hearing
22 coming up. They're going to look into resolving this
23 thing. Nobody is out there thinking about a boat case on
24 a Monday night. Anybody upset about that?

25 Think about all the facts that would have to happen.

1 They would have to know both -- as Mr. Waters said,
2 somebody in the boat case would have to know that they're
3 both there. They would have to know they were there.
4 They would have to know that Alex just wasn't there, oh,
5 no, wait a minute, that he was there but just for a little
6 bit and went back up to the house. And they would have to
7 come -- you know, what? We don't need a gun. There will
8 be guns there for us to use. Yeah, so that's great
9 circumstantial and direct evidence. I'll get to that.
10 They'll have guns there for us. They'll have guns there
11 for us. We can use it. Does that make any sense
12 whatsoever?

13 Let's talk about murder. Murder is the intentional,
14 malicious killing of another living, breathing human being
15 with malice aforethought. What is malice? Y'all know
16 what malice is. It's the name malice: it's an evil
17 wickedness one person shows to another. Do you know how
18 long it's got to exist? Just like that. The pulling of a
19 trigger, pulling of a trigger, pulling of a trigger,
20 pulling of a trigger, pulling of a trigger, pulling of a
21 trigger.

22 Malice aforethought. It can be expressed when it
23 happens: I'm going to kill you. Or it can be inferred.
24 It can be inferred with the use of one gun. There's no
25 claim of self-defense here. They're claiming they weren't

1 there. It could be inferred with two guns, malice
2 aforethought.

3 And we don't have premeditation in this state. We
4 don't have to prove premeditation. We don't have to prove
5 motive. I think it's been proven. His world was
6 collapsing. Mr. Griffin goes does that make sense? It
7 did in his mind. His world is collapsing; his world is
8 coming down. This was the only way he could save -- it's
9 the only way -- it's the only way he could save Alex. But
10 if you don't, if that motive -- well, I don't know, is
11 that enough? Is that enough? We don't have to prove
12 motive. We're certainly there. That's one explanation.
13 But if he's down there and he's angry -- this don't sound
14 like a real jovial --

15 Bubba, don't let me forget about, about Bubba.
16 Bubba, come here. Maybe he just got angry. Maybe he got
17 angry at Paul. Maybe he got angry. You know, we started
18 all of this with the boat case, and maybe he just lost it.
19 Maybe he just lost it. Maybe he wanted it to look like a
20 suicide, and then Maggie came and he had to shoot her. I
21 don't know. Only one person knows. And that's why we've
22 got the motive. That's why we say he did it. But we
23 don't even have to have motive. Just angry. He did it.
24 Nobody else could have done it; nobody else did do it.
25 I will get to that, and that's how we prove beyond, I want

1 to say, all doubt, but our burden is only reasonable
2 doubt. But losing it.

3 And then you get the question, well, have you proven
4 malice? Well, yes, sir. Yes, ma'am. Two shots to Paul,
5 malicious. The first one didn't do it; the second one
6 finishes him off. Five shots to Maggie, not an accident.
7 One shot, two shots, three shots, four shots, maybe five
8 shots depending on whether this one -- that's malicious.
9 So, if you find he killed them and you get to malice -- I
10 don't think there's any dispute in here about not -- that
11 it's a malicious killing, but I've got to go over that
12 with you, malice aforethought, and then the burden, the
13 burden on us in this case, as in every case that's tried
14 in this wonderful land of ours.

15 Why this is so great, I agree with him, is beyond a
16 reasonable doubt.

17 I'm going to borrow one of these pointers, if that's
18 okay.

19 It's not beyond all doubt. If that's the case, this
20 courtroom wouldn't have been here historically as long as
21 it has. The law doesn't describe that. And listen to His
22 Honor. And I'm not playing up to him. He is the best.
23 He's the law, listen to him when he reads the law. Beyond
24 a reasonable doubt, it's not beyond all doubt. We can't
25 do that. It's beyond a doubt that would make reasonable

1 folks hesitate to act.

2 I was trying a retrial in a case years ago and the
3 reason it's reasonable doubt was ex-solicitor, Solicitor
4 Wilson, I'll give him credit, describing reasonable doubt,
5 and he says sometimes, you know, questions are just
6 questions. You can't answer every question, and the law
7 doesn't require it. If after hearing all of the evidence
8 you don't, or if you're firmly convinced of the
9 defendant's guilt, you must find him guilty. If on the
10 other hand you're not firmly convinced, then you must find
11 him not guilty.

12 He goes to see his mother. He goes -- and you see
13 the OnStar taking him up to the side over near the smoke
14 house. We submit to you that's when he went to hide the
15 guns. It's common sense. We submit to you that there's a
16 driveway there, a nice pavement. You can go look at it.
17 It's a nice paved driveway. I submit to you when he came,
18 it was 9:30 at night. The testimony is very unusual, very
19 rare.

20 What's kind of funny is Barbara -- Ms. Mixon, who
21 testified earlier, we talked to her recently. Didn't
22 remember any of the conversations, but said she called and
23 said he told her -- your dad is not doing well. Well, he
24 didn't go over there that afternoon when he got the phone
25 call, when his office is right near there, go see them

1 then. He didn't do that. He waited until 9:30.

2 I don't know if anybody has got any folks who suffer
3 from Alzheimer's, but when they're asleep, they're tired.
4 He wasn't going to love his mama. He wasn't going to be
5 with her. He was going there because he loves Alex. He
6 loves Alex. And he was going there to create his alibi at
7 9:30 at night. Use your common sense.

8 And do you remember she said he called? What
9 happened after that? Well, it was about 5 minutes or so.
10 At first I was thinking that's when he was going to hide
11 the guns. And the timeframe over there is so important,
12 not for how long he was from -- left to come back, but
13 it's how long he was in there with Shelley, how long he
14 was in there because that's when he was hiding the guns.
15 The guns are missing, y'all. He was hiding the guns. And
16 what does Shelley say? He didn't stay long, 15 or 20
17 minutes. He left.

18 And later that week -- and he kind of, just kind
19 of -- later that week, and I don't know which one in my
20 mind right now I'm so tired, but one of days he came by, I
21 think it was after visitation, and he says Shelley, do you
22 remember, I was here about 35 or 40 minutes? Do y'all
23 remember looking at her up there on the stand and she got
24 visibly upset? I said what's wrong? I asked her, what's
25 wrong? Why -- what's wrong there? Was he there 35 or 40

1 minutes? No, sir. Why are you upset? It's a good
2 family. Do you think she knew right there? He's coming
3 back to say, hey, I was here 35 or 40 minutes now to visit
4 my mom. Shelley said no, you weren't. So upset that she
5 calls her brother, a police officer in Yemassee.

6 Do you think she knew right then? And that's real.
7 That's real. Shelley is real. You saw her. Body
8 language is so important in life. Body language.

9 Mr. Waters was talking about with the defendant, all
10 of our body language. Did you see Shelley's? And then
11 one day that week never before, never, ever, ever, ever
12 before in 6:30 in the morning, doesn't call. He didn't
13 need a timeline to create for that one because it -- he
14 didn't want a timeline, didn't want a record of that. He
15 comes to see Shelley. Has he ever been over at that time
16 before? No, sir. What was he carrying? It was some blue
17 vinyl like -- do you remember I tried to -- it was like
18 this. What did you think it was? A tarp. I don't know
19 what it was. And they try to gloss over it now.

20 Do you remember when she was on the stand, I said,
21 well, have you talked to them? Have you talk with their
22 investigators? Yes, sir. Did they record you? Yes, sir.
23 Can I have a copy of it? And then we came back when we
24 got a copy, and two investigators, they were worried about
25 it then, went down and talked to her, and talked to her

1 about her times, and ran times by her, and asked her if
2 she'd ever seen anybody in this blue coat. Have you ever
3 worn it? They were worried about it because that's great
4 circumstantial evidence, the kind that morphs into direct
5 evidence. I saw him come at 6:30.

6 You heard -- we asked one of the experts. Could it
7 stay on there five years? Ten years? Sure. This was
8 days after the murder. Shelley sees him come in with a
9 blue something. Well, where did he go? He went upstairs.
10 Why? I don't know. Did you see it later. Thought I saw
11 it on the chair. Can't answer every question.

12 Ms. Mixon sure didn't see it the next day. And I
13 asked her. Was there another tarp there? Well, there was
14 a blue and silver tarp, a picture of it, too. That wasn't
15 it, though. This was all blue. And the only other blue
16 tarp that's in evidence -- and I let it go in just so I
17 could argue this right now -- is the tarp that they showed
18 Shelley that they got from K-Mart. That's not real. Is
19 this the tarp? No. It looked like that. I don't know
20 what it was. He had it bundled up. Well, low and behold
21 when we find out this information and they tried to make a
22 deal about it, a big deal about it, I think it makes it
23 more pure. She's at a traffic stop or an accident or
24 something, and she tells the police officer I forgot about
25 this. You can't make it up. So, they get a search

1 warrant and they go search, and low and behold crumbled in
2 the closet is a blue vinyl something when you pull it out,
3 and it's this jacket. You see that? Evidence of a fact,
4 and another fact that leads to a fact in question.

5 I don't know why he put it in there. I don't know
6 why he killed his wife and son. I don't have to say why.
7 I think he did it to protect the one he loved the most,
8 the one he really loved the most so he could keep his
9 lifestyle and not be embarrassed financially, and he
10 wanted to keep going and loving Alex. I don't know why he
11 kept that jacket. Maybe it was Solicitor Murdaugh's
12 jacket. It was certainly consistent, and it might have
13 been in that truck. I think one of the family said he
14 kept a lot of stuff in that truck. Might have been out in
15 that smoke house. I don't know. But he brought it back
16 in there and hid it at 6:30, days after the killings.

17 And what's inside? Wait a minute, what's on the
18 outside? Well, there's a little bit of gunshot here and
19 there. What's on the inside? The inside? Minimum of 38
20 particles. It got so much that Megan Fletcher finally
21 said, you know, we get -- I can't remember the term right
22 now, but we get so many, I just stopped. I would have
23 been there for days. Gunshot residue inside, inside the
24 rain jacket, the blue type garment that Shelley said I saw
25 him carrying something like that. And he got rid of the

1 guns and he's hiding it there for some reason. Thank
2 goodness he did it, and thank goodness for Shelley for
3 bringing that in. That's what he disposed of guns with.

4 And what else happened? She said he left and --
5 before that, she thought he left, and he came back and
6 he'd moved a ATV, and then he -- said he was in another
7 truck. He came back and then he left. He's disposing and
8 hiding whatever he was doing with that evidence. Only one
9 person knows. But that blue rain jacket, that tarp was
10 credible circumstantial evidence that he actually did it,
11 and we ask you to consider when you go back there.

12 Is Shelley making that up? How could she make that
13 up? How could she know there would be a blue tarp in that
14 closet, same closet he went -- same stairs he went up, he
15 went upstairs. I can't explain the tarp on the chair,
16 don't have to. We can't answer every question. That
17 doesn't mean it's not reasonable doubt. She saw a blue
18 tarp like was in that closet, and it's got gunshot residue
19 on it a few days after Maggie and Paul were brutally
20 murdered, and that's consistent with every reasonable
21 hypothesis.

22 And another thing he told Shelley the night when they
23 were talking. You're getting married, aren't you? Do you
24 remember her saying that? You're getting married. If you
25 need any money or help with it, let me know. That's

1 incredible timing. Oh, your job, don't you work for the
2 school? You know, I've got friends down there. I could
3 help you on that if you need it. I was there 35 or 40
4 minutes, wasn't I, to make up the sequence of facts that
5 lead to the conclusion he's trying to get her to say I was
6 there longer. I wasn't outside longer.

7 Blanca. Blanca loved Maggie. I didn't realize that
8 really until I'd talked to her a few times. I met her a
9 years ago in a federal prison. Remembered when I saw her,
10 remembered her name. But, you know, even when Blanca
11 was -- quit working for them for awhile when -- do you
12 remember she had her health problems? Said she saw Maggie
13 on the road somewhere, and they kind of pulled off, just
14 talked, just, just caught up. Blanca cared about Maggie.
15 She knew her so well. She knew what she wore to bed and
16 what she didn't wear to bed, and that kind of bothered her
17 about the clothes that were laid out, some undergarments
18 which she knew she didn't wear.

19 But Blanca's texting Maggie, Maggie is texting Blanca
20 on June 7th. And in one of his statements, and I'm going
21 to get to that, he said you know Maggie wanted to come,
22 she wanted to come. Well, no, sir, no, she didn't. She
23 was having work done at Edisto. He tried to say in here
24 today, look, she was in Charleston. She was going back to
25 Edisto. Do you remember the text to Blanca?

1 Well, I left the workers there. I guess it will
2 be okay.

3 He had said come. I want you to come. She didn't
4 want to come.

5 We also know that from her sister, Marian, who had a
6 little regret in here today. You didn't hear much regret
7 from over there, but do you know who regretted, who was
8 real? Marian. I encouraged her to go. She didn't want
9 to go. They got -- you know, it's like siblings. Jane --
10 Marshall, Jane -- I'm trying to get my siblings on the
11 record -- we love each other, but she had that
12 relationship. We weren't close, but then we got closer as
13 the kids got older and left home. We were close. We
14 talked. One of her best friends. And she told her why
15 don't you go on over there? She regretted that. But
16 she -- but that refutes his lie, oh, she wanted to come,
17 she wanted to come. No, sir, you wanted her to come.

18 Why? Had he already planned it out? Was his world
19 collapsing? He didn't have to. We don't have to prove
20 it. But he got her there and she wasn't planning on being
21 there.

22 Blanca has got the food ready. She leaves. Let's
23 stay on the real train for a minute. She goes home. She
24 gets a call some time that night, and this is real. What
25 does she do when she hears? She drops the phone. Do you

1 remember that? Her husband had to get on the phone. She
2 dropped the phone, real emotion because she cared about
3 Maggie. That's real.

4 And you remember she described it that day when she
5 left, Alex leaving? I put his shirt up, got his collar
6 on, helped him with -- I assume it was a blue jacket, I
7 don't know. Described the shirt. Remember, just kind of
8 tucked it in. And on Alex's second interview when he's
9 confronted by David Owen, and he actually showed him the
10 video of the tree. They showed him that. When did you
11 change? What I saw you that night, you were wearing
12 shorts. When did you change? Do you remember what Alex
13 said on that interview? When is that? Are you sure --
14 what is it -- time was that? And then he told them the
15 time, 7:44, whenever it was. Well, I guess I changed
16 after that. Well, those are the clothes he was wearing
17 when he murdered Maggie and Paul. Those were the clothes.

18 And what does Blanca tell us? That was on August the
19 11th. She said sometime mid-August -- you know, I can't
20 just make it up -- sometime in mid-August he comes to see
21 her. Do you remember that shirt when I left that day?
22 She said no. I mean, yes. Was it a Vinny Vines shirt?
23 You weren't wearing a Vinny Vines shirt. I fixed your
24 collar. He tries to get her to tell what he was wearing.
25 He tried to get her to say no, you weren't wearing that

1 shirt. That Columbia shirt, you've got one of those. But
2 guess what? I ain't seen that one since. I have not.

3 Blanca and Shelley, that's great circumstantial
4 evidence. Did you ever see that shirt again? Never saw
5 that shirt again, ever. Where is the shirt?

6 You know what I forgot about Shelley? I don't think
7 this was mentioned. When Shelley sees Alex that night, do
8 you remember what she said about his clothes? Shorts,
9 shirt. Do you know what she said about his shoes? Sperry
10 type cloth shoes. Do you remember that? When David Owens
11 and those get there, and I think I accidentally put some
12 of the dust out on the -- those aren't Sperry shoes. He's
13 changed his shoes again, and I'll get to you in a minute
14 why that's important.

15 He was going to visit his mom. He's got Sperry type
16 shoes, and he comes back put on his tennis shoes. What
17 happened? Is she making that up? Blanca said I've never
18 seen the shoes before. When I got there the next morning,
19 there was a t-shirt that looked like it had been pulled
20 down and fell on the floor. Where does he keep -- she
21 washes the clothes. Those are clean shirts up there.
22 This is where he kept his shorts. Did he wear these
23 shorts much? No, he didn't wear them much. But she knows
24 that family. She knows where the shorts are and where the
25 shoes are. Do you remember the Sperry shoes? Yeah. Did

1 you see those? I never saw them again. Never saw that
2 shirt again that he was wearing in the video. Never saw
3 it again.

4 And when he confronted her at the house about what he
5 was wearing, yeah, she had real feelings. They told y'all
6 about that, and they told law enforcement about that. Is
7 that real? And why is that important? Because it goes
8 back to credibility and common sense. Those were clean
9 clothes that Shelley had washed -- excuse me, that Blanca
10 had washed. And when we get there on the scene that
11 night, do you remember Laura, Ms. Rutland? She's sitting
12 in the back, David is in the front, Alex is in the front,
13 his lawyer is on the side?

14 You know, there's something else I don't understand.
15 Your wife and your son had just been killed and you're
16 worried about having a lawyer around. Everybody said,
17 well, you know, they're just SLED agents. You need to
18 have a lawyer around. Really? My wife and son have just
19 been butchered, and I'm worried about having a lawyer?
20 But they did.

21 And that threatening, overbearing, cheating,
22 manipulating -- do you remember when I asked old Dave --
23 put his hand on his shoulder. So did Laura. What are you
24 doing? I've got a heart. Is that rush to judgment? I've
25 got a heart. They didn't rush to judgment. They were

1 saying tell me what happened. Tell me what happened.

2 Well, then he starts looking at his phone. You can
3 check my phone, the alibis that he's created, that he's
4 doing. And he says I went and ran -- you remember, I got
5 on my knees over here -- I went and ran and I tried to
6 take the pulse of Paul. I'd still be on the ground if
7 that had been my son. And I tried to turn him over, I
8 kept trying to check his pulse. Really? I went to
9 Maggie, checked her pulse. And you can't do that in the
10 20 seconds. He's now trying to say he can. You can't.
11 And they've tried to change that.

12 And he never did it because what did she say? What
13 did Ms. Rutland say? He was clean. He was clean. He was
14 clean. He was clean. He washed up. And you hear the
15 water running in the dog video, you hear it. He washed
16 up.

17 And this phone, you know, tried to make a big deal
18 about this phone that you saw. You do see right
19 afterwards when we know he was down there, there's some
20 moving on Maggie's phone. But if you -- but every expert
21 has said just because if one phone is down here and the
22 other one is walking, you're not going to have steps on
23 that phone. He took Maggie's phone, the golf cart,
24 however he got, drove back up to get those shorts and
25 those -- that shirt. And, yes, you can get it and

1 manipulate it and call to see if you made a call, put it
2 down. That's not going to record steps on that phone
3 because it's not moving. But that doesn't mean it wasn't
4 with his phone. Don't fall for that. That's not real.
5 Every expert said that. Every expert said that.

6 And doesn't that make sense? You can grab it, see,
7 make a call, put it down, and if you keep walking it's not
8 going to record if it's there. It's in the car, it's in
9 the Suburban, and I'm getting to that. So, what happens?
10 And this is why I asked Ms. Rutland --

11 And they're bringing in drug use. If he did as many
12 pills as said, he'd be dead. You can't take that many
13 pills. That's your common sense. But why I asked her
14 this, I'm asking, and I'm going to look at every one of
15 y'all. Tell me what he was like in that car. You've got
16 the video. Did he appear to understand you? Yes, sir.
17 Were his answers timely? Yes, sir. Were they subject
18 matter appropriate? Yes. Did you understand him and he
19 can understand you? Look, he's thinking. He's opening
20 the door. Was he in his right mind? Of course he was.

21 And why is that so important? He says he didn't go
22 down there. Is that enough? Yes. With everything else,
23 that's enough.

24 I never went down there. He's in his right mind. I
25 never went down there, Dave. I never went down there,

1 Laura. I never went down there after supper. I stayed
2 up. I took a nap. He goes from taking a nap from 6:00 or
3 7:00 the next time they met, 6:10, I took a nap.
4 August 15th, you sure you were down there -- or up there
5 taking -- yeah, I took a nap. I never went down there,
6 never, ever, ever. Do you think he would have taken the
7 stand and said, you know, I was down there, y'all, if that
8 video hadn't come out on that phone? Well, no.

9 Now, on Mr. Waters's cross-examination I lied. Why
10 did you lie? I wrote it down; I'm still not clear. I had
11 paranoid thoughts. Usually I can take a deep breath and
12 get through it, but I couldn't, so I just lied. Once I
13 lied, I continued to lie. And he continued and continued
14 and continued until 627 days later when he took this stand
15 and the first time he'd ever told anybody, anybody. He
16 told his family, he told his friends, he told everybody,
17 and they believed him: I wasn't down there.

18 Why is that so critical? That's the time of death;
19 that's when it happened. That's what the records show.
20 That's when the conversation -- yes, it is important.
21 Paul, who used his phone all the time. Paul, who's in a
22 conversation about the dogs interacting. Well, send me
23 the picture. He does. And then he stops. Yes, that's
24 when it happens. And then Maggie's phone, a little bit of
25 text, she reads that text. I think she went to her car.

1 Y'all can decide. Nobody knows. One person knows. She
2 goes to her car, and she's got some rings there she's
3 putting back on. I think she's got two rings there and
4 she's putting on another one in the car. Maybe they'd
5 been working at the kennels. There's one shooter, there's
6 only one. And she hears that shot and she comes back
7 around. She hears the shot. She reads the last text.
8 Y'all will have it in there. I think she opens the thing
9 about Solicitor Murdaugh. He doesn't -- and then you
10 don't see anything else. You don't see anything else on
11 the phone, so is that common sense? Yeah. That's when
12 they were gone. Yes, yes, when the interaction was, yes.
13 That's common sense. And that's why it is so important.

14 You want to help law enforcement? You're in law
15 enforcement. I was down there. Y'all know what? I was
16 down there. I didn't take that nap as long as I did.
17 Well, did you hear anything? Why would you not give that
18 information?

19 Okay, then the 10th with his lawyer, Mr. Griffin, in
20 the car. Did you go down there? No. Look at him. Is he
21 coherent? Is he under the influence of anything? Is he
22 withdrawing? No. I want to help y'all. I want to help
23 you. And then on the 15th, here's this video. It's you
24 and the tree. Now, Rogan says he thought he heard you
25 down there. I don't think so. Why not say it then?

1 Think about it. Well, it's just Rogan's word. Does that
2 make any sense? No, sir, I can handle that. He made a
3 mistake like Shelley did, like Blanca and the clothes.
4 No, sir. I can handle that, though. But when the video
5 comes out, he's stuck. He's stuck.

6 I'm going to try and wrap up. Yesterday morning at
7 2:53 in the morning -- I don't sleep much during trials,
8 but I kind of woke up, and what he did when he took the
9 stand was corroborated that he's a liar. He corroborated
10 the fact that he doesn't tell the truth, the one thing
11 that was more important than anything. And, you know,
12 they're putting these law enforcement on trial, talking
13 about blood evidence, talking about other things that were
14 presented to the grand jury, which you -- that blood
15 evidence was investigated, and the State didn't offer it.
16 That's what you do when you're a prosecution. Didn't try
17 to offer it. Now they're trying to put us on trial for
18 doing our job. Think about that. Blame everybody else.
19 Look, they've looked into this and it didn't turn out to
20 be, so now we're going to blame them. We didn't try to
21 present it. Isn't that ironic? They're now jamming us
22 for doing our job. Jamming us for doing our job. All the
23 evidence of the guns -- and I'm going to get to that in a
24 minute -- the timeline, the credible timeline, his lies,
25 all of that, the gunshot residue, all of that is

1 presented.

2 And do we make mistakes? Yes, and that happens in
3 life. But you don't lie and misremember being at the
4 scene of a murder when you said you weren't even there, or
5 being at the scene where your family was brutally
6 murdered. You don't lie about that. That's not a
7 mistake. That's not a mistake. This is *The State of*
8 *South Carolina v. Richard Alexander Murdaugh*, not the
9 *State v. David Owens*, not versus SLED.

10 And I want to tell you something. SLED, Walterboro,
11 Laura Rutland, who's working with David Owens, SLED starts
12 working with the FBI. They're working together. This
13 is -- think about it, rush to judgment? They gave that
14 man every benefit of the doubt. What are y'all doing?
15 How is it going?

16 Do you remember that third interview when David Owen
17 said, well -- and I submit to you they're taking those
18 interviews where he's trying to come find out what they've
19 got on him -- well, how is this thing looking? How is
20 this thing looking? Well, we've got your shell casings by
21 Maggie's body out there when y'all shot at the range, and
22 some shots out there on the side of the house. The shell
23 casings, they all came from the same gun, all cylindered
24 in the same gun. Do you think if they had been -- if they
25 could have found an expert to refute that they would have?

1 And Alex goes, oh, really. So, the gun was there? Do you
2 see his reaction? They all came from the same gun on
3 Maggie.

4 Now, the other one, Mr. Griffin tried to argue, Paul
5 Greer, yeah it could have come from that shotgun, don't
6 know. Is that credible evidence? But it could have. Not
7 saying it did or didn't, but it certainly could have.
8 He's got that gun, he's got Maggie's blood on it, don't
9 know if he used that or not. But I know the assault rifle
10 is missing. And Will Loving who comes from a fine family
11 in Columbia, I can tell you that, says we were down here
12 not in March, it was more like May -- April or May, we
13 were shooting his gun on the side of the house, and those
14 shell casings, that's where they found him. And low and
15 behold the shell casings matched the shell casings around
16 Maggie. They were all cylindered on the same gun. They
17 came out of the same gun. They've been in the same gun.
18 Yes, Mr. Waters is right: that's a family-owned gun.

19 And is that incredible circumstantial and direct
20 evidence? Yes, ma'am. Yes, sir, it is. That's powerful.
21 You can feel it like the rain. The murderers come in.
22 There will be a gun there. We'll just use their gun.
23 Does that make any sense?

24 Y'all are too young. Do you ever watch *Columbo*?
25 When I first looked at this case, this is an episode of

1 *Columbo*, except this is real. And you get to see one of
2 my heroes, the detective, didn't always look that good,
3 wasn't all that, but you got to see the crime, and then
4 you got to see them figure it out, the mistakes they made,
5 and that's what happened here. He killed them. He
6 thought he could get a timeline but it got him. Within 20
7 seconds, he's texting Maggie with that phone when he's
8 passing the location of her phone. Is it common sense he
9 threw through that phone out, called her and threw it?
10 Threw it and the orientation didn't go on. They say if
11 you pick it up, yes. And we had somebody come in here.
12 You throw -- you throw it rough and it doesn't come on.
13 And what are the chances it's anything else? He would
14 have almost had to bump into him, almost have to bump into
15 him.

16 And you take his new story. I was down there until
17 8:50, whatever, go up and take a quick nap, come back. He
18 didn't hear the shots. Just happens to come back. It's
19 common sense. Don't leave it with you, take it back there
20 with you. I'm down there -- and my wife told me this --
21 I'm down there under this new story, and the deal was to
22 come talk, go see my mama at 9:30, and you're right down
23 there and you've just seen them. Now, well, you said you
24 hadn't even see them. Don't forget that, and you go up to
25 the house.

1 Why don't you say, hey, Maggs I'm going to go -- I'm
2 going to go see Mom real quick. It's just a few minutes
3 later. No. You go up there. You take a quick nap. You
4 know what? I'm going to try and call them and let them
5 know I'm going down there. Does that make any sense? And
6 then when you get to the Y, you'll see the light. When
7 y'all went out there yesterday, those trees were much
8 lower. Go back there and look at the way it was. And I
9 think even Buster even said when you get down there, if
10 the lights are on you can just see. Why don't you just go
11 on over there? Hey, I am just going down there, you know?
12 He doesn't hear anything, doesn't do anything. He just
13 takes off. He just takes off. Does that make any sense?
14 We've proved that nobody else could have done it with that
15 timeline.

16 Does it matter when he is rushing back? Yeah. I
17 doubt he's ever killed two people before, so he's not
18 thinking. He's frantic. Puts the wrong two shells in the
19 gun. Coming back, he's got Maggie's phone. It had been
20 sitting there. That's why the steps weren't on there,
21 he's moving, and he gets it: do I take this phone with me?
22 He's a lawyer, so he tosses it out. That's the only thing
23 that makes sense.

24 And what did he say about Paul's phone when he went
25 up there? I started to get it and I didn't know I had got

1 it. I don't -- and then it just kind of popped out, too.
2 Does that make any sense? You've got to evaluate
3 everything. If you can't believe somebody's credible on
4 one thing, how can you believe them on the ultimate issue
5 when they said they didn't, when the only things they
6 corroborated for you throughout the investigation,
7 throughout this trial, and throughout Mr. Waters's cross-
8 examination is he's a liar? And that's all you can judge
9 people on.

10 There were three witnesses that were beautiful, that
11 were uncontroverted, and one was Paul. He didn't testify
12 to you up on the stand, but he testified through
13 Dr. Riemer, and he testified through his phone. And there
14 is so beautiful of evidence, it's so pure. He didn't know
15 he took that video. That's why he said he wasn't down
16 there, and this is beyond all doubt, we respectfully
17 submit. Paul knew. Dad, I've got some insurance. I've
18 got some insurance, not the kind of insurance you've made
19 money off of, and insurance some clients you gave back and
20 some you didn't. I've got some insurance on you. I don't
21 know why you killed me. I made some mistakes.

22 You heard a lot of good things about Paul, too. I
23 know I put your life -- opened your life, your fake life,
24 with this boat case, your finances are coming out, I know
25 that. But if you go lie and say you weren't down here, I

1 got you. I don't know when it'll come out. Maybe you'll
2 go ahead and lie, but this is going to come out.

3 Paul had that insurance on him, and maybe that's why
4 he was worried about that phone, and you can't make that
5 up. Because you remember when I asked David Owens did
6 anybody else in the world, in the world know that that
7 video was out there except Paul? No, sir. And that's
8 incredible evidence, and it did sit there until law
9 enforcement working together, the state, the locals, SLED,
10 everybody got it out. And that's great law enforcement.
11 Thank you, yes, and that's when the case changed, along
12 with all of the other evidence.

13 Maggie testified to you. He shot me here; he shot me
14 here. And look at all of the shell casings around her.
15 Y'all look at them. They're the same ones that Will
16 Loving shot with Paul; they're the same ones that had been
17 shot down there. Yeah, it came out of the same gun. That
18 is great direct and circumstantial.

19 And finally, finally -- and my daughter-in-law,
20 Sally, and my aunt Sissy -- still calls my dad, Jack -- my
21 daughter-in-law, been married about three months, one of
22 the happiest days of my life -- because they were watching
23 that kennel video, she and her dog, Tater. And when Bubba
24 barked and somebody had jumped up and fed Bubba, Tater
25 barked. And Sally said isn't it something that your best

1 witness in here are the dogs? You know, some people say
2 they've got a sixth sense. Do you think Bubba knew? Do
3 you think Bubba knew something? They got Alex to say
4 something: Bubba. Thank God for Bubba.

5 DNA, and that DNA, when people live together, you'll
6 have it all over your shirt. That's not it. The DNA in
7 this case, that dog negates all. Thank you, Bubba. And
8 guess where Bubba is now? Bubba is with Blanca. Bubba is
9 with Blanca. You can't make that up, and that puts him
10 down there, and that's the lie he told, and he told and he
11 told: I wasn't down there. Why aren't y'all doing
12 something, law enforcement?

13 Why aren't you telling us you were down there? Why
14 aren't you telling us you were down there?

15 Beg the Court's indulgence.

16 (Break in proceedings.)

17 MR. MEADORS: Thank you. If he tried to respond to
18 Maggie's phone as Mr. Griffin said, it would show that he
19 was going to Alameda. He had to get rid of that phone. He
20 had to get rid of it there.

21 Finally, it's a book of *Your Greatest Power*. My dad
22 gave it to me when I was young. He said read it, *Your*
23 *Greatest Power*. Do you know what it is? Your greatest
24 power is your power to choose, choice. We've all got it.
25 We're born with it. We use it every day. We use it when

1 we treat people, whether we say hey when we're nice.
2 Whether we forgive people. We make good decisions, we
3 make bad decision. But what my dad always told me: don't
4 blame anybody else. If you make a good choice, that's
5 good. Don't get too cocky. Be humble, but that's good.
6 But if you make a bad choice, you're responsible for it.
7 There are consequences. It's your greatest power.

8 And for whatever was going on in his mind, his world
9 is collapsing, is coming down, all of his world is coming
10 down financially. He's confronted that day by somebody at
11 his law firm. Where is that check? He's got another
12 hearing coming up. It's motive. Don't have to have it,
13 but, yeah, it's there. And is this rational? Do you
14 remember when he said that, is that rational? Was it
15 rational to be on the side of the road and claim you're
16 shot, and when you're in the ambulance -- and go watch
17 this if you need to -- and you're talking to the officer
18 in the ambulance, and you say what happened?

19 Oh, by the way, he wanted to kill himself? He called
20 911. He called 911. When he told the officer in the
21 ambulance, well, what happened? What happened? Some guy
22 shot me. Even did a sketch. He faked the sketch. What
23 did he tell the guy in the ambulance? It sounded like a
24 shotgun. He's trying -- his world -- and he says there in
25 that last interview with -- the call-in interview, Mr.

1 Harpootlian and Mr. Griffin which you've got in there,
2 Ryan, I'm sorry. I lied about everything. I was under a
3 lot of pressure. I had a lot going on. Really? Your
4 wife and your son were murdered three months ago, and now
5 you're -- this is the real Alex -- well, my world is
6 coming down, my world.

7 Alex's world is coming down. He's being confronted
8 by his law partners, losing his job, now it's me, my world
9 is being affected. Not about that, but now I'm sorry I
10 lied. I've lied about everything. Alex, Richard Alex
11 Murdaugh loved -- I think he loved Maggie, I think he
12 loved Paul, but you know who he loved more than that? Do
13 you know who he loved more than that? And who he was
14 going to make sure that that -- wanted to make sure that
15 that life, whom he loved? Alex. And he exercised his
16 greatest power of choice is to make sure that life
17 continued, or tried, and he couldn't.

18 And now, ladies and gentlemen, after His Honor
19 charges you, you're going to go back there and exercise
20 your greatest power. Based on the evidence you've heard,
21 the evidence you haven't heard, the credibility, the
22 believability of the witnesses, and especially of Richard
23 Alexander Murdaugh, who has lied, and lied, and lied, and
24 lied, and it's been okay. It got you through. It stops
25 here. We respectfully request it stops here today. No,

1 it's not okay, and we're going to exercise our greatest
2 power and find you guilty of killing Maggie and Paul.
3 Thank you.

4 JURY CHARGE

5 THE COURT: Ladies and gentlemen, you've now heard
6 the evidence and you have heard closing arguments. Next
7 up will be jury charge, and then your deliberations.

8 We're at lunchtime. We're going to take a break for
9 an hour and 15 minutes for lunch, and we'll come back and
10 I'll charge you on the law, and you will deliberate.
11 Please do not discuss the case.

12 (The jury left the courtroom.)

13 THE COURT: If everyone will be seated. When we
14 resume, I intend to go directly into the charge to the
15 jury. When I'm charging the jury, no one comes, no one
16 leaves.

17 Before we break for lunch, are there any matters to
18 discuss regarding the jury charge?

19 MR. GRIFFIN: I think the State emailed a revised
20 charge on the other pending charges, which we don't have
21 an objection to. I don't know if Your Honor --

22 THE COURT: We received it and incorporated that into
23 our charge.

24 MR. GRIFFIN: Thank you.

25 THE COURT: With corrections with a typo here and a

1 typo there.

2 MR. GRIFFIN: Yes, sir. We don't have any additional
3 charges or anything, Your Honor.

4 MR. WATERS: With that addition, we don't have any
5 either.

6 THE COURT: All right. We'll be in recess for an
7 hour and 15 minutes.

8 (A lunch break was taken.)

9 THE COURT: If you will bring the jury.

10 (The jury returned to the courtroom.)

11 THE BAILIFF: The jury is present, sir.

12 THE COURT: All right. Thank you.

13 JURY CHARGE

14 THE COURT: Madame Forelady and members of the jury,
15 you have heard the testimony, received the evidence, and
16 heard the arguments of the State and the defendant. I
17 will now explain to you the law that applies to this case.

18 Under the constitution and laws of South Carolina,
19 you are the finders of the facts in this case. I do not
20 have the right to pass upon the facts, or to even express
21 any opinion that I might have as to them because this is a
22 matter solely for you, the jury, to determine. As jurors,
23 then, it is your duty to determine the effect, the value,
24 and the weight of the evidence presented during this
25 trial. As the trial judge, it is my responsibility to

1 preside over the trial of the case, and I have the duty to
2 rule upon or pass upon the admissibility of the evidence
3 offered during the trial. You are to consider only the
4 testimony which has been presented from this witness
5 stand, along with other exhibits that -- and evidence
6 presented during the trial. Any other evidence or
7 exhibits which have been made a part of the record you may
8 consider, along with any stipulations made by counsel.

9 I have the additional duty to charge you the law
10 applicable to this case. And as the presiding judge I am
11 the sole judge of the law. It is your duty as jurors to
12 accept and apply the law as I now state it to, then to
13 deliberate in an effort to reach your verdict. And
14 finally, I charge you in this regard that you should not
15 be concerned with what you think the law ought to be, but
16 what I charge you that the law is.

17 You are also the judges, the sole judges of the
18 credibility, that is the believability, of the witnesses
19 who have testified and of the evidence offered. In
20 considering credibility, you may take into consideration
21 many things, such as the demeanor or manner of testifying.
22 Whether the witness had reason to be biased or prejudiced.
23 Whether the testimony was contradicted on the one hand, or
24 supported and corroborated on the other hand. You may
25 believe a small portion of a witness's testimony and

1 disregard the larger, or vice versa. All of these things
2 you will consider, bearing in mind that you should give
3 the defendant the benefit of any reasonable doubt.

4 It becomes your duty as jurors to analyze and to
5 evaluate the evidence, and determine that evidence, which
6 convinces you of its truth. There are two types of
7 evidence which are generally presented during a trial:
8 direct evidence, and circumstantial evidence. Direct
9 evidence directly proves the existence of a fact and does
10 not require deductions. Circumstantial evidence is proof
11 of a chain of facts and circumstances indicating the
12 existence of a fact. Crimes may be proven by direct
13 evidence or circumstantial evidence. The law makes no
14 distinction between the weight or value to be given either
15 direct evidence or circumstantial evidence. However, to
16 the extent the State relies on circumstantial evidence,
17 the circumstances must be consistent with each other, and
18 when taken together point conclusively to the guilt of the
19 accused beyond a reasonable doubt. If these circumstances
20 merely portray the defendant's behavior as suspicious, the
21 proof has failed. The State has the burden of proving the
22 defendant guilty beyond a reasonable doubt. This burden
23 rests with the State regardless of whether the State
24 relies on direct evidence, circumstantial evidence, or
25 some combination of the two.

1 The rules of evidence ordinarily do not permit
2 witnesses to testify to opinions or conclusions. An
3 exception to this rule exists for witnesses we call expert
4 witnesses. An expert witness is a witness who by
5 education and experience has become an expert in some art,
6 science, profession, or calling, and may state an opinion
7 as to relevant and material matter in which the witness
8 claims to be an expert, and may also state the reasons for
9 the opinion. You should consider any expert opinion
10 received in evidence, and like any other evidence, give it
11 the weight you think it deserves. If you decide that the
12 opinion of an expert is not based on sufficient education
13 and experience, or if you conclude that the reasons given
14 in support of the opinion are not sound, or that the
15 opinion is outweighed by other evidence, you may then
16 disregard the opinion entirely.

17 An expert witness's testimony is to be given no
18 greater weight than that of any other witness simply
19 because a witness is an expert. Further, you are not
20 required to accept an expert's opinion, even though it is
21 not contradicted.

22 In regard to evidence of other crimes and evidence of
23 alleged acts on other occasions, this evidence is limited
24 to consideration by you as it relates to the motive of the
25 defendant for the offenses charged in this case. This

1 evidence cannot be used for any other purpose. This type
2 of evidence must not be considered in any other fashion.
3 In particular, the South Carolina Rules of Evidence
4 provide that evidence of other crimes, wrongs, or acts is
5 not admissible to prove the character of a person in order
6 to show actions in conformity therewith. To put another
7 way, evidence of other crimes or bad acts cannot be
8 show -- cannot be used to show that the defendant is a bad
9 person and, therefore, is more likely to have admitted the
10 crime for which he is accused. You may not consider
11 evidence of other crimes and bad acts for this purpose, or
12 for any other purpose other than as it relates to motive
13 of the defendant.

14 In addition, while you may have heard that other
15 crimes and bad acts of the defendant have resulted in
16 other charges or indictments not before you, the fact that
17 the defendant was arrested, charged, and indicted in these
18 matters is not evidence, and cannot be considered by you
19 as evidence of guilt in this case, nor do these
20 indictments create any presumption of guilt. As to any
21 other pending charges, as is the case here, the defendant
22 is presumed innocent until proven guilty beyond a
23 reasonable doubt by the State in a court of law.

24 The function of the jury is to determine whether a
25 defendant is guilty or not guilty, and the consequences of

1 a conviction in this or other pending matters is of no aid
2 in determining whether the defendant committed the
3 offense. You should not consider nor speculate about
4 sentencing consequences for this or any other crimes, as
5 those issues are not before you.

6 The fact that the defendant was arrested, charged,
7 and indicted in this case is not evidence, and cannot be
8 considered by you as evidence of guilt, nor does it create
9 any presumption or inference of guilt. The indictments
10 are simply the formal written instruments which contain
11 the charges made against the defendant. The indictments
12 are the formal documents by which this case is brought
13 into this court.

14 The defendant, Richard Alexander Murdaugh, has pled
15 not guilty to the indictments, and that plea puts the
16 burden on the State to prove the defendant guilty. A
17 person charged with committing a criminal offense in South
18 Carolina is never required to prove himself innocent. I
19 charge you that it is an important rule of the law that
20 the defendant in a criminal trial, no matter what the
21 seriousness of the charge may be, will always be presumed
22 to be innocent of the crime for which the indictment was
23 issued unless guilt has been proven by evidence satisfying
24 you of that guilt beyond a reasonable doubt. This
25 presumption of innocence does not end when you begin your

1 deliberations, but it accompanies the defendant throughout
2 the trial until you reach a verdict of guilt based on
3 evidence satisfying you of that guilt beyond a reasonable
4 doubt.

5 The presumption of innocence is like a robe of
6 righteousness placed about the shoulders of the defendant,
7 which remains with the defendant until it has been
8 stripped from the defendant by evidence satisfying you of
9 that guilt beyond a reasonable doubt. The presumption of
10 innocence is not a mere legal theory; it's not just a
11 legal phrase. It is a substantial right to which every
12 defendant is entitled unless you, the jury, are satisfied
13 from the evidence of the guilt of the defendant beyond a
14 reasonable doubt.

15 The State must prove the defendant guilty beyond a
16 reasonable doubt. So, what is a reasonable doubt in the
17 law? A reasonable doubt is a doubt which makes an honest,
18 reasonable, sincere, and conscientious juror hesitate to
19 act. Proof beyond a reasonable doubt is, therefore, proof
20 of such a convincing character that a reasonable person
21 would not hesitate to rely and act upon it in the most
22 important of her -- his or her own affairs. Proof beyond
23 a reasonable doubt can also be described as proof that
24 leaves you firmly convinced of the guilt of the defendant.

25 Now, there are very few things in this world that we

1 know with absolute certainty, and in criminal cases the
2 law does not require proof that overcomes every possible
3 doubt. If based on your consideration of the evidence you
4 are firmly convinced that the defendant is guilty of a
5 crime charged, you must then find him guilty. If, on the
6 other hand, you think there is a real possibility that he
7 is not guilty, you must then give him the benefit of the
8 doubt and find him not guilty.

9 The indictments in this case allege four separate
10 offenses against the defendant. The indictments are
11 murder of Margaret Maggie. Maggie Murdaugh, murder. The
12 murder of Paul Murdaugh. Possession of a weapon during
13 the commission of a violent crime involving the murder of
14 Margaret, Maggie, Murdaugh. And possession of a weapon
15 during the commission of a violent crime involving the
16 murder of Paul Murdaugh. Each indictment charges a
17 separate and distinct offense. You must decide each
18 indictment separately on the evidence and the law
19 applicable to it uninfluenced by your decision as to any
20 other indictment. The defendant may be convicted or
21 acquitted on any or all of the offenses charged. You will
22 be asked to write a separate verdict of guilty or not
23 guilty for each indictment.

24 The defendant, Richard Alexander Murdaugh, is charged
25 with the murder of Maggie -- of Margaret Murdaugh and Paul

1 Murdaugh. The State must prove beyond a reasonable doubt
2 that the defendant killed Margaret Murdaugh and Paul
3 Murdaugh with malice aforethought. Malice is hatred, ill
4 will, or hostility towards another person. It is the
5 intentional doing of a wrongful act without just cause or
6 excuse, and with an intent to inflict an injury, or under
7 the circumstances that the law will infer an evil intent.
8 Malice aforethought does not require that malice exists
9 for any particular time before the act is committed, but
10 malice must exist in the mind of the defendant just before
11 and at the time the act is committed. Therefore, there
12 must be a combination of the previous evil intent and the
13 act.

14 Malice aforethought may be expressed or inferred.
15 These terms, express and inferred, do not mean different
16 kinds of malice, but merely the manner in which malice may
17 be shown to exist. That is either by direct evidence or
18 by inference from the facts and circumstances which are
19 proven. Expressed malice is shown when a person speaks
20 words which express hatred or ill will for another, or
21 when the person prepared beforehand to do the act which
22 was later accomplished. For example, lying in wait for a
23 person, or any other acts of preparation going to show
24 that the deed was within the mind of the defendant, would
25 be expressed malice. Malice may be inferred from conduct

1 showing a total disregard for human life.

2 The defendant is also charged with possession of a
3 weapon during the commission of a violent crime, two
4 counts. The State must prove beyond a reasonable doubt
5 that the defendant was in possession of a firearm during
6 the commission of a violent crime. A firearm means any
7 weapon which will, is designed to, or may readily be
8 converted to expel a projectile.

9 In order to find the defendant guilty of possession
10 of a weapon during the commission of a violent crime, you
11 must first find the defendant guilty of committing a
12 violent crime. Murder is a violent crime. The State must
13 prove beyond a reasonable doubt that the weapon furthered,
14 advanced, or helped in the commission of the crime.

15 While the arguments of counsel are a beneficial part
16 of every trial, you should remember that the statements
17 made by counsel are not evidence. In presenting their
18 arguments, counsel often refer -- or have referred to the
19 evidence. However, you should base your verdict on the
20 evidence as you remember it. If there are any conflicts
21 between the recollection of counsel about the evidence and
22 your own recollection, you should rely on your own
23 understanding of the evidence. You must decide whether
24 the State has met its burden of proof beyond a reasonable
25 doubt based solely on the evidence presented in this

1 courtroom.

2 As you were instructed at the start of the trial,
3 you're not to permit -- you are not permitted to conduct
4 any independent research about this case, the facts of the
5 case, the evidence presented in the case, or the people or
6 organizations involved in any way in the case. Do not try
7 to find any information from any source outside of the
8 courtroom, however reliable that source may seem to be.
9 Do not look at dictionaries or other reference materials,
10 search the Internet, websites, or blogs, or use any other
11 electronic tools to get information about this case, or
12 help you make a decision. You may not use computers,
13 telephones, cell phones, smartphones, tablets, the
14 Internet, or other tools of technology with communication
15 capabilities at any time during your deliberations, except
16 only as provided by the Court to review the digital
17 evidence in this case.

18 If your deliberations necessitate an overnight break,
19 you may use these devices as necessary, but you may not
20 use them to communicate with anyone about the case until
21 the case is over. This means that you must not use phone
22 calls, video calls, emails, text messages, instant
23 messages, blogs, chat rooms, websites, or any social media
24 such as Facebook, Twitter, LinkedIn, YouTube, Reddit, and
25 Discord to send or receive any information about this

1 case. This includes information about the party, the
2 witness, an attorney, a court officer, or your fellow
3 jurors. News accounts about the case, research on any
4 topic raised, or even any topics you may think would be
5 helpful in deciding the case, or any testimony presented
6 by any witness you may not investigate.

7 During your deliberations do not read, listen to, or
8 watch any news reports about this case. This includes
9 anything that may be in the newspapers or on the Internet,
10 radio, or television. You must not consider anything you
11 may have read or heard about the case outside of the
12 courtroom, whether before or during the trial.

13 Information on television, radio, Internet, or other
14 sources may be wrong or incomplete. In our judicial
15 system, it is important that you are not influenced by
16 anything or anyone outside of this courtroom.

17 If your deliberations necessitate an overnight break,
18 even though you may use electronic devices as necessary
19 for purposes unrelated to this trial, I must urge you to
20 minimize your use of such devices. Many Internet
21 browsers, smartphone apps, and social media services, as
22 well as traditional media like television and radio will
23 provide information and news that you do not seek with
24 little or no prompting. It is a strong possibility that
25 information about this case may be thrust upon you every

1 time you use an electronic device. You must, therefore,
2 use these devices only as absolutely necessary. You must
3 ignore and avoid uninvited information about this case.

4 Now, Madame Forelady and members of the jury, I am
5 required to charge you the law as I have done through
6 these instructions now being given to help guide you to a
7 just and lawful verdict. Whether some of these
8 instructions apply will depend on what you find to be the
9 facts. The fact that I have instructed you on various
10 subjects must not be considered as indicating an opinion
11 of this Court as to what you should find to be the facts,
12 or what your verdict should be.

13 In conclusion now, you've been chosen and sworn to
14 give the parties a fair and impartial trial. When you
15 have done so, you will have completed your oath, and no
16 one will have a right to criticize your verdict. You must
17 not be swayed or influenced by opinions or expression of
18 an opinion you may have heard outside of the courtroom,
19 but rather should base your verdict solely on the
20 testimony of the sworn witnesses who took the stand, the
21 exhibits received into evidence, and the law which I have
22 stated. You should not be swayed by caprice, passion,
23 prejudice, or improper sympathy for or against anyone.
24 Remember, you have no friends to reward or enemies to
25 punish, that all parties are entitled to a fair and

1 impartial trial.

2 It is your duty as jurors to consult with one another
3 and to deliberate in an effort to reach an agreement.

4 Each of you must decide this case for yourself, but only
5 after impartial consideration of all of the evidence with
6 your fellow jurors. In the course of your deliberations,
7 do not hesitate to reexamine your own views and change
8 your opinion if you become convinced it is erroneous.

9 However, do not surrender your honest conviction as to the
10 weight or effect of the evidence solely because of the
11 opinion of your fellow jurors, or for the mere purpose of
12 returning a verdict. As I stated earlier, you are the
13 judges, judges of the facts. Your verdict must represent
14 the considered judgment of each juror. In other words,
15 your verdict must be unanimous.

16 Now, you may have noticed that I have read these
17 instructions. I do so to give you the law as accurately
18 as possible. I will give you a copy of these instructions
19 to have in the jury room. You may refer to these
20 instructions to assist you in your deliberations. You
21 must consider the instructions as a whole and not follow
22 some and ignore others.

23 Madame Forelady, it will be your duty to preside over
24 the deliberations of the jury. If during your
25 deliberations you should desire to communicate with the

1 Court, please reduce your message or question to writing
2 signed by your foreperson and the foreperson only. Do not
3 address any questions to anyone other than the Court and
4 reduce it to writing, and pass it to the bailiff, signed
5 by the foreperson and the foreperson only. It will then
6 be brought to my attention. I will then respond as
7 promptly as possible either in writing or by having you
8 return to the courtroom.

9 I caution you, however, with regard to any message or
10 question you might send, that you should never state or
11 specify your numerical division at the time.

12 Now, you heard the testimony, and you have heard the
13 law. Whatever your verdict, Madame Forelady, you will
14 indicate the verdict on the back of each indictment, and
15 then sign and date your verdict. You will have these four
16 indictments, and on the back of each indictment is a place
17 for verdict, and each one -- as -- each one you will write
18 the verdict, either not guilty or guilty, and sign and
19 date the verdict. You are not authorized to write the
20 verdict until all of you have agreed on the verdict.

21 Now, in just a minute I will send you to the jury
22 room, but prior to doing so I want to ensure that the
23 twelve jurors we have remaining, if there is any reason
24 that any one of you cannot continue deliberating, please
25 let me know at this time. We have thirteen jurors. Only

1 twelve can deliberate. So, out of the first twelve jurors
2 now on the panel, if there are any reasons why you cannot
3 continue, please let me know at this time before I excuse
4 the alternate. It's a show of hands as to anyone who
5 cannot continue deliberating.

6 All jurors then seem to be in good shape and good to
7 go, so when the jurors -- when the jury leaves the
8 courtroom, the alternate will remain. I will send you to
9 the jury room, all of you except for the alternate, but do
10 not begin deliberations until you have received a copy of
11 this jury charge, the indictments, and the exhibits. Once
12 you receive these things, that will be your signal to
13 begin your deliberations.

14 Once you begin deliberations, you will deliberate
15 until you have reached a verdict, at which time you will
16 knock on the door, advise the bailiff, and we will bring
17 you out to receive your verdict. So, if all of you will
18 now go to the jury room except for the alternate.

19 Juror number 741, you'll remain with us.

20 All of the others go to the jury room.

21 (The jury left the courtroom.)

22 MR. GRIFFIN: Your Honor, can we approach?

23 THE COURT: State it for the record, whatever it is.

24 MR. GRIFFIN: About excusing the alternate or not.

25 THE COURT: All right. What about it?

1 MR. GRIFFIN: We've been going for six weeks, and if
2 we -- if we perhaps hold the alternate in case there's a
3 problem with the twelve and we have to insert the
4 alternate during the deliberations.

5 THE COURT: Mr. Waters?

6 MR. WATERS: The State concurs with that, Your Honor.

7 THE COURT: All right. Of course, the statute says
8 the alternate must be excused once the jury begins
9 deliberating, and that's always a risk that is taken. So
10 with the consent of the parties, if that's what the
11 parties want.

12 And Mr. Murdaugh.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you want me to hold the alternate in
15 the event something happens to any other juror?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right, very good.

18 So, Madame, you will not be dismissed. You will
19 remain as a member of the panel while the jury -- jurors
20 are deliberating but will need to be taken some place
21 separately from the panel to ensure that you do not talk
22 with anyone and communicate with anyone, and we'll figure
23 all of that out in a few minutes.

24 But aside from that, aside from that, if you all will
25 review the exhibits with the court reporter.

1 And, Bailiff, you can take the charge and the
2 indictments in, and the jury may begin deliberating.

3 MR. HARPOOTLIAN: Your Honor, for the record we have
4 no additions or exceptions to the charge.

5 THE COURT: Okay. Thank you for reminding me of
6 that.

7 Any additions or exceptions to the charge?

8 MR. WATERS: Voluntary intoxication, Your Honor.

9 THE COURT: Voluntary intoxication is not charged,
10 was not raised. I sided with the fact that it was not
11 raised as a defense and would not be appropriate to
12 charge.

13 MR. WATERS: Yes, sir, Your Honor.

14 THE COURT: Okay. Why is everyone standing?

15 (Break in proceedings.)

16 THE COURT: All right, Juror 741, if you will follow
17 court officers to your place.

18 Yes, sir?

19 MR. HARPOOTLIAN: Your Honor, may I approach with
20 Mr. Waters as to something that has come up that I need to
21 bring to your attention?

22 THE COURT: All right. Yes, sir.

23 (A bench conference was held.)

24 (Jury began deliberating at 3:40 p.m.)

25 (Court was in recess while the jury deliberated.)

1 THE COURT: I understand that there is a verdict.
2 You may bring the jury.

3 (The jury returned to the courtroom with a verdict at
4 7:04 p.m.)

5 THE BAILIFF: The jury is present, sir.

6 THE COURT: Thank you.

7 Madame Forelady, if you will stand for me. Have you
8 reached a verdict?

9 THE JUROR: Yes, we -- yes, sir, we have.

10 THE COURT: Is it unanimous?

11 THE JUROR: Yes, sir, it is.

12 THE COURT: All right. If you will pass it up, and
13 the Clerk will pass it to me. And you may be seated.

14 (Break in proceedings.)

15 THE COURT: The defendant will rise.

16 Madame Clerk, you may publish the verdict, starting
17 with the back, not with the -- let's see, starting with
18 the back. Flip them over one by one.

19 THE CLERK: Okay.

20 THE COURT: The State of South Carolina v.

21 VERDICT

22 THE CLERK: Docket number 2022-GS-15-00592. The
23 State of South Carolina, County of Colleton, in the Court
24 of General Sessions, in the term of 2022, July, *The State*
25 *v. Richard Alexander Murdaugh*, defendant, indictment for

1 murder, SC Code 16-3-00100, CDR Code 0116 --

2 Do you want me to --

3 THE COURT: Read the verdict.

4 THE CLERK: Okay.

5 Guilty: verdict. Signed by the forelady, 3/2/23.

6 Docket number 2022-GS-15-00593, The State of South
7 Carolina, County of Colleton, in the Court of General
8 Sessions, the July term of 2022, *The State v. Richard*
9 *Alexander Murdaugh*, defendant, indictment for murder, SC
10 Code 16-3-0010, CDR Code 0116, verdict: guilty. Signed by
11 the forelady, date 3/2 of '23.

12 Docket number 2022-GS-15-00595, the State of South
13 Carolina, County of Colleton, Court of General Sessions
14 July term, 2022, *The State v. Richard Alexander Murdaugh*,
15 defendant, indictment for possession of a weapon during
16 the commission of a violent crime, SC Code 16-23-0490, CDR
17 Code 0549, verdict: guilty. Signed by the foreperson of
18 the jury, date 3/2/23.

19 Docket number 2022-GS-15-00594, the State of South
20 Carolina, County of Colleton, Court of General Sessions
21 July term, 2022, *The State v. Richard Alexander Murdaugh*,
22 defendant, indictment for possession of a weapon during
23 the commission of a violent crime, SC Code 16-23-0490, CDR
24 Code 0549, verdict: guilty. Signed by the foreperson of
25 the jury, 3/2/23.

1 THE COURT: Thank you.

2 Madame Forelady, and members of jury, if that is the
3 verdict of each and every juror, please let it be known by
4 raising your right hands.

5 (The jurors complied.)

6 THE COURT: Thank you.

7 Any individual polling requested?

8 MR. HARPOOTLIAN: We do, Your Honor.

9 THE COURT: And, Madame Clerk, you will need to
10 individually poll the jury according to their jury --
11 juror numbers.

12 JURY POLLING

13 THE CLERK: Number 193. Was this your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Is it still your verdict?

16 THE JUROR: Yes.

17 THE CLERK: Juror 22 -- I'm sorry, Juror 254. Is
18 this your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Is it still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror 326. Was this your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Is it still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror 6 -- Juror 530. Was this your
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Is this your verdict?

5 THE JUROR: Yes.

6 THE CLERK: Juror 544.

7 THE JUROR: Yes.

8 THE CLERK: Was this your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Is it still your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Juror 572. Was this your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Is it still your verdict?

15 THE JUROR: Yes.

16 THE CLERK: Juror 578. Was it your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Is it still your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Juror 589. Was this your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Is it still your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Juror 630. Was this your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 THE JUROR: Yes.

3 THE CLERK: Juror 729. Was this your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Is it still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Juror 826. Was this your verdict?

8 THE JUROR: Yes.

9 THE CLERK: Is it still your verdict?

10 THE JUROR: Yes.

11 THE CLERK: Juror 864. Was this your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Is it still your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Your Honor, the jury has been polled.

16 THE COURT: Thank you. The jury has been polled and
17 the verdict is a unanimous verdict. If you will bring the
18 alternate juror out and have her have a seat in the
19 audience, please.

20 (Break in proceedings.)

21 THE COURT: You can stand there, or you could sit
22 back there, whatever you want.

23 Okay, are there any posttrial motions?

24 MR. WATERS: None from the State, Your Honor.

25 MR. GRIFFIN: Your Honor, we would just renew our

1 previously argued motions for a directed verdict, and on
2 the grounds -- on those grounds, we would make a motion
3 for a mistrial and set aside the verdict.

4 THE COURT: By the State in response?

5 MR. WATERS: Your Honor, based on our previous
6 arguments, we would submit that the case properly went to
7 the jury and the verdict was proper and rely on those
8 arguments.

9 THE COURT: We have been here now twenty-eight days,
10 the first few days of jury selection and the remainder
11 receiving testimony, an overwhelming amount of testimony
12 and evidence that was presented to the jury for the jury's
13 consideration. As I indicated to the jury in the charge,
14 or charge on the law, that this was a matter solely for
15 the jury, the jury to determine.

16 The Court found that at the end of the State's case
17 that there's sufficient evidence to find the defendant
18 guilty if the evidence was believed by the jury. Likewise
19 at the end of the defense's case when the motion was
20 renewed, the Court found that the evidence was sufficient
21 for the jury to find the defendant guilty.

22 The jury has now considered the evidence for a
23 significant period of time, and the evidence of guilt is
24 overwhelming, and I deny the motion.

25 The -- Mr. Murdaugh, you now having been found guilty

1 of two counts of murder involving your wife and your son,
2 and two counts of possession of a weapon during the
3 commission of a violent crime, the burden now comes upon
4 the Court to impose a sentence. Given the lateness of the
5 hour and the victims' rights that must be taken into
6 consideration and complied with under the Victims' Bill of
7 Rights, and considering what I would anticipate to be a
8 number of people who might have something to say regarding
9 sentencing, we will defer sentencing to a later date. Of
10 course, the minimum sentence for murder is thirty years;
11 the maximum sentence is life in prison as to each count.
12 And on the weapons charge the sentence is up to five
13 years, five years. There's a chance it will be concurrent
14 if a life sentence is imposed.

15 When would you all like to reconvene for sentencing?
16 I would like to give everyone an adequate opportunity to
17 prepare for it.

18 MR. WATERS: The State will be ready at 9:30 in the
19 morning, Your Honor.

20 MR. HARPOOTLIAN: Your Honor, we could do it at 9:30
21 tomorrow morning also.

22 THE COURT: All right. The defendant is remanded to
23 the custody of the Colleton County Sheriff's Department.
24 And you may take him away.

25 (The defendant left the courtroom.)

1 THE COURT: Madame Forelady and members of the jury,
2 I want to thank you on behalf of the citizens of the State
3 of South Carolina and your fellow citizens of Colleton
4 County. You did not volunteer for this service. You were
5 called upon by being summoned to appear, and providence
6 have brought you to this moment in time and these weeks in
7 time. I know that all of you have been here at a great
8 sacrifice, and particularly the juror whose job was on the
9 line until a miracle happened, I guess, that allowed him
10 to be able to stay rather than leave after two or three
11 weeks. But I want to thank each one of you all
12 individually and collectively.

13 It's not often that you're called upon to sit in
14 judgment of the actions of your fellow man, but you all
15 responded and you gave due consideration to the evidence.
16 I will make no comment now as to the extent of the
17 overwhelming nature of the evidence, but certainly the
18 verdict that you have reached is supported by the
19 evidence, circumstantial evidence, direct evidence, all of
20 the evidence pointing to only one conclusion, and that's
21 the conclusion that you all have reached. So, I applaud
22 you all for, as a group and as a unit and individually,
23 evaluating the evidence and coming to a proper conclusion
24 as you see -- as you saw the law, as you saw the facts.

25 Now that you've served, for the next year you're not

1 eligible to serve again. Of course, many people never get
2 called upon, but you're not eligible for the next year.
3 And for two additional years, you can be exempted from
4 service because no person is required to serve on jury
5 duty in this court more often than once every three years.

6 Tomorrow morning at 9:30 we will reconvene for
7 sentencing. You all have no role in that because that's
8 solely up to the judge, to me, but you're welcome to come
9 back if you want to and be a part of the audience if you
10 would like. I also want to thank the alternate juror who
11 was locked away in a room by herself for these hours, who
12 has hung in there during that period of time, and thank
13 you as well.

14 Madame Clerk, what do you have to tell your jurors?

15 THE CLERK: Thank you for your service, and what the
16 judge said as well.

17 And I think we can release them tonight and bring
18 them back in the morning?

19 THE COURT: No, they're off duty; they're off jury
20 duty.

21 THE CLERK: You're off jury duty.

22 THE COURT: They can come back if they'd like.

23 THE CLERK: You can come back if you would like.

24 THE COURT: And you don't have to if you don't want
25 to.

1 THE CLERK: That's right.

2 THE COURT: Typically I've seen jurors wanting to see
3 the end result of a case once they have invested a lot
4 into it. It's really an amazing thing with juries, and
5 quite often at the start of the case jurors are like whoa,
6 why am I here? I wish I wasn't selected. But as time
7 passes and the jurors become invested and really committed
8 to the case, and committed to seeing it through, and are
9 very disappointed when they are not able to see it to a
10 conclusion, but then along the way of serving they end up
11 finding out quite a bit about our judicial system and
12 learning quite a bit, well, about human nature for sure,
13 but also about the presentation of evidence and hearing
14 expert witnesses, and really learning a lot of things that
15 you'll be able to take with you when you leave jury duty.

16 Madame Forelady, I don't know if you were hesitant
17 initially or not, but you stepped up to the plate and have
18 done a great job of leading the jury as well.

19 THE JUROR: No hesitation, sir.

20 THE COURT: Thank all of you. So, the jury is
21 dismissed.

22 Now, one thing before you go. Of course, we have
23 invested a lot in maintaining the privacy of the jury of
24 each one of you, and you are free at this point to discuss
25 the case with anyone. And given the high profile nature

1 of the case, I'm certain that the -- many people in the
2 media would like -- will probably want to communicate with
3 you, but they have no means of contacting you because
4 under order that I issued, the identity of the jurors must
5 be kept private. And if you decide that you want to speak
6 with anyone -- local, state, nationally, or
7 internationally -- that is your prerogative. However,
8 should anyone harass you, please let me know and I will
9 address those issues. If anyone through the -- somehow or
10 another discover your identity and harass you and -- rest
11 assured I will intercede on your behalf. That having been
12 said, you are free to communicate with whomever you might
13 want to concerning the case from now on. So with that,
14 thank you, and you are all are free to go.

15 THE CLERK: If I could have you go to the jury room,
16 and I'm going to meet you back there in just a few minutes
17 while you gather your belongings.

18 THE COURT: And as is my practice, I'll speak with
19 the foreperson before you leave the building.

20 (The jury left the courtroom.)

21 THE COURT: We'll be in recess until 9:30 tomorrow
22 morning.

23 (Whereupon, the case was at ease.)

24 *FRIDAY, MARCH 3, 2023*

25 (Court resumed at 9:42 a.m.)

1 THE COURT: Good morning. Are the parties ready to
2 proceed?

3 MR. WATERS: The State is ready, Your Honor.

4 MR. HARPOOTLIAN: Defense is ready, Your Honor.

5 THE COURT: And for the State. Mr. Waters?

6 MR. WATERS: Thank you, Your Honor. We're obviously
7 here in the sentencing for *The State v. Richard Alexander*
8 *Murdaugh*. Your Honor, I have prepared the sentencing
9 sheets, signed up. If I can hand those up to the clerk?

10 Your Honor, very quickly, the defendant has no prior
11 record and the State has no victim impact people who want
12 to speak at this time, but I will address the Court
13 briefly.

14 And I don't need, Your Honor, to repeat the evidence
15 that Your Honor just heard for the past six weeks, but it
16 is overwhelming and it shows this man to be a cunning
17 manipulator. A man who placed himself above all others,
18 including his family. A man who violated the trust of so
19 many, including his friends, his family, his partners, his
20 profession, but most of all Maggie and Paul.

21 This is a very complicated situation, and I want to
22 offer my condolences to the family that has suffered here.
23 We have tried very hard to be respectful and sensitive
24 regardless of what position any person took because this
25 family has suffered, and they've had to suffer in the

1 public eye, and I want to offer my condolences to this
2 family. I want to offer it for Maggie and Paul, and
3 Mr. Randolph, too, who I had the pleasure of working with
4 on one occasion.

5 But the reality remains is that despite all of this
6 attention, this case is about Maggie Murdaugh and Paul
7 Murdaugh, and I'm so thankful that the jurors gave them a
8 voice. You've heard about Paul. Obviously there was the
9 boat case, but you also heard him described as a
10 fun-loving young man, a person who loved life, a person
11 who would do anything for his friends, for anyone, and
12 he's cut down as he was just starting to live his life.
13 You heard about Maggie. You heard how sweet she was. You
14 heard that she was a girl's girl who adapted to the
15 outdoorsman life of her sons, how much she loved her
16 sister, and her brother-in-law, and their children, and
17 she was cut down in the prime of her life.

18 Both of them, like everyone else, was unaware of who
19 he really was. No one who thought they knew this man, no
20 one who thought they were close to this man knew who he
21 really was, and Your Honor, that's chilling. And I've
22 looked in his eyes. He liked to stare me down as he would
23 walk by me during this trial, and I could see the real
24 Alex Murdaugh when he looked at me. The depravity, the
25 callousness, the selfishness of these crimes are stunning,

1 the lack of remorse, and the effortless way in which he
2 lies, including here, sitting right over there in this
3 witness stand.

4 Your Honor, a man like that, a man like this man
5 should never be allowed to be among free, law-abiding
6 citizens again, and I would submit to you that the only
7 just sentence here to give justice for Maggie and Paul is
8 the maximum, and that would be two consecutive life
9 sentences. Thank you, Your Honor.

10 THE COURT: You indicated that no one, no victim
11 would like to speak at this time. Would any victim like
12 to speak at any time during these proceedings?

13 MR. WATERS: Your Honor, one of the things we did and
14 we did early on -- obviously, as I just said, it's a very
15 complicated situation, but we made the decision early on
16 -- and we've had our victim advocate here who's been doing
17 a wonderful job, regardless of the view points of any
18 individual family member, to provide aid and service to
19 them, and we made that decision. I'm informed by our
20 victim advocate that none of them wish to speak. The
21 defense can certainly address that, but that's what I am
22 informed, but they certainly were offered the opportunity,
23 as is required. And I want to commend our victim advocate
24 on the excellent job she did in handling this complex
25 situation.

1 We wanted to be sensitive, too, because again, I am
2 not -- none of us are not mindful of the fact of the
3 suffering of this family.

4 THE COURT: I know SLED Chief Mark Keel is here.
5 Would you like to address the Court in any matters, Chief?

6 MR. KEEL: No, sir. I just want to say again I'm
7 very proud of our agents and the work they've done. I am
8 proud of the partnership that we've had with the Attorney
9 General's Office that we've had for many years. And,
10 again, we're here to see that justice is served and we
11 believe that it has been. Thank you.

12 THE COURT: Thank you.

13 For the defense?

14 MR. HARPOOTLIAN: Your Honor, Mr. Griffin and I would
15 have no comments. The defendant would like to address the
16 Court, though.

17 THE COURT: All right. Mr. Murdaugh?

18 THE DEFENDANT: Good morning, Your Honor.

19 THE COURT: Good morning.

20 THE DEFENDANT: I am innocent. I would never hurt my
21 wife, Maggie, and I would never hurt my son, Paul-Paul.

22 MR. HARPOOTLIAN: Thank you, Your Honor.

23 THE DEFENDANT: Thank you.

24 THE COURT: Anything further?

25 MR. WATERS: I don't think further comment is

1 necessary, Your Honor. Thank you.

2 THE COURT: All right. Mr. Murdaugh, if you would
3 come before the Court for sentencing.

4 This has been perhaps one of the most troubling cases
5 not just for me as a judge, for the State, the defense
6 team, but for all of the citizens in this community, all
7 the citizens in this state, and as we've seen, based on
8 the media coverage, throughout the nation. You have a
9 wife who has been killed, murdered. A son savagely
10 murdered. A lawyer, a person from a respected family who
11 has controlled justice in this community for over a
12 century, a person whose grandfather's portrait hangs at
13 the back of the courthouse that I had to have ordered
14 removed in order to ensure that a fair trial was had by
15 both the State and the defense. And I've sat through the
16 trial, not only having sat through the trial but also as
17 the presiding judge of the State Grand Jury, and sat
18 through and participated in the issuance of search
19 warrants of various sorts, bond hearings, and I've had to
20 consider many things. And we have this case, and I'm also
21 assigned to preside over --

22 There's ninety-nine others?

23 MR. WATERS: Yes, sir, Your Honor.

24 THE COURT: The ninety-nine other cases. And though
25 testimony has come up regarding many of those other cases,

1 I will not make any comment with regard to any other
2 pending matter as I have been assigned those cases as
3 well.

4 It's also particularly troubling, Mr. Murdaugh,
5 because as a member of the legal community, and a well
6 known member of the legal community, you've practiced law
7 before me and we've seen each other at various occasions
8 throughout the years. And it was especially heartbreaking
9 for me to see you, to go in the media from being a
10 grieving father who lost a wife and a son to being the
11 person indicted and convicted of killing them. And you've
12 engaged in such duplicitous conduct here in the courtroom,
13 here on the witness stand, and as was established by the
14 testimony throughout the time leading from the time of the
15 indictment and prior to the indictment throughout the
16 trial to this moment in time.

17 Certainly you have no obligation to say anything
18 other than saying not guilty, and obviously, as appeals
19 are probably expected or absolutely expected, I would not
20 expect a confession of any kind. In fact, as I presided
21 over murder cases over the past twenty-two years, I have
22 yet to find a defendant who could go there, who could go
23 back to that moment in time when they decided to pull the
24 trigger or to otherwise murder someone. I have not been
25 able to get anyone, any defendant, even those who have

1 confessed to being guilty, to go back and explain to me
2 what happened at that moment in time when they opted to
3 pull the trigger and they opted to commit the most heinous
4 crime known to man.

5 And this case qualifies under our Death Penalty
6 Statute based on the statutory aggravating circumstances
7 of two or more people being murdered by the defendant, by
8 one act, or pursuant to one scheme or course of conduct.
9 I don't question at all the decision of the State not to
10 pursue the death penalty, but as I sit here in this
11 courtroom and look around the many portraits of judges and
12 other court officials and reflect on the fact that over
13 the past century, your family, including you, have been
14 prosecuting people here in this courtroom, and many have
15 received the death penalty, probably for lesser conduct.
16 Remind me of the expression you gave on the witness stand.
17 Was it a tangled web --

18 MR. GRIFFIN: A tangled web we weave.

19 THE COURT: Oh what a tangled web we weave. What did
20 you mean by that?

21 THE DEFENDANT: I meant when I lied, I continued to
22 lie.

23 THE COURT: Okay, and the question is when will it
24 end? When will it end? And it has ended already for the
25 jury because they've concluded that you continued to lie

1 and lie throughout your testimony. And perhaps with all
2 of the people here, they for the most part all believe, or
3 80 or 90 percent -- 99 percent believe that you continued
4 to lie now with your statement of denial to the Court.
5 Perhaps you believe that it does not matter, that there is
6 nothing that could mitigate a sentence, given the crimes
7 that were committed.

8 You know, a notice of alibi was filed in this case by
9 counsel in November and we conducted a hearing, a pretrial
10 hearing in which you claimed to have been some place else
11 at the time the crime was committed. And then after all
12 of the witnesses placed you at the scene of the crime, at
13 the last minute, the last minutes or days you switched
14 courses and admitted to being there. And then that
15 necessitated more lies, and you continued to lie. I said
16 where will it end. It's already ended for many who have
17 heard you and conclude that it will never end, but within
18 your own soul, you have to deal with that.

19 And I know you have to see Paul and Maggie during the
20 nighttime when you're attempting to go to sleep. I'm sure
21 they come and visit you. I'm sure.

22 THE DEFENDANT: All day and every night.

23 THE COURT: I'm sure. And they will continue to do
24 so and reflect on the last time they looked you in the
25 eyes, and you looked the jury in the eyes. I don't know

1 how a person who's always been such a gregarious, friendly
2 person could cause life to be tangled in such a weaved
3 web, such a situation that yours has spun into. And it's
4 so unfortunate because you had such a lovely family of
5 such friendly people, including you, and to go from that
6 to this.

7 You know, your license to practice law has been
8 stripped away from you, turned from lawyer to witness.
9 And now you have an opportunity to make your final appeal
10 as an ex-lawyer and it's almost -- it's really surprising
11 that you're waiving this right at this time. And if you
12 opt to do so, that's on you. You're not compelled to say
13 anything, but you have the opportunity to do so.

14 THE DEFENDANT: Judge, I tell you again, I will state
15 to this Court that I'm innocent. I would never under any
16 circumstances hurt my wife, Maggie, and I would never
17 under any circumstances hurt my son, Paul-Paul.

18 THE COURT: And it might not have been you. It might
19 have been the monster that you become when you take 15,
20 20, 30, 40, 50, 60 opioid pills. Maybe you become another
21 person. I've seen that before. The person standing
22 before me is not the person who committed the crime,
23 though it is the same individual. We'll leave that at
24 that.

25 Before announcing sentence on these cases, with

1 regard to all of the other pending cases, are any of them
2 here in Colleton or -- I'm sure some of them are.

3 MR. WATERS: Yes, sir.

4 THE COURT: Half of them or --

5 MR. WATERS: I don't have that in front of me, but
6 there are a substantial number of charges here. There are
7 some in Hampton, Orangeburg, Beaufort, Allendale. There
8 may be others that I can't think of right now.

9 THE COURT: We might have worn out our welcome here
10 in Colleton.

11 MR. WATERS: Colleton has been great, Your Honor.

12 THE COURT: They have been. And I will take this
13 opportunity to thank Sheriff Hill and all of the court
14 officials, and really everyone I have met and dealt with
15 while here in Colleton County has just been great. But
16 without any delay, we're going to schedule some of the
17 other matters.

18 MR. WATERS: Yes, sir, Your Honor.

19 THE COURT: I know Mr. Harpootlian's schedule is
20 complicated. You sacrificed quite a bit to be able to be
21 here defending Mr. Murdaugh, as well as the Attorney
22 General's Office with all of the other many, many things
23 and obligations you have. To be able to have the Attorney
24 General here, Alan Wilson, for a period of time that he's
25 devoted to being here along with everyone else, it's been

1 quite a sacrifice, but there are other victims whose cases
2 deserve to be heard.

3 And this case has jumped some of those other cases,
4 perhaps jumped it because of the -- this case resulting in
5 an assault on the integrity of the judicial system in our
6 state and law enforcement in our state. Even during this
7 trial, the law enforcement has been maligned for the past
8 five or six weeks by one who had access to the wheels of
9 justice to be able to deflect the investigation. And as
10 the evidence has pointed out in this case, the looming
11 storm that Mr. Waters talked about, I can just imagine on
12 that day, June 7th, when a lawyer is confronted and
13 confesses to having stolen over a half a million dollars
14 from a client, and he has a tiger like Mark Tinsley on his
15 tail pursuing discovery in the case involving the death of
16 Mallory Beach, and having a father for the most part on
17 his death bed, I can imagine -- I really can't imagine. I
18 know there had to have been quite a bit going through your
19 mind on that day.

20 But amazingly, to have you come and testify that it
21 was just another ordinary day, that my wife and son and I
22 were out just enjoying life, not credible. Not
23 believable. You can convince yourself about it, but
24 obviously you have the inability to convince anyone else
25 about that. So, if you made any such arguments as a

1 lawyer, you would lose every case like that, cases you
2 will have -- never have the opportunity to argue anymore
3 except perhaps your own as you sit in the Department of
4 Corrections.

5 Anything further?

6 MR. HARPOOTLIAN: No, sir.

7 SENTENCE OF THE COURT

8 THE COURT: All right, Mr. Murdaugh, I sentence you
9 to the State Department of Corrections on each of the
10 murder indictments. In the murder of your wife, Maggie
11 Murdaugh, I sentence you for a term of the rest of your
12 natural life. For the murder of Paul Murdaugh, whom you
13 probably loved so much, I sentence you to prison for
14 murdering him for the rest of your natural life. Those
15 sentences will run consecutively. Under the statute
16 involving possession of a weapon during a violent crime,
17 there is no sentence where a life sentence is imposed on
18 the other indictments. That is the sentence of the Court,
19 and you are remanded to the State Department of
20 Corrections, and officers may carry forth on the --

21 MR. HARPOOTLIAN: Your Honor --

22 THE COURT: Yes, sir.

23 MR. HARPOOTLIAN: May we approach?

24 THE COURT: Yes.

25 (A bench conference was held.)

1 THE COURT: Before we adjourn, an order was entered
2 concerning maintaining the jurors' identity being
3 anonymous. That order was issued and for the most part it
4 has been complied with except for the jury leaving the
5 courtroom yesterday -- not the jury, but the defendant
6 leaving the courtroom while the jury was still seated.
7 Protecting the identity of the jurors is certainly
8 extremely important during the course of a trial to ensure
9 that no one makes contact with the jury or attempts to
10 influence the jury.

11 Jurors have a right to continue that privacy beyond
12 their jury service, but they're not obligated to do so.
13 And it would not surprise me if those -- if jurors choose
14 to come forward and to speak, and they're encouraged to do
15 so if that is their desire. I have no problem whatsoever
16 with the jurors unmasking themselves and speaking freely
17 with the media because they have undergone a life-changing
18 experience as it relates to many of them. But -- and some
19 of them are here now, and I want them to know that should
20 anyone attempt to harass them or annoy them, please let me
21 know and I will address the issue.

22 Secondly, there's a complaint now regarding the
23 posting of autopsy photographs or photos that came from
24 within the courtroom. Based on the direction of the
25 photographs, that does not come from the audience. It

1 came somehow from within the well of the Court.

2 The parties have requested an investigation of that.
3 I have my hands full doing my job. I don't attempt to
4 conduct any investigations beyond the conducting of a
5 trial, but to the extent that law enforcement decides to
6 review that, that will be the responsibility of law
7 enforcement.

8 MR. WATERS: We will, Your Honor.

9 THE COURT: And, of course, one of the reasons we
10 sought to seal graphic photos is because the parties have
11 a right to privacy and a right to those matters not being
12 publicly disclosed. If anyone has heard about the recent
13 settlement that Kobe Bryant -- another sports analogy --
14 Kobe Bryant's wife just made with Los Angeles County and
15 others out there over certain disclosures of information
16 involving the death of Kobe Bryant, liability can be
17 substantial, and it's a risk for the most part of not --
18 that's not worth taking, so we'll let everyone judge
19 themselves accordingly in that regard.

20 Aside from all of that, our business is done here in
21 Colleton County, and I get to use my gavel, one of the few
22 times during this trial, and order that court be
23 adjourned, *sine die*.

24 (End of trial proceedings.)

25 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

WE, THE UNDERSIGNED MICHAEL C. WATKINS AND ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTERS FOR THE SIXTH AND FIFTH JUDICIAL CIRCUITS OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR COLLETON COUNTY, SOUTH CAROLINA, ON THE 23RD DAY OF JANUARY THROUGH THE 3RD DAY OF MARCH OF 2023.

WE DO FURTHER CERTIFY THAT WE ARE NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Michael C. Watkins

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

OCTOBER 17TH, 2023

State of South Carolina) In the Court of General Sessions
County of Colleton) Fourteenth Judicial Circuit
2022-GS-15-0592
2022-GS-15-0593
2022-GS-15-0594
2022-GS-15-0595

The State of South Carolina,)
vs.) Transcript of Record
Richard Alexander Murdaugh.)
_____)

January 16, 2024
Columbia, South Carolina

B E F O R E:

The Honorable Jean H. Toal, Judge

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

Alan M. Wilson, Attorney General
Donald J. Zelenka, Deputy Attorney General
Samuel Creighton Waters, Senior Assistant Deputy AG
Johnny E. James, Assistant Attorney General
John P. Meadors, Assistant Attorney General
Attorneys for the State

Richard A. Harpootlian, Esquire
James M. Griffin, Esquire
Phillip D. Barber, Esquire
Attorneys for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

I N D E X

<u>Witness/Description</u>	<u>Page No.</u>
Pretrial Procedure.	3
Certificate Page.	80

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>ID.</u>	<u>Ev.</u>

No exhibits introduced

1 THE COURT: This is a prehearing procedure in the
2 matter of State against Richard Alexander Murdaugh. It's
3 case numbers 2022-GS-15-00592 through 00595. Defendant
4 Murdaugh was indicted for the murder of his wife, Margaret
5 Brandstetter Murdaugh, and his son Paul Bennett Murdaugh,
6 and related weapons charges. His trial began on January
7 23, 2023. The presiding judge was Clifton Newman. After
8 six weeks of trial, on the evening of March the 2nd of
9 2023, the jury returned a verdict of guilty on all four
10 indictments, on which the defendant was sentenced on March
11 2023 to two consecutive terms of life imprisonment.

12 Notice of appeals of his convictions and sentences
13 were filed by defendant Murdaugh's attorneys on March 9,
14 2023, with the South Carolina Court of Appeals. The
15 transcript in this very lengthy trial took several months
16 to produce, even in draft form. Before the attorneys
17 received the final transcript, on September the 5, 2023
18 defendant filed with the Court of Appeals a motion to
19 suspend his appeal and for leave to file a motion for a new
20 trial with accompanying affidavits and transcript excerpts.
21 After further defense and state filings, on October 17,
22 2023, the Court of Appeals granted appellant Murdaugh's
23 motion to suspend the appeal and to remand this case to the
24 circuit court to allow defendant Murdaugh to file a motion
25 for a new trial.

1 On October 17, 2023, defendant Murdaugh received the
2 final trial transcript and very shortly thereafter filed a
3 motion for new trial in the Colleton County Clerk of
4 Court's office. Subsequently, Judge Clifton Newman recused
5 himself from further proceedings in this matter.

6 On December 16, 2023 -- excuse me, on December 18,
7 2023, Chief Justice Donald W. Beatty signed an order
8 appointing or directing that the Honorable Jean Hoefer
9 Toal, retired Chief Justice of South Carolina, be assigned
10 exclusive jurisdiction for the limited purpose of presiding
11 over defendant's motion for a new trial. I promptly
12 contacted counsel in this case and set deadlines for
13 briefing and arguments of the new trial motions. The new
14 trial motions were set to be argued on January the 23rd --
15 30th and 31st of 2024. And after several rounds of
16 pretrial briefs having been submitted to me, I also set
17 today's date for a procedural prehearing.

18 Before I begin, may I say that we certainly welcome
19 members of the media, and I thank publicly attorney Jay
20 Bender for agreeing to be the voluntary media coordinator
21 for this matter, as he did for Judge Clifton Newman on the
22 trial of this matter.

23 Cell phones are normally not permitted at all in our
24 courtrooms, but the press have been allowed to bring in
25 certain cell phones and laptops and electronic devices

1 because of the nonjury nature of this portion of the
2 proceedings. But if any device rings or sounds to receive
3 a call or to receive an email or a message, that device
4 will be confiscated, and the owner will be asked to leave
5 the courtroom. So, please now, if you haven't already,
6 check your electronic devices and be sure that they will
7 not sound during the time that these proceedings take
8 place.

9 Major topics to be covered today have been addressed
10 by me and discussed with counsel in a short pretrial
11 conference in my chambers, and counsel may have certain
12 things that they will put upon the record as we proceed
13 through these topics that deal with what should be covered.

14 The first topic is, is an evidentiary hearing
15 necessary at all. The State took the position the answer
16 to that was no. Obviously, the defendant not. I have set
17 an evidentiary hearing because I felt like we had to have
18 some brackets on that time that we'll spend on this matter,
19 but I have made no conclusive decisions beyond that on
20 matters affecting the arguments the State makes about the
21 procedural posture of this matter.

22 The next topic would be the burden of proof. Who has
23 the burden of proof in this matter, and what must be shown
24 to meet that burden of proof, and what must then be shown
25 to contest what has been shown and proved?

1 The third topic is procedural defects, most
2 specifically a contention by the State that this motion is
3 untimely because of what was known before a verdict was
4 rendered, accepted, and the jury polled.

5 And finally, we need to discuss witnesses: juror
6 witnesses, the clerk of court of Colleton County, Ms. Hill,
7 and other witnesses, and exhibits.

8 I note that at least one attorney in the room is an
9 attorney for some of the jurors, and other jurors may have
10 other attorneys. When I get to the portion of this
11 discussion when we talk about specific witnesses, and if I
12 am asked to hear from attorneys for the witnesses, I will
13 at least consider that request. I don't know where we will
14 be at that time in terms of what has been decided, but I
15 will at least inquire about that.

16 To that end, if you have not already, during the first
17 break be certain that all of you, the lawyers participating
18 at counsel table and any other lawyers that feel they may
19 have some interest in the proceedings that would warrant
20 comment by them, please give your cards or information
21 about your contacts to our court reporter, Ms. Harris.

22 With that, Mr. Harpootlian, you are the moving party.
23 You may proceed.

24 MR. HARPOOTLIAN: If it please the Court, Your Honor,
25 you raised -- I assume you want to go in the order in which

1 you just ---

2 THE COURT: I would.

3 MR. HARPOOTLIAN: Okay. You raised a number of legal
4 issues, from whether we've waived -- I forget the order
5 that you just took them, but Mr. Griffin is going to
6 address those *in seriatim* based on what you said just a
7 moment ago. As to the witnesses and the jurors, I will be
8 handling that portion of the argument today.

9 THE COURT: Very good.

10 Mr. Griffin, we'll hear from you now.

11 MR. GRIFFIN: Yes. Thank you, Your Honor. The, the
12 first issue that you've asked us to address is, is an
13 evidentiary hearing necessary, and the answer to that
14 question is very straightforward, is yes. Under, under
15 established case law and the Supreme Court, the Fourth
16 Circuit, and the South Carolina Supreme Court under *Remmer*,
17 a *Remmer* hearing is absolutely necessary where there has
18 been credible evidence presented that there's been an
19 improper third-party contact with the jury prior to their
20 deliberations that, that, frankly, whether it goes to the
21 merits or not, a *Remmer* hearing is absolutely necessary.
22 And, and, and, we believe that the Court of Appeals
23 decision in this case contemplated a *Remmer* hearing.

24 In a *Remmer* hearing, evidence is presented as to, to
25 what outside influences, if any, were brought to bear upon

1 the jury. We have in our motion for a new trial submitted
2 affidavits of one deliberating juror, one alternate --
3 excuse me -- and then a -- and then another affidavit of a
4 witness to an interview of an alternate wherein all three
5 statements are consistent and, and -- in that they heard
6 Ms. Hill, the clerk of court, prior to deliberations and,
7 frankly, before the defense put on their case, Ms. Hill
8 instructed do not be fooled by the defense. That's what
9 the sworn statements say. And secondly, before Mr.
10 Murdaugh took the stand, Ms. Hill advised one deliberating
11 juror and two alternates at least watch his demeanor, which
12 is an indication of, you know, he's going to lie.

13 And so then the question becomes factually did those
14 contacts happen. And, and then, you know, we proceed from
15 there as to what the burden of proof is after that. But
16 the threshold, are we entitled to evidentiary hearing? The
17 law is crystal, Your Honor.

18 THE COURT: Thank you, sir.

19 Mr. Waters for the State.

20 MR. WATERS: Thank you, Your Honor. May it please the
21 Court? Your Honor, obviously you've addressed the issue of
22 whether an evidentiary hearing is necessary. The State
23 certainly understands that. It is incumbent upon us,
24 though, based on the law to preserve our arguments as to
25 procedural bar, and those are twofold.

1 The first one, of course, is that a motion for a new
2 trial must be filed within ten days of the verdict unless
3 there's after-discovered evidence. And I think an initial
4 inquiry that needs to be determined is when the defense
5 first learned of these particular allegations. In
6 conversations with the defense -- and they said they were
7 going to give me an answer -- that they may have had
8 conversations with Juror 785 prior to her being
9 represented, which was only a couple of days after trial.
10 So, if that is the case and they were aware of these
11 allegations, then we would want to argue to Your Honor and
12 preserve the issue that this is not after-discovered
13 evidence, and that there's a procedural bar in that regard.

14 Secondly, we made the argument that the affidavits on
15 their face, the only deliberating juror indicated -- and
16 that's 630 -- in that affidavit only said that she voted
17 guilty. She had questions but voted guilty because she
18 felt pressured by other jurors. And, of course, the law is
19 crystal clear in multiple cases that that's sort of
20 internal debate. It's actually in Rule 606(b) that that's
21 not any sort of misconduct or anything that is an
22 appropriate venue or mechanism to attack the verdict.

23 So, for that reason we've argued that their showing in
24 their motion for a new trial is insufficient based on the
25 case law for an evidentiary hearing because there is on its

1 face no sufficient allegation of prejudice. That being
2 said, of course, we fully understand and expect the
3 evidentiary hearing will go forward, and we'll be happy to
4 address burden of proof after the defense makes their
5 arguments.

6 THE COURT: Very good.

7 With respect to -- well, Mr. Griffin, anything in
8 reply?

9 MR. GRIFFIN: Your Honor, it does not appear that the
10 State takes a position contrary that a *Remmer* hearing is
11 required. They're arguing that we have waived the right to
12 that hearing. There's no evidence in the record of that, I
13 can assure the court. We did not know of, of this
14 information within ten days after the trial, and, and when
15 we learned of it, we promptly acted.

16 MR. WATERS: Well, in conversations with Mr.
17 Harpootlian and Mr. Griffin, they were going to actually
18 look into that and look at their paralegal's notes. So, I
19 fully rely on, trust the defense to give me a fair answer
20 to that question. And then again if there's an issue to be
21 raised, we would raise that. We're not conceding anything.
22 We just wanted to preserve our issues.

23 THE COURT: I don't think we need to go back and forth
24 many times about this. I think I understand your position.
25 Here is my decision on the matter.

1 First of all, this is not -- I am not conducting a
2 *Remmer* hearing. *Remmer* is a 1954 decision of the United
3 States Supreme Court that deals with question of influence
4 of the jury and a motion for a new trial on the basis of
5 after-discovered evidence of that influence. I rely on the
6 South Carolina decision of our Supreme Court authored by
7 Justice Kittredge, *State v. Green*, and the *Green* decision
8 specifically says that *Remmer* is not the guidance that
9 South Carolina trial judges should look to in conducting
10 hearings on after-discovered evidence.

11 Now, that says nothing about what the burden of proof
12 should be, and I don't intend to say anything thereby. But
13 I do intend tell to you right away that I will be relying
14 on South Carolina's jurisprudence and South Carolina's
15 jurisprudence specifically on what must be proved in a
16 hearing of this nature and who bears the burden of that
17 proof.

18 All right, and that leads me to the very next topic
19 that we will now take up, which is the burden of proof.

20 Mr. Griffin.

21 MR. GRIFFIN: Yes, Your Honor. The -- as, as we cited
22 in, in our papers, we believe that the controlling case in
23 this instance, based on discovered conduct as alleged, and
24 that is conduct of court official -- here the clerk of
25 court having communication with the jury about the

1 substance or the merits of the case -- that the standard to
2 be applied is, is not *Green* because *Green*, Justice
3 Kittredge says that the contact by the bailiff was about a
4 procedural issue, not about the merits of the case. Here
5 we're dealing specifically with the merits of the case and
6 the -- and the Court of Appeals decision in *State v.*
7 *Cameron* we believe is the controlling standard.

8 And in *State v. Cameron* -- and that was decided in
9 1993, and, and the Court says in citing *Holmes v. United*
10 *States*, which is a Fourth Circuit opinion, says:

11 In this case, there was a private communication
12 of a court official to members of the jury, an
13 occurrence which cannot be tolerated if the
14 sanctity of the jury system is to be maintained.
15 When there has been such communication, a new
16 trial must be granted unless it clearly appears
17 the subject matter of the communication was
18 harmless and could not have affected the verdict.

19 Now, now, we strongly believe that is the standard, is
20 the question was the subject matter of the communication
21 harmless and that it could not have affected the verdict.
22 And, and we are -- that's our position on the standard.

23 Your Honor, if, if, if Your Honor looks to a different
24 standard, we, we, we believe that *State v. Green*, the
25 measure of *State v. Green*, you can't look just at Justice

1 Kittredge's opinion. You to look -- because, because he
2 complimented the Court of Appeals decision. And the Court
3 of Appeals decision absolutely applied the *Remmer* standard
4 of the burden of production is on the defendant, but when
5 the defendant produces evidence of a substantive
6 communication to the jury by any third party -- that's,
7 that's what *Remmer* is, by any third party -- that, that
8 then there is a presumption of bias and that the State then
9 has to overcome that presumption, produce strong, clear and
10 convincing evidence that it was harmless. And, and, and
11 that was the standard that the Court of Appeals applied in
12 the *State v. Green*. And in *State v. Green* the Court of
13 Appeals says that this is the standard of the Fourth
14 Circuit, and we follow the Fourth Circuit law in this area.

15 Now, Justice Kittredge says that the communication by
16 the bailiff, which essentially said if, if you're
17 deadlocked, which they never were and never became
18 deadlocked, then the judge may ask you to stay longer. I
19 mean, that was the communication by the bailiff in *Green*,
20 and Justice Kittredge said that did not go to the merits of
21 the case. Justice Kittredge didn't throw out the *Remmer*
22 presumption standard in *State v. Green*, Your Honor.

23 And it's important that the Court of Appeals decision,
24 looking to the Fourth Circuit because, as Your Honor knows,
25 this case -- and, and I would encourage the court to look

1 at the *Holmes* decision out the Fourth Circuit which we cite
2 which applies to *Remmer*. It applied to *Remmer* in a *habeas*
3 *corpus* case when they said *Remmer* is the clearly
4 established law in the Fourth Circuit, and it vacated a
5 death penalty conviction out of North Carolina because the
6 North Carolina courts did not follow *Remmer*. And, and so
7 the Court of Appeals decision in *Green* says we look to
8 *Remmer*. Justice Kittredge says, you know, we're not going
9 to apply the *Remmer* decision here because it didn't go to
10 the merits.

11 What we have in this case and what we have, you know,
12 presented through proffer on the affidavits, something that
13 goes to the heart of the merits. It's the defense. It's
14 the credibility of the defendant's testimony. And so we,
15 we do have the burden of production, but we do believe
16 that, that the standard in *Cameron* is we just have to show
17 that the subject matter of the communication, that it was
18 material to the case, and that then the burden shifts to
19 the defendant to prove that it was harmless -- excuse me,
20 the burden shifts to the State to prove it was harmless.

21 THE COURT: Thank you, sir.

22 MR. GRIFFIN: That -- that's what we believe the
23 standard is.

24 THE COURT: Mr. Waters.

25 MR. WATERS: Your Honor, as you -- and I'm going to

1 walk through some of the cases in South Carolina to -- that
2 address this issue. But as Your Honor is aware, of course,
3 when we deal with these issues, we have two types. We have
4 internal misconduct, and our courts have been reluctant --
5 Rule 606 says this as well -- to delve into that unless
6 there are concerns of fundamental fairness like racism and
7 things like that. And then there's external, allegations
8 of external influence and that sort of thing, and that's
9 what we're dealing with here today.

10 And to quote *State v. Grovenstein*, which is a 1999
11 case of the State Supreme Court, it cites *Aldret* and *Kelly*
12 and says:

13 We have consistently held that defendant must
14 prove prejudice in these sorts of claims.

15 And if we walk through all of the case law, our court
16 has been very careful and as much said so in *Aldret*, which
17 was an internal case, to sync the analysis and the -- and
18 the standards between those two, and consistently held that
19 the defendant has to show prejudice. It's their burden to
20 do so.

21 In *Blake*, 1992, the Court held:

22 I don't presume prejudice, and the test of the
23 courts was whether or not the verdict was solely
24 the product of honest deliberation or whether it
25 was the product of outside influence.

1 We go over to *State v. Kelly*. The Court -- of course
2 Your Honor concurred with Chief Justice Finney's dissent in
3 that case. But in that case, there was a pamphlet in the
4 grand jury room. Clearly an external influence was alleged
5 there, and ultimately in that case the court held that the
6 defendant failed to show prejudice from that particular
7 external influence.

8 In *State v. Grovenstein*, in this instance it was
9 clearly external. There was an alternate who was present
10 in the jury room and even took a preliminary vote with the
11 jurors. So, clearly an external influence, far more than
12 is even alleged in this case. That juror was removed, a
13 curative instruction was given, but ultimately the Court
14 was very clear: That we have consistently held the
15 defendant must prove prejudice. Again, the burden being on
16 the defendant.

17 In *Bryant*, this was a capital case, one that I argued
18 from way back when, and in that instance, there was a
19 police investigation, background investigation into
20 death-qualified jurors in a capital case. Clearly
21 external. The trial court conducted an inquiry with
22 questions submitted by the parties as well, and ultimately
23 noted that it was the defendant's burden to prove actual
24 bias on the part of the jury.

25 In *State v. Pittman*, another case that I argued before

1 Your Honor, in that particular case there was a juror who
2 had a conversation with his wife and with a bartender, and
3 ultimately again the Court held that the defendant failed
4 to meet the burden of prejudice because the wife's comment
5 was the defendant was not guilty, and the comment to the
6 bartender took place after deliberations had begun.

7 And then of course in *Green* in 2020, Your Honor just
8 commented on that, and the Court clearly held that the
9 *Remmer* presumption of prejudice doesn't apply here. And
10 then, of course, went on to note that the defendant bears
11 the burden of proving, proving prejudice.

12 And *Cameron* is a case that they rely on a lot, and I
13 would say this about *Cameron*. And then *Cameron*, of course,
14 goes on to say that the mere fact of any official
15 communication does not mean necessarily that the jury was
16 prejudiced and went on again to do a prejudice analysis and
17 a harmless error analysis.

18 *Covington* is a Court of Appeals case from 2000. In
19 this particular case, there were jurors who supposedly knew
20 the defendant and knew some external information about
21 whether or not he had previous difficulties with his wife.
22 That was clearly external information. Again, the Court
23 held that the defendant failed to show prejudice.

24 So, the case law in South Carolina, both from our
25 state Supreme Court as well as our state Court of Appeals,

1 it's clear. It's in sync. It's uniform that it's the
2 defendant's burden to show prejudice, and that's, of
3 course, only after there's a determination that any sort of
4 extraneous influence occurred. And that would be the
5 State's position, that it is the defendant's burden.

6 And again we can address at the appropriate time what
7 the State's position is as to the order in which the
8 evidentiary hearing should go.

9 THE COURT: Thank you, sir.

10 Mr. Griffin, any reply?

11 MR. GRIFFIN: Yes, Your Honor. There is a tremendous
12 difference in the law as to how the court analyzes juror
13 misconduct as in *Kelly*, where the juror reaches out to her
14 pastor, gets a pamphlet, brings it into the jury room, and,
15 and that was found during the course of the trial.

16 The trial judge removed Juror O, who had gotten a
17 pamphlet, voir dired every, every juror to ask what affect
18 that had and could they put that out of their mind and
19 deliberate. So, that happened during the middle of the
20 trial, but it was juror misconduct. All the cases that he
21 cited, the State relies upon, are juror misconduct cases,
22 not, not unauthorized third-party communication that goes
23 to the heart of the Sixth Amendment right by defendant to
24 confront his accusers, to, to cross-examine witnesses who
25 present evidence. And, and when a third party makes an

1 improper contact with the deliberating jury before they
2 deliberate, that falls at the heart of the Sixth Amendment,
3 which is a different, different animal altogether than,
4 than where a juror engages in misconduct. And that's where
5 you get to *Cameron*. That's where you get to *Green*, which,
6 which *Green* says it was a procedural communication, not,
7 not a merits communication.

8 And, and, Your Honor, in *Bryant* -- well, I would note
9 Your Honor dissented in *Kelly*, but in, in *Bryant*, no jurors
10 were interviewed, as best we can tell by the -- by the
11 record. But in *Bryant*, it was a death penalty case. Law
12 enforcement -- I believe it was Horry County -- questioning
13 the jurors' relatives and friends and trying get their
14 belief as to whether they believed in the death penalty.
15 Apparently that -- some of that kind of leaked back to one
16 juror or maybe -- but, but there's -- there was no record
17 saying that jurors were prejudiced by that. But the Court
18 said that behavior cannot stand, and we find prejudice
19 based on conduct, not on the jurors' testimony. And, and
20 they didn't use the word presumption, but they found
21 prejudice.

22 And, and I don't want to get caught up in this issue
23 of, of do we have to establish prejudice. I think
24 prejudice is established, but the question -- it has to be
25 established, but the question is, is it presumed under the