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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable Kristi F. Curtis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEMETRIUS ALEXANDER BROWN,

APPELLANT.

APPELLATE CASE NO. 2022-001360

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

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

MELODY J. BROWN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3727

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

VOLUME I

PAGES 1-500

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED FEBRUARY 14-18, 2022	1
OPENING STATEMENT BY MR. FINNEY	14
OPENING STATEMENT BY MR. BUTCHER.....	19
TESTIMONY	
GEORGE MCCAIN	
Direct Examination by Mr. Finney	23
Cross-Examination by Mrs. Butcher.....	50
Redirect Examination by Mr. Finney.....	63
Recross-Examination by Mrs. Butcher	72
ANFERNEE BRADLEY	
Direct Examination by Mr. Finney	75
Cross-Examination by Mr. Butcher	101
Redirect Examination by Mr. Finney.....	125
Recross-Examination by Mr. Butcher.....	129
COLLOQUY REGARDING SUBPOENAS.....	131
COLLOQUY REGARDING VIDEO INTERVIEW EVIDENCE	134
TESTIMONY	
STEPHANIE CARNES	
Direct Examination by Mr. Finney	154
Cross-Examination by Mrs. Butcher.....	156
Redirect Examination by Mr. Finney.....	159
JOSEPH KELLAHAN	
Direct Examination by Mr. Finney	167
COLLOQUY REGARDING VIDEO INTERVIEW STIPULATION	178
COLLOQUY WITH WITNESS.....	182
TESTIMONY	
MICHAEL MCCAULEY	
Direct Examination by Mr. Finney	186

Cross-Examination by Mr. Butcher	215
Redirect Examination by Mr. Finney.....	249
Recross-Examination by Mr. Butcher.....	253
JANICE ROSS	
Direct Examination by Mr. Finney	258
Cross-Examination by Mrs. Butcher.....	266
Redirect Examination by Mr. Finney.....	272
STEPHANIE CARNES	
Direct Examination by Mr. Finney	275
Cross-Examination by Mrs. Butcher.....	281
Redirect Examination by Mr. Finney.....	295
Recross-Examination by Mrs. Butcher	298
TRACY THROWER	
Direct Examination by Mr. Finney	300
Cross-Examination by Mrs. Butcher.....	316
BRIAN WILMOTH	
Direct Examination by Mr. Finney	321
Cross-Examination by Mr. Butcher	334
Redirect Examination by Mr. Finney.....	358
COLLOQUY REGARDING EXHIBITS.....	360
TESTIMONY	
JOHN MONAHAN	
Direct Examination by Mr. Finney	379
Cross-Examination by Mr. Butcher	393
CHARLES BONNER	
Direct Examination by Mr. Finney	393
Cross-Examination by Mr. Butcher	404
Redirect Examination by Mr. Finney.....	451
Recross-Examination by Mr. Butcher.....	462
THE STATE RESTS	465
DEFENSE’S MOTION FOR A DIRECTED VERDICT.....	466
COURT’S RULING DENYING DEFENSE’S MOTION FOR DIRECTED VERDICT	467

TESTIMONY

JOSEPH POWELL	
Direct Examination by Mrs. Butcher	473
ROBERT BURNISH	
Direct Examination by Mr. Butcher.....	481
Cross-Examination by Mr. Finney.....	484
Redirect Examination by Mr. Butcher	486
BENNIE HAYNESWORTH	
Direct Examination by Mrs. Butcher	488
STATE’S OBJECTION TO IMPEACHMENT AS HEARSAY	488
PROFFER OF BENNIE HAYNESWORTH REGARDING IMPEACHMENT	490
COURT’S RULING SUSTAINING STATE’S OBJECTION.....	498
COLLOQUY WITH DEFENDANT REGARDING RIGHT TO TESTIFY	500
DEMETRIUS BROWN	
Direct Examination by Mrs. Butcher	503
Direct Examination by Mrs. Butcher (<i>IN-CAMERA</i>)	515
Continued Direct Examination by Mrs. Butcher	527
Cross-Examination by Mr. Finney.....	541
Redirect Examination by Mrs. Butcher	575
THE DEFENSE RESTS	576
COLLOQUY REGARDING JURY CHARGES	577
CLOSING ARGUMENT BY MR. FINNEY	594
CLOSING ARGUMENT BY MR. BUTCHER	617
REBUTTAL CLOSING ARGUMENT BY MR. FINNEY	644
VERDICT	666
SENTENCING	673
INDICTMENTS	675
SENTENCE SHEETS	677

DEFENDANT’S EXHIBIT #45 (TEXT MESSAGES)	683
DEFENDANT’S EXHIBIT #40 (CELL PHONE RECORDS).....	687
DEFENDANT’S EXHIBIT #41 (CELLEBRITE EXTRACTION REPORT)	744
DEFENSE’S MOTION FOR NEW TRIAL	752
ORDER DENYING DEFENSE’S MOTION FOR NEW TRIAL	767
CERTIFICATE OF COUNSEL	770

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

DEFENDANT’S EXHIBIT #52 (BENNIE HAYNESWORTH INTERVIEWS)

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SUMTER) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 DEMETRIUS ALEXANDER BROWN,) 2019-GS-43-53
8 DEFENDANT.)

9
10 February 14th - 18th, 2022
11 Sumter, South Carolina

12 B E F O R E:

13 THE HONORABLE KRISTI F. CURTIS, Judge; and a jury.

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

15 ERNEST A. FINNEY, JR.
16 SOLICITOR
17 Attorney for the State

18 DEBORAH J. BUTCHER and ROBERT J. BUTCHER
19 ESQ.
20 Attorneys for the Defendant

21
22 Transcribed by Pamela E. Green, from
23 DCRP, Digital Courtroom Recorder Project
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25

1	<u>I N D E X</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3		
4	Jury selection	12
5	Motions	41
6	Opening by the Court	94
7	Opening by Sol. Finney	100
8	Opening by Mr. Butcher	106
9		
10	GEORGE STEVE MCCAIN	
11	Direct examination by Sol. Finney	110
12	Cross-examination by Mrs. Butcher	137
13	Redirect examination by Sol. Finney	150
14	Recross examination by Mrs. Butcher	159
15	ANFERNEE BRADLEY	
16	Direct examination by Sol. Finney	161
17	Cross-examination by Mr. Butcher	188
18	Redirect examination by Sol. Finney	212
19	Recross examination by Mr. Butcher	216
20	STEPHANIE CARNES	
21	Direct examination by Sol. Finney	241
22	Cross-examination by Mrs. Butcher	243
23	Direct examination by Sol. Finney	246
24	JOSEPH KELLAHAN	
25	Direct examination by Sol. Finney	254

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	MICHAEL MCCAULEY	
4	Direct examination by Sol. Finney	273
5	Cross-examination by Mr. Butcher	302
6	Redirect examination by Sol. Finney	336
7	Recross examination by Mr. Butcher	340
8	JANICE ROSS	
9	Direct examination by Sol. Finney	345
10	Cross-examination by Mrs. Butcher	353
11	Redirect examination by Sol. Finney	359
12	STEPHANIE CARNES	
13	Direct examination by Sol. Finney	362
14	Cross-examination by Mrs. Butcher	368
15	Redirect examination by Sol. Finney	382
16	Recross examination by Mrs. Butcher	385
17	TRACY THROWER	
18	Direct examination by Sol. Finney	387
19	Cross-examination by Mrs. Butcher	403
20	DOYLE WILMOTH	
21	Direct examination by Sol. Finney	408
22	Cross-examination by Mr. Butcher	421
23	Redirect examination by Sol. Finney	445

24

25

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	JOHN MONAHAN	
4	Direct examination by Sol. Finney	
5	Cross-examination by Mr. Butcher	
6	CHARLES BONNER	
7	Direct examination by Sol. Finney	
8	Cross-examination by Mr. Butcher	
9	Redirect examination by Sol. Finney	
10	Recross examination by Mr. Butcher	
11		
12	Motions	
13		
14	JOSEPH POWELL	
15	Direct examination by Mrs. Butcher	
16	ROBERT BURNISH	
17	Direct examination by Mr. Butcher	
18	Cross-examination by Sol. Finney	
19	Redirect examination by Mr. Butcher	
20	BENNIE HAYNESWORTH	
21	Direct examination by Mrs. Butcher	
22	DEMETRIUS BROWN	
23	Direct examination by Mrs. Butcher	
24	Cross-examination by Sol. Finney	
25	Redirect examination by Mrs. Butcher	

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	Motions	674
4	Closing by solicitor Finney	682
5	Closing by Mr. Butcher	704
6	Closing by solicitor Finney	731
7	Charge by the Court	732
8	Question from the Jury	749
9	Verdict	753
10	Sentencing	760
11	Certificate	762

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	<u>E X H I B I T S</u>			
2	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
3	<u>State's Exhibits</u>			
4				
5	S-1	Map		150
6	S-2	Photograph		112
7	S-3	Photograph		115
8	S-4	Photograph		133
9	S-5	Photograph		177
10	S-6	Photograph		276
11	S-7	Photograph		276
12	S-8	Photograph		276
13	S-9	Photograph		276
14	S-10	Photograph		117
15	S-11	Photograph		276
16	S-12	Photograph		276
17	S-13	Photograph		276
18	S-14	Photograph		276
19	S-15	Photograph		276
20	S-16	Photograph		276
21	S-17	Photograph		276
22	S-18	Photograph		276
23	S-19	Photograph		276
24	S-20	Photograph		276
25	S-21	Photograph		184

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
S-22	Photograph		185
S-23	Photograph		
S-24	9-1-1 Phonecall		
S-25	Body Camera Video		122
S-26	Statement		214
S-27	Body Camera Video		257
S-28	Body Camera Video		258
S-29	Photograph of Victim	272	361
S-30	Video		293
S-31	Video		293
S-32	Video		293
S-33	Video		293
S-34	Bullet Found at Scene	301	302
S-35	Bullet from Victim	301	302
S-36	Toxicology Report		368
S-37	Phone Records		415

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Defendant's Exhibits</u>		
3				
4	D-1	Thumbdrive of Police Interview	140	147
5				
6	D-2	Thumbdrive of Police Interview		147
7				
8	D-3	Subpoena - Afnernee Bradley	188	190
9	D-4	Authorized Property Release Form	190	192
10				
11	D-5	Voluntary Statement		198
12	D-6	Drawing	198	199
13	D-7	Photograph	204	
14	D-8	Photograph	205	331
15	D-9	Photograph	206	331
16	D-10	Photograph	206	331
17	D-11	Photograph	207	331
18	D-12	Photograph	207	331
19	D-13	Thumbdrive of Interview		212
20	D-14	SCSO Policy	303	305
21	D-15	Crime Scene Log	305	306
22	D-16	Search Warrant	306	307
23	D-17	Property & Evidence Sheet	307	308
24	D-18	Property & Evidence Sheet	307	308
25	D-19	Property Report	308	309

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2				
3	D-20	Chain of Custody Report	309	567
4	D-21	Search Warrant - Red iPhone	312	314
5	D-22	Property & Evidence Report	314	317
6	D-23	Photograph	315	317
7	D-24	Photograph	315	317
8	D-25	Photograph	316	317
9	D-26	Photograph	317	331
10	D-27	Hand Receipt - Red iPhone	318	331
11	D-28	Dollar General Bag		321
12	D-29	Digital Scale	321	322
13	D-30	Shoes from Scene	325	326
14	D-31	Bag of Pills and Marijuana	326	327
15	D-32	Flip Phone	328	331
16	D-33	Two G Bottle and Pill Bottle	329	331
17	D-34	Temporary Tags	330	331
18	D-35	Temporary Tags	330	331
19	D-36	SCID - Sharmin Pack	332	334
20	D-37	Thumbdrive	334	335
21	D-38	Thumbdrive	334	335
22	D-39	Report	421	
23	D-40	Call Log	422	
24	D-41	Extraction Report	423	
25	D-42	Photographs	426	

	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1				
2				
3	D-43	7/15/2021 Lab Report		462
4	D-44	Search Warrant	491	
5	D-45	Facebook Messages	493	614
6	D-46	Facebook Thread	493	614
7	D-47	Gray Screenshot	493	622
8	D-48	Table of Contents	513	
9	D-49	Investigation Report	514	
10	D-50	Email to Deborah Butcher	516	
11	D-51	Thumbdrive - Video clips		522
12	D-52	Thumbdrive - Bennie Haynesworth Interview	579	
13				
14	D-53	Retainer Receipt		624
15	D-54	Extradition Waiver		626
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Court's Exhibits</u>		
3				
4	C-1	Subpoena - Bennie Haynesworth	261	
5				
6	C-2	Subpoena - Collin Williams	261	
7	C-3	Note from Jury		751
8	C-4	Note from Jury		752
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 Can y'all tell me is he with the city or the county?

2 SOLICITOR FINNEY: City, Your Honor.

3 THE COURT: Detective Melton is employed by the City of
4 Sumter Police Department.

5 Corporal Joseph Kellahan.

6 I presume also with the City of Sumter Police
7 Department?

8 SOLICITOR FINNEY: That's correct.

9 THE COURT: Lieutenant Lee Monahan. Also city.

10 SOLICITOR FINNEY: County.

11 THE COURT: He's with the Sumter County Sheriff's
12 Department.

13 Kia Blanding.

14 Let me start with those 10.

15 Again, anyone related by blood or marriage or a close
16 personal or business relationship?

17 (WHEREUPON, jurors respond at this time.)

18 THE COURT: Yes, ma'am.

19 THE JUROR: Juror Number 11, Donna Bearor. I'm friends
20 with the Bradley family. I know Anfernee Bradley.

21 THE COURT: You know Anfernee Bradley?

22 THE JUROR: Yes, ma'am.

23 THE COURT: And, ma'am, would that prevent you from
24 being a fair and impartial juror in this case?

25 THE JUROR: No, ma'am, I don't think so.

1 THE COURT: Do you believe that you can listen to the
2 facts, that you can follow my instructions on the law, and
3 that you can give both the State and the defendant a fair
4 trial?

5 THE JUROR: Yes, ma'am.

6 THE COURT: And you're Juror Number 11?

7 THE JUROR: Yes, ma'am.

8 THE COURT: Donna Bearor?

9 THE JUROR: Yes, ma'am.

10 THE COURT: Thank you for giving us that information,
11 ma'am.

12 THE BAILIFF: One more, Your Honor.

13 THE COURT: Yes, ma'am.

14 THE JUROR: Juror 135, Celestine Pugh. I---

15 THE COURT: I'm sorry.

16 135?

17 THE JUROR: Yes, ma'am.

18 THE COURT: Yes, ma'am.

19 THE JUROR: I know Anfernee Bradley.

20 THE COURT: Okay. And do you think that -- you know --
21 you're not related to him?

22 THE JUROR: No, ma'am.

23 THE COURT: Again, same question.

24 would that prevent you from being a fair and impartial
25 juror?

1 Any objections or additions from the State or the
2 defendant?

3 SOLICITOR FINNEY: None from the State.

4 MRS. BUTCHER: None from the defense, Your Honor.

5 THE COURT: Okay. Mr. Finney.

6 Oh, I'm sorry. Let's, let's swear the jury.

7 THE BAILIFF: May it please the Court, Your Honor.

8 THE COURT: Please.

9 (WHEREUPON, the jury was placed under oath at this
10 time.)

11 THE BAILIFF: They have been -- the jury have been
12 sworn, Your Honor.

13 THE COURT: Thank you.

14 Mr. Finney.

15 SOLICITOR FINNEY: Please the Court?

16 THE COURT: Yes, sir.

17 SOLICITOR FINNEY: Ladies and gentlemen, good morning.

18 My name is Chip Finney. I have been practicing law in
19 Sumter County for over 40 years and 12 years ago the
20 citizens of this county elected me as their solicitor, and I
21 have been honored to serve and do the work here in this
22 courthouse for the past 12 years as the solicitor.

23 As you probably know, the solicitor is what we call the
24 district attorney. In other states they call it district
25 attorney and I'm the chief prosecuting officer.

1 I have the honor of working with law enforcement day in
2 and day out when they make cases. Those cases are brought
3 to the Solicitor's Office. We examine them to make sure
4 that they are put together right. We take them to the Grand
5 Jury of Sumter County and the Grand Jury of Sumter County
6 passes on those cases with either a true bill, which means
7 that they accept the evidence, and they can send it on to
8 this Court to be heard by a judge and a jury.

9 The indictment in this case was true billed back in
10 January of 2019 by the foreman of the Grand Jury who signed
11 it. At that time we charged Mr. Demetrius Brown with three
12 charges which you are gonna hear this week.

13 The first charge that the judge has already told you
14 about is the murder charge. But they're two other charges
15 involving firearms.

16 So, first I want you to understand that we've charged
17 him with having, on August the 11th, 2018, a firearm that
18 he was not legally entitled to possess. On that day he was
19 not legally entitled to possess a firearm and we're gonna
20 call witnesses to explain how that came about.

21 Then, on the same day, we have charged him with
22 possession of a weapon during a violent crime because the
23 weapon that he was not suppose to have he used to kill a
24 fellow Sumter County man. That's the second charge. And
25 then we've charged him with murder in the fact that he did

1 an unlawful and illegal act by taking the life of Lonnie
2 Pack.

3 Life matters and death matters and you're going to be
4 asked, over the next two or three days, to listen to the
5 evidence from the witnesses that we have in this court, the
6 witnesses in this community, some of which saw this happen
7 on August the 11th. It was a Saturday. It was on Pike
8 Road in Sumter County not that very far from here.

9 Life matters and death matters. All of us in this
10 courtroom who work in this courthouse have worked for the
11 last several years lost a good friend last week. He passed
12 away. He was a bailiff here in this courtroom. He use to
13 sit in that chair back there where Mr. Scott is. His name
14 was Raymond Haynesworth. He was a very good man.

15 When you lose somebody close to you, it makes a
16 difference. This past Sunday I had the honor of speaking at
17 the funeral of a friend of mine, a mentor of mine, Ruben
18 Gray. He was a Family Court judge who worked on the floor
19 beneath us for many years.

20 So, this morning I'm very, very honored to be in a
21 position where I can help the Pack family honor the loss
22 that they suffered back in August of 2018 with the death of
23 Lonnie Pack.

24 Lonnie Pack was a young man who liked to work on cars.
25 He worked in this community, lived in this community, had

1 children in this community. His mother is here. His
2 sisters are here. They will tell you or they would tell you
3 that he was a good, good fellow.

4 We have lost him way too soon. He was 35 years old.
5 Shot and killed in Sumter County by the hands of
6 Mr. Demetrius Brown.

7 The law gives us rights. Mr. Demetrius Brown has a
8 right to know the charges that have been placed against him.
9 That's why we put them in the indictment. We give him legal
10 notice of what he's facing in court.

11 Mr. Brown has the right to have a lawyer. Actually
12 he's got two good lawyers from Camden, South Carolina.
13 You're gonna hear from the Butchers throughout this trial.

14 The law gives him a right to a jury to weigh the
15 evidence and to decide his fate and here we are. They had a
16 vote on who gets to sit on the jury. I had a vote on who
17 gets to sit on this jury. That's the beauty of this system.
18 It does not come from the judge. The jury gets to judge the
19 case.

20 But just like there is a weighing and a balancing and
21 a, and a listening, there is a balance on the duty of
22 Mr. Brown to act responsibly. He has a responsibility to
23 act responsibly, and, if he doesn't do that, he has to be
24 judged guilty of what he did not do correctly.

25 You're gonna find out, in this case, that, after the

1 shooting, he did not follow what we would consider normal
2 activities.

3 If you take a gun and you shoot somebody in broad
4 daylight on a Saturday afternoon in Sumter, wouldn't you
5 think you would call 9-1-1?

6 That would be the responsible thing to do, to report
7 what just happened. It never happened. Or you might get in
8 the car that you drove to the scene with, a black Ford
9 Expedition you're gonna hear about, you think you might get
10 in your black Ford Expedition and go one mile down to the
11 Sheriff's Department from where the scene -- where the
12 shooting took place and show up there to say hey, I need to
13 talk to an officer. Something bad just went down. I just
14 shot somebody. I need to report this. One mile. That
15 never happened. You might think he might go to the police
16 station and, and say something about what happened.

17 But what you're going to hear is, in fact, that not
18 only did he leave the city, and not only did he leave the
19 county, he left the State of South Carolina not to be
20 received -- seen again until the 15th of August, four days
21 later after the shooting.

22 Thanks to hard work, these law enforcement officers did
23 not let the Pack family go without having their time to say
24 what happened to Lonnie. We want to know cause he was left
25 laying on the ground with two bullet holes, life taken away

1 from him. They worked. They found Mr. Brown. They brought
2 him back and he's been waiting for this day just like we've
3 been waiting for this day to give Lonnie Pack the justice he
4 deserves.

5 It's a very simple case. We say he was shot for no
6 good reason. Mr. Brown's got another side of the story.
7 You're gonna hear it.

8 What I want you to remember over the next two or three
9 days is what the judge just said. Keep your mind open,
10 listen, listen, listen, and use what God gave you is called
11 common sense because the common sense is going to teach you
12 everything us lawyers learned in law school. It's got to
13 make sense. And if it doesn't make sense, then it's not
14 something you need to stand on.

15 Stories are told all the time. You can turn on Netflix
16 every night and get a good story. This is a court of law
17 and we want the facts and we intend to bring you the facts,
18 and the fact is Demetrius Brown murdered a young man named
19 Lonnie Pack with a weapon that he wasn't suppose to have and
20 he's guilty of all three charges.

21 Thank you.

22 THE COURT: Mr. Butcher.

23 MR. BUTCHER: May it please the Court?

24 THE COURT: Yes, sir.

25 MR. BUTCHER: Hello. My name is Robert Butcher and,

1 you know, with me is Deborah Butcher and we have the
2 pleasure to represent Demetrius Brown.

3 This is one of the most important moments in his life
4 and you-all have been selected to determine what is going to
5 go on in this trial and what is the end result. And like
6 Mr. Finney said, it is so important that you pay attention.
7 And if you've ever watched Court TV, you probably turned it
8 off cause court, real court is boring. It's not Law &
9 Order.

10 There is certain times where they're just talking --
11 you know, they're things where we have to get, get -- verify
12 or provide a foundation for evidence. So, you may have
13 someone come in and talk about looking at a computer or
14 something. It doesn't necessarily impact the facts that
15 you're gonna hear but it does provide a basis. And all
16 these procedures that you're gonna hear and the objections
17 and everything is the parties testing the evidence, making
18 sure that what gets in front of you is good evidence, and
19 that's what the judge is for. She is going to be the judge
20 of the law while you're the judge of the facts. You heard
21 her say that earlier.

22 The State has an immense burden. They have the burden
23 to prove that Demetrius Brown murdered Lonnie Pack beyond a
24 reasonable doubt. And, ladies and gentlemen, beyond a
25 reasonable doubt is the type of doubt that would make you

1 hesitate to act. It's a tough burden and what you are going
2 to hear is obviously something different.

3 we're going to provide, provide the defense of
4 self-defense and you'll hear those facts and the facts will
5 come out, and regarding the use of a weapon, you're going to
6 hear the defense of necessity.

7 what is necessity?

8 well, let's say you have diabetes and lost your license
9 because, you know, you had, you had -- your sugar goes too
10 low too much or you have seizures and lost your license
11 because you can't drive, and you're at home with a loved one
12 and they go to the hospital or they need to go to the
13 hospital. The ambulance -- no ambulances are available but
14 you've got to get this loved one to the hospital and you hop
15 in the car and drive.

16 You just violated driving without a license.

17 But was the necessity of doing that, because no
18 ambulances were on the way, was it to say -- was, was there
19 a danger to someone's life or safety?

20 And that's the defense of necessity. So you're gonna
21 hear us talk or provide evidence regarding the defense of
22 necessity.

23 In going back to self-defense, self-defense is a
24 complete defense. We do not -- Mr. Brown does not have to
25 prove self-defense. The State is going to have to disprove

1 self-defense beyond a reasonable doubt and you'll hear the
2 jury -- the judge instruct you on that at the end.

3 Again, I'm going to ask you to please pay attention.
4 If you feel yourself drifting off or not paying attention,
5 stand up. If we've been at it too long, tell the judge. If
6 you need to go to the restroom and can't pay attention, tell
7 the judge. You can raise your hand and say judge, you know,
8 I need a break. I -- you know -- and she's going to
9 understand. It -- you are not a captive here. It's so
10 important to pay attention.

11 And, finally, I just want you to remember that, if
12 someone -- whether they're on the street or in their home,
13 and they're engaged in a -- lawful activities, and they are
14 accosted, someone tries to get them, someone tries to kidnap
15 them or harm them, they have the right to defend themselves
16 and use as much force as necessary to stop that and they do
17 not have a duty to retreat and that's what you're going to
18 hear through this case, and you're gonna hear the facts that
19 are going to apply to that.

20 So, I appreciate it. Whether you want to be here or
21 not, I thank you for your service. This is one of the most
22 important things that you will ever do in Mr. Brown's life.

23 Thank you.

24 SOLICITOR FINNEY: Like to call Mr. Steve McCain.

25 THE BAILIFF: Sir, raise your right-hand.

George McCain - Direct examination
By Solicitor Finney

1 State your name.

2 THE WITNESS: George Steve McCain.

3 GEORGE MCCAIN, being first duly
4 sworn, testified as follows:

5 THE BAILIFF: Thank you very much. walk up the ramp
6 and grab yourself some water. Pull your mask down.

7 THE WITNESS: Uh-huh. (Affirmative).

8 THE BAILIFF: State your name for the record and spell
9 your last name please.

10 THE WITNESS: George Steve McCain. M-C-C-A-I-N.

11 DIRECT EXAMINATION

12 BY SOLICITOR FINNEY:

13 Q Good morning, sir.

14 A Morning.

15 Q Mr. McCain, tell the ladies and gentlemen of the jury a
16 little bit about you.

17 Did, did you grow up in Sumter?

18 A Yes, I'm George McCain. Grew up in Sumter. Went to
19 school some in Charlotte, North Carolina. Graduated
20 Hillcrest, 1977. Been a businessman in Sumter ever since
21 selling cars and whatnot.

22 Q So---

23 A Mechanical work.

24 Q All right, sir. And when you say selling cars, that --
25 you -- do you---

George McCain - Direct examination
By Solicitor Finney

- 1 A Buy---
- 2 Q ---buy cars?
- 3 A Buy them, fix them up, sell them, repair. I run a
- 4 repair garage here about maybe 20 years.
- 5 Q All right. And do you still do that kind of work now?
- 6 A Basically I'm semi-retired. I'm mostly on the road.
- 7 Q All right. Did you have a chance to start a business
- 8 in the summer of 2018 called Auto Doctors?
- 9 A Yes, sir.
- 10 Q All right. And was that business in Sumter?
- 11 A In Sumter.
- 12 Q All right.
- 13 A South Pike Road.
- 14 Q All right. What I'm gonna do is show you a picture
- 15 that has been marked State's Exhibit No. 2 for
- 16 identification.
- 17 Do you know what's -- what, what that picture shows?
- 18 A Yes, it's -- that's my sign.
- 19 Q All right. You, you, you opened that business?
- 20 A I opened that business.
- 21 Q Tell the ladies and gentlemen where the business was
- 22 located.
- 23 A It was located on South Pike across from McLaughlin
- 24 Ford down the street from DMV.
- 25 Q And when did you open the business?

George McCain - Direct examination
By Solicitor Finney

1 A Three years ago.

2 Q All right, sir.

3 A Yeah.

4 SOLICITOR FINNEY: Your Honor, we offer this -- State's
5 Exhibit 2 into evidence.

6 MR. BUTCHER: No objection, Your Honor.

7 THE COURT: All right.

8 Q And---

9 MRS. BUTCHER: Oh, I'm sorry.

10 THE COURT: Exhibit 2's admitted.

11 (WHEREUPON, State's Exhibit No. 2 was received into
12 evidence at this time.)

13 Q And what was the purpose of your opening this business
14 on Pike Road?

15 A To repair cars, make money.

16 Q All right. And how long had you been running this
17 business on August the 11th, 2018?

18 A Less than 30 days if I can recollect.

19 Q All right. And did you buy the property or you lease
20 it?

21 A Leased the property.

22 Q All right. And did you have anybody helping you down
23 there at the Auto Doctors Shop?

24 A Yes, my daughter was there. Another dude, Sebastian
25 Johnson, and I think that was basically it at the time.

George McCain - Direct examination
By Solicitor Finney

- 1 Q All right.
- 2 A Uh-huh. (Affirmative).
- 3 Q Did you have occasion to meet a fellow by the name of
- 4 Demetrius Brown?
- 5 A Yes.
- 6 Q Do you see---
- 7 A A friend of mine---
- 8 Q ---him in the courtroom?
- 9 A Yes, a friend of mine for a year.
- 10 Q All right. So you've know him about a year?
- 11 A About a year.
- 12 Q All right. And what was the nature of y'all's
- 13 business?
- 14 A We was gonna become, become business partner. He---
- 15 Q I'm sorry.
- 16 A ---was gonna---
- 17 Q Say that again.
- 18 A We was going to become business partners. He was
- 19 gonna---
- 20 Q I see.
- 21 A ---invest in the business and he -- he's there, you
- 22 know, off and on and kind of help me find like a -- stuff to
- 23 fix up and stuff.
- 24 Q All right.
- 25 A Uh-huh. (Affirmative).

George McCain - Direct examination
By Solicitor Finney

- 1 Q And you're talking about cars---
- 2 A Yeah.
- 3 Q ---to fix up?
- 4 A Cars, yeah.
- 5 Q All right. Did you have occasion to work on his cars
- 6 --
- 7 A Yes, I---
- 8 Q -- Mr. Brown's car?
- 9 A ---had one of his car I would say about six months
- 10 prior that I was working on.
- 11 Q Okay.
- 12 A And on that day he was down there kind of working on it
- 13 himself.
- 14 Q On August the 11th --
- 15 A August 11th.
- 16 Q -- he was at your Auto Doctors Shop?
- 17 A Yeah.
- 18 Q All right. And let me show you what is also been
- 19 marked as State's Exhibit No. 3.
- 20 Do you recognize what's in State's Exhibit No. 3?
- 21 A Yeah.
- 22 Q All right. Tell us what you see in that picture.
- 23 A I see my blue Ford truck and I see the, the Chrysler
- 24 300 that, that drove up that day.
- 25 Q All right. Do you---

George McCain - Direct examination
By Solicitor Finney

1 A A gray one.

2 Q Can you tell the ladies and gentlemen of the jury how
3 many bays, bays you have on that building you were using?

4 A I had three.

5 Q Three bays?

6 A Uh-huh. (Affirmative).

7 Q All right. And those bays are shown in this picture?

8 A Uh-huh. (Affirmative).

9 Q All right. So, this is a picture of the shop that you
10 operated?

11 A Yes, that's it.

12 SOLICITOR FINNEY: All right. I move this into
13 evidence, Your Honor, No. 3.

14 MRS. BUTCHER: No objection.

15 THE COURT: No. 3 is admitted.

16 SOLICITOR FINNEY: Thank you.

17 (WHEREUPON, State's Exhibit No. 3 was received into
18 evidence at this time.)

19 Q Then I want to show you State's Exhibit No. 10.

20 Does that --

21 A Uh-huh. (Affirmative).

22 Q -- look familiar to you?

23 A Yes, it do.

24 Q All right, sir.

25 A The car with the blue sign behind it belonging to

George McCain - Direct examination
By Solicitor Finney

1 Demetrius Brown.

2 Q The---

3 A That's the one he was working that day. That's the
4 battery charger he was putting on the battery --

5 Q All right.

6 A -- cause the car wouldn't start.

7 Q All right.

8 A This is the blue truck next to it that's in bay number
9 one---

10 Q Uh-huh. (Affirmative).

11 A ---that I was doing the fuel pump at the time.

12 Q All right. And do you also see a silver car in the
13 front of that picture?

14 A Yes, I see the three---

15 Q Okay.

16 A The 300.

17 Q All right. Is that the way your shop looked the day
18 that---

19 A Identical.

20 Q ---Demetrius Brown was down there?

21 A Identical, yeah.

22 Q All right.

23 A That's it.

24 SOLICITOR FINNEY: Your Honor, No. 3 -- excuse me. No.
25 10, move to put it into evidence.

George McCain - Direct examination
By Solicitor Finney

1 MRS. BUTCHER: No objection.

2 SOLICITOR FINNEY: All right.

3 THE COURT: Okay. Ten is admitted.

4 (WHEREUPON, State's Exhibit No. 10 was received into
5 evidence at this time.)

6 Q All right. So you said there's a blue car with the
7 back window up --

8 A Uh-huh. (Affirmative).
9 with the battery---

10 Q -- with the battery charger on it?

11 A Yeah.

12 Q And whose car was that?

13 A Demetrius.

14 Q And he was at the shop that day working on that car?

15 A Right.

16 Q All right. And you were working on the Ford pickup
17 truck that's in bay number one?

18 A Right.

19 Q And you were putting a fuel pump on it?

20 A Yeah, dropping the gas tank.

21 Q All right. And how were you doing that work?
22 were you---

23 A Under the car.

24 Q You were under the Ford truck --

25 A Yeah.

George McCain - Direct examination
By Solicitor Finney

1 Q -- doing the work?

2 A Yeah.

3 Q All right. Tell us what happened after you got to
4 working on the truck that day that brought us here to court
5 to, today.

6 A Well, Demetrius pull up after I got the truck there and
7 everything, after I tow it in, and we talk for a while and
8 like we normally does and he start working on his car. And
9 he was saying that he expecting a business partner to come
10 up and talk to us about contracting some work.

11 So, an hour or so went by. The business person hadn't
12 got there yet. So, I asked him. He said well, he still
13 coming. So I said well, I'm gonna get started on this
14 truck.

15 So, I got up under there and I started working on it,
16 and -- for a while, and after while, looking from under the
17 truck, I see a gray car pull up, probably about an hour,
18 hour and a half later after Demetric (phonetic) got there,
19 and I said maybe that's the guy that come talk to D. I call
20 him D. and---

21 Q You called Mr. Brown D.?

22 A Yeah, D. Yeah.

23 Q D. Brown?

24 A Yeah.

25 Q You call him D.?

George McCain - Direct examination
By Solicitor Finney

1 A Yeah. So, anyway, I saw a foot got out the car. I
2 didn't pay no attention cause, you know, I was over there
3 with my jip (phonetic) gun or whatever making a little noise
4 and I didn't hear any noise or anything for about maybe five
5 minutes or so I would guess.

6 And then, all of a sudden, I heard something went bam
7 like pop. I don't know -- and my daughter was inside the
8 shop, the first bin, office next door to the first bin, and
9 she said D., you okay. I said he probably -- the battery
10 blew up on him.

11 MRS. BUTCHER: Objection, Your Honor. Hearsay.

12 Q Don't say what your daughter said.

13 A Okay.

14 Q You, you tell us what you---

15 A I heard---

16 Q ---what you heard.

17 A ---something went pop. Yeah, after---

18 Q Heard something go pop.

19 A Yeah, at the time I thought it was a battery explosion.
20 So --.

21 Q You thought it was a battery exploding?

22 A Yeah. Yeah, and, and I went on working. So then I
23 heard a second pop. That's when I got out and went into the
24 shop and put my daughter into the office.

25 Okay.

George McCain - Direct examination
By Solicitor Finney

1 Q why did you put your daughter in the office?

2 A Cause I, I, I know then that it was gunshot.

3 Q All right.

4 A who fired, I don't know but I know it was gunshot. I
5 just couldn't see it. I got up and went in the office --

6 Q All right.

7 A -- you know, for my protection and hers and that's when
8 I got on the phone and called 9-1-1---

9 Q All right.

10 A ---and said some shooting going on out here.

11 Q All right.

12 A Okay.

13 Q Now you made the 9-1-1 call --

14 A Yes, sir.

15 Q -- to the, the dispatch center?

16 A Yes, sir.

17 Q All right. I'm getting ready to play that. I want you
18 to listen carefully cause I'm gonna have some more questions
19 for you.

20 A Okay.

21 SOLICITOR FINNEY: Your Honor, at this time we'd like
22 to introduce the 9-1-1 call made on August the 11th by
23 Mr. McCain.

24 MRS. BUTCHER: No objection, Your Honor.

25 THE COURT: And that's exhibit --?

George McCain - Direct examination
By Solicitor Finney

1 SOLICITOR FINNEY: Twenty-four.

2 THE COURT: Okay.

3 (WHEREUPON, State's Exhibit No. 24 was received into
4 evidence at this time and State's Exhibit No. 24 was played
5 for the jury at this time.)

6 Q Mr. McCain, after the police arrived, did you have
7 occasion to speak with them about the shooting and what you
8 had just seen?

9 A Yes, sir.

10 Q Take your time. Take your time.

11 A Yes, I spoke with her. I didn't see a lot. I just --
12 I heard more than I saw.

13 Q When the, when the police arrived, you were still --
14 were you -- were -- how did you feel when the police
15 arrived?

16 A I feel upset and I, I, I just felt upset. You know
17 what I'm saying? I didn't know what was going on.

18 Q You'd never been through anything like this before?

19 A No, sir, not like that.

20 Q Before you got on the phone and called the 9-1-1
21 operator, did you hear any arguing between anybody out in
22 the yard?

23 A No, I was making noise in the truck and I really
24 didn't, didn't hear anything. I thought everything was
25 okay.

George McCain - Direct examination
By Solicitor Finney

1 Q And D. Brown never spoke to you before you made the
2 9-1-1 call to tell you that he was in any kind of trouble or
3 anything bad was going on?

4 A No, sir.

5 Q All right. I want you to look at the video. I hope we
6 can get your screen on.

7 MRS. BUTCHER: Your Honor, I would object. One, it's
8 cumulative. Two, contains speculation.

9 THE COURT: Do you want to respond?

10 SOLICITOR FINNEY: Your Honor, this is, this is a video
11 of Mr. McCain speaking---

12 MRS. BUTCHER: Your Honor, would you want to do a side
13 bar?

14 THE COURT: This the same video that I heard arguments
15 on yesterday. I'm gonna allow the video.

16 Q Mr. McCain, can you see your screen right there?

17 Is it on?

18 All right. Would you watch the screen?

19 I want to ask you some questions about this.

20 MRS. BUTCHER: Would you identify the exhibit number
21 please?

22 SOLICITOR FINNEY: Excuse me. Twenty-five.

23 MRS. BUTCHER: Thank you.

24 SOLICITOR FINNEY: State's 25, Your Honor.

25 (WHEREUPON, State's Exhibit No. 25 was received into

George McCain - Direct examination
By Solicitor Finney

1 evidence at this time and a portion of State's Exhibit No.
2 25 was played for the jury at this time.)

3 Q Mr. McCain, what were you showing the officer on the
4 phone -- on your phone?

5 A A -- the Facebook page of my friend, Demetric
6 (phonetic).

7 Q Okay. So, on your phone, you have a picture of
8 Demetrius Brown?

9 A Well, every face will usually have pictures on it.

10 Q Okay.

11 A Yeah.

12 Q And so you were showing the officer that?

13 A Yes, cause I, I didn't -- I didn't know who the other
14 guy was at the time. I, I just learned who he was later. I
15 didn't---

16 Q You talking about the guy---

17 A Yeah, I didn't know---

18 Q ---the guy that got shot?

19 A Yeah, I didn't -- I heard of him and I know of him, had
20 friends, friends of him but---

21 Q All right.

22 A ---I didn't know --.

23 Q All right. So let's go back now.

24 At the time when you showed the police officers the
25 phone, you had D. Brown's phone number in your phone?

George McCain - Direct examination
By Solicitor Finney

- 1 A Yes, sir.
- 2 Q And you had been talking to him on that phone --
- 3 A Yeah.
- 4 Q -- for some time?
- 5 A Yeah, for about year --
- 6 Q All right.
- 7 A -- we had each other number.
- 8 Q You gave that information to the police officers?
- 9 A The phone number they didn't ask me for I don't think
- 10 at that time.
- 11 Q Well, I'm saying the information---
- 12 A Yeah.
- 13 Q ---about his size, what kind of car he was driving.
- 14 A Yes.
- 15 Q All right. The black Ford Expedition that you
- 16 described is the vehicle that D. Brown drove to your shop
- 17 that day in?
- 18 A Yeah.
- 19 Q And it's the vehicle that he left in?
- 20 A Yeah.
- 21 Q All right. After the shots rang out, and you saw D.
- 22 Brown do the shooting, did D. Brown talk to you at all
- 23 before he got in the Ford and left?
- 24 A Not before, no.
- 25 Q All right. Did he tell you at anytime that he had had

George McCain - Direct examination
By Solicitor Finney

- 1 any trouble with the guy that had gotten shot?
- 2 A After?
- 3 Q No.
- 4 At the time---
- 5 A At the time, no.
- 6 Q He shot the guy --
- 7 A Uh-huh. (Affirmative).
- 8 Q -- and got in the Ford truck and left?
- 9 A Be -- before he got in the Ford truck and left he never
- 10 tell me anything.
- 11 Q All right.
- 12 A No.
- 13 Q And you didn't hear anything?
- 14 A No.
- 15 Q All right. When the guy left in the -- when D. Brown
- 16 left in the Ford truck, did you go out to see the man that
- 17 was laying on the ground?
- 18 A Yes, when I went and I just mailed (phonetic) it. So,
- 19 by the time I come out from the shop -- my daughter-in-law
- 20 out -- already out there with them trying to do something
- 21 with them. Then the police pull up and they said get back
- 22 in the shop.
- 23 Q All right.
- 24 A So I went in the shop. Stand back, that's what we did.
- 25 Q I want you to tell the ladies and gentlemen of the

George McCain - Direct examination
By Solicitor Finney

1 jury, based on looking at State's Exhibit No. 3, which is in
2 evidence, and State's Exhibit No. 10, these are just
3 different photographs we've talked about this morning, you
4 see the silver car is a Chrysler 300?

5 A Yeah.

6 Q Is that correct?

7 A Yeah, that's right.

8 Q Do you know whose car that was?

9 A I learned after it was the deceased car.

10 Q Okay. And do you know if he drove, the deceased, do
11 you know if he drove it there?

12 You don't know?

13 A Now that I don't know.

14 Q Do you know Mr. Lonnie Pack, the deceased?

15 A Do I know him?

16 Q Yes, sir.

17 Have you ever met him?

18 A They say that he been to my shop a couple of times.

19 Q Hold on.

20 A They say---

21 Q I want---

22 A I don't---

23 Q I want you to tell me---

24 A No.

25 Q ---if you remember ever---

George McCain - Direct examination
By Solicitor Finney

- 1 A No.
- 2 Q ---meeting him?
- 3 A No, I don't remember meeting him.
- 4 Q Okay. And you didn't know him to say I, I know who
- 5 that is?
- 6 A No.
- 7 Q All right.
- 8 A I didn't know him like that. But, you know, I got a
- 9 feeling for anybody that's him and I didn't know him like
- 10 that.
- 11 Q All right.
- 12 MRS. BUTCHER: Objection to the hearsay, Your Honor.
- 13 THE COURT: That's sustained.
- 14 Don't tell us what anybody else told you.
- 15 Q Okay. When Mr. D. Brown had his black truck on your
- 16 yard, can you tell the ladies and gentlemen of the jury
- 17 where it was in relationship to the silver car?
- 18 A It had to been over next the third bay over here
- 19 somewhere. I don't see it now but it should---
- 20 Q where---
- 21 A ---it should of know it---
- 22 Q These pictures---
- 23 A I see it.
- 24 Okay. Now it, it should---
- 25 Q ---taken by the police.

George McCain - Direct examination
By Solicitor Finney

- 1 A It should of been over here. Well, it been gone.
- 2 Q That's---
- 3 A Over here.
- 4 Q That's what I'm saying.
- 5 A Yeah.
- 6 Q At the time that you saw---
- 7 A It was facing towards South Pike at the third bin.
- 8 Q Would it have been in front of the silver car, the
- 9 Chrysler?
- 10 A Almost. He -- I -- he probably couldn't past it. Not
- 11 here. He probably went here. Well, that's yours. He
- 12 probably would of been here somewhere.
- 13 Q Okay.
- 14 A He, he right in front of---
- 15 Q Let me ask you---
- 16 A ---where his, his car at.
- 17 Q Let me ask you to---
- 18 A Yeah.
- 19 Q ---just stand up.
- 20 A Okay. Stood up.
- 21 (WHEREUPON, the witness stands up.)
- 22 Q And so the jury can see --
- 23 A It was like---
- 24 Q -- was the black truck behind---
- 25 A Right here.

George McCain - Direct examination
By Solicitor Finney

- 1 Q Right in that area there?
- 2 A Right here.
- 3 Q Right here?
- 4 A Yes.
- 5 Q Was it on the dirt or the concrete?
- 6 A Probably about around -- like he couldn't get past this
- 7 car.
- 8 Q All right. He couldn't get -- so --.
- 9 A No. No.
- 10 Q When the -- and the, the black car that Mr. Brown was
- 11 driving was already at your shop?
- 12 A Already at my shop.
- 13 Q And the silver car---
- 14 A Pulled up.
- 15 Q ---pulled up?
- 16 A Like an hour, hour and a half later.
- 17 Q Okay. And how long had the silver car been there when
- 18 you heard the first pop?
- 19 A Less than five minutes.
- 20 Q All right. Have a seat, sir.
- 21 A (WHEREUPON, the witness sits down.)
- 22 Q Now, after the police got there you gave them the
- 23 description of Mr. Brown, you had to stay around and get
- 24 things settled at the shop?
- 25 A Right.

George McCain - Direct examination
By Solicitor Finney

- 1 Q Did you have occasion to go down to the police station
2 later on that day, about 5:30 that day, 5:30 in the
3 afternoon, and give a written statement to the police?
4 A Yes, I did.
5 Q All right.
6 A I did.
7 Q And have you had a chance to see that statement?
8 Let, let me show it to you.
9 Can you identify --
10 A Yeah.
11 Q -- that document?
12 A Yeah, I write this statement.
13 Q You wrote it with your own handwriting?
14 A My own handwriting.
15 MRS. BUTCHER: Your Honor?
16 Yeah, we need to see exactly what he's handing. He's
17 suppose to have a copy for us as well.
18 SOLICITOR FINNEY: I provided that months ago.
19 MRS. BUTCHER: Your Honor?
20 THE COURT: Just tell us---
21 MR. BUTCHER: Your Honor, can we approach?
22 THE COURT: Mr. Finney, if you'll just tell us what
23 exhibit that is.
24 It's already been marked?
25 SOLICITOR FINNEY: No, ma'am, it hasn't been marked.

George McCain - Direct examination
By Solicitor Finney

1 THE COURT: Okay.

2 SOLICITOR FINNEY: Just have him identify it.

3 THE COURT: Okay.

4 MR. BUTCHER: And, Your Honor, would you mind pausing
5 while I go find a copy of the document in my records --

6 THE COURT: Sure.

7 MR. BUTCHER: -- so we can refer to it?

8 MRS. BUTCHER: Your Honor, may we approach?

9 THE COURT: Sure.

10 (WHEREUPON, a bench conference was held out of the
11 hearing of the jury at this time.)

12 Q Mr. McCain, so you went down to the police station and
13 you talked to the officers down there?

14 A Yes, sir.

15 Q They asked you to write a statement?

16 A Yes, they did.

17 Q And you've seen the, the paper I just handed you?

18 A Yeah.

19 Q That's your statement?

20 A That's my statement.

21 Q And that was given to the police the same day?

22 A Yes.

23 Q And signed by you?

24 A Yes.

25 Q All right. After that, did you go home?

George McCain - Direct examination
By Solicitor Finney

- 1 A Yes.
- 2 Q All right. Now, your daughter, did you see her in the
3 video?
- 4 A Yes.
- 5 Q What's her name?
- 6 A Quashana.
- 7 Q Quashana.
- 8 She worked with you that day---
- 9 A Yeah.
- 10 Q ---at the shop?
- 11 A Yeah.
- 12 Q And she -- did you sit -- you said on the video -- the
13 9-1-1 operator. I'm sorry. Not the video.
- 14 A Uh-huh. (Affirmative).
- 15 Q The 9-1-1 operator told you to get a towel and apply
16 pressure to Mr. Pack?
- 17 A Yes.
- 18 Q Did you tell Shana to do that?
- 19 A Yes, I hollered at Shana to get a towel right away and
20 try to, you know, apply pressure to it and she---
- 21 Q To your knowledge, did she do that?
- 22 A She do that.
- 23 Q All right.
- 24 A Because she's on medication, you know, cause she's got
25 iliac and she just -- she went on it for about a week or two

George McCain - Direct examination
By Solicitor Finney

1 after that.

2 Q I'm gonna show you another photograph. Ask you if you
3 can look at it and see what's in the photograph.

4 A My truck. The deceased car.

5 Q All right. Do you see anything on the ground by the
6 deceased car?

7 A Like a towel at the shop or a rag at the shop --

8 Q Okay.

9 A -- or a shop rag or whatever.

10 Q All right.

11 THE COURT: And which exhibit are you --?

12 SOLICITOR FINNEY: State's No. 4, Your Honor. Move to
13 exhibit -- move to introduce State's No. 4.

14 MRS. BUTCHER: No objection.

15 (WHEREUPON, State's Exhibit No. 4 was received into
16 evidence at this time.)

17 Q All right. Is, is that towel or what, what did you
18 call it, a shop cloth?

19 A It's a, it's a rag. I know it might of, might of
20 rag---

21 Q Is it in the location of where the body was?

22 A Let's see. I'm over here. This right over in here.
23 Yeah, I think it was.

24 Q All right.

25 A I think it was.

George McCain - Direct examination
By Solicitor Finney

1 Q And how long did it take, after you made the 9-1-1
2 call, for the officers to get there?

3 Just give me an estimate. I know you didn't -- you
4 weren't looking at your watch.

5 A Between four and five minutes. It was that long.

6 Q All right. And after the officers arrived, did the
7 ambulance arrive also?

8 A Yes. Well, about the same time.

9 Q About the same time?

10 A Right about the same time.

11 SOLICITOR FINNEY: Beg the Court's indulgence one
12 moment. Let me check.

13 (Pause.)

14 Q When the silver car pulled up, I believe you testified
15 earlier today that you was working underneath the Ford?

16 A That's right.

17 Q You say you saw a foot step out?

18 A Yeah, that's about it.

19 Q Did you see anybody else associated with the car?

20 In other words, was it just one person in the car at
21 the time?

22 A That I don't know.

23 Q You don't know?

24 A I never got out from under the car to see when, when
25 anybody got out the car. I just saw a foot got out---

George McCain - Direct examination
By Solicitor Finney

1 Q All right.

2 A ---and I just figured, you know, he was going to talk
3 to --

4 Q When you saw D. Brown---

5 A -- talk business.

6 Q ---in the video, you said you saw him shoot the gun?

7 A Yeah.

8 Q Was there anybody else standing around at that time
9 that you remember seeing?

10 A No, I could hear a lot of like foots like running or
11 motion or whatever. I hear a lot of noise.

12 Q All right.

13 A Like somebody -- like people running away or something,
14 you know.

15 Q In the video, you told the officer that was talking to
16 you and asking you the questions that you said to D. Brown
17 don't shoot?

18 A Yeah.

19 MRS. BUTCHER: Ob---

20 A I did say that.

21 MRS. BUTCHER: ---jection as to leading, Your Honor.

22 THE COURT: I'm gonna allow that question.

23 MRS. BUTCHER: Okay.

24 Q What -- how far were you from D. Brown when you told
25 him that?

George McCain - Direct examination
By Solicitor Finney

1 A You see where I told you he was standing at the -- by
2 the second shop door behind the --?

3 Q Behind the---

4 A Behind that car.

5 Q ---battery charger?

6 A Yeah. And I was, I was inside the, inside the garage,
7 the first, first bin.

8 Q I show you State's Exhibit 19.

9 A Trying to stay out, trying to stay out the line of
10 fire. I was up in here.

11 Q Show the jury.

12 A The truck I was working on is here and I was up in here
13 peeping out trying to avoid a bullet, and I think D. was
14 probably along in here somewhere maybe right down in here
15 maybe.

16 Q When you, when you saw D. Brown with the gun---

17 A Yeah.

18 Q ---was he close to his car?

19 A To who car?

20 Q To his car. The black Ford.

21 A Yeah, I think he was in front of it I think.

22 Q All right.

23 A Around somewhere out there.

24 Q But he was close to the car?

25 A He was close---

George McCain - Direct examination
By Solicitor Finney

1 Q To the black Ford.

2 A ---close, close to the front of it, yeah.

3 Q All right. And at the time when you said don't shoot,
4 did he recognize you, say anything to --?

5 A I don't think so cause they been another, they been
6 another fire went off.

7 Q All right.

8 A Yeah.

9 Q Once he fired the gun a couple more times, I believe
10 you said two more times --

11 A Uh-huh. (Affirmative).

12 Q -- he got in the Ford and drove off?

13 A Yeah. Yeah.

14 Q Mr. McCain, thank you. They're gonna have some
15 questions for you.

16 A Uh-huh. (Affirmative).

17 Q Answer their questions please.

18 CROSS-EXAMINATION

19 BY MRS. BUTCHER:

20 Q Hi, Mr. McCain.

21 A Morning.

22 Q How are you?

23 A How you doing?

24 Q Now, let me ask you this first.

25 You actually saw three people that got out of that

George McCain - Cross-examination
By Mrs. Butcher

1 Chrysler, correct?

2 A No, I did not. I only saw one set of foots got out was
3 on the ground but I didn't see three people.

4 Q Isn't it true that, when you gave a statement to law
5 enforcement, you said you saw three hoodlums pull up in
6 there, I was still under the car, can't see much, I see
7 legs?

8 A You have my statement that I give to law enforcement.
9 I didn't say three people.

10 THE COURT: If you're gonna ask him about the
11 statement, go give him a copy of it.

12 Q This was on -- when you went down to the police
13 station.

14 A Well, that's the statement I give them in the police
15 station. I didn't say I see three people on it.

16 THE COURT: Again, if you're gonna ask---

17 A It's three---

18 THE COURT: ---him about the statement, give him a copy
19 of it.

20 MRS. BUTCHER: Your Honor, this is not in reference in
21 his statement---

22 MR. BUTCHER: Can we approach, Your Honor?

23 MRS. BUTCHER: ---written statement. This is his
24 interview at the police station.

25 THE COURT: Do y'all need to come up?

George McCain - Cross-examination
By Mrs. Butcher

1 MR. BUTCHER: Yes.

2 (WHEREUPON, a bench conference was held out of the
3 hearing of the jury at this time.)

4 THE COURT: Okay. Ladies and gentlemen, we're gonna
5 take a short break while we get our technology set up. So,
6 I'm gonna go ahead and dismiss y'all so you can stretch your
7 legs so you don't have to sit here while we're getting the
8 technology figured out.

9 Please don't begin discussing the case and we'll be
10 with you shortly. If you'd like to go ahead and select a
11 foreperson, you can do that.

12 (WHEREUPON, a short recess was taken at this time and
13 the following takes place within the presence of the jury.)

14 THE BAILIFF: The jurors are all seated, Your Honor.

15 THE COURT: Okay.

16 CONTINUED CROSS-EXAMINATION

17 BY MRS. BUTCHER:

18 Q Mr. McCain, do you recall in your video interview at
19 the police station telling law enforcement that you saw
20 three hoodlums pull up in there. I was still under the car.
21 Can't see much. I see legs.

22 A I can't recall. I don't usually use that word hoodlum.
23 I can't recall saying that.

24 Q And wouldn't you -- would you agree with me that your
25 recollection at the time -- back at the time of the incident

George McCain - Cross-examination
By Mrs. Butcher

1 would be better than today?

2 A It would be better, yes. But I never make a statement
3 about three hoodlums.

4 MRS. BUTCHER: Your Honor, I'd like to play that
5 portion of the interview if I may.

6 THE COURT: And have we marked this?

7 MRS. BUTCHER: We have not.

8 MR. BUTCHER: Defendant's 1.

9 MRS. BUTCHER: Defendant's -- this will be Defendant's
10 1.

11 THE COURT: Okay. Any objection, Mr. Finney?

12 SOLICITOR FINNEY: No, Your Honor.

13 (WHEREUPON, the video was marked as Defendant's Exhibit
14 No. 1 for identification purposes only at this time.)

15 THE COURT: Go right ahead.

16 (WHEREUPON, a portion of the audio was played for the
17 jury at this time.)

18 Q Were you able to hear that?

19 A No.

20 Q Do you need it played again?

21 A It say something about three hoodlums. I didn't hear
22 that. I want to hear it again.

23 Q Okay.

24 A I don't remember saying no three hoodlum.

25 (WHEREUPON, the portion of the audio was played for the

George McCain - Cross-examination
By Mrs. Butcher

1 jury at this time.)

2 A He say a Chrysler 300 came up. I didn't say nothing
3 about hoodlums.

4 Q What was that that you said again?

5 A He asked me did a Chrysler 300 came up and I say I see
6 legs. Not hoodlums.

7 Q Okay.

8 A And I did see the legs. Two legs got out of the car.
9 That's all I saw.

10 Q Okay.

11 A Maybe someone else was there that saw more, more but
12 that's all I saw.

13 Q Okay. And the person that was shot, Lonnie Pack --

14 A Uh-huh. (Affirmative).

15 Q -- you didn't know him?

16 A No.

17 Q Okay. He didn't come to talk to you that day, did he?

18 A No, ma'am, he did not.

19 Q Okay. He didn't work there?

20 A No.

21 Q Wasn't a customer of yours?

22 A No.

23 Q Okay. Now, when the first pop went out --

24 A Uh-huh. (Affirmative).

25 Q -- first shot --

George McCain - Cross-examination
By Mrs. Butcher

- 1 A Uh-huh. (Affirmative).
- 2 Q -- you were under the truck, correct?
- 3 A Correct.
- 4 Q Okay. And, at that time, do you recall -- wasn't there
- 5 a gas tank that was cut -- you were trying to---
- 6 A Yeah, I was doing the gas tank.
- 7 Q Okay. And a strap had come loose?
- 8 A Well, I had it loose and gas was coming out.
- 9 Q Okay. Gas was coming out?
- 10 A Uh-huh. (Affirmative).
- 11 Q Okay. And you were trying to get it back up?
- 12 A Well, I was trying to catch it cause I really was
- 13 trying to get it down to put a fuel pump in it.
- 14 Q Okay.
- 15 A I was trying to catch the gas.
- 16 Q Now, you, you weren't sure if you heard arguing or not,
- 17 isn't that correct?
- 18 A I was sure I didn't hear anything cause, like I say, I
- 19 was making noise under the truck myself. With the impact to
- 20 loosen the bolts and stuff, I didn't hear any arguing.
- 21 Q Okay.
- 22 A I didn't hear anything.
- 23 Q Now -- and do you think that's because you just
- 24 couldn't hear or there was no arguing?
- 25 A Probably cause I couldn't hear.

George McCain - Cross-examination
By Mrs. Butcher

1 Q Okay. And at one point didn't you question whether or
2 not you heard D. say don't come here with that, excuse me,
3 shit?

4 A Ma'am, maybe. Maybe. Maybe.

5 Q Okay. And you also said that D. said don't come over
6 here starting this?

7 A Maybe.

8 Q Okay. And now, when you say maybe, are you saying
9 maybe you said that or maybe they were arguing?

10 A I don't know. Maybe they were arguing. I, I couldn't,
11 I couldn't hear it. I wasn't listening for argument. I
12 wasn't expecting an argument.

13 Q Okay.

14 A You know, it just been a spontaneous thing. I, I
15 didn't hear argument.

16 Q Okay.

17 A I heard the gun pop.

18 Q And do you recall in your interview you said that D.
19 said don't come here -- over here starting this?

20 A Don't recall that. I don't recall that.

21 MRS. BUTCHER: Okay. Your Honor---

22 A You can check it but I don't recall it after three
23 years. I don't.

24 (WHEREUPON, a portion of the audio was played for the
25 jury at this time.)

George McCain - Cross-examination
By Mrs. Butcher

1 MR. BUTCHER: Hold on. I apologize.

2 (WHEREUPON, a portion of the audio was played for the
3 jury at this time.)

4 MR. BUTCHER: I apologize.

5 Do you need me to redo it?

6 MRS. BUTCHER: If you want. That's fine.

7 A That's me.

8 Q Okay.

9 A And I just didn't remember it but that's what I said.

10 Q Okay. And, and it -- it's, it's hard. I understand.
11 It's been a long time since---

12 A Uh-huh. (Affirmative).

13 Q Years ago.

14 Now, right afterwards, Mayfield left in a customer's
15 car, correct?

16 A Uh-huh. (Affirmative).

17 Q Okay. And when we heard on the 9-1-1 tape you
18 saying---

19 A Come back.

20 Q ---come back, you were talking to Mayfield?

21 A Mayfield, yeah, come back. You can't leave now.

22 Q Okay. You weren't talking to D. Brown?

23 A No, cause he -- no, not D. cause Mayfield was standing
24 out there.

25 Q Okay.

George McCain - Cross-examination
By Mrs. Butcher

- 1 A He see way more than I did.
- 2 Q Okay. And so -- but Mayfield left right after?
- 3 A Yes.
- 4 Q Okay. Now, Mr. Brown, when he did leave, did he loiter
- 5 for a minute before he left?
- 6 A A little.
- 7 Q Okay.
- 8 A Yeah.
- 9 Q And he -- did he drive off at a fast speed or just pull
- 10 out?
- 11 A No, he just take off. Just left. Normal.
- 12 Q Normal?
- 13 A Uh-huh. (Affirmative).
- 14 Q Okay. Now, did your son tell you anything about Lonnie
- 15 Pack's reputation?
- 16 A He---
- 17 SOLICITOR FINNEY: Objection.
- 18 THE COURT: That's sustained.
- 19 Q Okay. And you only heard three shots, correct?
- 20 No more?
- 21 A Yeah, I'm thinking -- yeah, two or three shots.
- 22 Something like that.
- 23 Q Okay. And you were under the truck---
- 24 A The first---
- 25 Q ---for both those shots?

George McCain - Cross-examination
By Mrs. Butcher

1 A The first shot I was under the truck. When I heard,
2 when I heard a second one, that's when I went in to the
3 shop. That's when I realized it wasn't -- it was a gunshot.
4 That when I ran to the, to the garage.

5 Q Okay. But you still didn't see who shot a gun on that
6 second shot---

7 A No, no.

8 Q ---or anything?

9 A I didn't see who fired on the first one nor the second
10 one.

11 Q Or any of them?

12 Is that correct?

13 A Yeah, I saw it on one of them.

14 Q You did?

15 A On the last one, I went in the shop and look out. Yes,
16 I saw the last shot.

17 Q Okay. And -- but you didn't see anything that
18 transpired before that?

19 A No.

20 Q So you don't know who shot the first shot?

21 A No, I heard the first shot but I didn't see it.

22 Q Okay. So, you don't know if Mr. Brown acted in
23 self-defense?

24 A I don't know. I wasn't -- I couldn't see him. I was
25 under the car.

George McCain - Cross-examination
By Mrs. Butcher

1 Q Okay.

2 A He could have. I don't know.

3 MRS. BUTCHER: Okay. Court's indulgence.

4 THE COURT: Yes, ma'am.

5 (Pause.)

6 MRS. BUTCHER: Court's indulgence.

7 THE COURT: Uh-huh. (Affirmative).

8 (Pause.)

9 MRS. BUTCHER: Your Honor, at this time I'd like to
10 move Defendant's 1 and 2 into evidence. Those would be the
11 video clips we played.

12 THE COURT: And I understand that was---

13 SOLICITOR FINNEY: No objection.

14 THE COURT: ---without objection?

15 Number 1 is entered -- is admitted.

16 (WHEREUPON, the video clips were marked as Defendant's
17 Exhibit No. 2. Defendant's Exhibit Nos. 1 and 2 were
18 received into evidence at this time.)

19 Q Now, let me ask you this. You told law enforcement --
20 this was in the interview. They were aware that there could
21 of been arguing between the two, that D. said don't come up
22 to me with this, or don't come over here starting this,
23 correct?

24 You informed law enforcement?

25 This was your law enforcement video, correct, that we

George McCain - Cross-examination
By Mrs. Butcher

1 just played a moment ago?

2 A And I informed that, that what?

3 Repeat that again.

4 Q All right. You did -- when you were speaking to law
5 enforcement --

6 A Uh-huh. (Affirmative).

7 Q -- they -- you did let them know that you possibly
8 could of heard D. say to Lonnie don't come over here with
9 that?

10 A I think I did. I heard on the video, yeah.

11 Q Okay.

12 A That's what I heard on the video.

13 Q So they were aware of that?

14 A Yeah.

15 Q Okay.

16 A What's on the video is what I say. I can't deny that
17 but I just don't remember all that. You know, it's been,
18 it's been a while.

19 Q Okay. Now, one other thing.

20 when that Chrysler that Lonnie was driving pulled up,
21 pulled up to the front of where D.'s truck was parked --

22 A Uh-huh. (Affirmative).

23 Q -- blocked them in?

24 SOLICITOR FINNEY: Objection.

25 THE COURT: I mean you can certainly ask him.

George McCain - Cross-examination
By Mrs. Butcher

1 MRS. BUTCHER: Yeah.

2 A Where he pulled at for D. to get out, he would of have
3 to back up this kind of maneuver to get out. I know that.
4 He couldn't just go past it cause it was almost like in the
5 driveway --

6 Q Uh-huh. (Affirmative).

7 A -- kind of like holding him in. So, he would have to
8 back up to get out.

9 Q Okay.

10 A He couldn't just pull forward and get out.

11 Q Okay.

12 A Yeah.

13 Q And wasn't a car parked behind Mr. Brown's car---

14 A I'm pretty sure.

15 Q ---at that time?

16 A I'm pretty sure it was. It was pretty crowded up there
17 during that time.

18 Q Okay.

19 A I, I think it was.

20 MRS. BUTCHER: Your Honor, I'm gonna hand this to the
21 court reporter for one and two.

22 (Pause.)

23 Q Mr. McCain, thank you very much for being here.

24 A Yes, ma'am.

25 Q I appreciate it.

George McCain - Redirect examination
By Solicitor Finney

1 A Okay.

2 REDIRECT EXAMINATION

3 BY SOLICITOR FINNEY:

4 Q Mr. McCain, just a few questions please, sir.

5 A Okay.

6 Q I also appreciate you coming. I'm gonna show you a
7 map.

8 MR. BUTCHER: Your Honor, I -- would it -- okay. Go,
9 go ahead. Yeah, I'm sorry. Go ahead.

10 Q Can you look at this and identify this area on a map?

11 A Yeah, I get together and then kind of -- you want me to
12 identify where my shop is at?

13 Q I just want to---

14 A Yeah, it's the---

15 Q ---let you look at it.

16 A It's, it's the area where my shop was.

17 Q All right. Very good.

18 A Yeah, uh-huh. (Affirmative).

19 SOLICITOR FINNEY: This has been marked, Your Honor,
20 State's Exhibit No. 1. The witness says he knows it. I'd
21 like to put it in evidence.

22 THE COURT: Any objection?

23 MRS. BUTCHER: No, no objection, Your Honor.

24 THE COURT: Sure.

25 (WHEREUPON, State's Exhibit No. 1 was received into

George McCain - Redirect examination
By Solicitor Finney

- 1 evidence at this time.)
- 2 Q Stand up, Mr. McCain, please, sir.
- 3 A (WHEREUPON, the witness complies.)
- 4 Q Tell the ladies and gentlemen of the jury what we're
- 5 looking at in State's Exhibit No. 1.
- 6 A (Indiscernible).
- 7 Q where -- what are you looking at?
- 8 A I'm looking at where my shop is looking---
- 9 Q All right.
- 10 A My shop. This thing ain't so easy to read. It's got
- 11 to be in this area cause my shop right here.
- 12 Q Okay. That's your shop right there?
- 13 A Yeah.
- 14 Q This is an aerial view?
- 15 A Yeah.
- 16 Q where's McLaughlin Ford?
- 17 A It had to be this way.
- 18 Q All right. Do you see it on the map?
- 19 A I guess all these cars are over there.
- 20 Q All right. You think that's McLaughlin Ford?
- 21 A Yeah.
- 22 Q It -- what is this on the corner here?
- 23 A That right there would be the---
- 24 MRS. BUTCHER: Your Honor, I would object.
- 25 A ---El Cheapo Store.

George McCain - Redirect examination
By Solicitor Finney

- 1 MRS. BUTCHER: I'm not sure this is proper redirect.
- 2 A The, the El Cheapo.
- 3 THE COURT: I'm gonna allow it.
- 4 MRS. BUTCHER: Okay.
- 5 A That would be the store.
- 6 Q What store?
- 7 A El Cheapo.
- 8 Q What do they do at the El Cheapo?
- 9 A They sell gas---
- 10 Q Gasoline?
- 11 A ---and cigarettes and et cetera.
- 12 Q And so that's on the corner.
- 13 What street is this?
- 14 A That's on the corner of South---
- 15 Q What road is this?
- 16 A South Pike and North Main.
- 17 Q All right. Put your finger on North Main.
- 18 A North Main's here.
- 19 MRS. BUTCHER: Your, Your Honor?
- 20 THE COURT: I understand. I'm gonna allow it.
- 21 MRS. BUTCHER: Okay. That's fine.
- 22 A North Main's here.
- 23 Q And where is Pike?
- 24 A Pike is here.
- 25 Q All right. And where's your shop?

George McCain - Redirect examination
By Solicitor Finney

- 1 A My shop would be here.
- 2 Q All right. Very good.
- 3 A Uh-huh. (Affirmative).
- 4 Q Now, to get into your shop, is there -- is the -- the
- 5 main driveway, is it on here?
- 6 A This is it.
- 7 Q Okay.
- 8 A Only one way to get into it.
- 9 Q All right. Now, thank you, sir. I, I just wanted to
- 10 make sure you identified that for the ladies and gentlemen.
- 11 A Okay.
- 12 Q So let me go back to the questions that were being
- 13 asked of you.
- 14 After you made the 9-1-1 call, and after you responded
- 15 to the officer's questions when he pulled up and asked you
- 16 who did this and what were they driving and you did all that
- 17 on the video --
- 18 A Uh-huh. (Affirmative).
- 19 Q -- later on you went down to the police station with
- 20 your daughter.
- 21 A Yes.
- 22 Q You sat in an interview room.
- 23 Is that correct?
- 24 A Yeah, that's correct.
- 25 Q And we just saw a little clip of that.

George McCain - Redirect examination
By Solicitor Finney

1 A Yeah, that's correct.

2 Q How long were you in that interview room with that
3 officer?

4 A Roughly about an hour.

5 Q Okay.

6 MRS. BUTCHER: Your Honor, I would object. One, to the
7 leading, and, two, it's improper redirect.

8 THE COURT: I -- well, you asked him about the
9 statement that he gave at the police station. So---

10 MRS. BUTCHER: This---

11 THE COURT: ---I'm gonna let him follow-up with that.

12 MRS. BUTCHER: Okay.

13 Q And, during that hour, you were answering questions to
14 the best of your ability and the officers were trying to get
15 as much information as---

16 A Correct.

17 THE COURT: And that is leading.

18 SOLICITOR FINNEY: Okay. I'm sorry.

19 Q Tell the ladies and gentlemen of the jury what you were
20 doing during that hour.

21 A You mean in the, in the---

22 Q Yes.

23 A ---police department?

24 Q Yes, sir.

25 A I was being like interrogated trying to or just trying

George McCain - Redirect examination
By Solicitor Finney

1 to find out off -- I had to identify Demetric (phonetic) on
2 the, you know, on the, on the profile, whatever they got
3 down there --

4 Q Right.

5 A -- and talk about what happened and what I know.

6 Q Did you ever tell the officers that there were three
7 people in the car?

8 A No, I never tell them that.

9 Q All right. Did you ever call them hoodlums?

10 A I don't use that word.

11 Q All right.

12 A I never use that.

13 Q You said it was a 300?

14 A It was a 300. That's what I said. She probably just
15 was saying---

16 Q And what were you referring to?

17 A I was referring to the car.

18 Q All right. After you stayed in that room and talked
19 with the officers, you and your daughter, did they ask you
20 to write a written statement?

21 A They did and I did.

22 Q And did you write a written statement?

23 A Yes, I did.

24 Q All right.

25 MRS. BUTCHER: Your Honor, may we approach?

George McCain - Redirect examination
By Solicitor Finney

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time.)

3 Q Mr. McCain, I, I asked you earlier, is that the
4 statement that you gave -- that you wrote in your own
5 handwriting to the police that day?

6 A Okay. I signed to it. That's the statement.

7 Q And you signed it?

8 A Yeah.

9 Q That's the statement?

10 A That's the statement.

11 Q Is there anything in that statement about you hearing
12 D. say anything like don't start -- don't come here with
13 that?

14 A No.

15 Q Let me ask you this.

16 A No, I didn't, I didn't state that.

17 Q When, when you heard that video just now that they
18 played, and you told the officer you can't remember, but
19 you -- maybe -- you kept saying maybe.

20 A Maybe.

21 Q Were you talking about the fellow that got shot saying
22 something or you were talking about D. Brown saying
23 something?

24 A I know it wasn't the fellow that -- nah, maybe the
25 fellow got shot I'm, I'm thinking.

George McCain - Redirect examination
By Solicitor Finney

1 Q You thinking it's the fellow that got shot --

2 A I thought I heard---

3 Q -- when -- you heard that?

4 A When, when I made that statement, I thought I heard
5 someone said don't shoot no more. That what I thought I
6 heard.

7 Q Okay.

8 A Yeah.

9 Q And that's what you were trying to---

10 A Yeah, that what I was trying to get the officer. I was
11 upset, man. I, I just -- you know, there's a child I call
12 on the ground could of been my son and it just -- I just
13 really upset.

14 Q I understand.

15 A You know, you know, I, I love my friends---

16 Q I understand.

17 A ---and, you know, I just -- I -- but it's been a child
18 and I was upset.

19 Q All right. That's fine. We talked about a fellow
20 named Mayfield but I don't think we ever identified for the
21 jury who Mayfield was.

22 A Yeah.

23 Q So tell the jury who was Mayfield.

24 A Mayfield was a, a young man that worked for me. He
25 actually live at my shop but I guess he flew the scene,

George McCain - Redirect examination
By Solicitor Finney

1 never show back up. He was out there during the time. He
2 would of been the one that need to be up here instead of me
3 cause he saw it all.

4 Q All right. After you called 9-1-1, we heard you say to
5 Mayfield come back, come back.

6 A Yeah, he try to flee the scene and --.

7 Q Did he ever come back?

8 A No, when I got to police for interrogation, they
9 already had him. I don't know how that happened.

10 Q Okay. But did -- didn't you give the police Mayfield's
11 number?

12 A I think I did but they had him when I got there.

13 Q Okay.

14 A Yeah.

15 Q So what I'm saying is the police found Mayfield and
16 they interviewed him as well?

17 A Yes, they did.

18 Q All right. Was, was he at the police station when you
19 got to the police station?

20 A He was there when I got there---

21 MRS. BUTCHER: Your Honor, I---

22 A ---and he was there when I left.

23 MRS. BUTCHER: I would object to going outside the
24 scope of redirect.

25 THE COURT: My recollection was that you had asked him

George McCain - Redirect examination
By Solicitor Finney

1 about Mayfield.

2 MRS. BUTCHER: I -- that he'd worked there, that he
3 knew him.

4 THE COURT: So, I, I think this is fair redirect.

5 Q Mr. McCain, thank you for coming. That's all the
6 questions I have.

7 A Thank you.

8 THE COURT: Hang on just a minute.

9 Anything---

10 MRS. BUTCHER: Yes, Your Honor.

11 THE COURT: ---else you want to ask him on recross?

12 MRS. BUTCHER: Yes, Your Honor.

13 THE BAILIFF: Sir? Sir?

14 THE COURT: I'm sorry, Mr. McCain. Almost done.

15 THE WITNESS: Okay.

16 RE CROSS EXAMINATION

17 BY MRS. BUTCHER:

18 Q Mr. McCain?

19 A Yes, ma'am.

20 Q You were interviewed for quite a while at the police
21 station, correct?

22 A Correct.

23 Q Your entire interview was not written on that little
24 piece of paper, was it?

25 A Let's see -- ma'am?

George McCain - Recross examination
By Mrs. Butcher

1 Q You didn't write everything that you spoke about on
2 that sheet of paper, did you, your written statement?

3 A Probably not.

4 Q Okay. Much more was contained in your verbal
5 interview, correct?

6 A Correct.

7 Q Okay. Now, I wanted to make one thing clear.

8 When you spoke of hearing someone say don't come over
9 here starting this, that's what you heard D. say or you
10 thought you heard D. say, correct?

11 A I, I can't remember. I can't remember that, that
12 statement. I just can't.

13 Q Okay.

14 A I can remember someone saying don't shoot anymore. I
15 know that. I can remember that good. But if I said that on
16 the video, and then I said it.

17 Q Okay. well---

18 A But right now I can't recollect.

19 Q Okay. And we can play that for you again.

20 A Okay. Play it again.

21 Q But that was what you heard on the video that we played
22 earlier that you said that D. said?

23 A Okay. well, if I did---

24 Q You thought that.

25 A If I said that on the video --

George McCain - Recross examination
By Mrs. Butcher

1 Q Right.

2 A -- and I mean everybody see that, I said it. I can't
3 deny it.

4 Q Okay. Thank you.

5 A Okay. We done?

6 THE COURT: Yes, sir. You can step down. Thank you.

7 SOLICITOR FINNEY: A.J. Bradley would be the next
8 witness.

9 THE COURT: Is somebody getting him?

10 SOLICITOR FINNEY: Yes, sir. Yes, ma'am. Come up here
11 and put your hand on the Bible please.

12 THE BAILIFF: Take your hands out of your pocket.
13 Raise your right-hand.

14 Okay. State your name.

15 THE WITNESS: Anfernee Bradley.

16 ANFERNEE BRADLEY, being first
17 duly sworn, testified as follows:

18 THE BAILIFF: Thank you much. Walk around. Step on
19 around. Pull your mask. State your name for the record and
20 spell your last name please. Come up -- go to the mic.

21 THE WITNESS: Oh, Anfernee Bradley. B-R-A-D-L-E-Y.

22 THE COURT: Mr. Bradley, let me ask you to just go
23 ahead and take that off so it doesn't keep riding up and so
24 the jury can hear you. Thank you.

25 DIRECT EXAMINATION

Anfernee Bradley - Direct examination
By Solicitor Finney

1 BY SOLICITOR FINNEY:

2 Q Good morning, sir.

3 A Good morning.

4 Q You know why you're here today, right?

5 A Yes, sir.

6 Q All right. You are Mr. A.J. -- we call you A.J.

7 Is that all right if I call you -- Mr. Bradley?

8 A Yes, sir.

9 Q All right. You live in Sumter?

10 A Yes, sir.

11 Q All right. How long have you lived there?

12 A All my life.

13 Q All right. And how old are you if you don't mind me
14 asking?

15 A Twenty-five.

16 Q All right. Are you working here in town?

17 A No, I work out of town.

18 Q where do you work?

19 A Manning.

20 Q In Manning.

21 what kind of work do you do?

22 A I build bricks.

23 Q Build bricks?

24 A Yeah.

25 Q How long you been doing that?

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 A About two months.
- 2 Q All right. You were a friend of Lonnie Pack's?
- 3 A Yes, sir.
- 4 Q How long had you known Lonnie Pack?
- 5 A About four, five years by now.
- 6 Q All right.
- 7 THE COURT: Mr. Bradley, I need you to speak up, sir,
8 so -- I need you to talk a little louder or either get
9 closer to the microphone or both.
- 10 THE WITNESS: Yes, ma'am.
- 11 Q Pull your chair up just a little bit.
- 12 All right. What kind of things did you -- did Mr. Pack
13 use to do?
- 14 A Use to go to the club. All kind of stuff.
- 15 Q All right. Socialize?
- 16 A Yes, sir.
- 17 Q Did you ever work with Lonnie?
- 18 A Yes, sir.
- 19 Q What kind of work?
- 20 A Well, he had his little lawn care service.
- 21 Q Okay. How long do you think you did lawn care service
22 with him?
- 23 A About a week.
- 24 Q Okay.
- 25 A It was too hot.

Anfernee Bradley - Direct examination
By Solicitor Finney

1 Q It was too hot.

2 Was that the summer that he got killed that you were
3 doing the work?

4 A Yes. Yes, sir.

5 Q All right. Saturday, August the 11th, was the day
6 that Lonnie got killed, and we've heard some testimony this
7 morning about what happened at the time, but I want to go
8 back a few hours.

9 Did you have a appointment to get with Lonnie that
10 morning when you woke up Saturday morning?

11 Did you know, when you woke up Saturday, August the
12 11th, that you were gonna see Lonnie Pack that day?

13 A No, not that morning.

14 Q All right. Tell us what happened that you-all got
15 together.

16 A Oh, I wake up. He at my door talking about come ride
17 with him. So, I get, get dressed.

18 Q Did he call you or came by the house?

19 A Came by the house.

20 Q All right. And when he came by, you weren't expecting
21 him?

22 A No, sir.

23 Q All right. And so he said come ride with him.

24 Is that unusual?

25 Is that something that he had done before?

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 A Yes, sir.
- 2 Q All right. So you got up and went with him?
- 3 A Yes, sir.
- 4 Q All right. What kind of car was he driving?
- 5 A A Chrysler 300.
- 6 Q All right. Let me show you a picture with what's been
7 marked State's Exhibit No. 10 and No. 4. Got two
8 photographs.
- 9 Do you see Lonnie's car in those pictures?
- 10 A Yes, sir.
- 11 Q All right. What color was the car?
- 12 A Gray.
- 13 Q All right. Silver gray?
- 14 A Yes, sir.
- 15 Q All right. And do you recognize the building in the
16 background on State's Exhibit No. 4 and No. 10?
- 17 A Yes, sir.
- 18 Q All right. Have you ever been to that place before?
- 19 A No, sir.
- 20 Q Were you at that place the day that Lonnie got killed?
- 21 A Yes, sir.
- 22 Q All right. And was that the first time you had been
23 there?
- 24 A Yes, sir.
- 25 Q All right. Now, when you got in the car with Lonnie

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 that day, was there anybody else in the car?
- 2 A Yes, sir.
- 3 Q Do you know the fellow's name?
- 4 A Yes, sir.
- 5 Q What is it?
- 6 A D.V.
- 7 Q D.V.?
- 8 A Yes, sir.
- 9 Q That's his nickname.
- 10 Do you know his real name?
- 11 A Not really.
- 12 Q Okay. So, this other fellow that was in the car with
- 13 Lonnie, you don't know him that well?
- 14 A No, sir.
- 15 Q All right. So, Lonnie, was he driving the car?
- 16 A Yes, sir.
- 17 Q And for as -- that day, that Saturday with, with
- 18 you-all in the car, was he driving the car at all times,
- 19 Lonnie?
- 20 A Yes, sir.
- 21 Q All right. So, Lonnie was driving.
- 22 where were you sitting?
- 23 A In the backseat.
- 24 Q All right. And the D.V. fellow was up in the front
- 25 seat?

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 A Yes, sir.
- 2 Q All right. Tell me and the ladies and gentlemen of the
3 jury what you-all did from the time he picked you up at your
4 house until the time you got to the shop where these
5 pictures were taken.
- 6 what did y'all do that Saturday morning?
- 7 A Oh, when he had picked me up, we had went to
8 Bishopville.
- 9 Q All right. Can you remember about what time you got in
10 the car?
- 11 A Probably about nine, ten o'clock.
- 12 Q Okay. Went to Bishopville.
- 13 what did you do when you were over there?
- 14 A Oh, he went to go holler at his peoples about some
15 equipment for his little job thing---
- 16 Q All right.
- 17 A ---or his little business.
- 18 Q When you say he, who you talking about?
- 19 A Oh, Lonnie.
- 20 Q All right. So Lonnie drove you to Bishopville to see
21 some people about some equipment?
- 22 A Yes, sir.
- 23 Q How long did y'all stay in Bishopville?
- 24 A Probably about an hour. I ain't too sure.
- 25 Q Okay. Did you go more than one place while you were in

Anfernee Bradley - Direct examination
By Solicitor Finney

1 Bishopville?

2 A I think we had stop and get something to eat.

3 Q All right. And then after leaving Bishopville, did you
4 come back to Sumter?

5 A Yes, sir.

6 Q All right. Do you remember what the first stop was
7 when you got back to Sumter?

8 A The gas station.

9 Q Which gas station?

10 A The El Cheapo.

11 Q Okay. And can you tell us, the ladies and gentlemen,
12 where is the El Cheapo?

13 A Like up the road from the little car shop.

14 Q Okay. Now, I'm gonna show you what's been marked as
15 State's Exhibit No. 1. It's a map.

16 Can you look at this map -- I don't know if you've ever
17 seen it before but can you look on that map and see the El
18 Cheapo?

19 A Yeah, right there.

20 Q Stand up and point to it please, sir.

21 A (WHEREUPON, the witness complies.)

22 Q That's it right there?

23 A Yeah.

24 Q And do you know where Bishopville is?

25 As far as this map is concerned where Bishopville would

Anfernee Bradley - Direct examination
By Solicitor Finney

1 be?

2 A Back that way back there.

3 Q Up this way?

4 A Yeah.

5 Q All right. So when you came in from Bishopville in
6 Lonnie's car, the first place you-all stopped was the El
7 Cheapo?

8 A Yes, sir.

9 Q All right. When you got to the El Cheapo, what did you
10 do?

11 A I think I went in the store. I ain't too sure.

12 Q All right. And when you finish shopping, did you get
13 back in the car?

14 A Oh yeah.

15 Q All right. And Lonnie was still driving?

16 A Yeah.

17 Q D.V. was still in the front seat?

18 A Yeah.

19 Q All right. You were in the backseat?

20 A Yes, sir.

21 Q All right. When you left the El Cheapo, do you
22 remember which way you went?

23 Show the ladies and gentlemen of the jury which way the
24 car went when you left the El Cheapo.

25 A We were going down that way right there.

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 Q Do you know what this road is called right here?
- 2 A Pike.
- 3 Pike, isn't it?
- 4 Q So you turned on Pike?
- 5 A Uh-huh. (Affirmative).
- 6 Q Which way did you turn?
- 7 A To the right.
- 8 Q Turned right on Pike and went down Pike Road.
- 9 Tell the ladies and gentlemen what happened next.
- 10 A We had pulled up to the car shop.
- 11 Q To the car shop?
- 12 A Yeah.
- 13 Q Why did you go to the car shop?
- 14 A Oh, Lonnie had want to holler at some dude. He had
- 15 want to talk to him about something.
- 16 Q All right. At the time that you got to -- do you
- 17 know -- do you see the car shop on here?
- 18 A It should be right there, ain't it?
- 19 Somewhere right there.
- 20 Q Point to it. Put your finger on it.
- 21 A About right there.
- 22 Q Right there?
- 23 A Yeah.
- 24 Q When you got to the car shop, how long did it take to
- 25 go from the El Cheapo to the car shop?

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 A Not even a minute.
- 2 Q All right. And when you got to the car shop, you say
- 3 Lonnie wanted to holler at somebody?
- 4 A Yes, sir.
- 5 Q Okay. And he pulled up to the car shop?
- 6 A Uh-huh. (Affirmative).
- 7 Q What happened then?
- 8 A We got out the car and --.
- 9 Q You got out?
- 10 A Yes, sir.
- 11 Q D.V. got out?
- 12 A Yes, sir.
- 13 Q And Lonnie got out?
- 14 A Yes, sir.
- 15 Q All right.
- 16 MR. BUTCHER: Objection. Leading, Your Honor.
- 17 THE COURT: That's sustained.
- 18 Q And what did you do when you got out of the car?
- 19 A Oh, I been standing at the back of the car and Lonnie
- 20 been -- he been on the phone. I guess they was just talking
- 21 or whatnot.
- 22 Q Do you know who he was talking to?
- 23 A On the phone?
- 24 Q Yes.
- 25 A Hu huh. (Negative).

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 Q All right. And what did you see?
2 what -- what kind of -- what was Lonnie doing talking
3 on the phone?
4 was he, was he hollering?
5 was he talking quiet?
6 what, what did -- tell us what you heard.
7 A well, nah, he been calm. Like I ain't really too much
8 hear the conversation but like he was calm cause he
9 didn't---
10 Q All right.
11 A I would of heard the conversation if he been like
12 angry.
13 Q All right. And you say you were standing at the back
14 of the car?
15 A Yes, sir.
16 Q Which car?
17 The silver car or another car?
18 A It was another car.
19 Q What, what did the car look like?
20 If you could describe it?
21 A Like a dark colored truck.
22 Q Okay. And what were you doing?
23 A Just standing there.
24 Q All right. And so tell the ladies and gentlemen what
25 happened after you got out of the silver car and Lonnie was

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 on the phone?
- 2 Did he stop talking on the phone?
- 3 A Oh, yeah, like after he hang up the phone, he put the
4 phone down and I guess him and -- I ain't know the dude
5 really like name at the time. I guess they been talking.
- 6 Q All right.
- 7 A And that when, you feel me, I heard, I heard Lonnie
8 like been yelling cause he pushed the door and I look and
9 now I start running when I heard gunshots.
- 10 Q Let's talk about time.
- 11 From the time you got out of the car --
- 12 A Uh-huh. (Affirmative).
- 13 Q -- and you took a few steps out of the car, you saw
14 Lonnie on the phone?
- 15 A Yes, sir.
- 16 Q Was he on the phone long?
- 17 A No, sir, probably about a minute or so if that.
- 18 Q All right. And then after he got off the phone --
- 19 A Uh-huh. (Affirmative).
- 20 Q -- he was doing what?
- 21 A Talking to the dude in the truck.
- 22 Q Do you see the dude in the truck today in Court?
- 23 A Yes, sir.
- 24 Q So point him out please.
- 25 A He's sitting right there.

Anfernee Bradley - Direct examination
By Solicitor Finney

1 Q All right. Does he have on two -- what color shirt
2 does he have on?

3 A I really can't even see his shirt.

4 Q Okay. Stand up please, sir.

5 A (WHEREUPON, the defendant complies.)

6 Q What color shirt?

7 A Oh yellow.

8 Q Okay. And have you ever seen that fellow before?

9 A No, sir.

10 Q His, his name is Demetrius Brown and---

11 MR. BUTCHER: Objection, Your Honor.

12 THE COURT: What's the objection?

13 MR. BUTCHER: I, I mean he's testifying now. I, I, you
14 know, he answered the question. He doesn't need to testify.

15 THE COURT: I, I mean I'm gonna allow that. He's
16 already, he's already pointed him out in the courtroom.

17 Thank you.

18 Q You saw Mr. Brown there talking to Lonnie?

19 A Yes, sir.

20 Q How long did the talking last before you saw Lonnie
21 push the door?

22 A Probably like a minute, two minutes.

23 Q Okay. And during this time, Lonnie was trying to talk
24 to Mr. Brown and where was Mr. Brown?

25 Was, was he in the truck, on the ground?

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 What --?
- 2 A Oh, he been sitting like in his truck.
- 3 Q Sitting in his truck.
- 4 When you saw Lonnie push the door, what happened next?
- 5 A I heard gunshots. That when I ran.
- 6 Q Okay. When you heard the gunshots, could you see
- 7 Lonnie?
- 8 A No.
- 9 Q Why not?
- 10 A Cause I been running.
- 11 Q Okay. Could you see who had the gun?
- 12 A At first, yeah.
- 13 Q Who had the gun?
- 14 A Mr. Brown.
- 15 Q Mr. Brown?
- 16 A Yeah.
- 17 Q Do you know where he got the gun from?
- 18 A I guess out the truck. He been sitting in his---
- 19 Q He was still in the truck?
- 20 A Yeah, he was still in the truck.
- 21 Q All right. So he got the gun---
- 22 MR. BUTCHER: Objection. Speculation.
- 23 SOLICITOR FINNEY: Well, let me ask the question.
- 24 THE COURT: Sure.
- 25 Q Did you see Mr. Brown with the gun?

Anfernee Bradley - Direct examination
By Solicitor Finney

1 A Oh, yes, sir.

2 Q Do you know where Mr. Brown got the -- do you know
3 where he got the gun from, and, and -- what I'm asking is,
4 if you saw me go over here to the computer---

5 A Uh-huh. (Affirmative).

6 Q ---pick up a gun, you would know where I got the gun
7 from.

8 A Yes, sir.

9 Q Did you see Mr. Brown pick up the gun?

10 A Yes, sir.

11 Q where would -- where did he get the gun from?

12 A The truck.

13 MR. BUTCHER: Objection, Your Honor, leading. I --.

14 THE COURT: I'm, I'm gonna allow the question.

15 Q where did he get the gun from?

16 A The truck.

17 Q All right. when he -- when you saw the gun, did you
18 see him point the gun at Lonnie?

19 A No, sir.

20 Q All right. when you saw the gun, what did you do?

21 A Run.

22 Q All right. I want to show you what's been marked as
23 State's Exhibit 5 and ask if you can identify the area that
24 you see in this picture.

25 Can you identify that?

Anfernee Bradley - Direct examination
By Solicitor Finney

1 A Yeah.

2 Q All right. What is that?

3 A That like the back of the shop or the side of the shop.
4 One of them.

5 Q All right. And what do you see -- what vehicle is that
6 right there?

7 A That Lonnie car.

8 Q Lonnie's car.

9 That's the back of it in this picture?

10 A Yes, sir.

11 SOLICITOR FINNEY: This is State's Exhibit 5. We move
12 it into evidence, Your Honor.

13 THE COURT: I don't have it into evidence.

14 SOLICITOR FINNEY: I'm, I'm asking for it to be
15 moved---

16 THE COURT: Okay.

17 SOLICITOR FINNEY: ---into evidence.

18 MR. BUTCHER: Oh, no objection.

19 THE COURT: Okay. It's admitted.

20 (WHEREUPON, State's Exhibit No. 5 was received into
21 evidence at this time.)

22 Q What do you see in the background here on the left side
23 of the photograph?

24 A 18-wheeler trailer and woods.

25 Q Say it a little bit louder.

Anfernee Bradley - Direct examination
By Solicitor Finney

1 A 18-wheeler trailers and woods.

2 Q All right. When you, when you saw Lonnie push the door
3 of Mr. Brown's truck, where were you standing as far as this
4 picture is concerned?

5 . Were you behind Lonnie's car or behind the black truck?

6 A I'm in like in front of Lonnie car cause I---

7 Q You're in front of Lonnie's car?

8 A Uh-huh. (Affirmative).

9 Q All right. And would you be facing the -- would, would
10 you have been facing the, the woods and the trailers at that
11 time in front of Lonnie's car?

12 A At what time?

13 MR. BUTCHER: Objection. Leading.

14 THE COURT: That's sustained.

15 Q When you were standing in front of Lonnie's car, which
16 way were you facing?

17 A Oh, facing towards his car.

18 Q Towards his car?

19 A Yeah.

20 Q All right. And then you say you saw Lonnie push the
21 door on the black truck?

22 A Uh-huh. (Affirmative).

23 Q Was, was that behind you or in front of you?

24 A In front of me.

25 Q Okay. When you saw Mr. Brown get the gun, you started

Anfernee Bradley - Direct examination
By Solicitor Finney

1 running?

2 A Yes, sir.

3 Q Can you show us on this map, State's Exhibit No. 1, the
4 route you took?

5 where were you standing -- put your finger on -- let me
6 put it over here.

7 SOLICITOR FINNEY: Judge, you want to see this?

8 Do I need to put it somewheres else?

9 THE COURT: You're fine.

10 A I been standing like right here and I ran---

11 Q Standing right there?

12 A ---ran right here, yeah.

13 Q And you -- when you heard the shot, you took off
14 running which way?

15 A Toward the woods.

16 Q Towards the woods and what'd you do when you get to the
17 woods?

18 A Kept running.

19 Q All right. And how far did you run?

20 A Till I meet somebody house.

21 Q All right. And how -- do you -- what, what area of
22 town did you run to?

23 A To be honest, I ain't even know what side of town that
24 was.

25 Q All right. Did you -- and you kept running?

Anfernee Bradley - Direct examination
By Solicitor Finney

1 You just kept running till you got to somebody's house?

2 A Yeah.

3 Q All right. Did you later leave the house and, and go
4 to find out what happened to Lonnie?

5 A Yeah.

6 Q How long ago -- how---

7 MR. BUTCHER: Objection, Your Honor, to the leading.

8 THE COURT: That's sustained.

9 SOLICITOR FINNEY: I'm sorry.

10 what happened after you left the house that you went
11 to?

12 A Oh, I had went to my people's house and that -- when we
13 found out like Lonnie been dead, like he had got shot.

14 Q what did you do then?

15 when you found out, when you found out that Lonnie had
16 been shot, where were you at?

17 A Oh, at my people's house.

18 Q Friend's house?

19 A Yeah, my friend's house.

20 Q All right. And did you do anything?

21 A No, sir.

22 Q All right. The other guy, we -- you call him D.V. --

23 A Uh-huh. (Affirmative).

24 Q -- did D.V. run as well as you?

25 A Yes, sir.

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 Q Were y'all running together?
- 2 A Yes, sir.
- 3 Q Through the same---
- 4 A Yes, sir.
- 5 Q ---parking lot and into the woods?
- 6 A Yes, sir.
- 7 Q All right. How many shots did you hear?
- 8 A A couple.
- 9 Q More than one?
- 10 A Yes, sir.
- 11 Q All right. And at the time -- was it -- I showed you a
- 12 picture, State's Exhibit No. 5.
- 13 Was it a bright day?
- 14 I mean it was a clear day?
- 15 There wasn't any rain or clouds or fog or whatever?
- 16 A No, sir.
- 17 MR. BUTCHER: Objection to leading, Your Honor.
- 18 THE COURT: That's sustained.
- 19 SOLICITOR FINNEY: I apologize.
- 20 What time of day was it that you believe you got to the
- 21 parking area where this picture was taken, State's Exhibit
- 22 No. 5?
- 23 What time was it?
- 24 A Probably about two o'clock.
- 25 Q All right. In, in the afternoon?

Anfernee Bradley - Direct examination
By Solicitor Finney

1 A Yes, sir.

2 Q All right. You don't know what happened after the
3 shots?

4 You weren't there?

5 A No, sir.

6 Q All right. Before you heard the shots, did you hear
7 Lonnie arguing with Mr. Brown about anything?

8 A No, sir.

9 Q Before you got to the shop that day in Lonnie's car,
10 did you and Lonnie talk about anything -- about hurting
11 anybody, fighting anybody?

12 MR. BUTCHER: Objection. Leading, Your Honor.

13 THE COURT: That's sustained.

14 Q Did you and Lonnie have a conversation in the car that
15 day?

16 A Yes, sir.

17 Q What did y'all talk about?

18 A Probably about going to the club later that day.

19 Q Okay. About going social -- doing, doing social stuff?

20 A Yes, sir.

21 Q Did you and Lonnie -- did Lonnie ever tell you that
22 he -- anything about needing your help to do something?

23 A No, sir.

24 Q All right. Did Lonnie ever ask you to, to go over to
25 the shop to do anything particular that day?

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 A No, sir.
- 2 Q All right. Had you-all discussed going to the shop any
3 time earlier that day when you were in Bishopville or
4 anything like that?
- 5 A No, sir.
- 6 Q At anytime that day did you see Lonnie Pack with a gun?
- 7 A No, sir.
- 8 Q All right. Now, when you left the car, got out cause
9 Lonnie was gonna go see a fellow, you had been riding where
10 in the car?
- 11 A The backseat.
- 12 Q All right. Did you have any personal items with you in
13 the backseat?
- 14 A Yes, sir.
- 15 Q what did you have?
- 16 A My phone. I think just my phone.
- 17 Q Your phone?
- 18 A Yes, sir.
- 19 Q what kind of phone?
- 20 Give a little description of it.
- 21 A An iPhone.
- 22 Q All right. And anything else?
- 23 A No, sir.
- 24 Q I want to show you some color photographs and ask if
25 you can identify them.

Anfernee Bradley - Direct examination
By Solicitor Finney

1 State's Exhibit No. 21, can you identify that---

2 A Yes, sir.

3 Q ---photograph?

4 what is that?

5 A Oh, my ID and my phone.

6 Q All right. And where is the ID and the phone?

7 A In the backseat.

8 Q Of what?

9 A Lonnie's car.

10 SOLICITOR FINNEY: All right. Move 21 into evidence,
11 Your Honor.

12 MR. BUTCHER: No objection.

13 (WHEREUPON, State's Exhibit No. 21 was received into
14 evidence at this time.)

15 Q This is State's 22.

16 Do you know what that is?

17 A Yes, sir.

18 Q What is that?

19 A My license.

20 Q Is that the same ID you were talking about in State's
21 Exhibit 21?

22 A Yes, sir.

23 SOLICITOR FINNEY: Move 22 into evidence.

24 MR. BUTCHER: No objection but did -- does redaction
25 need to occur, Your Honor?

Anfernee Bradley - Direct examination
By Solicitor Finney

1 THE COURT: Probably just need to redact his date of
2 birth and maybe his driver's license number. We'll do that
3 before it goes back to the jury.

4 SOLICITOR FINNEY: Very good.

5 (WHEREUPON, State's Exhibit No. 22 was received into
6 evidence at this time.)

7 Q So, when you got out of the car, that, at the shop, you
8 got out leaving your phone and your ID?

9 A Yes, sir.

10 Q All right. And you never got back in the car?

11 A No, sir.

12 Q And you never got the phone and the ID until after
13 you -- how, how did you get the phone and the ID back?

14 A Oh, when y'all had called me down there. Well, I guess
15 the police officers called me down here.

16 Q All right. And did you get the phone and the ID back?

17 A Yeah, eventually.

18 Q Okay.

19 A Yes, sir.

20 Q All right. Did you have occasion to speak with the
21 officers at the Sumter Sheriff's Department about what had
22 happened that day?

23 A Yes, sir.

24 Q And when you spoke to them, did you tell them what
25 you're telling the ladies and gentlemen today?

Anfernee Bradley - Direct examination
By Solicitor Finney

1 A Yes, sir.

2 Q Is there any doubt in your mind that the man you
3 identified as -- in the yellow shirt is the man who had the
4 gun that day when, when Lonnie Pack was talking to him?

5 A Yes, sir.

6 Q Is there any doubt that you heard the gun fire more
7 than one time?

8 A No, sir.

9 Q No doubt?

10 A No doubt.

11 Q Were you looking at Mr. Brown when he fired the gun?

12 A No, sir.

13 Q All right. You had already started running?

14 A Yes, sir.

15 Q And why did you run?

16 A I saw a gun.

17 Q And how did that make you feel?

18 A Scared.

19 Q A few days later on August the 14th, 2018, did you
20 give a statement, a written statement, to law enforcement?

21 A Yes, sir.

22 Q And did you write that statement in your own
23 handwriting?

24 A Yes, sir.

25 Q Can you identify this exhibit I'm putting in front of

Anfernee Bradley - Direct examination
By Solicitor Finney

- 1 you?
- 2 A Yes, sir.
- 3 Q Is that the statement?
- 4 A Yes, sir.
- 5 Q Is that your signature on the statement?
- 6 A Yes, sir.
- 7 Q August the 14th?
- 8 A Yes, sir.
- 9 Q 2018?
- 10 what color did you say the gun was?
- 11 A Black.
- 12 Q And did you say that, at the time when you gave your
- 13 statement, that Lonnie had asked D. to get out of the truck?
- 14 A Uh-huh. (Affirmative).
- 15 Yes, sir.
- 16 Q All right. And did D. get out of the truck?
- 17 A No, sir.
- 18 Q That's when D. pulled the gun?
- 19 A Yes, sir.
- 20 Q And did -- did you tell the officers we started
- 21 running?
- 22 A Yes, sir.
- 23 Q And did you tell the officers, when you were running,
- 24 you heard more shots?
- 25 A Yes, sir.

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 Q Thank you, sir. That's all the questions I have.
2 Answer any questions the defense may have.

3 MR. BUTCHER: May it please the Court, Your Honor?

4 THE COURT: Uh-huh. (Affirmative).

5 CROSS-EXAMINATION

6 BY MR. BUTCHER:

7 Q Mr. Bradley, my name is Robert Butcher. I'm the
8 attorney for Mr. Brown.

9 First thing, were you served with a subpoena for this
10 case?

11 A Yes, sir.

12 Q Okay. And when -- and when were you served?

13 A Saturday.

14 Q All right. And were -- did the subpoena also ask you
15 to bring a red iPhone with you?

16 A Not that I know of.

17 MR. BUTCHER: Your Honor, may I approach the witness?

18 THE COURT: Yes.

19 MR. BUTCHER: Actually, may I go ahead and mark this as
20 ID as Defendant's 3 and the State is seen what I'm --.

21 (WHEREUPON, the subpoena was marked as Defendant's
22 Exhibit No. 3 for identification purposes only at this
23 time.)

24 Q All right. Look at this and then read that middle line
25 to yourself and, and see if that refreshes your

Anfernee Bradley - Cross-examination
By Mr. Butcher

- 1 recollection.
- 2 A (WHEREUPON, the witness complies.)
- 3 Q All right. Did you get a chance to look at it?
- 4 A Uh-huh. (Affirmative).
- 5 Q Yes?
- 6 A Yes, sir.
- 7 Q And I -- I'm saying that cause the court reporter can't
- 8 take head shakes or hu uh or uh-huh when she does the
- 9 transcript.
- 10 okay?
- 11 A Yes, sir.
- 12 Q All right. So, do -- what did you do with the subpoena
- 13 after you got served?
- 14 A Put it in my pocket.
- 15 Q Okay. Did you bring your red iPhone with you?
- 16 A No, sir.
- 17 Q What happened to that red iPhone?
- 18 A I don't have it no more.
- 19 Q What happened to it?
- 20 A I gave it away.
- 21 Q When did you give it away?
- 22 A After I got it back.
- 23 Q Okay. All right. And that red iPhone that was seized
- 24 police -- by police, how'd you get it back?
- 25 A When I came to the police department.

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 Q Okay. And do you remember about when?

2 A Not too sure.

3 Q All right. Mark this for -- as, as four.

4 (WHEREUPON, the property release form was marked as
5 Defendant's Exhibit No. 4 for identification purposes only
6 at this time.)

7 MR. BUTCHER: Your Honor, I'd like to move Exhibit 3
8 into evidence.

9 THE COURT: Any---

10 SOLICITOR FINNEY: No objection.

11 MR. BUTCHER: Okay.

12 THE COURT: Okay. And it's admitted.

13 (WHEREUPON, Defendant's Exhibit No. 3 was received into
14 evidence at this time.)

15 Q All right. I'm -- what I'm handing you is four.

16 would you please take a look at that?

17 A (WHEREUPON, the witness complies.)

18 Q Do you recognize that?

19 A Yes, sir.

20 Q Okay. So on -- what -- on April 1st, 2021, you want
21 to just write the defense number on it, you got called up by
22 who?

23 Do, do you know who called you to come get your iPhone?

24 A No, sir.

25 Q Okay. Do you recognize the man in the courtroom?

Anfernee Bradley - Cross-examination
By Mr. Butcher

- 1 A Yes, sir.
- 2 Q Is it -- where is he?
- 3 A Sitting right there.
- 4 Q Next to Mr. Finney?
- 5 A Yes, sir.
- 6 Q Is that -- which one?
- 7 The, the nice lady or, or, or the man?
- 8 A The gentleman in the gray jacket.
- 9 Q Okay. All right. And is it -- do you know if that's
- 10 Mr. Robert Burnish---
- 11 A Yes.
- 12 Q ---or investigator?
- 13 A Yes, sir.
- 14 Q Okay. And had you come down to talk to him about the
- 15 case too?
- 16 A Yes, sir.
- 17 Q Okay. And he -- what did he -- he told you the
- 18 trial -- they were gonna call it to trial some time coming
- 19 up?
- 20 A Yes, sir.
- 21 Q Okay. But they gave you -- he, he gave you the red
- 22 iPhone back that day?
- 23 A Yes, sir.
- 24 Q Okay. All right. And this is the same one that you
- 25 left in Mr. Pack's vehicle at -- after the shooting started,

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 right?

2 A Yes, sir.

3 MR. BUTCHER: Okay. All right. Your Honor, I'd like
4 to move No. 4 into evidence.

5 SOLICITOR FINNEY: No objection.

6 THE COURT: It is admitted.

7 MR. BUTCHER: Okay.

8 (WHEREUPON, Defendant's Exhibit No. 4 was received into
9 evidence at this time.)

10 Q Now, what were you doing the night before this
11 happened, this shooting happened?

12 Were you with Lonnie that night?

13 A I don't think so.

14 Q Okay.

15 A No.

16 Q All right. Who'd you go over to see when you went over
17 to Bishopville?

18 A Oh, I ain't went to see nobody. He went to go see one
19 of his peoples about some equipment.

20 Q Okay. All right. Was that, was that Mr. Moore who he
21 saw?

22 A I don't know who he went to go see.

23 Q Okay. All right. And you were there for a couple
24 hours, correct?

25 A Maybe one, maybe two.

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 Q Okay. And you, you remember you had a -- you, you had
2 your interview with, with someone from the Sheriff's office,
3 correct?

4 A Yes, sir.

5 Q And who was that?

6 Do you re---

7 A I can't remember.

8 Q Okay. Is he here in the courtroom?

9 A I can't remember.

10 Q Okay. So, you, you don't know -- you didn't meet with
11 Investigator Bonner?

12 A Yes, sir.

13 Q Okay. All right. So you, you met with Investigator
14 Bonner and were you truthful when you spoke to him that day?

15 A Yes, sir.

16 Q Are you truthful today?

17 Have you been truthful today?

18 A Yes, sir.

19 Q Okay. All right. Now, when you talked to Investigator
20 Bonner, you, you, you did say you were in the backseat but
21 you didn't -- isn't it true that you refused to tell
22 Investigator Bonner who was riding with you?

23 A Sir?

24 Q When you spoke to Investigator Bonner, right, on
25 December -- on August 15th, 2018, you refused to tell him

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 who, who you -- were riding with you, didn't you?

2 A I ain't even know his name at the time.

3 Q Okay. All right. And -- all right. And you, you
4 said -- okay. One moment.

5 (Pause.)

6 Q When you went to go to invest -- to go talk to
7 Investigator Bonner, was it at the carwash?

8 A Yes, sir.

9 Q Okay. And he asked you to come back to the Sheriff's
10 Department, right?

11 A Yes, sir.

12 Q And you refused?

13 A Yes, sir.

14 Q Why did you refuse?

15 A Cause I ain't had know what they want me to come down
16 there for.

17 Q Okay. And -- all right. And did Investigator Bonner
18 tell you that you weren't in any trouble?

19 A Yes, sir.

20 Q And did he tell you that, no matter, no matter what,
21 you're going home tonight with your girl?

22 A I don't remember them saying all that now.

23 Q Okay. All right. Let me, let me make sure that's --
24 okay. Do you know if Lonnie Pack called D. a fake ass
25 Muslim, Muslim in the past?

Anfernee Bradley - Cross-examination
By Mr. Butcher

- 1 A No, sir.
- 2 Q Okay. All right. And you were in Lonnie's car, right?
- 3 A Yes, sir.
- 4 Q Lonnie, Lonnie didn't drive regularly, did he?
- 5 A No, sir.
- 6 Q All right. You, you drove, right?
- 7 A Yes, sir.
- 8 Q Okay. And Lonnie'd sit in the passenger seat and do
- 9 business?
- 10 A What business?
- 11 Q I don't know but --.
- 12 A That's why I'm asking you.
- 13 Q Okay.
- 14 A You referring to his business.
- 15 Q Okay. But Lonnie would generally sit in the passenger
- 16 seat?
- 17 A Yes, sir.
- 18 Q All right. But you drove most of the time?
- 19 A Yes, sir.
- 20 Q Okay. All right. And you didn't know -- you were
- 21 wondering to yourself why was he driving that day, right?
- 22 A No, sir.
- 23 Q Okay. You didn't say that, that in the interview?
- 24 You just didn't know why he was driving that day?
- 25 A Not too sure. I don't remember saying that.

Anfernee Bradley - Cross-examination
By Mr. Butcher

- 1 Q Okay. All right. Now, you went to the store.
2 Who all did you-all meet with when you went -- when you
3 stopped at El Cheapo's coming back from Bishopville?
4 A Well, I don't remember meeting with nobody.
5 Q Okay. So you were in the Chrysler 300?
6 A Yes, sir.
7 Q All right. And what -- you -- this happened a few
8 minutes before the shooting, right?
9 A Yes, sir.
10 Q Okay. Okay. And did someone get out of one car and
11 get in Lonnie's car while you were at El Cheapo's?
12 A Probably so. I don't remember.
13 Q Okay. And isn't it true you never got out of the
14 vehicle?
15 A I -- probably so. I don't remember. That was four
16 years ago.
17 Q Okay. All right. But you don't, you don't know who,
18 who came and, and sat in Lonnie's car for a couple minutes?
19 A No, sir.
20 Q Okay. All right. Did Lonnie -- was Lonnie selling any
21 drugs at the time?
22 A No, sir.
23 Q Okay. Were you selling any drugs at the time?
24 A No, sir.
25 Q All right. All right. And you say -- now was -- did

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 Lonnie order my client to get out of the truck?

2 A He asked him.

3 Q Okay. And did he pull on the handle?

4 A The truck door was already opened.

5 Q Okay. And did you say it's disrespectful to talk to
6 the man sitting in the truck when you talked to Investigator
7 Bonner?

8 A Sir?

9 Q Did you say it was disrespectful for Mr. Brown to be
10 talk -- sitting down in the truck talking to Lonnie?

11 A I don't remember saying that.

12 Q Okay. When you saw the gun, did you tell Investigator
13 Bonner that it looked like a Taurus or a Ruger?

14 A Probably a Ruger.

15 Q Okay. And when you talked to Investigator Bonner,
16 didn't you say that the gun came out and it was about to
17 fall and fumble and you reached up showing how they were
18 both fumbling for the gun?

19 A No, sir.

20 Q All right. And, and then is that when -- and that's --
21 and, and that's when you say Mr. Brown came out of the
22 truck?

23 A When I saw the gun I ran.

24 Q Okay. All right. Did you write a statement to -- for
25 Mr. -- Investigator Bonner?

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 A Yes, sir.

2 Q Okay. And I'm gonna mark this for identification as
3 No. 5.

4 (Whereupon, the statement was marked as Defendant's
5 Exhibit No. 5 for identification purposes only at this
6 time.)

7 MR. BUTCHER: And the next page is gonna be marked six,
8 Mr. Finney.

9 SOLICITOR FINNEY: Yes, sir.

10 (WHEREUPON, the drawing was marked as Defendant's
11 Exhibit No. 6 for identification purposes only at this
12 time.)

13 Q I'm handing you what's marked as five and six.

14 will you please look at those two documents and see if
15 you recognize them?

16 A Yes, sir.

17 Q Okay. And you -- did -- you wrote this statement for
18 Mr. Bonner --

19 A Yes, sir.

20 Q -- or Investigator Bonner, correct?

21 A Yes, sir.

22 Q And that's -- it's four -- all, all right. That's
23 five.

24 And then, in six, is that a drawing you made?

25 A Yes, sir.

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 Q Okay. All right. And you explained what happened
2 and -- during the shooting, correct?

3 A Yes, sir.

4 Q And you said that Lonnie, Mr. Pack, had blocked D. in
5 with his car, right?

6 A He never blocked him in. He just pull his car straight
7 in.

8 Q Okay. And when you met with Investigator Bonner, did,
9 did you say that the car was blocked in?

10 A Don't too much remember that.

11 Q Okay. All right. But you drew this drawing, right?

12 A Yeah.

13 MR. BUTCHER: And, Your Honor, I'd like to move the --
14 No. 6 into evidence.

15 SOLICITOR FINNEY: No objection.

16 MR. BUTCHER: All right.

17 THE COURT: No. 6 is admitted.

18 (WHEREUPON, Defendant's Exhibit No. 6 was received into
19 evidence at this time.)

20 MR. BUTCHER: And, Your Honor, can I publish it on the
21 screen --

22 THE COURT: Sure.

23 MR. BUTCHER: -- please?

24 Okay. Does that come up?

25 THE COURT: Is it on the screen?

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 THE WITNESS: Hu huh. (Negative).

2 Q You know what?

3 Let's -- we'll, we'll just -- then we'll just, just use
4 the document in your hand, sir, please.

5 All right. And in the top part, what -- what's, what's
6 the first square say?

7 A It blurry on here.

8 Q Okay. And do you know what the something car means?

9 A Probably Lonnie car.

10 Q Okay. Our car maybe or something.

11 Okay. All right. And then what's, what's in the --
12 what's the middle block?

13 A Black truck, wreck on the side.

14 Q Okay. And that's -- then whose truck is that?

15 A Mr. Brown's truck.

16 Q Okay. And then there's -- what's that in front of
17 the -- in Ms. -- in front of Mr. Brown's truck?

18 A Lonnie car.

19 Q Okay. So -- all right. And you made three dots.

20 You -- is, is that a car door in the middle -- on the
21 middle car?

22 A Yeah.

23 Q Okay. And whose the first dot represent?

24 A Oh, that Lonnie.

25 Q Okay. And who -- who's back behind by the taillights?

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 A Me.

2 Q Okay. And who -- anyone else?

3 A Yeah, the other fellow.

4 Q Okay. whose that?

5 A who in the front seat?

6 Q No.

7 Okay. well, you don't know his name?

8 A Yeah, I know his nickname.

9 Q Okay. what's his nickname?

10 A Oh D.V.

11 Q D.V.

12 All right. So, you had Lonnie at the door and you two
13 standing behind Lonnie?

14 A Yes, sir.

15 Q And why did you get out?

16 A I been smoking a cigarette.

17 Q Okay. All right. You were -- you sure you weren't
18 getting out to make sure that Lonnie -- that D. couldn't
19 run?

20 A Run for what?

21 Q Okay. So, you, you weren't there to make him get out
22 of the car to -- or anything else?

23 A No, sir.

24 Q Okay. But both of you got out of Lonnie's car and went
25 over towards his car and stood at the back?

Anfernee Bradley - Cross-examination
By Mr. Butcher

- 1 A Yes, sir.
- 2 Q Okay. And you have no -- you don't know why Mr. Pack
3 went to go talk to Mr. Brown, do you?
- 4 A No, sir.
- 5 Q And have you ever been convicted of a crime?
- 6 A Yes, sir.
- 7 Q What, what was that for?
- 8 A Shooting in a dwelling.
- 9 Q Okay. Shooting in someone's house?
- 10 A Yes, sir.
- 11 Q Okay. Did someone get shot?
- 12 A No, sir.
- 13 Q Do you when -- know when this happened?
- 14 A I think what, 2019, 2020.
- 15 Q Okay. All right. And had you shot at anybody before
16 when you were with Lonnie?
- 17 A Huh?
- 18 Q Had you -- when you were with Mr. Pack, had you ever
19 shot anybody before?
- 20 A No.
- 21 Q Are you in a gang?
- 22 A No.
- 23 Q You, you wouldn't go talk to the police after -- you
24 didn't talk to the police after the incident, correct?
- 25 A Not right after, no, sir.

Anfernee Bradley - Cross-examination
By Mr. Butcher

- 1 Q Okay. And you, you wouldn't go talk to them until the
2 15th, right?
- 3 A Right.
- 4 Q And, and you would -- you wouldn't even go to the
5 Sheriff's Office to meet them, would you?
- 6 A I didn't had to go down there.
- 7 Q You -- I'm sorry?
- 8 A I didn't have to go down there.
- 9 Q Okay. And why is that?
- 10 A He tell me I ain't had to come down there.
- 11 Q Okay. Has Mr. Finney promised you any leniency with
12 any of your crimes for your testimony today?
- 13 A No, sir.
- 14 Q All right. Now, now when you ran after the shooting,
15 what -- where did you -- whose house did you go to?
- 16 A I don't know who house I end up at.
- 17 Q You did go to Travis Rause's house?
- 18 A Later that day.
- 19 Q You didn't, you didn't go on Carolina Street over to
20 his house directly from the incident?
- 21 A Not directly from there.
- 22 Q Okay. And did you tell Investigator Bonner that
23 someone picked you up in, in, in a gold car?
- 24 A Yeah.
- 25 Q Okay. But you said you didn't know who picked you up?

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 A Hu huh. (Negative).

2 Q You just ran and people pick you up out of the goodness
3 of your heart?

4 A I'm walking on the side of the road.

5 Q Okay. And just strangers pick you up?

6 A It probably was a kind person.

7 Q Okay. Well, is that person in a gang that picked you
8 up?

9 A Why you keep asking about a gang?

10 Q I'm asking -- cause I'm asking.

11 THE COURT: Just answer the question, Mr. Bradley.

12 THE WITNESS: No, ma'am.

13 Q All right. Is he a criminal or someone you don't want
14 to identify?

15 A I don't know the person.

16 (WHEREUPON, a photograph was marked as Defendant's
17 Exhibit No. 7 for identification purposes only at this
18 time.)

19 Q Okay. I'm gonna show you what -- a document you -- I'm
20 gonna hand you what's marked as No. 7.

21 You recognize that -- anything in the picture at all?

22 A Yeah.

23 Q That's Lonnie's car, isn't it?

24 A Yes, sir.

25 Q All right. And which side were you sitting on?

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 A The passenger.

2 Q All right. I understand you were in the -- so you were
3 in the backseat, right?

4 A Yes, sir.

5 Q Which side -- oh, the passenger side. Got you.

6 Okay. Your Honor, I'd like to -- I'd like to move No.

7 -- okay. So, I'd like to move No. 4, 5, 6, and 7 in.

8 THE COURT: All right. Four's already in.

9 MRS. BUTCHER: Okay.

10 THE COURT: Six is already in.

11 You want re -- move in five and---

12 MR. BUTCHER: Oh, no, not, not five. I apologize.

13 THE COURT: Okay.

14 MR. BUTCHER: Not yet.

15 (WHEREUPON, a photograph was marked as Defendant's
16 Exhibit No. 8 for identification purposes only at this
17 time.)

18 Q Okay. All right. Then I hand -- let me hand you
19 what's marked as No. 8.

20 Do you recognize that?

21 A No, sir.

22 Q Okay. Is that not your marijuana on the floorboard
23 where you normally drive?

24 A What?

25 Q Is it not?

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 A No.

2 Q Okay. Now, did you take care of Lonnie's car when you
3 would drive it?

4 A No.

5 Q Lonnie took care of his own car?

6 A (WHEREUPON, there was no audible response.)

7 (WHEREUPON, a photograph was marked as Defendant's
8 Exhibit No. 9 for identification purposes only at this
9 time.)

10 Q I'm gonna hand you what's marked as No. 9.

11 Do you recognize that picture or anything in it?

12 A No.

13 Q Okay. Do you know whose marijuana that was in, in---

14 MR. BUTCHER: Objection, Your Honor.

15 Q Okay. Do you recognize---

16 THE COURT: I sustain.

17 SOLICITOR FINNEY: Objection, Your Honor.

18 THE COURT: That's sustained.

19 MR. BUTCHER: Okay.

20 THE COURT: He said he did not recognize it.

21 MR. BUTCHER: Okay.

22 SOLICITOR FINNEY: And there hasn't been -- there's
23 nothing to say that it's marijuana.

24 MR. BUTCHER: All right.

25 THE COURT: That objection is sustained, yes, sir.

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 (WHEREUPON, a photograph was marked as Defendant's
2 Exhibit No. 10 for identification purposes only at this
3 time.)

4 Q I'm handing you what's No. 10.

5 Do you see that?

6 A Yeah.

7 Q Do you recognize what that square device is in Lonnie's
8 vehicle?

9 A No, sir.

10 (WHEREUPON, two photographs were marked as Defendant's
11 Exhibit Nos. 11 and 12 for identification purposes only at
12 this time.)

13 Q I'm handing you 11 and 12.

14 Do you recognize No. 11 or No. 12 from Lonnie's
15 vehicle?

16 A No.

17 Q Do you know who Seneca Moore is?

18 A who?

19 Q Seneca Moore.

20 A No, I don't know who that is.

21 Q Alkee, do you know who he is?

22 A Oh, yeah, I know him.

23 Q Okay. who's he?

24 A He use to be -- like you feel me. I know him from
25 around town.

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 Q Okay. Is he is Mayesville?

2 A I don't know.

3 MR. BUTCHER: Okay. Your Honor, it's 12:30 and I've,
4 I've got some other things.

5 where, where do you want to -- I don't think I'll be
6 done for a while.

7 THE COURT: I think we need to finish with this
8 witness.

9 MR. BUTCHER: Okay. All right. One moment.

10 (Pause.)

11 Q All right. So did you call 9-1-1?

12 A No, sir.

13 Q And that's cause you left your red iPhone in the
14 vehicle, correct?

15 A Yes, sir.

16 Q All right. And you were with D.T.?

17 A Yes, sir.

18 Q And he, he had his phone with him, right?

19 A Not sure.

20 Q Didn't you tell Mr. Bonner that he had called to find a
21 ride?

22 A I'm not sure.

23 Q All right. Did, did you -- okay.

24 All right. Earlier you had said that you don't -- that
25 you -- when you spoke to Investigator Bonner you told him

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 that you don't talk to nobody sitting in the truck and the
2 man is outside?

3 A I don't remember that.

4 MR. BUTCHER: All right. Your Honor, I'd like to play
5 or -- all right. On the 15th of August 2018, you're aware
6 that Investigator Bonner video recorded your interview,
7 correct?

8 A Yes, sir.

9 Q Okay. All right. And I'm gonna play an excerpt to
10 refresh your memory.

11 All right. Is there -- the volume?

12 Do you, do you know if the volume -- okay. There it
13 is. I apologize, Your Honor.

14 Okay. What is this?

15 That's not it. I apologize. There.

16 (WHEREUPON, a portion of an audio was played for the
17 jury at this time.)

18 MR. BUTCHER: I'm, I'm sorry.

19 (WHEREUPON, another portion of an audio was played for
20 the jury at this time.)

21 Q All right. So now going back to a couple things.

22 First of all, you, you told him that you thought it was
23 disrespectful that D. was sitting down and talking to
24 Lonnie, right?

25 A Yeah, I just said that.

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 Q Okay. All right. And the other thing, you were
2 reaching up when you were explaining they were fumbling for
3 the gun, correct?

4 A D. was reaching up.

5 Q Okay. All right. And that's the first time you saw a
6 gun when both of them were, you said, fumbling for the gun,
7 correct?

8 A Yeah.

9 Q Okay. And that's when you ran?

10 A Uh-huh. (Affirmative).

11 Q Okay. Did you tell Bennie Haynesworth that Lonnie
12 brought the gun?

13 A Who?

14 Q Bennie Haynesworth?

15 A I don't even know who that is.

16 Q Did you tell Bennie Haynesworth that you-all were, were
17 going to grab him and take him to go see Seneca?

18 A I don't even know who that is.

19 Q Okay. Were you aware that there was marijuana in the
20 vehicle?

21 A No, sir.

22 Q Were you aware that there were smoked marijuana blunts
23 in the vehicle?

24 A No, sir.

25 Q Okay. Okay. All right. All right. And you'd been in

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 the car all day?

2 A Yes, sir.

3 Q All right. And you didn't see anybody get shot, did
4 you?

5 You, you didn't see---

6 A No, sir.

7 Q ---anybody get shot?

8 A No, sir.

9 MR. BUTCHER: Okay. All right. Your Honor, I'd like
10 to move the video in as -- I'm sorry?

11 THE DIGITAL REPORTER: Thirteen.

12 MR. BUTCHER: Thirteen and I'll move 10, 11, and 12 in
13 later.

14 THE COURT: Any objection to 13?

15 SOLICITOR FINNEY: I, I do need to ask, Your Honor, at
16 this point, what, what -- are we moving the entire interview
17 in?

18 MR. BUTCHER: Just that portion.

19 SOLICITOR FINNEY: well, I would ask that the whole
20 video -- the conversation between Bonner and A.J., the whole
21 video be put in so the jury can hear it when they
22 deliberate.

23 MR. BUTCHER: I think there are some that we can -- if
24 we can conference and talk about a, a few things.

25 THE COURT: Are you asking that it be published to the

Anfernee Bradley - Cross-examination
By Mr. Butcher

1 jury now or you just want to go---

2 SOLICITOR FINNEY: No, no, not now. Just that it be --
3 that the whole video -- I don't -- I mean the clip he played
4 was about two minutes.

5 THE COURT: I understand. Well, you've got the right
6 to have it put in but I understand we may need to do some
7 redacting.

8 MR. BUTCHER: Yes, ma'am.

9 THE COURT: Okay. But the, the clip that you have just
10 offered into evidence, without objection, Mr. Finney?

11 SOLICITOR FINNEY: Without objection.

12 THE COURT: It is admitted.

13 (WHEREUPON, the thumb drive was marked as Defendant's
14 Exhibit No. 13 and received into evidence at this time.)

15 MR. BUTCHER: All right. I'm gonna get my stuff off
16 here and I'm, I'm done for the moment.

17 SOLICITOR FINNEY: Please the Court?

18 THE COURT: Yes, sir.

19 REDIRECT EXAMINATION

20 BY SOLICITOR FINNEY:

21 Q Mr. Bradley, you were asked about the red iPhone and
22 you told the jury that Defense Exhibit No. 4 that you
23 received the iPhone.

24 what was the date on that?

25 A On here?

Anfernee Bradley - Redirect examination
By Solicitor Finney

- 1 Q Yes, sir.
- 2 A The 1st.
- 3 Q The 1st, 1st of what month?
- 4 A April.
- 5 Q What year?
- 6 A '21.
- 7 Q So you've had the iPhone back almost a year?
- 8 A Yes, sir.
- 9 Q All right. How many times did you ask Mr. Burnish for
10 your phone back?
- 11 A Numerous of times.
- 12 Q And after we finished with it, we turned it back over
13 to you.
- 14 Is that right?
- 15 A Yes, sir.
- 16 Q All right. And the ID -- did you get the ID back?
- 17 A Yes, sir.
- 18 Q Okay. But that was because -- did you ask law
19 enforcement for the phone several times?
- 20 A Yes, sir.
- 21 Q The statement that you gave to the investigator is
22 marked as Defense Exhibit No. 5.
- 23 Is that right?
- 24 A Yes, sir.
- 25 Q That's the full statement?

Anfernee Bradley - Redirect examination
By Solicitor Finney

1 A Yes, sir.

2 SOLICITOR FINNEY: All right. Your Honor, at this time
3 I'd like to move it into evidence.

4 MR. BUTCHER: Let me double --.

5 THE COURT: Any objection?

6 MR. BUTCHER: One second, Your Honor.

7 (Pause.)

8 MR. BUTCHER: No objection, Your Honor.

9 THE COURT: No. 5 is admitted.

10 SOLICITOR FINNEY: Is, is -- Defense No. 5 but it's
11 going in as State's No. 26.

12 (WHEREUPON, Defendant's Exhibit No. 5 was remarked as
13 State's Exhibit No. 26 and received into evidence at this
14 time.)

15 Q In that statement that you gave that's in evidence,
16 would you read it?

17 Can you just read it for the jury?

18 A Oh, we pulled up to the shop. We got out the car.
19 Lonnie start to -- Lonnie stopped in the driver door of the
20 black truck to talk to the man named D. He asked D. to get
21 out the truck and talk to him and I seen Lonnie push the
22 truck door when D. -- when he seen D. pull the gun and then
23 we all started running.

24 Q Now, when you say all started -- go ahead. Finish up.
25 It's only, only one more. Go ahead.

Anfernee Bradley - Redirect examination
By Solicitor Finney

- 1 A And me and the man ran between the trailers at the back
2 of the shop while the man was shooting.
- 3 Q When you said we all started running, did Lonnie stop
4 running too?
- 5 A Yes, sir.
- 6 Q And you told Bonner that on the video just now?
- 7 A Yes, sir.
- 8 Q You ran, the other man named D.D. ran---
- 9 A Yes, sir.
- 10 Q ---and Lonnie ran?
- 11 A Yes, sir.
- 12 Q And then you heard the shots?
- 13 A Yes, sir.
- 14 Q When you saw Mr. Brown pull the gun, was he the one
15 reaching up to get the gun in the truck?
- 16 A Yes, sir.
- 17 Q Was Lonnie reaching up to get the gun?
- 18 A No, sir.
- 19 Q You told Mr. Bonner you heard shot, shot, shot. Those
20 were your words on the video.
- 21 A Yes, sir.
- 22 Q Do you remember how many shots you heard that day?
- 23 A Not, not exactly.
- 24 Q Okay. You were running pretty hard?
- 25 A Yes, sir.

Anfernee Bradley - Redirect examination
By Solicitor Finney

1 MR. BUTCHER: Objection to leading and I think we're
2 going outside the scope.

3 THE COURT: I -- did you just ask him a question?
4 I thought he'd already answered.

5 SOLICITOR FINNEY: I did. I mean he answered the
6 question I asked him.

7 THE COURT: If you'll move on to your next question
8 then.

9 Q Did you see Lonnie Pack with a gun that day at all?

10 A No, sir.

11 Q Who had the gun that day?

12 A Mr. Brown.

13 Q And when you say you heard the shots -- you said you
14 didn't see the shots.

15 How, how long a time went by from the time you saw
16 Mr. Brown reach for the gun till the time you heard the
17 shots?

18 A A couple seconds.

19 SOLICITOR FINNEY: Nothing further.

20 MR. BUTCHER: Just within the small scope, Your Honor.

21 RECROSS EXAMINATION

22 BY MR. BUTCHER:

23 Q You testified and on the video isn't it true that you
24 said you didn't see the gun until it was up in the air being
25 fumbled, correct?

Anfernee Bradley - Recross examination
By Mr. Butcher

1 A Yes, sir.

2 Q So you don't know if he pulled a gun, do you?

3 A Yes, sir, it's obvious.

4 Q Well now -- so how do you know he pulled a gun if the
5 first time you saw it it was up in the air being fumbled
6 between Lonnie and Mr. Brown?

7 A Like I said, Lonnie ain't never fumbled for the gun.
8 He pushed the door.

9 Q So why'd you tell Mr. Bonner and why'd you tell the
10 jury today that they were both fumbling for the gun?

11 A I said he pushed the door. I ain't never say he
12 fumbled for the gun.

13 Q All right. Thank you.

14 SOLICITOR FINNEY: Nothing further.

15 THE COURT: Okay. Thank you, sir. You can step down.

16 MRS. BUTCHER: Your Honor, Mr. Bradley is still under
17 our subpoena in case we need him. We, we may want him back.

18 THE COURT: Mr. Bradley, you're still under subpoena,
19 sir.

20 Do y'all think you're gonna need him back today?

21 MR. BUTCHER: No, I don't think the State's gonna
22 close. Now if it -- if Mr., Mr. Bradley's more comfortable
23 with it, we can -- he can remain in contact with
24 Mr. Finney's office and, and they can let him know when we
25 need him.

1 SOLICITOR FINNEY: Be fine.

2 THE COURT: Do y'all have a way to contact Mr. Bradley?

3 SOLICITOR FINNEY: Yes.

4 THE COURT: Okay. Mr. Bradley, you need to be
5 available, sir.

6 THE WITNESS: All right.

7 MRS. BUTCHER: Thank you, Your Honor.

8 THE COURT: Okay. Ladies and gentlemen, this is a good
9 place for us to stop for lunch. I'm going to go ahead and
10 release you. I'm gonna ask if you'll please be back at two
11 o'clock. That gives you about an hour and 15 minutes.

12 Again, please do not begin discussing the case during
13 the lunch break.

14 All right. Thank you.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 MRS. BUTCHER: We need to address the witnesses that we
18 have subpoenaed and have not shown.

19 THE COURT: Okay.

20 MRS. BUTCHER: How would you like to do that?

21 THE COURT: Do you want to pass up the subpoenas?

22 MRS. BUTCHER: Sure. And, Your Honor, I, I understand
23 this is -- mic is on and we could be heard with the rustling
24 of the papers too probably as we were told. I apologize for
25 that.

1 Is there a way to turn it off other than holding --?

2 THE COURT: If it's like mine that I've got up here --

3 I, I don't know. I'm not familiar with yours.

4 Do you know, Mr.---

5 THE DIGITAL REPORTER: Just move -- yeah.

6 MRS. BUTCHER: There you go.

7 Okay. And then I apologize. Usually---

8 THE COURT: I didn't notice it.

9 MR. BUTCHER: I think it's coming on the court
10 reporter's recording as much more than off.

11 MRS. BUTCHER: The jury---

12 THE COURT: Yes, I couldn't hear it but --.

13 MRS. BUTCHER: Okay.

14 MR. BUTCHER: I'm gonna straighten out the exhibits and
15 things.

16 MRS. BUTCHER: Robert, do you need these?

17 THE COURT: So, are you, you gonna hand up those
18 subpoenas?

19 MRS. BUTCHER: I'm, I'm getting them.

20 (Pause.)

21 THE COURT: Okay. So, who are we missing?

22 MRS. BUTCHER: Collin Davis and Bennie Haynesworth and
23 I, you know, put on there all the phone numbers we called
24 and said (indiscernible).

25 THE COURT: I don't know if you have the ability to

1 send anyone out to see if we can locate these two people.
2 Looks like they were both served a subpoena on
3 February 2nd or at least the -- yeah, it appears that they
4 were both served on February 2nd at a home address. Looks
5 like Collin Davis's was served on the mother. Bennie
6 Haynesworth, looks like it was personally served on him.

7 MRS. BUTCHER: Yes, Your Honor.

8 SOLICITOR FINNEY: I don't have any -- I mean I don't
9 know any way to serve, to -- for, for my office to go out
10 and get them.

11 THE COURT: No, I'm talking about from -- get the
12 Sheriff's Department to go out --

13 SOLICITOR FINNEY: Oh, I don't---

14 THE COURT: -- since they've been served with a
15 subpoena. I don't -- well, I've only had one person who
16 just did not show up when I -- when they were subpoenaed and
17 the, the Attorney General's Office had subpoenaed a person
18 and they didn't show up.

19 All I can tell you is can try to get the sheriff on the
20 phone and see if they can send somebody out to have them
21 come.

22 MRS. BUTCHER: They are very vital to the case.

23 THE COURT: Okay. At -- I need -- if you're addressing
24 me, let's go ahead and get this on the record.

25 MRS. BUTCHER: Okay. I --.

1 THE COURT: So would -- tell me what you're asking me
2 to do.

3 MRS. BUTCHER: At, at this point just what you're
4 doing, Your Honor.

5 THE COURT: Okay.

6 MRS. BUTCHER: Have the sheriff serve --

7 THE COURT: Okay.

8 MRS. BUTCHER: -- or pick them up.

9 THE COURT: I don't know if they can pick them up but I
10 think they can, can go out to the house and advise them that
11 they -- they're expected in Court, and if they don't show up
12 for Court, it's contempt. They can be held in contempt.

13 All right. Thank you. We'll be at recess.

14 MRS. BUTCHER: What---

15 SOLICITOR FINNEY: What time, Your Honor?

16 MRS. BUTCHER: What time?

17 THE COURT: Two o'clock.

18 SOLICITOR FINNEY: All right.

19 (WHEREUPON, Court was in recess for the lunch hour.)

20 THE COURT: We do now, now have -- all of our jurors
21 are accounted for.

22 SOLICITOR FINNEY: Your Honor, the next witness is
23 Major Randy Stewart from the Sheriff's Department, and I'm
24 gonna call him to verify a video interview that he did with
25 the witness this morning, Mr. McCain, and I just sent the

1 investigator downstairs to get the video. I want to put it
2 into evidence.

3 I don't want to play it at this time but I want to have
4 the investigator acknowledge that he did the video interview
5 and that it's, it's -- you know, I want to put it in as a,
6 as a State's Exhibit.

7 He also was the officer who did the interview with
8 Mr. McCain which did not get put in. It was objected to.
9 So, I'm gonna put the written statement and the video
10 statement in.

11 THE COURT: Okay. Well, two things that I need to go
12 back to but let's address this first.

13 Is there something y'all wanted to say?

14 MR. BUTCHER: So, one, obviously we would object to any
15 of the hearsay, speculation, all the other evidentiary
16 issues in the video itself, and if he wants to show us what
17 he wants to put in as opposed to the whole video, then we,
18 we would certainly have no objection once we meet that
19 benchmark. But we're just not gonna agree to the whole
20 video.

21 THE COURT: I mean I haven't seen the video---

22 MR. BUTCHER: I mean---

23 THE COURT: ---to know what's objectionable in it but
24 --.

25 SOLICITOR FINNEY: Well---

1 THE COURT: There's---

2 SOLICITOR FINNEY: ---this is the same video that they
3 showed to the witness this morning.

4 THE COURT: I understand that but I'm, I'm guessing
5 there might be portions of this that would not be properly
6 shown to the jury.

7 MRS. BUTCHER: That's why we edited it, Your Honor.

8 MR. BUTCHER: And, and I think the time to do the
9 response and have those portions put in would be through
10 Mr. McCain to allow our right to cross-examine him for, you
11 know, for any additional information they're trying to add.
12 It almost seems like this is another redirect.

13 SOLICITOR FINNEY: I, I, I don't mind marking it as a
14 ID exhibit, having the witness establish the foundation, and
15 then let you watch it tonight if you like to see if there's
16 anything objectionable in it. They've seen it because
17 they've had it for months and I don't -- I'm trying to get
18 the whole -- so the jury -- if the jury wants to see,
19 instead of the one minute version, the jury wants to see the
20 whole interview, I want them to be able to do that.

21 THE COURT: How long is the video?

22 SOLICITOR FINNEY: I would say --.

23 MR. BUTCHER: It's well over an hour, Your Honor,
24 and---

25 SOLICITOR FINNEY: I'm not sure.

1 MR. BUTCHER: And, Your Honor, that's part of his
2 opportunity to present his case and I mean it eliminates our
3 ability to, to cross-examine him on anything else, and we
4 certainly were prepared to do this. I mean this, this is --
5 he's getting another---

6 THE COURT: Well, I guess---

7 MR. BUTCHER: ---bite.

8 THE COURT: Here's the thing. I mean you can certainly
9 lay the foundation with him. But if you want to offer
10 portions of the video, then you need to tell me what
11 portions you're trying to, to admit. I'm not just gonna
12 allow it to come into evidence, and then if the jury wants
13 to see it, it's either gonna be admitted and published to
14 the jury or not admitted. You know, we're not, we're not
15 gonna have things as exhibits that haven't been shown to the
16 jury and then, if they want to see it, they can watch it
17 during their deliberations.

18 So, if you want to offer a portion of the video, then
19 we need to know what portion you're, you're seeking to
20 offer.

21 SOLICITOR FINNEY: All right, Your Honor. Let me have
22 a moment then.

23 (Pause.)

24 SOLICITOR FINNEY: All right. Your Honor, I think I
25 understand your directions from the bench and I'll proceed

1 accordingly.

2 MR. BUTCHER: Your Honor, can I get a copy when they
3 submit it to chambers to---

4 THE COURT: Let -- so tell me what your plan is, Mr.
5 Finney.

6 SOLICITOR FINNEY: To call the officer to verify that
7 he took a video statement in the -- in his office, that it
8 lasted about an hour, that the whole thing is recorded, and
9 that it's on State's Exhibit No. 27, whatever the number's
10 gonna be.

11 THE COURT: That you're just marking at this point for
12 ID?

13 SOLICITOR FINNEY: That's right.

14 THE COURT: Okay.

15 SOLICITOR FINNEY: And then we're gonna go to the
16 written statement that the same officer did with Mr. McCain
17 that was objected to this morning but I'm gonna put that
18 statement -- I'm gonna -- expect it to put it in.

19 THE COURT: Okay. And you want to admit the, the
20 statement that Mr. McCain made?

21 SOLICITOR FINNEY: Yes, he's testified about it. It's
22 been identified and the officer who took the statement can
23 verify that's what Mr. McCain told him so that I can put the
24 statement in.

25 THE COURT: Okay. We're, we're still rubbing up

1 against this rule of a prior consistent statement. You've
2 already put the witness on the stand whose given full
3 testimony.

4 So, tell me how you're now introducing the statement of
5 the witness.

6 SOLICITOR FINNEY: Because without the statement into
7 evidence, the jury is subject to being led down---

8 THE COURT: No, I mean they've -- they've had a full
9 chance. You've had direct. They've had cross. You've had
10 redirect. You've had recross. They've had the full
11 opportunity to hear from Mr.---

12 SOLICITOR FINNEY: But, but---

13 THE COURT: ---McCain.

14 SOLICITOR FINNEY: But you say it was prior consistent
15 statement. There were inconsistencies that the defense has
16 been bringing out all morning. They brought it out on cross
17 and I want the jury to be able to rely on the full statement
18 that was given to law enforcement by the witness so that
19 they can compare what they're hearing from the defense to
20 what's actually on the record.

21 THE COURT: So, again, you want to offer into evidence
22 the full statement?

23 SOLICITOR FINNEY: Yes, ma'am, the written statement.
24 we've -- you've told me about the video. I'm gonna work on
25 the video tonight. But the full statement, the written

1 statement, I think it's already been marked as an exhibit.

2 THE COURT: It, it hasn't been introduced. It's -- may
3 of been marked.

4 SOLICITOR FINNEY: No, ma'am, it's not in evidence.
5 No, ma'am, it, it has not been marked.

6 (WHEREUPON, the attorneys were conferring at this
7 time.)

8 THE COURT: As to the video, I think at the time you
9 entered -- we introduced the video, it -- what was -- was as
10 State's 25 was the video of Mr. McCain talking to the police
11 that I think --.

12 SOLICITOR FINNEY: That, that was Mr. McCain.

13 THE COURT: The defense---

14 SOLICITOR FINNEY: We have that.

15 THE COURT: So, I will just say this. Having played a
16 portion of the video, I do think that you are entitled to
17 have the full video played if the -- if they have introduced
18 a portion of it.

19 SOLICITOR FINNEY: Yes, ma'am.

20 THE COURT: As to his written statement, however, I
21 mean he's already taken the stand. He's already been
22 cross-examined. So, at this point, that would be hearsay.
23 I -- and, and it doesn't fall with any, any exception that I
24 can imagine. It's not a statement against interest. It's a
25 prior consistent statement and the witness has already

1 testified.

2 SOLICITOR FINNEY: I'm fine with that as long as they
3 are not allowed to argue that there were inconsistencies in
4 his statement. That's the -- that's the bridge I'm trying
5 to build to show the jury, they may be arguing it, but they
6 have the, they have the ability to see that there aren't
7 inconsistencies, that it is a consistent statement from the
8 same witness, Mr. McCain.

9 THE COURT: well, I really can't speak to that. I mean
10 I think that it's, it's fair argument -- the
11 cross-examination that, that they did of Mr. McCain was fair
12 cross-examination. Let me see the statement.

13 MR. BUTCHER: Your Honor, may I address the video?

14 THE COURT: Yeah, give me just a second.

15 MR. BUTCHER: Okay.

16 THE COURT: Let me see what this statement says.

17 (Pause.)

18 THE COURT: Okay. Mr. Butcher, I'm glad to hear from
19 you.

20 MR. BUTCHER: Yes, ma'am.

21 So, with, with the video, the, the time for them to
22 introduce the video was during the ex -- redirect of
23 Mr. McCain because we certainly would have plenty of
24 cross-examination and we're talking about an hour and
25 something minutes worth of stuff and it ranges all over the

1 place that we would certainly want to -- and we should have
2 the opportunity. The State knew there were videos. I mean
3 he said several times you know.

4 And, and so they've had three and a half years to
5 prepare their case. They knew we were coming in. They knew
6 we were gonna cross-examine him and they knew to be prepared
7 with his statement or his video to be able to redirect if
8 there were issues with inconsistent statements. Now they
9 want to reopen their part of the case and deny us an
10 opportunity to cross-examine.

11 So, from that prospective, I believe it's a violation
12 of constitutional rights. It's a -- it vi -- you know, from
13 an evidentiary prospective, I think it's a huge issue.

14 So, from -- we, we would ask that the Court
15 respectfully deny that -- every lawyer has a post lunch
16 moment where they say I forgot to ask this or I forgot to do
17 this or I forgot to put in a piece of evidence. How am I
18 gonna do that.

19 well, the ship has sailed with Mr. McCain. We've all
20 had that issue and he's got to live with that and we, you
21 know, from our prospective, we, we deserve that right to
22 confront Mr. McCain about these additional statements.

23 THE COURT: Anything else, Mr. Finney?

24 SOLICITOR FINNEY: Only that he had a bench conference
25 earlier about the written statement. They objected to

1 Mr. McCain putting it in. So, I told them I would wait
2 until or I thought -- the agreement was we were gonna wait
3 until the officer came. So now it's time for the officer.

4 THE COURT: No, I didn't understand that to be the
5 basis of it. The basis of it is that, when a witness is
6 testifying, they're rules about a prior consistent
7 statement. You can't bolster their testimony with a prior
8 consistent statement. That was the basis of my ruling.

9 SOLICITOR FINNEY: The only thing I'm asking for is for
10 the jury to be able to consider the entire interview that
11 was offered or part of it was offered by the defense on the
12 video.

13 THE COURT: And generally you've got the right to --
14 if, if a portion of it is, is offered by one party, you've
15 got the right to require the rest of it to come in. It's
16 just now we've already -- this witness is now off the
17 witness stand and this is Rule 106.

18 Okay. I think, under Rule 106, you're entitled, even
19 though it's not contemporaneous -- it, it use to be that you
20 had to wait until your turn to introduce the remainder of
21 it. This does allow you to require, contemporaneously with
22 that little portion, to require the full video be played but
23 we've got two issues here. First is that I think we need to
24 make sure there's nothing on the video that needs to be
25 redacted. The second is that that witness is now off the

1 stand and can't be now cross-examined or re -- so I mean
2 there's no meaningful ability to cross-examine this witness.

3 MR. BUTCHER: And, and, Your Honor, I would say, with
4 the confrontation clause, that that would trump Mr. Finney's
5 failure to address it in a timely fashion.

6 THE COURT: And the, the case law says that the only
7 portion that -- of the remainder of any statement which
8 explains or clarifies the previously admitted portion should
9 be introduced.

10 So I think, during your redirect, you could of
11 certainly introduced portions -- the other portions of the
12 video that you thought should come in. But I think it --
13 allowing them to come in at this point is both hearsay and
14 it's denying the defendant the right to confront the
15 witness. So that would be my ruling with respect to both
16 the written statement and the video of Mr. McCain.

17 I've got two issues that I -- that we need to address
18 in addition to that. The first be -- there's been mention
19 of the defendant being not legally, legally able to possess
20 a weapon. And so I just don't want us to get into that
21 arena without discussing how that's gonna come in cause
22 we've had some discussion about his criminal record.

23 Are y'all gonna stipulate that he is not legally able
24 to possess a weapon or how are we gonna handle that?

25 SOLICITOR FINNEY: If Your Honor please, I have

1 Mr. Maurice Tisdale, his probation officer, on standby to
2 come in and testify that he gave Mr. Brown instructions on
3 how to comply with the law in terms of not possessing a
4 weapon, and there's a document that Mr. Brown signed and
5 Mr. Tisdale signed which I expect to be able to put into
6 evidence to support that testimony.

7 I don't have to get into what Mr. Brown did to get into
8 that status but I do---

9 THE COURT: So, you just want to address that he is on
10 probation and not -- and had been advised of the fact that
11 he could not be in possession---

12 SOLICITOR FINNEY: That's correct.

13 THE COURT: ---of a weapon?

14 Yes, sir.

15 MR. BUTCHER: So, probation's not what makes him not
16 able to. That's a condition of probation, you know.

17 So, I mean, you know, I could be on probation for
18 possession of marijuana. That doesn't keep me from being
19 able to possess a weapon. The conditions of my probation
20 doesn't. But if I have any of the crimes enumerated in the
21 chapter heading, which is dash 20 of possession -- unlawful
22 possession of a pistol, which is what, murder, burglary,
23 it's a whole---

24 THE COURT: So how are you suggesting we handle this?

25 MR. BUTCHER: I'm suggesting, suggesting that we

1 stipulate that he was not able to possess a weapon by prior
2 conviction. There's no reason to have a probation officer
3 in because that provides all sorts of implications that may
4 or may not be there. So, from that prospective, I, I think
5 what -- we can certainly stipulate. But the probation
6 agreement is not even relevant.

7 THE COURT: Yes, sir.

8 SOLICITOR FINNEY: I just wanted to see the form that I
9 was going to introduce, Your Honor, see if I could -- I got
10 it right here. I just hand this up to you.

11 THE COURT: I understand. So generally we have a
12 stipulation that the person is not legally able to carry a
13 firearm, either something to the effect of by virtue of a
14 prior conviction that he's not legally able to or just a
15 stipulation that, that the parties stipulate that he is not
16 legally allowed to possess a firearm. And unless they are
17 not gonna stipulate to that, we generally don't have it come
18 before the jury that he's already on probation or he was at
19 the time of this.

20 SOLICITOR FINNEY: It may be parole, Your Honor. I
21 think that document says parole I was looking at.

22 THE COURT: This says Probation Parole & Pardon
23 Services.

24 MR. BUTCHER: And, Your Honor, do you have a copy for
25 me?

1 THE COURT: And this is standard conditions of
2 probation.

3 SOLICITOR FINNEY: It says certificate of parole on the
4 top. So, I'm thinking it's parole and not probation.

5 THE COURT: Okay.

6 MR. BUTCHER: And do you mind if I have a copy of
7 what's being presented to the Court, Your Honor?

8 THE COURT: Yeah, I mean I think there's some issues
9 with this coming in. It's the, the prior offenses. It's
10 got a SCDC number on it.

11 SOLICITOR FINNEY: As long as the stipulation -- I mean
12 I -- obviously I would like to have the document that the
13 defendant signed put in as an exhibit and this is where his
14 signature is. It doesn't appear anywhere else.

15 But condition number four is the, the -- part of the
16 instructions that he was suppose to follow, which he signed
17 for, and I need -- I wanted to have that ability to tell the
18 jury.

19 THE COURT: I understand. What I would say is if
20 there's a stipulation that he is not legally, legally able
21 to possess a firearm, that that should suffice. If, if
22 there is any argument that no, he didn't know or he wasn't
23 aware of it, then I think you could get that in. But that's
24 introducing to the jury that he's on parole, what the
25 offense is, that he's got an SCDC number, which I think is

1 highly prejudicial.

2 SOLICITOR FINNEY: Well, Your Honor, if -- as long as
3 we could craft a stipulation to include that he was --.

4 THE COURT: Well, I'll let y'all work that out but I
5 think you, you -- we need to be thinking about what the
6 stipulation is gonna be --

7 SOLICITOR FINNEY: Okay.

8 THE COURT: -- that would not include the jury hearing
9 about his prior offense. Now, if he takes the stand, that's
10 a whole different issue.

11 MR. BUTCHER: Your Honor?

12 THE COURT: So, y'all can work on the stipulation.

13 MR. BUTCHER: I mean this, this doesn't even meet one L
14 (phonetic) standards---

15 THE COURT: Sir, I'm not allowing that to come in.

16 MR. BUTCHER: Okay. I'm, I'm -- it's frustrating.

17 THE COURT: I don't need to hear your argument. It's
18 not coming in unless---

19 MR. BUTCHER: Okay.

20 MRS. BUTCHER: Thank you, Your Honor.

21 THE COURT: ---he denies that he -- you know, he gets
22 on the stand and he says oh, no, I thought I could carry a
23 firearm, then certainly you can introduce that to show he
24 had -- he knew very well that he wasn't suppose to.

25 Secondly. The subpoenas that have been served on these

1 two individuals, if what I'm looking at on the Public Index
2 is correct, I'm showing that Bennie Haynesworth has been in
3 failure to appear status since like April of 2021, that he's
4 got outstanding charges in Sumter County. So, I don't
5 imagine he's gonna be appearing pursuant to the subpoena.
6 It looks like he probably has a bench warrant out for him.

7 So, I guess what I'm asking, first of all, is are you
8 requesting a continuance on the basis of these folks not
9 appearing cause I can't -- if we couldn't get him to come to
10 trial for his own, his own trial, I don't know that I can
11 get him to come to court for yours.

12 MR. BUTCHER: When, when it comes time for us to
13 present our case, and, and this will be a heads-up for your
14 law clerk and for Mr. Finney, we're -- we are, we are going
15 to argue to -- that, you know, that, that we be able to
16 present an interview as an unavailable witness, a law
17 enforcement interview as an unavailable witness.

18 THE COURT: I just want to clarify that you are not
19 asking for a continuance?

20 MR. BUTCHER: Can, can we---

21 MRS. BUTCHER: No. No.

22 MR. BUTCHER: Can we have some time to talk and think
23 about that and also have a come to Jesus with our client on
24 that?

25 THE COURT: Well, not right at this moment.

1 MR. BUTCHER: No, no.

2 MRS. BUTCHER: No, no, no.

3 MR. BUTCHER: So, like tomorrow---

4 THE COURT: Because I think, if you're requesting a
5 continuance, then you need to comply with Rule 7. There
6 needs to be an affidavit. You need to state what the
7 testimony of those witnesses would be, and, and, you know,
8 affidavit in compliance with Rule 7.

9 MR. BUTCHER: Yes, ma'am.

10 THE COURT: But if you're not asking for a continuance,
11 then that's --

12 MR. BUTCHER: Right.

13 THE COURT: -- beside the point.

14 MR. BUTCHER: So some -- so, after trial, we'll, we'll
15 try and have, have a talk with our client and, and brief you
16 in the morning if that -- is that okay?

17 THE COURT: Sure.

18 MR. BUTCHER: I mean what I don't want is for us to --
19 for the Court to say nah, you're -- you, you shouldn't -- I
20 talked to you about it on Tuesday morn -- you know, after
21 lunch and, you, you know, we've gone this far, you didn't
22 ask for it. I, I just -- drop dead time, a, a suspense time
23 to let you know.

24 THE COURT: I mean I, I don't know that I can give you
25 that --

1 MR. BUTCHER: All right.

2 THE COURT: -- except, again, if you're gonna ask for a
3 continuance, and, and I note that y'all did tell me, from
4 the very beginning, that these witnesses had not appeared
5 that were under subpoena, that there's nothing for me to
6 rule on other than you've brought that to my attention that
7 they have not appeared.

8 MR. BUTCHER: Right. But I -- yes, Your Honor. Thank
9 you.

10 THE COURT: Okay. Are we ready for the jury to come
11 in?

12 SOLICITOR FINNEY: Yes, Your Honor. Based on your
13 rulings and the conversations you've had, I'm gonna have to
14 change the order of witnesses. So I have two SLED agents
15 downstairs. I'm gonna go and get them up here and I have
16 a -- I mean I think we can probably work on this stipulation
17 this afternoon. I would probably ask the Court to recess
18 this proceeding a little early, maybe 3:30, four o'clock,
19 because of the change in the witness schedule and that will
20 give us time to work with the defense on the wording of the
21 stipulation.

22 THE COURT: Okay. I just -- we've got quite a few
23 witnesses listed here. So I just don't want us to end up
24 not being able to get through this trial---

25 SOLICITOR FINNEY: I expect---

1 THE COURT: ---before the end of the week.

2 SOLICITOR FINNEY: I expect I'll be finished tomorrow,
3 Your Honor.

4 MR. BUTCHER: And, Your Honor, the other thing was the,
5 you know, we -- during Mr. Bradley's testimony, they said
6 they wanted to introduce the rest of the statement. I said
7 we're fine except for, you know -- and, and we didn't say it
8 in front of the jury but the hearsay and speculation.

9 Now, if Mr. Finney is going to have a video, I, I don't
10 need to get it at nine o'clock tomorrow when we're walking
11 in for trial and then him trying to introduce it before the
12 close of his case without having a chance to review it.
13 It's, it's not that long. It's about 17 minutes. But I
14 certainly want to watch it at least more than once and,
15 and---

16 THE COURT: whose video are you referring to?

17 MR. BUTCHER: Mr. Bradley's. Remember at the end he
18 said he wanted to introduce the whole video and, and then
19 you said and---

20 SOLICITOR FINNEY: I thought we were talking about the
21 written statement came in for Bradley. I wasn't talking
22 about the video.

23 MR. BUTCHER: I---

24 THE COURT: His written statement did come in in full.

25 SOLICITOR FINNEY: Yes, ma'am.

1 MR. BUTCHER: All right. Okay. Well, if the video's
2 off the table, we're good with that.

3 THE COURT: You're not seeking to introduce the rest of
4 the video of, of A.J. Bradley?

5 SOLICITOR FINNEY: No, ma'am.

6 THE COURT: Okay. Okay. I'm with you and I don't know
7 if y'all want to, to take these things back so that I'm
8 not -- so you're not looking for them later and I've got
9 them up here.

10 MR. BUTCHER: Yeah, the---

11 THE COURT: The subpoenas go back to the Butchers.

12 MR. BUTCHER: If, if, if we move for -- do, do we need
13 to go ahead and make these a Court's Exhibit since it's been
14 brought up or may we --?

15 THE COURT: We can do that at the end of the day.

16 MR. BUTCHER: Okay.

17 THE COURT: Okay. We're ready for the jury and I'm
18 sorry.

19 Did I give you enough time to get---

20 SOLICITOR FINNEY: He's on the way. She's on the way.

21 THE COURT: Okay.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE BAILIFF: The jurors are all seated, Your Honor.

25 THE COURT: Thank you.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 SOLICITOR FINNEY: The State would call Stephanie
2 Carnes to the stand.

3 THE BAILIFF: Ma'am, raise your right-hand and state
4 your name please.

5 THE WITNESS: Stephanie Carnes.

6 STEPHANIE CARNES, being first duly
7 sworn, testified as follows:

8 THE BAILIFF: Thank you much. Watch the -- step on
9 around please.

10 THE WITNESS: Okay.

11 THE BAILIFF: Ma'am, if you pull your mask. State your
12 name for the record and spell your last name please.

13 THE WITNESS: Okay. My name is Stephanie Carnes.
14 Spelled C-A-R-N-E-S.

15 DIRECT EXAMINATION

16 BY SOLICITOR FINNEY:

17 Q Good afternoon, Agent Carnes.

18 Tell us where you're employed.

19 A I am employed at South Carolina Law Enforcement
20 Division.

21 Q And tell the ladies and gentlemen of the jury what that
22 agency does.

23 A Okay. We receive cases from all over the state. My
24 department, in particular, is the toxicology department. So
25 we analyze any sort of biological specimen, whether it's

Stephanie Carnes - Direct examination
By Solicitor Finney

1 blood, urine, tissue samples, for the presence or absence of
2 drugs, alcohol, and other poisons.

3 Q And how long have you been employed in the toxicology
4 department at SLED?

5 A I have been employed for roughly five and a half years.

6 Q All right. And do you -- could you tell us a little
7 bit about your educational background?

8 A Absolutely. I have my undergraduate degree in
9 chemistry with a concentration in forensic science from
10 Methodist University and I graduated from there in 2014. I
11 also obtained my Master's Degree in Forensic Chemistry from
12 George Washington University in 2016.

13 Q And in the five years that you've been at SLED, do you
14 have to do continuing education to remain certified?

15 A We're not technically certified. I -- that's not a
16 term that I would use. But we do undergo training.
17 Training is elective for us but every year it is encouraged
18 that we do outside training, outside of SLED itself,
19 completely separate entity.

20 But, upon hiring, we are required to do many different
21 levels of training. We are trained and signed off to do
22 multiple types of analysis. And so, for each type of
23 analysis that we are able to do, we have to do practice --
24 well, you have to do practice samples. We have to do
25 written testes. We have to do an oral test and we have to

Stephanie Carnes - Direct examination
By Solicitor Finney

1 sit for an in-house mock court and that's, like I said, for
2 a number of different disciplines within toxicology.

3 Q Besides doing the testing in the laboratory at SLED --

4 A Uh-huh. (Affirmative).

5 Q -- do you have occasion to testify in courts across
6 the -- South Carolina?

7 A Yes.

8 Q And have you been qualified as an expert witness prior
9 to this day in the field of toxicology?

10 A Yes.

11 Q All right. How many times would you say you've been
12 qualified?

13 A I would say roughly three or four times.

14 SOLICITOR FINNEY: All right. And, at this time, Your
15 Honor, I would offer Agent Carnes as an expert in the field
16 of toxicology.

17 THE COURT: Any objection or any voir dire of this
18 witness?

19 MRS. BUTCHER: Some voir dire, Your Honor.

20 THE COURT: Sure.

21 CROSS-EXAMINATION

22 BY MRS. BUTCHER:

23 Q Ms. Carnes, I'm -- I apologize. Perhaps I
24 misunderstood.

25 Did you say you're not an actual toxicologist, a

Stephanie Carnes - Cross-examination
By Mrs. Butcher

1 certified toxicologist?

2 what were you saying?

3 A No, that's not, that's not what I was saying. So I am
4 a toxicologist. We don't use the term certified per se in
5 our lab. You have to be -- we have to pass all the proper
6 tests, mock court, oral exams, written exams in order to
7 even be brought -- what we consider brought online to even
8 accept cases.

9 So, if we are able to accept cases, as I was in this
10 situation, we have been -- we've passed everything that we
11 need to for our internal training. But it -- the word
12 certified is not technically a term that we use.

13 Q Okay. Do you have a degree in toxicology?

14 A I have a degree in forensic chemistry which encompasses
15 toxicology department.

16 Q Okay.

17 A Yes.

18 Q Is that a Ph.D. or what is that?

19 A It's a master's degree.

20 Q Masters?

21 A Uh-huh. (Affirmative).

22 Q Okay. And you used the term were able to accept cases.
23 what -- explain to me what you're talking about.

24 A I believe you're asking when I was saying in reference
25 to my training --

Stephanie Carnes - Cross-examination
By Mrs. Butcher

1 Q Uh-huh. (Affirmative).

2 A -- and -- so, when we are first employed by SLED, you
3 are not physically able to take cases that would be
4 submitted from around the State until you are -- you passed
5 all of your training and you are proven competent. So,
6 until we reach that point -- and training can take anywhere
7 from six months to a year. So, once you reach that point,
8 you're now what we consider put online and able to accept
9 cases that are submitted from around the State.

10 Q Okay. And I apologize. I'd never---

11 A Yeah.

12 Q ---had someone explain it that thoroughly.

13 A Okay.

14 Q And how many cases have you been able to accept?

15 A I don't even know if I can give you a specific number.
16 I would say, within a years time, we take, individually,
17 hundreds of cases. I would say, in a years time, at least
18 350 cases I work.

19 Q So a bunch of them, in other words?

20 A Yes.

21 Q Thank you very much.

22 A Absolutely.

23 MRS. BUTCHER: No objection, Your Honor.

24 THE COURT: Okay. Ladies and gentlemen, I do find that
25 Ms. Carnes is qualified to testify as an expert in forensic

Stephanie Carnes - Cross-examination
By Mrs. Butcher

1 chemistry.

2 So, normally our rules of evidence do not permit
3 witnesses to testify as to their opinions. They can testify
4 about what they've heard or seen or observed in some way.
5 But there's an exception to that rule for a witness who is
6 qualified in some expertise through either education or
7 training or some combination that they're an expert in a
8 certain field, and, in that case, they are qualified to give
9 you an opinion in that field.

10 This does not mean that you have to accept the opinion.
11 It means that it's evidence that you can use in any way you
12 see fit and give whatever weight you think is appropriate.

13 Thank you.

14 SOLICITOR FINNEY: Thank you, Your Honor.

15 CONTINUED DIRECT EXAMINATION

16 BY SOLICITOR FINNEY:

17 Q Agent Carnes, did you have occasion to receive
18 specimens of blood and ocular fluid from a suspect -- from
19 a victim in Sumter County named Lonnie Pack?

20 MRS. BUTCHER: Objection, Your Honor. Chain of
21 custody. Foundation.

22 THE COURT: Do you want to respond to that?

23 SOLICITOR FINNEY: May -- let me ask a question a
24 different way?

25 Q Do you normally receive samples from law enforcement

Stephanie Carnes - Direct examination
By Solicitor Finney

1 agencies at your laboratory in Columbia?

2 A Yes.

3 Q All right. And as a result of processing these cases,
4 do you do toxicology type exams on the substances that are
5 submitted?

6 A Yes.

7 Q what are the substances that are usually submitted?

8 A So, most of the time we receive blood and urine. We
9 can also receive, in specific death cases, blood and ocular
10 samples as well as tissue specimens. So, brain, liver,
11 kidney, things of that nature.

12 Q And did, did you -- do you have a report, a file, on a
13 case from Sumter involving a decedent---

14 MRS. BUTCHER: Objection, Your Honor. Same objection.

15 THE COURT: And let me, let me hear the rest of the
16 question first.

17 Q Involving a deceased man named Lonnie Pack?

18 A If I could---

19 MRS. BUTCHER: Objection, Your Honor.

20 THE COURT: I understand your objection. Let me, let
21 me hear the question---

22 THE WITNESS: Am I---

23 THE COURT: ---cause I don't see a file.

24 SOLICITOR FINNEY: And I -- she was getting ready to
25 say.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 THE WITNESS: I was gonna say if I am able to reference
2 a report---

3 Q All right.

4 A ---I could give you a specific response.

5 Q May I show you a document and ask if you can identify
6 it?

7 A Yes.

8 Q When did your lab receive that sample?

9 MRS. BUTCHER: Your Honor, I would ob -- same
10 objection.

11 THE COURT: And if you'd tell me your objection.

12 MRS. BUTCHER: Your Honor, foundation.

13 THE COURT: Let me get y'all to approach please.

14 (WHEREUPON, a bench conference was held out of the
15 hearing of the jury at this time.)

16 THE COURT: Okay. Ladies and gentlemen, we've got an
17 issue of law that we need to take up outside of your
18 presence. I'm gonna ask if you'll please return to the jury
19 room while we address a few issues. Thank you so much.

20 Again, please do not begin any deliberating.

21 (WHEREUPON, the following takes place outside the
22 presence of the jury.)

23 THE COURT: Okay. Since we had that discussion at side
24 bar, I wanted to be able to put this on the record.

25 So, let me hear from you first, Mrs. Butcher, and then

Stephanie Carnes - Direct examination
By Solicitor Finney

1 I'll hear from you in response---

2 MRS. BUTCHER: Your Honor --.

3 THE COURT: ---Mr. Finney.

4 MRS. BUTCHER: Thank you, Your Honor.

5 Your Honor, this is basic evidentiary issues and it --
6 no -- to my knowledge, the Court nor us -- we were advised
7 that he wanted to call people out of order to establish a
8 chain of custody, and, you know, we always put that up front
9 at the beginning of a trial. We've been denied. We've been
10 allowed.

11 But, at this point, I mean if, if he would like to
12 recall her at a later time when it's appropriate, we have no
13 problem with that. But to move forward hoping to establish
14 and chancing a mistrial, Your Honor, I don't think that's
15 fair to my client in any fashion. Well, frankly, any of the
16 witnesses here or anything and -- or the Court.

17 Your Honor, she -- I'm sure that he can certainly
18 recall this witness. But I think the chain of custody needs
19 to be established and especially -- this is a murder trial
20 and, additionally, there have been so many pretrial issues
21 with evidence and chains of custody.

22 THE COURT: Yes, sir, Mr. Finney.

23 SOLICITOR FINNEY: Your Honor, obviously we were -- we
24 had a order of witnesses that we thought would flow well
25 with the, the jury. We've had some disruption to that.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 These agents were available today because they have other
2 obligations in Court this week as well.

3 So, we scheduled them for this afternoon, and, Doctor
4 Ross, the pathologist who's gonna testify about collecting
5 the samples and sending them to law enforcement, is not
6 available today but she will be here at eleven o'clock in
7 the morning. And so we are, you know, we are saying that we
8 can prove a link in the chain today and we can prove another
9 link in the chain tomorrow and there's not gonna be any
10 embarrassment or, or any problem.

11 If, for some reason, Doctor Ross expires tonight, then
12 I understand we may have a mistrial if she doesn't get to
13 testify. But in the normal course of business, I can't call
14 every witness in the proper sequence to make the other side
15 comfortable when we're just doing -- I mean we're not
16 confirming anything except what this witness knows about,
17 and then tomorrow we'll confirm events that another witness
18 knows about.

19 THE COURT: I'm just concerned about the opportunity
20 for meaningful cross-examination when we don't have a, a
21 cut -- a chain of custody prior to this witness giving an
22 expert opinion.

23 Anything else, Mrs. Butcher?

24 MRS. BUTCHER: No, Your Honor.

25 (Pause.)

Stephanie Carnes - Direct examination
By Solicitor Finney

1 THE COURT: All right. Let's stand down for a minute
2 and let me see. Let me just take a look at the rules of
3 evidence. I'll be right back with y'all.

4 MRS. BUTCHER: Thank you, Your Honor.

5 MR. BUTCHER: Your Honor, do we have more than five
6 minutes?

7 THE COURT: Do you need more than five minutes?

8 MR. BUTCHER: I, I needed enough time for a cigarette
9 if that's okay.

10 THE COURT: No.

11 MRS. BUTCHER: Thank you, Your Honor. Thank you.

12 (WHEREUPON, a short recess was taken at this time.)

13 THE COURT: Is it -- do we have an affidavit on the
14 chain of custody, Mr. Finney?

15 Like a Rule 6 affidavit with all the people who are in
16 the chain of custody that's been sworn to?

17 SOLICITOR FINNEY: Let me check, Your Honor, and just
18 because you're on the bench, I wanted to ask and, and, and
19 we're not -- I didn't want to be on the record. But I just
20 wanted to find out from the witness what her schedule was
21 for tomorrow in case she may have to come back to Sumter.

22 THE WITNESS: I should be able to.

23 SOLICITOR FINNEY: Okay.

24 (Pause.)

25 SOLICITOR FINNEY: I'm, I'm not familiar with the

Stephanie Carnes - Direct examination
By Solicitor Finney

1 affidavit you're talking about, Your Honor. I have a report
2 where the officer who collected the samples from Doctor Ross
3 at the autopsy dropped the samples an hour or so later at
4 SLED for their laboratory to do the analysis. So, I have
5 Doctor Ross's report. Then I have the, the SLED receipt and
6 then we have the toxicology results.

7 THE COURT: Well, I mean I'm, I'm not trying to tell
8 you how to, to try your case. You, you know, if you've got
9 an officer who was physically present at the autopsy who can
10 testify as to the chain of custody, you can do that instead
11 of the doctor. But I can't let in the, the expert opinion
12 on the substance until we've established the chain.

13 SOLICITOR FINNEY: All right. Well, subject to your
14 ruling, I will have to reorder the, the call of the
15 witnesses and I could do that starting tomorrow morning.
16 We'll start off with the officer who collected the samples.
17 Then we'll have Doctor Ross at 11:00. Well, Doctor Ross
18 actually collected the samples and then---

19 THE COURT: Yeah, I think you---

20 SOLICITOR FINNEY: ---and then gave them to the
21 officer.

22 THE COURT: I mean if you have Doctor Ross, then that's
23 fine. I mean I haven't heard her testimony but I would
24 think that would be fine. I just can't allow the expert to
25 give the ultimate opinion without establishing the chain of,

Stephanie Carnes - Direct examination
By Solicitor Finney

1 of custody first.

2 SOLICITOR FINNEY: All right. I would suspect then, at
3 this point, Your Honor, I do have one city officer. He's a
4 short witness. I could call him to testify about him
5 receiving some evidence at the, at the scene, a phone and an
6 ID card from the victim. We could do that this afternoon,
7 break for the day, and then I'll reschedule everybody for in
8 the morning.

9 THE COURT: Okay. So, your objection is sustained.

10 MRS. BUTCHER: Thank you, Your Honor.

11 THE COURT: All right. Thank you, ma'am. You can step
12 down.

13 THE WITNESS: Okay.

14 SOLICITOR FINNEY: Your Honor, can we ask Agent Carnes
15 to be dismissed until tomorrow and I'll call you and tell
16 you --?

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

18 THE WITNESS: Thank you.

19 SOLICITOR FINNEY: And I'll go get the city officer.

20 (Pause.)

21 THE COURT: Are we ready for the jury?

22 SOLICITOR FINNEY: I am. Let's do the IT first before
23 we bring the jury in.

24 THE COURT: Okay.

25 (Pause.)

Joseph Kellahan - Direct examination
By Solicitor Finney

1 THE COURT: So, we're ready for the jury?

2 Okay. Thank you.

3 (WHEREUPON, the following takes place within the
4 presence of the jury.)

5 THE COURT: That's all right. Y'all are fine.

6 THE BAILIFF: The jury is all seated, Your Honor.

7 THE COURT: Thank y'all.

8 SOLICITOR FINNEY: Please the Court.

9 We call Officer Drew Kellahan.

10 THE COURT: Okay.

11 THE BAILIFF: Sir, raise your right-hand. State your
12 name.

13 THE WITNESS: Joseph Kellahan.

14 JOSEPH KELLAHAN, being first duly
15 sworn, testified as follows:

16 THE BAILIFF: Thank you. Have a seat and walk around.
17 Pull your mask --.

18 THE WITNESS: Okay..

19 THE BAILIFF: State your name for the record and spell
20 your last name please.

21 THE WITNESS: Joseph Kellahan. K-E-L-L-A-H-A-N.

22 DIRECT EXAMINATION

23 BY SOLICITOR FINNEY:

24 Q Officer Kellahan, good afternoon.

25 A Good afternoon, sir.

Joseph Kellahan - Direct examination
By Solicitor Finney

- 1 Q Tell us who you're employed by.
- 2 A So I work with the police department, with City of
- 3 Sumter.
- 4 Q And how long have you been a police officer?
- 5 A Five years.
- 6 Q All right, sir. And all five of those years were in
- 7 Sumter?
- 8 A Yes, sir.
- 9 Q All right. I want to take you back to August the
- 10 11th, 2018.
- 11 Were you on duty that day?
- 12 A Yes, sir, I was.
- 13 Q And what were your official duties at the time?
- 14 A I worked on patrol.
- 15 Q All right. And what does that mean?
- 16 Tell the ladies and gentlemen.
- 17 A So I answer calls for service. When 9-1-1 calls come
- 18 out, then dispatch sends me to the call.
- 19 Q All right. Do you remember responding to 56 South Pike
- 20 Street East about three o'clock in the afternoon for a call
- 21 for service?
- 22 A Yes, sir, I do.
- 23 Q Did other officers respond as well?
- 24 A Yes, sir, they did.
- 25 Q And do you remember, when you got there, what the

Joseph Kellahan - Direct examination
By Solicitor Finney

1 situation was?

2 A Yes, sir. So we responded for a shooting incident.

3 Q All right.

4 A When I arrived on scene, I was either the first or
5 second officer and there was a subject laying on the ground
6 that had been shot multiple times and that -- that's just
7 about it. The --.

8 Q Did you yourself go into -- for example, I'm asking at
9 the time you were there, were -- I know other officers were
10 there.

11 Was EMS or ambulance people type there?

12 A They were on the way.

13 Q All right. Did you-all do anything with the subject on
14 the ground while you were waiting on EMS?

15 A Yes, sir, we started administering first aid and
16 actually started CPR --

17 Q All right.

18 A -- on scene.

19 Q At some point were you trying to get some
20 identification from the man on the ground?

21 A Yes, sir, we were trying to get his identification
22 card.

23 Q All right. I have a video that I want to show you and
24 I -- have you seen the video?

25 A I have, yes, sir.

Joseph Kellahan - Direct examination
By Solicitor Finney

1 Q All right. Are you in the video?

2 A I am.

3 Q And are you responding to the situation there at the
4 Auto Doctors?

5 A Yes, sir.

6 Q All right.

7 THE COURT: And have we marked this?

8 Have we given this a --?

9 SOLICITOR FINNEY: We showed it to the Court. I don't
10 know if it's got a number.

11 what would be the next number?

12 THE DIGITAL REPORTER: Twenty-seven.

13 SOLICITOR FINNEY: Twenty-seven. Exhibit 27, Your
14 Honor.

15 THE COURT: Okay. Before we show it to the jury, any
16 objection to this being admitted into evidence?

17 MR. BUTCHER: Your Honor, we've seen it and we have no
18 objection.

19 THE COURT: It is admitted.

20 SOLICITOR FINNEY: Thank you.

21 (WHEREUPON, the video was marked as State's Exhibit No.
22 27 and received into evidence at this time. State's Exhibit
23 No. 27 was played for the jury at this time.

24 Q Is that you in the picture, officer?

25 A Yes, sir.

Joseph Kellahan - Direct examination
By Solicitor Finney

1 Q All right. And what would -- what did the lady hand
2 you just now?

3 A The victim's cellphone.

4 Q And where did it come from?

5 A Out of his pocket.

6 Q Pocket of what?

7 A His pants.

8 Q Pants pocket.

9 And also she gave you something else?

10 A His identification, identification card.

11 Q All right. And did -- what did you do with those two
12 items once they were taken from Mr. Pack?

13 A I placed it on the hood of his car.

14 Q All right. Is there a video of you looking at those
15 items a little later?

16 A Yes, sir.

17 Q Would you play that for us?

18 This will be Exhibit No. 28.

19 THE COURT: Again, before you show that to the jury,
20 any objection to this coming in front of the jury?

21 MR. BUTCHER: We've seen it and we have no objections,
22 Your Honor.

23 THE COURT: Go ahead.

24 (WHEREUPON, the video was marked as State's Exhibit No.
25 28 and received into evidence at this time. State's Exhibit

Joseph Kellahan - Direct examination
By Solicitor Finney

- 1 No. 28 was played for the jury at this time.)
- 2 Q Is that you, officer?
- 3 A Yes, sir, the, the one with the gloves on closest to
- 4 the camera.
- 5 Q The one that's closer to the camera is you?
- 6 A Yes, sir.
- 7 Q And what are you looking at?
- 8 A I'm reading his identification card for EMS to spell
- 9 his name for them.
- 10 Q All right. And those items were left by you on the
- 11 hood of the car?
- 12 A Yes, sir.
- 13 Q All right. Tell the ladies and gentlemen of the jury
- 14 did the city investigate this case?
- 15 A Initially we responded but the county -- it was
- 16 actually county jurisdiction. So they took over the
- 17 investigation.
- 18 Q And does that happen sometimes when you respond to a
- 19 place?
- 20 A Yes, sir.
- 21 Q You find out later it's actually a county?
- 22 A Yes, sir, sometimes it gets mixed up with dispatch.
- 23 Q All right. And so you-all turned over everything in
- 24 the case as far as the investigation to the county?
- 25 A Yes, sir.

Joseph Kellahan - Direct examination
By Solicitor Finney

1 Q And they followed up?

2 A Correct.

3 Q I don't have any more questions. Thank you for coming
4 today.

5 A Yes, sir.

6 MR. BUTCHER: No questions from the defendant, Your
7 Honor.

8 THE COURT: Thank you, sir. You can step down.

9 THE WITNESS: Yes, ma'am.

10 SOLICITOR FINNEY: Thank you, sir.

11 Your Honor, at this time I would ask for the Court to
12 grant a recess for the rest of the day. We have a number of
13 witnesses who could not be here this afternoon and we'd like
14 to start back with the case in the morning.

15 THE COURT: Okay. Ladies and gentlemen, I'm gonna ask
16 if you'll be back at the same time tomorrow morning, about
17 9:20, and we'll start promptly at 9:30. Again, please don't
18 begin discussing the case overnight and we'll see you in the
19 morning.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: Okay. Anything else before we adjourn for
23 the day?

24 MR. BUTCHER: Yes, ma'am, I'd like to make those two
25 subpoenas Court's Exhibits if that's possible.

1 THE COURT: Sure.

2 You just want to mark those as Court's Exhibit 1 and 2
3 and, Mr. Finney, you've seen a copy of the subpoenas?

4 MR. BUTCHER: No, I'll, I'll make a copy right now for
5 myself and Mr. Finney. I'll put on the record in a second.

6 (WHEREUPON, the two subpoenas were marked as Court's
7 Exhibit Nos. 1 and 2 for identification purposes only at
8 this time.)

9 MR. BUTCHER: So, Your Honor, the subpoena to, to
10 Bennie Haynesworth is Court's Exhibit 1. Subpoena to Collin
11 Williams, AKA Collin Davis, is Court's Exhibit 2. I'll make
12 a -- step out here and make copies.

13 THE COURT: Anything else we need to put on the record
14 at this point?

15 SOLICITOR FINNEY: We -- we're working on the language
16 in the stipulation and we should have it straight by the, by
17 the morning.

18 THE COURT: Okay. All right.

19 SOLICITOR FINNEY: Thank you, Your Honor.

20 THE COURT: See you in the morning.

21 MRS. BUTCHER: Thank you.

22 And, Your Honor, did you say we're to be here at 9:20,
23 9:30?

24 what was---

25 THE COURT: I'd like to start at 9:30.

1 MRS. BUTCHER: So prior to that.

2 THE COURT: So whatever time you --

3 MR. BUTCHER: 9:29.

4 THE COURT: -- need to get here to be ready to go at
5 9:30. I think that there might be a couple of pleas that --
6 I know Mr. Brown was working on possibly a plea.

7 SOLICITOR FINNEY: Well, Your Honor, based on the
8 ruling I got today, if the doctor is gonna have to testify
9 first that she turned the samples over to the deputy, and
10 then the deputy to the -- get -- would be fine with me to
11 start a little later because the crux of my case is gonna be
12 I got to start with the doctor and she's not gonna be here
13 until 11:00.

14 So, if we had some pleas in the morning, I'll tell my
15 staff to keep you busy. Of course, the jury's coming in at
16 9:30. So --.

17 THE COURT: Tell me what you're -- what you're thinking
18 with regard to the State's case if you don't mind.

19 SOLICITOR FINNEY: No, I'm just saying, based on what
20 I've heard, you want me to get the, the officer who
21 transported Mr. Pack to Charleston -- Newberry for the
22 autopsy --.

23 THE COURT: Well, now here's what I'm saying.

24 If you weren't having that -- the doctor testify,
25 whoever collected the sample, I mean sometimes there's an

1 officer and I don't know -- I, I -- let's put this on the
2 record.

3 You know, sometimes there's an officer who was in the
4 autopsy who collect -- who actually stands there while it's
5 being collected and then takes the sample. But I, I think
6 you were gonna---

7 SOLICITOR FINNEY: And just from the standpoint of a
8 flow, that the cause of death with the autopsy turns into
9 the samples being collected, turns into him dropping them
10 off at SLED, and then the SLED agent with the results.

11 THE COURT: Uh-huh. (Affirmative).

12 That sounds logical.

13 SOLICITOR FINNEY: And I'm just saying I'm gonna have a
14 little bit of a problem doing that because, if the doctor's
15 first, she won't get here until 11:00.

16 Okay. But that's all right. I've got, I've got two
17 officers to talk about cellphone stuff. We could do that at
18 9:30.

19 THE COURT: Okay. Very good.

20 SOLICITOR FINNEY: Thank you.

21 THE COURT: Okay. But anybody needs me to take a plea
22 from the Solicitor's Office this afternoon---

23 SOLICITOR FINNEY: That'd be great.

24 THE COURT: I know Mr. Brown was trying to get some
25 stuff together.

1 SOLICITOR FINNEY: Oh, you're trying to do that today?

2 THE COURT: He was thinking whenever we got a moment.

3 SOLICITOR FINNEY: If you'll give me 10 minutes I'll
4 find out.

5

6 (WHEREUPON, Court was in recess in this case for the
7 evening.)

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1 Wednesday, February 16th, 2022

2

3 SOLICITOR FINNEY: Good morning, Your Honor.

4 THE COURT: Good morning.

5 SOLICITOR FINNEY: May we start off with a discussion
6 about the stipulation?

7 THE COURT: Sure.

8 SOLICITOR FINNEY: We drafted a stipulation agreement
9 on the issue of the firearm, possession of the firearm. We
10 sent it to the Butchers last night. They made some changes
11 and we need to have a discussion because -- you got one --
12 you got two in your hand, Deborah?

13 I had one---

14 MRS. BUTCHER: Okay. I got it.

15 SOLICITOR FINNEY: So, I think there's no -- the, the
16 only objection at this point is the third sentence saying
17 that Mr. Brown signed a statement acknowledging the status
18 on April 12th, 2018. I feel like that's important for the
19 jury to know and they don't not -- do not want that in
20 there.

21 MRS. BUTCHER: Thank you, Your Honor.

22 What I did is this was sent to me. I looked at it
23 early this morning. I added the language after -- on the
24 second line, August 11th, 2018, it was a period. I added
25 and was aware of the same period.

1 The third line, once again, is the probation violation.
2 The -- if the purpose is simply to make sure the jury knows
3 and he's -- we stipulate that he was aware he was not
4 suppose to be in possession, that's accomplished in line two
5 with I was -- and was aware of the same. And, yeah, putting
6 this in just basically opens the door concerning the
7 probation. So --.

8 THE COURT: I, I mean I don't really see that as
9 implicating necessarily probation at all and I, frankly,
10 don't know that it makes a lot of difference either way.

11 MRS. BUTCHER: And I -- what I don't like are the two
12 dates. I mean it's -- I, I think everything is accomplished
13 with that -- the end of that second period, and, and, yeah,
14 and him signing a statement has nothing to do, Your Honor,
15 with the fact he couldn't possess a handgun at that time.

16 It's -- I think it just adds on. It's -- I would hate
17 for it to put the wrong idea into a juror's mind because
18 it's -- they're not related and it, it kind of indicates
19 that was when he was told he couldn't have a handgun, which
20 is not true.

21 THE COURT: The date of this incident was?

22 SOLICITOR FINNEY: August the 11th---

23 THE COURT: August 11th.

24 SOLICITOR FINNEY: ---2018.

25 THE COURT: Yeah, I mean I'm fine with the stipulation

1 agreement as is. I don't think that this -- doesn't say
2 anything about probation. It's accomplishing what we want
3 it to accomplish in that. It's not getting in front of this
4 jury any details regarding any prior convictions. So, I'm
5 fine with it as written.

6 MRS. BUTCHER: Your---

7 MR. BUTCHER: Your Honor, it met -- if I may add, it's
8 just that -- the bottom line, it's legally not accurate to
9 say that---

10 MRS. BUTCHER: Yeah.

11 MR. BUTCHER: ---that that statement---

12 THE COURT: well, I saw -- he did sign a statement
13 acknowledging it. I understand that was for purposes of
14 probation but---

15 MR. BUTCHER: Yes, ma'am.

16 THE COURT: ---he did. I saw it yesterday. The State
17 handed it up. So, it's not incorrect. I understand that
18 you think the legal significance is the conviction and not
19 the probation. However, this is, this is a perfectly
20 correct statement --

21 MR. BUTCHER: But --.

22 THE COURT: -- and that's my ruling.

23 MR. BUTCHER: Thank you, Your Honor.

24 THE COURT: Thank you.

25 MRS. BUTCHER: Thank you, Your Honor.

1 SOLICITOR FINNEY: I would like to get the parties to
2 sign that document that you have that -- Your Honor, and
3 I'm---

4 MR. BUTCHER: Now are we entering---

5 THE COURT: well, I mean it's not stipulation at this
6 point. It's my ruling.

7 SOLICITOR FINNEY: I understand.

8 THE COURT: I mean---

9 SOLICITOR FINNEY: I'm just saying the document that
10 you're looking at needs to be signed.

11 MRS. BUTCHER: It---

12 MR. BUTCHER: why, why don't we just stipulate on the
13 record?

14 MRS. BUTCHER: Yeah.

15 MR. BUTCHER: why do we have to have a document that's
16 signed?

17 MRS. BUTCHER: Yeah, I, I really don't want our
18 signatures going to the jury, Your Honor.

19 MR. BUTCHER: They're very few---

20 MRS. BUTCHER: I mean that's---

21 THE COURT: I understand -- well, it's not a
22 stipulation at this point because they're objecting to that
23 language. So, I -- you can call it what you want to. I, I
24 am ruling that this is what is appropriate to come in front
25 of the jury is what we've indicated here.

1 SOLICITOR FINNEY: Thank you, Your Honor.

2 Also, Your Honor, last night, in an effort to help the
3 situation, we reached out to the bondsman on the missing
4 witness, Bennie Haynesworth.

5 Come here, Mr. Haynesworth.

6 We've got Mr. Haynesworth to come up this morning and
7 counsel has agreed that he would probably be needed first
8 thing in the morning. So, I just wanted the Court to
9 address him.

10 THE COURT: Okay. So, we're gonna excuse Mr.
11 Haynesworth till tomorrow morning?

12 Is that correct?

13 MRS. BUTCHER: Yeah.

14 THE COURT: Is that what you think's appropriate?

15 MRS. BUTCHER: Yes, Your Honor.

16 THE COURT: Okay. Mr. Haynesworth, I'm, I'm Judge
17 Curtis, sir. You're under subpoena to be here, which means
18 we need you here tomorrow morning, same time. We will do
19 our best to let you testify and then kind of go about your
20 business. But it is important you be here tomorrow.

21 You've been served with legal process. You're now
22 being notified we need you tomorrow morning. If you don't
23 appear in violation of a subpoena, then you are subject to
24 contempt where I can hold you in contempt for failure to
25 appear.

1 Anything else y'all want me to address?

2 SOLICITOR FINNEY: Tell the judge about the paper,
3 Mr. Haynesworth.

4 MR. HAYNESWORTH: Okay. Yeah---

5 SOLICITOR FINNEY: Speak up now.

6 MR. HAYNESWORTH: I was given -- okay. I was given a
7 subpoena twice -- well, well, maybe, maybe twice before and
8 then the third, the third one, the third one they came,
9 okay, or actually the person, the person never, never gave
10 it to, knocked on -- or knocked on the door, dropped,
11 dropped the paper, and dropped the paper and went off, and
12 went off. And that's why I didn't know that I suppose to
13 been here yesterday and told the bond -- till the bondsman
14 came and reached out to me yesterday and let me know that I
15 needed, I needed to be here today.

16 THE COURT: Okay.

17 MR. HAYNESWORTH: That is all.

18 THE COURT: well, you know now. You're aware now. So
19 I appreciate you bringing that to my attention. We'll see
20 you back here tomorrow morning at 9:30.

21 MR HAYNESWORTH: Yes, ma'am.

22 MRS. BUTCHER: Your Honor, could we get a phone number
23 so I would be able to contact him in case---

24 THE COURT: Mr. Haynesworth, let them give you some
25 information so, if something happens and our trial schedule

1 changes, we can let you know.

2 MRS. BUTCHER: If you can say it out loud,
3 Mr. Haynesworth.

4 MR. BUTCHER: It will be fine. He doesn't need to give
5 it to everybody.

6 MRS. BUTCHER: Okay.

7 SOLICITOR FINNEY: Thank you, Your Honor.

8 MR. BUTCHER: Thank you, sir.

9 THE COURT: Anything else we need to address?

10 SOLICITOR FINNEY: Yes, ma'am.

11 Let me, let me do this while -- out of an abundance of
12 caution. The next witness is Mr. McCauley, the evidence
13 technician. He collected the evidence, took photographs.

14 There is a photograph of the victim, Mr. Pack, that we
15 took off of a -- I want to show the -- in other words, it's
16 the first visual image we have of Mr. Pack when the police
17 officers arrived. I wanted the jury to see where he was
18 laying -- his -- the position of his body and I wanted the
19 Court to have that. It's a still shot that came off the
20 body cam of the first officer that arrived.

21 MR. BUTCHER: Do you guys have an additional copy?

22 SOLICITOR FINNEY: I'll make one for you.

23 MR. BUTCHER: Thank you, sir.

24 THE COURT: And have we -- we haven't marked this yet?

25 SOLICITOR FINNEY: Haven't marked it.

1 THE COURT: Okay. I guess we need to go ahead and mark
2 it so, for the record, we know which one we're referring to.

3 SOLICITOR FINNEY: Yes, ma'am.

4 THE COURT: Any objection to this photo?

5 MR. BUTCHER: No objection.

6 THE COURT: Okay.

7 SOLICITOR FINNEY: Twenty-nine, Your Honor.

8 THE COURT: Okay.

9 (WHEREUPON, the photograph was marked as State's
10 Exhibit No. 29 for identification purposes only at this
11 time.)

12 SOLICITOR FINNEY: Do you need it now, a copy?

13 MR. BUTCHER: No.

14 SOLICITOR FINNEY: Okay.

15 MR. BUTCHER: No, sir.

16 MRS. BUTCHER: Just -- we just want it before you're
17 done.

18 SOLICITOR FINNEY: Okay. We're ready, Your Honor.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE BAILIFF: The jurors are all seated, Your Honor.

22 THE COURT: Thank you.

23 Okay. Good morning, ladies and gentlemen.

24 (WHEREUPON, the jurors respond good morning.)

25 SOLICITOR FINNEY: Good morning, Your Honor.

Michael McCauley - Direct examination
By Solicitor Finney

1 THE COURT: Good morning.

2 SOLICITOR FINNEY: Good morning, ladies and gentlemen.

3 (WHEREUPON, the jurors respond good morning.)

4 SOLICITOR FINNEY: We'd like to call Investigator,
5 excuse me, Sergeant McCauley.

6 THE BAILIFF: State your name.

7 THE WITNESS: Michael Thomas Mark McCauley.

8 MICHAEL MCCAULEY, being first duly
9 sworn, testified as follows:

10 THE BAILIFF: Thank you much. Step around. State your
11 name for the record and spell your last name please.

12 THE WITNESS: Michael Thomas McCauley. Last name is
13 M-C-C-A-U-L-E-Y.

14 DIRECT EXAMINATION

15 BY SOLICITOR FINNEY:

16 Q Good morning, Mr. McCauley.

17 Are you a sergeant?

18 A I am.

19 Q All right, sir. And where are you employed?

20 A Sumter County Sheriff's Office.

21 Q And what is your duty -- what are your duties there?

22 A Currently I'm the lead crime scene investigator.

23 Q Tell the ladies and gentlemen of the jury what does the
24 crime scene investigator do.

25 A In a nutshell, I deal with the stuff. Any physical

Michael McCauley - Direct examination
By Solicitor Finney

1 item that could be classified as evidence that could prove
2 or disprove the narrative of the story, it's collected,
3 entered as evidence for a major case, usually by me or one
4 of the investigators, that works under me.

5 Q All right.

6 A It's possible that we -- it will be observed, tested.
7 If it's found useful, it will be submitted to the
8 appropriate labs. Usually it's SLED, sometimes the FBI or
9 another agency as appropriate. And then presented in Court
10 as needed.

11 Q All right. And did you have occasion to be called out
12 to a scene at 56 South Pike East on August the 11th, 2018?

13 A I did.

14 Q All right. And what was the nature of the call that
15 you responded to?

16 A I was told there was a shooting at that location. The
17 person shot had subsequently died.

18 Q All right. And tell the ladies and gentlemen what is
19 the protocol for you once you get a call like that.

20 what do you do to get started in the, in the collection
21 of evidence?

22 A Normally, upon arrival, the first thing I'll do is meet
23 with an officer on scene. Usually the higher ranking or if
24 there's another investigator there. We'll conduct an
25 initial walk through. I'm just gonna take a walk around,

Michael McCauley - Direct examination
By Solicitor Finney

1 see what I can see, see if there's anything that's
2 important, see if anything stands out at -- basically
3 looking for items of relevance of something that would help
4 try to explain what happened.

5 Following that, you will usually do a walk through
6 taking pictures just of the scene itself, the approximate
7 locations of everything so you can see, and what relation
8 everything is to each other. From that, anything I've
9 identified will be -- a picture will be taken usually far
10 away to show where it is in relation to things and then
11 progressively leading closer until you can see what the
12 object I'm actually interested in is.

13 Then, after that, we'll usually remark the items just
14 so that I'll have a corresponding item number with them
15 if -- as appropriate, and, following that, we'll begin
16 collecting items for later testing. If something new comes
17 up, we'll mark that, take a picture of it, and collect it as
18 is.

19 We work logically. So if moving one piece of evidence
20 brings up another piece of evidence, we'll simply mark it
21 with the next number available even though it may be way off
22 from the number that is marked.

23 Q Now, when you got --.

24 (Pause.)

25 Q I want to hand you several colored photographs and ask

Michael McCauley - Direct examination
By Solicitor Finney

1 for you to look at them, familiarize yourself with them, and
2 tell us if you took them.

3 A Yes, I did.

4 Q Mr. McCauley, let me show you a few other photographs
5 and ask if you remember taking those at -- they are
6 associated -- are they associated with this case?

7 THE COURT: And, for the record, if you could tell us
8 what exhibit numbers?

9 SOLICITOR FINNEY: I will.

10 A Yes, I did.

11 SOLICITOR FINNEY: All right. The witness has reviewed
12 Exhibits 2, 3, 4, 5, 10, 21, and 22 and said that he did
13 recognize them. Those exhibits have already been put into
14 evidence, Your Honor, and I just wanted to have him refer to
15 those as well. And now I'm moving Exhibit No. 6, 7, 8, 9,
16 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 23 into
17 evidence.

18 MR. BUTCHER: No objection, Your Honor.

19 (WHEREUPON, State's Exhibit Nos. 6 through 9 and 11
20 through 20 were received into evidence at this time.)

21 Q Mr. McCauley, when you took those photographs, had the
22 crime scene already been secured?

23 A Yes, first by the city. Then by the county.

24 Q All right. And how does that normally happen when they
25 secure a scene?

Michael McCauley - Direct examination
By Solicitor Finney

1 A Well, the first thing they do is run to -- and any
2 obvious victim, anybody who's there, and make sure that
3 who's healthy is healthy and will continue to be so and
4 who's injured needs immediate treatment.

5 Q All right. Let me ask you a question.

6 when you got there, was the victim still there?

7 A No.

8 Q All right. So, you don't know where he was found?

9 when you got there, he was already taken away by the
10 ambulance?

11 A Yes, sir.

12 Q All right. Now, do you have a recollection of about
13 what time you got there?

14 A Not exactly. It was late afternoon --

15 Q All right.

16 A -- approximately about the time to get off.

17 Q All right.

18 A Just a little before five o'clock---

19 Q All right.

20 A ---as I recall.

21 Q All right, sir. And when you took these photographs,
22 your, your job, your protocol is to photograph the whole
23 area?

24 A Yes, we start out with a panoramic just to show what
25 the whole area looks like and then do inverse and out verse

Michael McCauley - Direct examination
By Solicitor Finney

1 where we take a picture of the location from the closest
2 street and then usually the street back from the location
3 itself.

4 Q All right. Starting with the panoramic view then, can
5 you show us a picture -- maybe you could just -- you pick
6 out one of these pictures and just tell the jury what
7 number's on it and tell the jury what, what you, what you
8 saw, what you are taking when you do the panoramic?

9 A Okay. This is one that shows the most. This is simply
10 the auto body shop.

11 Q What number is that, sir?

12 A This is gonna be No. 3 --

13 Q All right.

14 A -- as I recall.

15 This is just the auto body shop, the vehicles, the
16 store house itself, a vehicle that was identified to me as
17 the victim's, a towel that was there. This was where I was
18 told the approximation location of the victim was and the
19 truck that was nearby.

20 Q All right. When, when you got there, as far as you
21 know, nothing had been moved or changed as far as the scene
22 of, of the, of the event?

23 A From the time that I got there nothing was moved.

24 Q All right. And do you see -- you see the silver
25 Chrysler automobile in Exhibit No. 3?

Michael McCauley - Direct examination
By Solicitor Finney

1 A I do.

2 Q And how was it identified to you?

3 A It was simply pointed out to me by one of the officers
4 already on scene.

5 Q As what?

6 A That was the shootee's vic -- vehicle.

7 Q The victim's car?

8 A Yes, sir.

9 Q All right. Is there -- in this photograph, is there
10 another vehicle behind or, excuse me, in front of the
11 silver?

12 A Not that I can see.

13 Q Okay. No other vehicle -- the closest vehicle would be
14 where?

15 A The truck right next to it.

16 Q Okay. And the -- as far as going -- in front of where
17 the headlights on the Chrysler are pointing, what would be
18 the closest vehicle?

19 A The next vehicle would be the burgundy in color SUV---

20 Q All right.

21 A ---at that far end.

22 Q And, and how -- can you just give us an estimate?
23 Is that several yards away?

24 A That would be approximately -- from the bumper of the
25 Chrysler, that would be approximately the same distance from

Michael McCauley - Direct examination
By Solicitor Finney

1 me to the edge of the bar there.

2 Q The edge of the bar being here?

3 A Yes, right next to the viewing gallery.

4 Q Where the chairs are?

5 A Yes, sir.

6 Q All right. So there was nothing -- there, there was no
7 other vehicle closer---

8 A Not in front of it.

9 Q ---than the, than the red Ford SUV?

10 A Not in front of it.

11 Q All right. Let's talk a little bit about the evidence
12 that was collected that day. Did you have occasion --
13 looking at State's Exhibit No. 17.

14 Did you have occasion to put down yellow markers?

15 A Yes, those are mine.

16 Q Tell the ladies and gentlemen what you do when you put
17 down the markers.

18 A Well, the markers are simply to draw attention to an --
19 time of interest that I've identified to show later on
20 usually in court where it was in proximity to everything
21 else including the other markers.

22 Q All right. And the markers have numbers on them?

23 A They do.

24 Q All right. Do you put the numbers like one, two,
25 three?

Michael McCauley - Direct examination
By Solicitor Finney

1 Do they go in order?

2 A As often as possible.

3 Q All right. So, drawing your attention to number one,
4 do you see that?

5 A This is it before the marker was put down.

6 Q All right. You took a picture of an item in State's
7 Exhibit No. 16.

8 Tell the ladies and gentlemen what you discovered and
9 took that picture about.

10 A That is a fired projectile that I found in the crush
11 and run right in-between the things. It was later marked as
12 Number 1.

13 Q All right. And do you see that same item in State's
14 Exhibit 17?

15 A Yes, it's a very very small glint.

16 Q All right. And you marked it as Number 1?

17 A Yes.

18 Q All right. Now, when you say it was a projectile, tell
19 the ladies, in common language, what, what Item 16 is that
20 you marked in Item 17 as Number 1.

21 A Long story short, it's a fired bullet.

22 Q It's a bullet?

23 A Yes, sir.

24 Q A fired bullet?

25 A Yes, sir.

Michael McCauley - Direct examination
By Solicitor Finney

1 Q All right. What is a fired bullet?

2 A Anything that's come out of the end of the gun having
3 been fired properly by the gun.

4 Q All right. And it was located between the Chrysler and
5 the Ford truck?

6 A Yes, sir.

7 Q All right. And did you also mark Item Number 2 in
8 State's Exhibit 17?

9 A Yes.

10 Q What is Item Number 2 marked as?

11 A Item Number 2 is a gray shoe that I was told belonged
12 to the victim.

13 Q All right. How far away is the gray shoe from the
14 bullet -- the fired projectile that you found in Exhibit 1?

15 A Approximately the distance from me just before the
16 judge.

17 Q Okay. And also in this photograph, it -- State's
18 Exhibit 17, you have Marker Number 3?

19 A Yes.

20 Q What is Marker Number 3?

21 A That was a burgundy towel that somebody had -- I had
22 been told been used to attempt to stop the bleeding from the
23 victim at the time.

24 Q And all those items were located in the same area?

25 A Yes.

Michael McCauley - Direct examination
By Solicitor Finney

- 1 Q All right. Showing you State's Exhibit No. 18 -- is
2 there a Marker Number 4?
- 3 A There is.
- 4 Q And showing you State's Exhibit No. 19, is that a --
5 what is that?
- 6 A This is a closed flip phone.
- 7 Q Okay. And what is it -- I mean what -- is it a
8 close-up photograph -- 18 is a close-up---
- 9 A Yes.
- 10 Q ---photograph of what you saw in, in -- excuse me.
11 Eighteen is the panoramic view?
- 12 A It's a further away. If you work---
- 13 Q Okay.
- 14 A We work progressively closer to the -- identify what it
15 is.
- 16 Q All right. And you found, you found that phone on the
17 hood of the Chrysler automobile?
- 18 A Yes, sir.
- 19 Q And you took -- you put a marker there?
- 20 A Yes, sir.
- 21 Q And then you took the two photographs out?
- 22 A Yes, sir.
- 23 Q All right. What kind of phone was it?
- 24 A Specifically it was a B311V small flip cellphone.
- 25 Q And do you remember what company made the cellphone?

Michael McCauley - Direct examination
By Solicitor Finney

1 A If I would -- not right directly but I would say
2 Samsung---

3 Q Oh.

4 A ---made it.

5 Q Did you also take photographs of the interior of the
6 Chrysler automobile?

7 A I did.

8 Q Showing you State's Exhibit No. 23, did you -- look at
9 State's 20 and 23 please, sir, and tell us is that the same
10 automobile.

11 A It is.

12 Q And what do you -- what are you showing in those
13 photographs?

14 A Just the state of the inside of the vehicle and
15 anything that may of been pertinent. I have no idea the
16 whats or the whys he got shot. When I show up, I'll take a
17 picture and collect as evidence anything that may be
18 pertinent, even as far as the victim goes, to establish who
19 may of been with him, with him, what his intent was, what he
20 was doing at the time.

21 Q All right, sir. Let me show the jury State's Exhibit
22 No. 20.

23 What area of the car's shown in 20?

24 A These are the front seats from the passenger front door
25 showing the seats and the center console.

Michael McCauley - Direct examination
By Solicitor Finney

1 Q All right. And, in 23, is that also the scene?

2 A Yes, this is just taken from close-up from inside the
3 driver's side.

4 Q All right. And in Exhibit 23, you have identified two
5 yellow markers.

6 what numbers?

7 A Numbers 5 and 6.

8 Q Okay. So you, you photographed them and then marked
9 them?

10 A Yes.

11 Q All right. Did you also do the backseat?

12 A I did.

13 Q Showing you Exhibit No. 21 --

14 A Yes.

15 Q -- what do you see in that photograph?

16 A That was a South Carolina driver's license.

17 Q All right. And anything else?

18 A A small yellow bag and a cellphone.

19 Q All right. Exhibit No. 21, this is the backseat area.

20 After you take the photographs, what do you do with the
21 items that you've seen there?

22 A Usually they'll be collected and entered into evidence.

23 Q And in Exhibit No. 22, was -- what do you see in 22?

24 A This is a close-up of the driver's license.

25 Q Close-up of the -- that was found on the backseat?

Michael McCauley - Direct examination
By Solicitor Finney

1 A Yes, sir.

2 Q I noticed in Exhibit No. 14, tell us -- is that a
3 little bit different -- something different about 14 and
4 some of the other pictures.

5 A Only that it doesn't have the markers on it.

6 Q Okay. Fourteen shows what?

7 what is it showing?

8 A It shows the front of the victim's vehicle having been
9 covered by a brief rain.

10 Q Okay. Tell, tell the ladies and gentlemen about this.

11 A It had rained briefly that day prior to me being called
12 out.

13 Q All right. Some of the photographs -- I'm just
14 wondering.

15 Did the rain occur while you were photographing?

16 A No, the rain stopped, as I recall, shortly before I
17 arrived on scene.

18 Q All right. And -- but the, the photograph showed --
19 it's a little further view of the phone that was on the hood
20 of the --?

21 A Yes, sir.

22 Q All right. Now, after you took the photographs and put
23 down the markers, what did you do then?

24 A After that we actually begin collecting the evidence,
25 bagging it up, and placing it for further testing as needed.

Michael McCauley - Direct examination
By Solicitor Finney

1 Q All right. Can you tell us, did you collect -- tell us
2 the items you collected that day from the scene.

3 A That day I collected several cellphones, the chargers
4 for the cellphones, a bag and a pill bottle that was
5 believed to contain marijuana and some random pills, the
6 projectile itself, of course, a bag full of bags that was
7 near the marijuana, and several items -- several cups and
8 drink bottles from the inside of the vehicle. This is
9 usually dusted because the bottles, if they have any liquid
10 in them, were usually fairly recent and can be later
11 fingerprinted to see who was inside the vehicle.

12 Q Okay. After you collected the fired bullet, did you
13 collect the shoes?

14 A I did.

15 Q Did you collect the phone that was on the hood?

16 A Yes.

17 Q Was there an ID, the victim's ID, Mr. Pack's ID card,
18 was it on -- I didn't -- I don't know that I saw a picture
19 of you---

20 A No, I did not collect that from the hood.

21 Q All right. And the towel, the red towel, did you
22 collect that?

23 A The towel, since it was identified as and after the
24 event incident, was not collected at the time.

25 Q All right. And the car itself, was it taken into

Michael McCauley - Direct examination
By Solicitor Finney

1 custody as far as --?

2 A No, not -- initially it was towed but it was not held
3 for any length of time.

4 Q All right. Very good.

5 After you collected the items at the scene, what do you
6 do with them?

7 A Normally we take them back to the office and put them
8 into evidence to keep them secure.

9 Q All right. And have you maintained security on those
10 items since August of 2018?

11 A Yes, they've been held in evidence only being pulled
12 out for testing or viewing.

13 Q All right. Later on, did you have occasion to attend
14 the autopsy of Mr. Pack?

15 A I did.

16 Q And where was it held?

17 A Newberry Pathology Associates at Newberry.

18 Q Newberry, South Carolina?

19 A Yes, sir.

20 Q All right. So, you traveled there?

21 A I did.

22 Q What is your purpose in traveling to the autopsy?

23 A Usually just so I can interface with the pathologist,
24 get their initial -- anything they observe, anything they --
25 that I can -- that way I can pick up any evidence generated

Michael McCauley - Direct examination
By Solicitor Finney

1 there, transport it back to our evidence or to SLED as
2 needed. I can also give their initial findings to the
3 investigators assigned.

4 Q All right. After going to Newberry attending the
5 autopsy, what were you given?

6 A I was given a bag of items for toxicology. Usually
7 that consists of blood, vitreous fluid. That's eyeball
8 juice. Usually gastronomic sample. And the -- depending on
9 where the blood is taken from in the body, it can be one of
10 several points where -- from where it is. That's usually up
11 to the pathologist.

12 Q What do you do with those biological samples that are
13 given -- who, who first gave you those samples in Newberry?

14 A Officially I get them from Doctor Ross.

15 Q Doctor Ross?

16 A Yes.

17 Q And what is her job?

18 A She's the actual attending pathologist.

19 Q All right. And when she turns those biological items
20 over to you, what do you do with them there?

21 A Normally I contact another investigator at our office.
22 Because SLED is in-between Newberry and Sumter, so it makes
23 no sense to bring it to our office and then bring it to
24 SLED, but it has to be logged in by SLED's iLab's system
25 before it can be dropped off.

Michael McCauley - Direct examination
By Solicitor Finney

1 I contact them, tell them what I have to be dropped off
2 at the SLED lab, and take those items straight to SLED.

3 Q And did you do that in this case?

4 A For the biological samples, yes.

5 Q When you left Newberry, you dropped off this --
6 biological samples at SLED?

7 A I did.

8 Q Where, where is that?

9 A Broad River Road. So Columbia.

10 Q And, and then -- in Columbia.

11 Once you dropped the samples, then you come back to
12 Sumter?

13 A I do.

14 Q All right. Was there any other item given to you at
15 the autopsy?

16 A Yes, a second fired bullet was taken out of the victim
17 and given to me.

18 Q So, the -- Doctor Ross was able to recover a fired
19 bullet?

20 A Yes.

21 Q And it was turned over to you?

22 A Yes.

23 Q What did you do with that bullet?

24 A That was taken back to Sumter and put into evidence at
25 the time.

Michael McCauley - Direct examination
By Solicitor Finney

1 Q Okay. The clothing that Mr. Pack had on would have
2 been handled how?

3 A Normally it's simply bagged up and given to me as
4 needed.

5 Q When?

6 A If it's still on him at the autopsy, it's taken off
7 immediately prior to the autopsy itself. If not, it would
8 of been bagged up at the closest hospital he was taken to to
9 be treated.

10 Q And do you have Mr. Pack's clothing in evidence?

11 A We do.

12 Q All right. Now, after you have done that work and
13 gotten everything logged in, you don't -- the, the
14 biological samples are at SLED now?

15 A Yes.

16 Q You -- how long does it usually take for SLED to do a
17 test report on that kind of stuff?

18 A On average, several months.

19 Q Months.

20 Okay. So you're waiting for that to come back.

21 In the mean time, did you have occasion to collect
22 evidence at another location near by the shooting scene
23 regarding some video?

24 A Yes, the -- it's now a Cheapway but it -- at the time
25 it was an El Cheapo at the corner of Highway 15 and South

Michael McCauley - Direct examination
By Solicitor Finney

1 Pike Road.

2 Q I want to show you what's been marked as State's
3 Exhibit No. 1 and ask if you'd just look at it and get
4 yourself familiar with it and then tell the jury --.

5 A Okay. This is going to be the El Cheapo itself. This
6 is gonna be the incident location.

7 Q Okay. So, how long after you left the incident
8 location did you get to go to the El Cheapo?

9 A That would of been about a day later --

10 Q All right. And---

11 A -- at least.

12 Q All right. And when you went to the El Cheapo, what
13 was your intent?

14 A To get any video showing the victim or the subject's
15 vehicles as they were explained to me either traveling to or
16 from South Pike Road.

17 Q And the El Cheapo is a gas station?

18 A It is.

19 Q When you went there, who did you talk to?

20 A The manager.

21 Q All right. And what did you ask him for?

22 A I just asked him if I could have access to the video
23 from the time period immediately prior to the incident.

24 Q And did he allow that?

25 A He did.

Michael McCauley - Direct examination
By Solicitor Finney

1 Q All right. And did you acquire video files of the El
2 Cheapo from the day of the shooting?

3 A I did.

4 SOLICITOR FINNEY: All right. For the Court, these are
5 Exhibits 30, 31, 32, and 33 and we'd like to publish them to
6 the jury.

7 THE COURT: Any objection to those items coming into
8 evidence?

9 MR. BUTCHER: No, Your Honor.

10 THE COURT: 31 through 33 are admitted.

11 SOLICITOR FINNEY: 30, 31, 32 and 33.

12 THE COURT: Correct.

13 (WHEREUPON, State's Exhibit Nos. 30 through 33 were
14 received into evidence at this time.)

15 Q Is your screen on?

16 A Yes, mine is.

17 Q Can you tell us right now -- if you could stop it,
18 Robert.

19 what do we see in this camera view at the El Cheapo?

20 A This is one of the cameras overlooking the pumps
21 outside. This particular one is looking at McLaughlin Ford
22 on 15 north.

23 Q McLaughlin Ford is where?

24 A Right across the street from it.

25 Q All right. And, on this video, do you see the silver

Michael McCauley - Direct examination
By Solicitor Finney

1 Chrysler pulling in?

2 A I do. It's missing its back hubcap on the driver's
3 side.

4 Q All right. Go ahead, Robert.

5 (WHEREUPON, the video was played for the jury at this
6 time.)

7 Q Now, stop it, Robert, when the car pulls in. There's a
8 timestamp at the top of the video.

9 A Yes, sir.

10 Q Did you, did you have to correlate that to the actual
11 time of day?

12 A Yes, that's usually the first thing we do. When I go
13 there, the first thing I do is look at the thing as it's
14 recording. Easily I'll just see what the time it's showing
15 is versus usually what the time on my cellphone is since
16 cellphones synch off a mass -- like most others, that
17 usually has fairly appropriate time. I'll then note any
18 discrepancy in time between that. Say, for example, they
19 didn't set for daylight savings time, say it's a few minutes
20 off. I'll also call dispatch and ask for their original
21 9-1-1 call to try to estimate from there with any time
22 dilation from the inaccuracies.

23 Q Did you find that the correct time of day when the
24 Chrysler pulled in it was not?

25 A Yes, it was not the correct time shown.

Michael McCauley - Direct examination
By Solicitor Finney

1 Q All right. What time -- what adjustments did you have
2 to make to make it---

3 A Several minutes. Several minutes --

4 Q All right.

5 A -- as I recall.

6 SOLICITOR FINNEY: Excuse me one second.

7 (Pause.)

8 SOLICITOR FINNEY: Beg the Court's indulgence.

9 THE COURT: Uh-huh. (Affirmative).

10 (Pause.)

11 Q Are you aware or familiar with the CAD report that's
12 issued by Sumter County Law Enforcement?

13 A Yes.

14 Q Can you tell us the -- do you -- are you familiar with
15 that document?

16 A Yes, I am.

17 Q All right. Does it have the time that the 9-1-1 call
18 was made on this case?

19 A Yes, it has -- it automatically timestamps when it's
20 picked up.

21 Q And what, what time does it refer to?

22 A At this time it's showing at 15:47 hours military time.

23 Q And what time is that?

24 A 3:46.

25 Q All right, sir. And what -- 3:47 would be afternoon,

Michael McCauley - Direct examination
By Solicitor Finney

1 PM?

2 A Yes.

3 Q All right. 3:47, the 9-1-1 call was made?

4 A Yes.

5 Q And correlate that with the video that you were looking
6 at from the El Cheapo.

7 A The El Cheapo's currently showing at 1:39PM or 13:39PM
8 military time.

9 Q All right. So to correlate it to the actual time of
10 day on the 11th, what time would, would that -- what,
11 what, what should that video --?

12 A This video was slow about almost two hours.

13 Q All right. So it's about two hours off?

14 A Thereabouts.

15 Q All right. Once the car comes in to the El Cheapo,
16 you've got this video file now, do you keep running the tape
17 to see when it leaves?

18 A Yes.

19 (WHEREUPON, a portion of the video was played for the
20 jury at this time.)

21 Q All right. So it starts to pull out at 1:42 on this
22 camera?

23 A It does.

24 Q All right. Which would be about 3:42 in the afternoon?

25 A Thereabouts.

Michael McCauley - Direct examination
By Solicitor Finney

1 Q All right. Is there a -- are there a number of cameras
2 at the El Cheapo?

3 A Yes, there's a -- several inside and outside.

4 Q All right. And so do -- you checked all of them to
5 find---

6 A I checked all of them---

7 Q ---what is it?

8 A But I was told to pay special attention to the outside
9 cameras.

10 Q All right. And was there another outside camera that
11 captured the Chrysler leaving?

12 A Yes, there was.

13 (WHEREUPON, a portion of the video was played at this
14 time.)

15 Q All right. Do you see the Chrysler leaving?

16 A I do.

17 Q All right. What does it do when it gets to Pike Road?

18 A It's going to take a right onto Pike Road heading east.

19 Q And it leaves at 1:42:57?

20 A As shown on this video.

21 Q On -- as shown on this.

22 All right. All right. Did you, did you continue to
23 look at the video to see what might else be on the video?

24 A Yes.

25 Q All right. At the El Cheapo?

Michael McCauley - Direct examination
By Solicitor Finney

1 A Yes.

2 (WHEREUPON, a portion of the video was played at this
3 time.)

4 Q All right. What time are we looking at now on the top?

5 A As shown on the video, it's 13:46 hours.

6 Q All right. And if you could stop it right there.

7 Did you come to find that that vehicle in the video was
8 somewhat connected to this case?

9 A Yes, I was told this was -- to look for a black SUV.
10 That would likely be the suspect's vehicle --

11 Q All right.

12 A -- or at least the one he left in.

13 Q All right. And did that, that El Cheapo video captured
14 that black truck leaving or driving down Pike Road at what
15 time?

16 A Showing on the video at 13:46.

17 MR. BUTCHER: Objection. Speculation.

18 THE COURT: Well, what part of it are you saying is
19 speculation?

20 MR. BUTCHER: That that's the actual black truck.

21 THE COURT: Okay. I mean I'm gonna allow it. You can
22 cross-examine him. Sure.

23 Q The information you received from investigators, did it
24 have any description or identifying features on the black
25 truck?

Michael McCauley - Direct examination
By Solicitor Finney

1 A No, I was just told to look for large SUVs and they
2 would further identify it as needed.

3 Q All right. And so at 1:46, the black -- a black truck
4 was driving -- which -- in which direction was it driving on
5 Pike?

6 A That's westbound back towards Highway 15.

7 Q All right. So, just for the jury's information, they
8 probably -- would you trace the events of the silver car on
9 State's Exhibit No. 1?

10 A Yes, the silver car came in approximately here, stopped
11 at the pump briefly, circled around, and turned out here
12 towards the incident location. A few minutes later a black
13 SUV came back this way.

14 Q Okay. Very good.

15 And using the timestamps on the video, the Chrysler
16 would have arrived at about -- I'm, I'm -- I know you don't
17 have it up there now but let's just start right here.

18 At 146, the black truck was seen in the video near the
19 El Cheapo?

20 A Yes.

21 SOLICITOR FINNEY: Can you go back to clip one?

22 This would be State's Exhibit 30.

23 What time does the Chrysler pull in?

24 A On the video, 1:39.

25 Q All right. All right. When you were at the crime

Michael McCauley - Direct examination
By Solicitor Finney

1 scene on the day of the shooting, did you ever discover a
2 handgun?

3 A No. No firearms were found.

4 Q And you, in jury role, don't take statements from
5 witnesses?

6 A Not normally, no.

7 Q All right. And you didn't take any in this case --

8 A No.

9 Q -- from any witnesses?

10 Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 (Pause.)

13 Q Mr. McCauley, do you have the fired bullets that you
14 received, one at the scene and one from the doctor, in court
15 today?

16 A Yes.

17 Q Can you get them for me?

18 A Yes, sir.

19 (WHEREUPON, the witness complies.)

20 Q Mr. McCauley, tell the ladies and gentlemen what these
21 items are please, sir.

22 A These are both the fired projectiles in reference to
23 the case. This one with the can is the one that was
24 actually collected at the scene cause these are cans we used
25 at the time to actually place them in so they wouldn't get

Michael McCauley - Direct examination
By Solicitor Finney

1 damaged.

2 Q Is the can empty now?

3 A The can is empty now.

4 Q Okay.

5 A This is gonna be the one that was actually pulled out
6 of the victim during the autopsy and transferred to me.

7 SOLICITOR FINNEY: I'd like to have these marked as
8 exhibits for the State.

9 (WHEREUPON, the projectiles were marked as State's
10 Exhibit Nos. 34 and 35 for identification purposes only at
11 this time.)

12 Q Exhibit 34 is the one with the can and you've testified
13 that is the one that was recovered at the scene?

14 A Yes.

15 Q Exhibit 35 is the one that was given to you at the
16 autopsy?

17 A Yes.

18 Q All right. The cellphone that was on the front of the
19 Chrysler, the Samsung, you have it in evidence?

20 A We did.

21 Q At some point did you turn it over to the Solicitor's
22 Office for further testing?

23 A It was.

24 SOLICITOR FINNEY: All right. Beg the Court's
25 indulgence.

Michael McCauley - Direct examination
By Solicitor Finney

1 (Pause.)

2 Q Investigator -- sergeant, thank you for coming. Answer
3 any questions the defense may have.

4 THE COURT: Mr. Finney, I didn't hear if you moved 34
5 and 35 into evidence.

6 MR. BUTCHER: No objection, Your Honor.

7 THE COURT: Okay.

8 SOLICITOR FINNEY: I would like to move them into
9 evidence.

10 THE COURT: They are in evidence.

11 SOLICITOR FINNEY: Thank you, Your Honor.

12 THE COURT: Okay.

13 (WHEREUPON, State's Exhibit Nos. 34 and 35 were
14 received into evidence at this time.)

15 CROSS-EXAMINATION

16 BY MR. BUTCHER:

17 Q Morning, Mr. McCauley, or is it, is it sergeant?

18 A Yes, sir.

19 Q Sergeant McCauley.

20 All right. Now, when you collect evidence, they're
21 certain policies and procedures you need to follow to make
22 sure that you maintain the integrity of the evidence,
23 correct?

24 A Yes, sir.

25 Q Okay. You want to make sure it doesn't get

Michael McCauley - Cross-examination
By Mr. Butcher

1 contaminated or corrupted in any way?

2 A Yes, sir.

3 Q And you want to be able to verify to the Court that
4 nothing has happened since you collected it to the time it
5 got tested to the time it got put on trial, correct?

6 A Yes, sir.

7 Q All right. And does the agency have policies and
8 procedures related to that?

9 A It does.

10 MR. BUTCHER: Okay. All right. Mark this for
11 identification.

12 (WHEREUPON, the Sumter County Sheriff's Department
13 policies and procedures were marked as Defendant's Exhibit
14 No. 14 for identification purposes only at this time.)

15 Q All right. I'm handing you what's been marked for
16 identification as Exhibit No. 14.

17 Have you seen this document before?

18 A I have.

19 Q Okay. All right. And did -- what, what are these?

20 A These are the general orders from the sheriff's policy
21 manual regarding the collection and handling of evidence and
22 storage.

23 Q Okay. And not every single thing you do is in those
24 policies, correct?

25 A No, they're kept deliberately vague so we have some

Michael McCauley - Cross-examination
By Mr. Butcher

1 latitude in what we do.

2 Q Okay. But, bottom line, generally if you follow these
3 policies you should -- your investigation should be good to
4 go?

5 A Normally.

6 Q All right. Now, when you collect these things, are you
7 in charge of sending them off and, and getting them tested
8 somewhere else?

9 A At the end of the day it comes out from my agency as
10 being in charge of the agent -- of -- in charge of my
11 section. I am responsible for them.

12 Q Okay. Now who makes the decisions to send it out?

13 Is that the investigator?

14 A I will confer with the lead investigator on the scene.
15 I will tell them what evidence I have via via what narrative
16 they've developed and will decide where they need to be sent
17 if they need to be sent.

18 Q Okay. All right. All right. That, that sounds good.

19 Now, when there is a major scene, a crime scene, is
20 there a way that the agency makes sure that people don't
21 come wondering in or corrupt the scene?

22 A Normally, per policy, a crime scene log is created by
23 usually one of the responding officers who will log in and
24 out all the people who pass beyond the -- a certain set
25 area.

Michael McCauley - Cross-examination
By Mr. Butcher

1 (WHEREUPON, the crime scene log was marked as
2 Defendant's Exhibit No. 15 for identification purposes only
3 at this time.)

4 MR. BUTCHER: Your Honor, I'd like to move No. 14 into
5 evidence and I'm gonna hand you 15.

6 THE COURT: Any---

7 SOLICITOR FINNEY: Excuse me.

8 what is 14?

9 THE COURT: Fourteen---

10 MR. BUTCHER: Fourteen is, is, is the policy and
11 procedures.

12 SOLICITOR FINNEY: No objection.

13 (WHEREUPON, Defendant's Exhibit No. 14 was received
14 into evidence at this time.)

15 Q And I'm handing you No. 15 which is the crime scene
16 log.

17 A Yes, sir.

18 Q All right. Is, is this an accurate reflection of the
19 crime scene log that day?

20 A To my knowledge.

21 Q Okay. And you, you weren't over all responsibility for
22 it but you collect it at the end?

23 A Usually a copy is given to me. But it's usually put on
24 by the officer who themselves actually made the --

25 Q Okay.

Michael McCauley - Cross-examination
By Mr. Butcher

1 A -- log.

2 Q And if someone walks into the scene for a second, they
3 should, they should be reflected on that---

4 A They're suppose to be.

5 Q ---right?

6 (WHEREUPON, a search warrant was marked as State's
7 Exhibit No. 16 for identification purposes only at this
8 time.)

9 Q I'm gonna hand you what's marked for identification as
10 No. 16. This is -- and, Your Honor, I'd like to move No. 15
11 into evidence.

12 SOLICITOR FINNEY: No objection.

13 MR. BUTCHER: I think I already did, didn't I?

14 THE COURT: That one was not but it is now.

15 MR. BUTCHER: All right.

16 (WHEREUPON, Defendant's Exhibit No. 15 was received
17 into evidence at this time.)

18 Q All right. You recognize No. 16?

19 A It is. I do.

20 Q Okay. And that's -- and what is No. 16?

21 A This is a copy of the search warrant for the victim's
22 vehicle.

23 Q Okay. The -- and that was the Chrysler 300?

24 A Yes, sir.

25 Q Okay. Now, how do you-all maintain inventory and, and,

Michael McCauley - Cross-examination
By Mr. Butcher

1 and control and custody of each item---

2 A Currently---

3 Q That---

4 A ---that's in the RMS computer system. That's the
5 Sheriff's Office actual report writing and control system.

6 (WHEREUPON, two property and evidence sheets were
7 marked as Defendant's Exhibit Nos. 17 and 18 for
8 identification purposes only at this time.)

9 Q Okay. What's marked for identification as 17 is a one
10 page document and 18 is a two page document. I, I hand you
11 17 and 18.

12 Your Honor, I'd like to move No. 16 into evidence.

13 THE COURT: Any objection, Mr. Finney?

14 SOLICITOR FINNEY: No, no objection.

15 (WHEREUPON, Defendant's Exhibit No. 16 was received
16 into evidence at this time.)

17 Q All right. Do you recognize 17 and 18?

18 A I do.

19 Q Okay. And what are these?

20 A These are printouts of the evidence roster --

21 Q Okay.

22 A -- where the item's collected.

23 Q And this tells you what, what's in there?

24 A Yes, it does.

25 Q Okay. And does it tell you when, when it leaves or

Michael McCauley - Cross-examination
By Mr. Butcher

1 anything or, or no, it's just a list?

2 A Not this particular one.

3 Q Okay. All right. So, on this document, it reflects,
4 you know, just every -- everything you gathered?

5 A Yes, it's just the -- what item number it is, a very
6 basic description of it, and when it was initially logged
7 in.

8 Q Okay. This is kind of repetitive.

9 (WHEREUPON, a property report was marked as Defendant's
10 Exhibit No. 19 for identification purposes only at this
11 time.)

12 Q All right. I'm gonna hand you what's marked for
13 identification as 19.

14 Do you recognize this document?

15 A Yes.

16 MR. BUTCHER: All right. Your Honor, I'd like to move
17 No. 17 and 18 into, into evidence.

18 SOLICITOR FINNEY: No objection.

19 THE COURT: They are admitted.

20 (WHEREUPON, Defendant's Exhibit Nos. 17 and 18 were
21 received into evidence at this time.)

22 Q Okay. And, and what is No. 19?

23 A This is what's called a property report for a
24 particular piece of evidence. This is just something we put
25 with the evidence to show when we're actually moving it

Michael McCauley - Cross-examination
By Mr. Butcher

1 somewhere.

2 Q Okay. And was this -- does this show that it was moved
3 anywhere?

4 A Not on this. It -- that was updated in the computer
5 itself.

6 Q Okay.

7 A The sign in and out is, is for any agency that doesn't
8 share the RMS system so we can physically sign it over to
9 them as needed.

10 Q Understood.

11 Okay. Go ahead and move 19 into evidence, Your Honor.

12 THE COURT: Any objection?

13 SOLICITOR FINNEY: No objection.

14 (WHEREUPON, Defendant's Exhibit No. 19 was received
15 into evidence at this time.)

16 (WHEREUPON, the chain of custody report was marked as
17 Defendant's Exhibit No. 20 for identification purposes only
18 at this time.)

19 Q Mark what's identified as 20.

20 Do you know what this---

21 A Yes, this is---

22 Q Act -- actually -- and here's what I'm going to -- if,
23 if I may, Your Honor, instruct the witness.

24 Only the documents that you are -- that, that it --
25 were originated by your office. I believe -- what, what

Michael McCauley - Cross-examination
By Mr. Butcher

1 number two -- pages three and four will be covered by
2 another witness.

3 A Yes, sir.

4 Q Okay. All right. Tell me what -- about the first two
5 pages please.

6 A The first page is a printout of the chain of custody
7 form. Basically if we have to move it to another division
8 within our own agency, this will be just printed out on a
9 thing. This is simply a printout showing that it was
10 initially taken out and then signed back in.

11 Q Okay. And what's, what's Number 2 or Page 2 of, of --
12 what is this, 20?

13 A Page 2 is gonna be the reception form just showing what
14 the chemist was presented for testing.

15 Q Okay. Okay. And so on -- so tell me, tell me --
16 read -- tell me the story of what happened on the first two
17 pages that the sheriff's, that the Sheriff's Office did.

18 A In this particular case, since I had what I believed to
19 be illegal narcotics and several pills I could not identify,
20 they were put in what's called a BEST kit. This is a State
21 standardized kit for testing drugs.

22 In this case, in this case, since Sumter County
23 Sheriff's Office at the time had a drug testing laboratory,
24 I actually put it in the kit and walked it to the laboratory
25 where I signed it out initially to turn it over to the

Michael McCauley - Cross-examination
By Mr. Butcher

1 chemist. The chemist at the time was not busy. So I never
2 signed it over to him instead simply going into the
3 laboratory with him while he examined it and then he later
4 prepared his, his statement.

5 Q Okay. All right. So, this tracks that it went from
6 there to --?

7 A Yes.

8 Q Okay.

9 A His name does not appear it on because I had spent my
10 entire time in the laboratory. The evidence was in my
11 control at the time and I didn't have to go back to my
12 office and leave him with the evidence.

13 Q Okay.

14 A So when I found -- when I came back, I signed it back
15 over to myself as I was expecting to originally sign it out.

16 Q Okay. All right. And so this first page was -- is the
17 computerized sign out?

18 A Yes.

19 Q Is that -- all right. And so this -- the, the Exhibit
20 19 would be is if you were sending it or someone from
21 another agency was signing it?

22 A Yes.

23 Q Okay. All right. I appreciate you for clarifying or
24 appreciate you clarifying that.

25 Your Honor, I'd like to move No. 20 into evidence.

Michael McCauley - Cross-examination
By Mr. Butcher

1 SOLICITOR FINNEY: Objection.

2 MR. BUTCHER: Oh, no, I can't yet. That's correct.
3 We'll wait for later.

4 THE COURT: Okay.

5 (WHEREUPON, a search warrant was marked as Defendant's
6 Exhibit No. 21 for identification purposes only at this
7 time.)

8 Q All right. I'm handing you No. 21.

9 Do you recognize this document?

10 A Yes, sir, this is a search warrant for a red Apple
11 iPhone.

12 Q Okay. And did you, did you -- were you instructed to
13 do anything with this red iPhone?

14 A Yes, the county has a dedicated -- what's called a
15 Cellbrite system. That's the name of the manufacturer. The
16 device itself is called a UFED for a universal phone
17 extraction device. Phone being spelled with an F because
18 you've -- Cellbrite is not an, an American company. It's
19 actually an Israeli company. But it's a dedicated computer
20 that's pro -- that's job is to simply hack into and download
21 information from cellphones, comport them into some form --
22 format that somebody can read and then for later storage.

23 Q Okay. And were you, were you successful with that?

24 A I was not.

25 Q Okay. And did you consider -- did you send it off to

Michael McCauley - Cross-examination
By Mr. Butcher

1 SLED or another organization to have it opened?

2 A I only consulted with SLED. There's no point in
3 wasting gas cause SLED uses the same system we do. I would
4 simply have given them a phonecall telling them that I had a
5 red Apple iPhone that I did not have the unlock code to get
6 into, and, as such, it was barring my machine, would they be
7 able to do anything with it.

8 Q Okay.

9 A If they gave me a negative, I would not have taken it
10 at the time.

11 Q All right. And did you, did you ask -- did, did you
12 consider asking the Court to have the owner of the phone
13 unlock the phone for you?

14 A Not the Court. I asked the investigator at the time if
15 they can make contact with the owner of the phone if
16 needed -- if known---

17 Q Okay.

18 A ---to provide the information.

19 Q All right. And do -- were you ever given any
20 information?

21 A No.

22 Q Okay.

23 A I was told who the owner of the phone was by the
24 investigator. But they never provided the unlock code that
25 was given to me.

Michael McCauley - Cross-examination
By Mr. Butcher

1 Q Okay. Did you know the owner of the phone?

2 A I was told the owner was Mr. Anfernee Bradley, the
3 individual whose ID was pictured earlier.

4 Q Okay. But it wasn't your -- it, it wasn't your job to
5 contact Mr. Bradley?

6 A Not normally, no.

7 MR. BUTCHER: Okay. All right. Your Honor, I'd like
8 to move 21 evidence.

9 SOLICITOR FINNEY: No objection.

10 THE COURT: 21 is admitted.

11 (WHEREUPON, Defendant's Exhibit No. 21 was received
12 into evidence at this time.)

13 MR. BUTCHER: I'm gonna mark this for identification as
14 22.

15 (WHEREUPON, a property and evidence report was marked
16 as Defendant's Exhibit No. 22 for identification purposes
17 only at this time.)

18 Q All right. I'm handing you 22.

19 Could you tell me what, what this is?

20 A This is simply a evidence entry form for the BEST kit
21 itself showing that the drugs collected at the scene were
22 later consolidated into the kit for testing.

23 Q Okay. Okay. When was this done?

24 A This was entered on 8/11 of 2018 at 14:30 -- 16:37
25 hours.

Michael McCauley - Cross-examination
By Mr. Butcher

1 (WHEREUPON, a photograph was marked as Defendant's
2 Exhibit No. 23 for identification purposes only at this
3 time.)

4 Q I hand you Exhibit No. 20 or, I'm sorry, what's marked
5 for identification as 23.

6 Do you recognize that document?

7 A I do.

8 Q Okay. And is this one of the pictures you took that
9 day?

10 A It is. It's the backseat of the victim's vehicle.

11 Q Okay. All right. And is that the red iPhone?

12 A Yes, it is.

13 Q Okay. All right. And is -- what -- what's the thing
14 in the center console in the backseat right there?

15 A That will be a used Gatorade bottle and a pill bottle.

16 Q Okay. Is that where you found the five pills?

17 A Yes.

18 Q Okay. All right. Did you find any individual
19 marijuana blunts or used, used ends?

20 A Little buds, yes. They were found in several spots.
21 Mostly in the -- either in the pill bottle or the Gatorade
22 bottle itself.

23 (WHEREUPON, a photograph was marked as Defendant's
24 Exhibit No. 24 for identification purposes only at this
25 time.)

Michael McCauley - Cross-examination
By Mr. Butcher

1 Q Okay. All right. Brain's gone.

2 I'm handing you what's 24.

3 Do you recognize that document?

4 A Yes.

5 Q All right. And is that one of the documents you
6 took -- I mean one -- is that, is one of the photographs you
7 took?

8 A Yes, it is.

9 Q And what -- on the passenger side door, what did you
10 find there?

11 A There was a small plastic bag containing what I
12 believed to be a green leafy substance.

13 Q Okay. And, in your experience, what -- were you -- did
14 you have any concerns as to what the -- what that green
15 leafy substance was?

16 A From experience and smell, it was most likely
17 marijuana.

18 Q Okay. Did the car smell like marijuana when you were
19 in the car?

20 A Not particularly.

21 (WHEREUPON, a photograph was marked as Defendant's
22 Exhibit No. 25 for identification purposes only at this
23 time.)

24 Q Okay. Okay. I'm gonna hand you what's marked for
25 identification as No. 25.

Michael McCauley - Cross-examination
By Mr. Butcher

1 All right. Do you recognize that?

2 A Yes.

3 Q And what---

4 A This is the center console from the front of the
5 victim's vehicle.

6 Q Okay. What's that black thing on the passenger chair?

7 A The---

8 Q The seat.

9 A It's flipped over. It's upside down but that's a small
10 scale.

11 Q A scale?

12 A Yes, sir.

13 Q Like, like for weighing things?

14 A Yes, sir.

15 MR. BUTCHER: Okay. All right. Your Honor, I'd like
16 to go ahead and move 22, 23, 24, and 25 into evidence.

17 SOLICITOR FINNEY: No---

18 THE COURT: Any objection?

19 SOLICITOR FINNEY: No objection.

20 THE COURT: They are admitted.

21 MR. BUTCHER: Okay.

22 (WHEREUPON, Defendant's Exhibit Nos. 22 through 25 were
23 received into evidence at this time. A photograph was
24 marked as Defendant's Exhibit No. 26 for identification
25 purposes only at this time.)

Michael McCauley - Cross-examination
By Mr. Butcher

1 Q I'm gonna hand you what's marked for identification as
2 No. 26.

3 Do you recognize that?

4 A Yes, this is the -- a picture of the front of the face
5 of the body shop itself with the victim's vehicle in the
6 bottom right corner.

7 Q Okay. And you're facing west?

8 A Yes, I am.

9 Q More or less?

10 A More or less.

11 (WHEREUPON, a handwritten receipt was marked as
12 Defendant's Exhibit No. 27 for identification purposes only
13 at this time.)

14 Q All right. I'm handing you what's marked for
15 identification as No. 27.

16 Do you recognize this document?

17 A Yes, this is a, this is a old style transfer copy
18 showing that we signed a piece of evidence out to somebody.

19 Q Okay. What was the piece of evidence that was signed
20 out?

21 A In this case, it's the red Apple iPhone.

22 Q Okay. That belonged to Anfernee Bradley?

23 A Yes, sir.

24 Q All right. And with that -- and who signed it out?

25 A I signed it out over to Robert Burnish.

Michael McCauley - Cross-examination
By Mr. Butcher

1 Q And is he present in this courtroom today?

2 A He is.

3 Q Okay. Where's, where's he seated?

4 A That will be him right next to counsel.

5 Q Okay. All right. And was there any discussion on what
6 was gonna happen to the red iPhone?

7 A I was told Investigator Burnish was going to speak to
8 Mr. Bradley himself, and hopefully in the course, get the
9 unlock code for the phone so it could be later given back to
10 me to access.

11 Q So there was a -- there, there was an attempt to speak
12 with him?

13 A I did not do it myself but I was told there was.

14 Q Okay. All right.

15 A Thank you, sir.

16 Q You're welcome, sir.

17 Before I start, I'm gonna hand you what's Defendant's
18 11 and 12.

19 Do you rec -- recognize those documents?

20 A Yes.

21 Q All right. What are they?

22 A This is a yellow Dollar General bag with smaller
23 baggies inside it. The baggies themselves were empty.

24 Q Okay. So -- and why did -- and let me ask you what
25 this is.

Michael McCauley - Cross-examination
By Mr. Butcher

1 A That's the item just pictured.

2 Q Okay.

3 A That is the Dollar General bag---

4 Q All right.

5 A ---with the small baggies inside.

6 Q All right. And what -- what's the significance of
7 collecting a bag with baggies in it?

8 A Normally, from my experience, that has been the small
9 baggies would be used if the marijuana may be distributed
10 later on. They will be sub-packed into these little baggies
11 for individual sale.

12 Q Okay. So, it's instruments of distributing drugs?

13 A That -- from my experience, yes.

14 MR. BUTCHER: Your Honor, I'd like to mark this as
15 Defendant's 28.

16 THE COURT: Okay.

17 SOLICITOR FINNEY: No objection.

18 THE COURT: Are you marking it or are you entering it?

19 MR. BUTCHER: I'd like to enter it into evidence, Your
20 Honor.

21 THE COURT: And no objection?

22 SOLICITOR FINNEY: I, I, I just would like to ask the
23 witness or have the witness tell where that both -- item was
24 located.

25 MR. BUTCHER: Okay. Yeah.

Michael McCauley - Cross-examination
By Mr. Butcher

1 where was the item located?

2 A This was located in the backseat floorboards.

3 Q Okay. All right.

4 (WHEREUPON, Defendant's Exhibit No. 28 was received
5 into evidence at this time.)

6 MR. BUTCHER: Mark this for identification.

7 (WHEREUPON, digital scales were marked as Defendant's
8 Exhibit No. 29 for identification purposes only at this
9 time.)

10 Q I'm handing you what's numbered -- marked for
11 identification as 29.

12 what is that?

13 A This is the previously pictured scale. This is the
14 back of it.

15 Q Okay. All right. The, the back of it?

16 A Yes, the -- it was originally upside down when
17 pictured.

18 Q Oh, okay. All right. And that's -- and, and how
19 did -- how does this work?

20 There aren't any numbers on here.

21 A No, you got to take the top, top casing off.

22 Q Okay.

23 A You simply take the casing off, fire it up, hit the
24 tear, and place something on it, and it will give you a
25 digital readout of what the weight is.

Michael McCauley - Cross-examination
By Mr. Butcher

1 MR. BUTCHER: Okay. All right. Your Honor, I'd like
2 to move this into evidence as No. 29.

3 SOLICITOR FINNEY: No objection.

4 (WHEREUPON, Defendant's Exhibit No. 29 was received
5 into evidence at this time.)

6 Q Now, did you take any gunshot residue samples?

7 A I did not at the time.

8 Q Okay. What are, what are -- what is gunshot residue?

9 A To break it down, gunshot residue is gonna be a mixture
10 of antimony, barium, and lead that comes from the primer.
11 That's the little thing on the back of a bullet. That's hit
12 by the fire pin that's compressed, which sets off the spark,
13 which touches off the powder, which, of course, sends the
14 bullet. And usually, in a semiautomatic weapon, will also
15 begin cycling the weapon itself.

16 The residue is what comes from the weapon itself out of
17 the barrel, out of any other parts of the action which may
18 open during cycling and forms a very small cloud. This is
19 very, very, very tiny microscopic part -- particulate. It
20 will basically form a slightly -- very slightly visible
21 cloud around the weapon itself within close range, anything
22 the bullet is fired at and anything in proximity, of course,
23 depending on the space it was used in.

24 The test itself consists of several small dabbers which
25 they're basically a little thimble style thing with a cover

Michael McCauley - Cross-examination
By Mr. Butcher

1 over them for securing that you use to dab and, by protocol,
2 we normally dab the outside and the inside of the hands.
3 This will pick up anything showing that a firearm was
4 discharged. At least it will show it on the hands. Not
5 necessarily by the individual but close enough to get the
6 gunshot residue on it.

7 This is measured -- this is -- this combination of
8 these three items are very rare to form next to each other
9 naturally. They kind of have to be manufactured close
10 together. It's very hard to actually put that combination
11 together in any other format.

12 This is sent over to SLED because we don't have a
13 scanning electron microscope. If the items are found, it's
14 a simple yes or no test. If these items are found with each
15 other, then, yes, they tested positive for a gunshot
16 residue. If they're not found, it's simply said they're not
17 found.

18 Q Okay. There -- and are there diminishing returns the
19 longer after the shoot -- after the weapon is fired, are
20 there diminishing returns on whether you'll get a positive
21 reaction with a gunshot residue test?

22 A As the skin itself is impermeable, if the hands are
23 washed or disturbed in anyway, that will eventually wash the
24 residue off. If nothing -- if something were to hold this
25 in a way that that would not disturb it, the items can last

Michael McCauley - Cross-examination
By Mr. Butcher

1 for years.

2 Q okay.

3 A But normal wear and tear will eventually take them off.

4 Q All right. Now there were three people on the scene
5 and what -- well, there were two people on the scene and --
6 when, when you got there, correct?

7 A To my knowledge. I did not speak to any of them.

8 Q okay. All right. Do you, do you conduct any gunshot
9 residue test on their hands?

10 A I did not.

11 Q All right. And there was someone else that they found
12 and returned to the Sheriff's Office. Did -- Mr.,
13 Mr. May -- Mayfield Johnson.

14 Did anyone do a gunshot residue test on his hands?

15 A I did not.

16 Q okay. All right. And no one instructed you to?

17 A No, sir.

18 Q okay. who would of -- who would of been the one to do
19 the gunshot residue test for this investigation if one was
20 to be conducted?

21 A Usually the closest investigator does. If I am closest
22 to what needs to be tested I will do the test. If it's
23 another investigator, it has to be sent to the hospital,
24 they will be the ones instructed to do the test.

25 Q okay. If someone handles a weapon directly after it's

Michael McCauley - Cross-examination
By Mr. Butcher

1 been fired, will there be some microscopic gunshot residue
2 on their hands?

3 A There can be.

4 Q Okay. All right. And depending on the weapon itself,
5 the caliber, the amount of powder, and it, it just depends
6 on what this cloud will look like and where it will go?

7 A And environmental factors. If it was shot in an
8 enclosed space, of course, this is a -- this is gonna stay
9 inside the closed space.

10 Q Okay.

11 A If it's shot outside, it will disturb faster.
12 Temperature, humidity, all these things add into it.

13 Q Okay. All right. I'm marking this No. 30.

14 (WHEREUPON, a shoe was marked as Defendant's Exhibit
15 No. 30 for identification purposes only at this time.)

16 Q Do you recognize that?

17 A Yes, these are the shoes from the scene.

18 Q Okay. Will you go ahead and pull them out?

19 A Certainly.

20 Q Now, when you collected those shoes, did you lace them
21 or unlace them in any manner?

22 A No, they were as collected.

23 Q Okay. So they're loose like that?

24 A Yes, sir.

25 Q That's how you found them?

Michael McCauley - Cross-examination
By Mr. Butcher

1 A Yes, sir.

2 Q Okay. All right.

3 A I got them, sir. I'll put them back in.

4 Q And you didn't take the items -- the, the laces out of
5 the top two islets there?

6 A No, sir.

7 MR. BUTCHER: Okay. Your Honor, I'd like to move this
8 No. 30 into evidence.

9 SOLICITOR FINNEY: No objection.

10 THE COURT: It's admitted.

11 (WHEREUPON, Defendant's Exhibit No. 30 was received
12 into evidence at this time. A bag of pills and green leafy
13 substance was marked as Defendant's Exhibit No. 31 for
14 identification purposes only at this time.)

15 Q I'm gonna hand you 31.

16 You want to tell me what's --?

17 A This is the inside of the BEST kit. This is the
18 standardized system. Oh, this is the standardized bag that
19 everything goes into before it's submitted for testing.
20 This actually will go inside a manila envelope which is
21 broken open when it is actually opened to be tested.

22 Q Okay. All right. And you want to show --

23 A Certainly.

24 Q -- the jury what's in there?

25 A Oh, this will have the bottle with the pills and the

Michael McCauley - Cross-examination
By Mr. Butcher

1 inside here should be the green leafy substance.

2 Q Okay. All right. And before -- now when you received
3 that green leafy substance, did you weigh it?

4 A Myself, yes.

5 Q Okay. And do you know how much it was?

6 A Let's see. The bag with the leafy substance weighed
7 39 grams.

8 MR. BUTCHER: Okay. Your Honor, I'd like to move 31
9 into evidence.

10 SOLICITOR FINNEY: No objection.

11 Q Okay. And---

12 THE COURT: It's admitted.

13 (WHEREUPON, Defendant's Exhibit No. 31 was received
14 into evidence at this time.)

15 Q And there, there were -- and you said there were five
16 pills?

17 A Yes.

18 Q Okay. Now, I understand when you test drugs you
19 sometimes destroy them, right?

20 A Yes, sir.

21 Q Okay. So, is, is there a reason why only one, one pill
22 was tested?

23 A According to this, all the pills were identical. They
24 were all five small, round, white pills.

25 Q Okay. All right. So, that, that would be the reason

Michael McCauley - Cross-examination
By Mr. Butcher

1 is you don't want to destroy all five pills---

2 A That's normal.

3 Q ---or parts of them?

4 (WHEREUPON, a flip phone was marked as Defendant's
5 Exhibit No. 32 for identification purposes only at this
6 time.)

7 Q Okay. What's No. 32?

8 A This is going to be the flip phone that was found on
9 the hood of the car.

10 Q Okay. And that's what you had sent to the solicitors
11 to get tested and -- last summer?

12 A Yes.

13 Q Okay. Did you know if there's any reason why there's
14 all of three year delay in sending that phone?

15 A Yes, the specific model of the phone, as I mentioned
16 earlier, is called a Samsung B311V. Due to a quirk with the
17 operating system of the phone, the Cellbrite system would
18 not talk to it at the time. I would of contacted SLED and
19 told them the model number and they would of said the, the
20 same thing to me.

21 The phone would of simply been held until such time as
22 a patch would of been added to them that can actually talk
23 to the phone. I believe, by the time it was resubmitted,
24 the systems actually could talk to it by then.

25 Q Now, does that take a SIM card?

Michael McCauley - Cross-examination
By Mr. Butcher

1 A It can.

2 (WHEREUPON, a pill bottle and Gatorade bottle were
3 marked as Defendant's Exhibit No. 33 for identification
4 purposes only at this time.)

5 Q Okay. All right. I'm gonna hand you what's marked for
6 identification as 33.

7 would you tell me what that is?

8 A Okay. This is going to be the pill bottle from the
9 back armrest, the Gatorade bottle from the back armrest, and
10 a Gatorade bottle from the front center console.

11 Q Okay. Okay. And were---

12 A These two were back together in the---

13 Q Okay.

14 A ---backseat---

15 Q Okay.

16 A ---and this was up front.

17 Q Okay. All right. And were there -- and, and were
18 these the bottles that had the marijuana blunts in them?

19 A Yes, they are -- they're still ash from them in there.

20 Q Okay. All right. All right. And what I'm looking --
21 what, what does the number say on top of that, what I just
22 handed you?

23 A This one is a --.

24 Q Exhibit No. 8. Handed you No. 8.

25 what, what is -- what is that?

Michael McCauley - Cross-examination
By Mr. Butcher

1 A That's Marker Number 10 from the floorboards of the
2 vehicle showing a green leafy wrap of green leafy substance.

3 Q Okay. Is that collected?

4 A Yes, it was.

5 Q And is that in that BEST kit with the remainder of the
6 drugs?

7 A Yes. All that's gonna be added together.

8 (WHEREUPON, two temporary tags were marked as
9 Defendant's Exhibit Nos. 34 and 35 for identification
10 purposes only at this time.)

11 Q Okay. All right. I'm gonna hand you what's marked for
12 identification as 34 and 35.

13 Do you recognize those?

14 A Yes, these are gonna be temporary tags from the
15 victim's vehicle.

16 MR. BUTCHER: Okay. All right. Your Honor, I'd like
17 to move No. 20 -- and, and both 30 -- both 34 and 35 are
18 temporary tags?

19 A Yes, sir.

20 Q And 33 was two Gatorade bottles and a pill bottle?
21 Is that, is that what was in them?

22 A Yes, sir.

23 MR. BUTCHER: Okay. So, Your Honor, I'd like to move
24 No. 26 through 28 in and 31 -- I mean 32 through 36 into
25 evidence.

Michael McCauley - Cross-examination
By Mr. Butcher

1 THE COURT: Okay. I don't know---

2 SOLICITOR FINNEY: I don't know---

3 THE COURT: ---what 36 is.

4 SOLICITOR FINNEY: ---what 36 is, judge.

5 MR. BUTCHER: Oh.

6 THE COURT: 32 through 35 I think you've got here.

7 MR. BUTCHER: 35. I'm sorry. I was --.

8 THE COURT: Any objection?

9 SOLICITOR FINNEY: No objection.

10 (Whereupon, Defendant's Exhibit Nos. 26 through 28 and
11 32 through 35 were received into evidence at this time.)

12 THE COURT: Let me interrupt you just a minute. You
13 handed him I think it's Defense 8, the photograph.

14 MR. BUTCHER: Yes, ma'am.

15 THE COURT: We marked it yesterday but I don't believe
16 we entered it into evidence.

17 MR. BUTCHER: Okay.

18 THE COURT: Are you moving that in?

19 MR. BUTCHER: Yes, ma'am. I'd like to move No. 8 -- 8
20 through 12, which are photos, into evidence from yesterday.

21 SOLICITOR FINNEY: No objection.

22 THE COURT: They are admitted.

23 (WHEREUPON, Defendant's Exhibit Nos. 8 through 12 were
24 received into evidence at this time.)

25 Q Now, in Exhibit 31, do you -- the, the, the pills, do

Michael McCauley - Cross-examination
By Mr. Butcher

1 you know whose name was on there?

2 A The name listed on the pill bottle is Umeko Baker. I
3 got you.

4 Q Okay. You have more experience with this.

5 A No, you're fine, sir.

6 Q Okay. Okay. All right. Are -- the, the digital
7 scales, are those instrumentalities of drug distribute --
8 distribution?

9 A They can be.

10 Q They can be.

11 Okay. All right. And what, what fingerprinting are --
12 did you do any fingerprinting?

13 A Most of the items collected were fingerprinted to try
14 to determine ownership.

15 Q Okay. And you were successful in some and not in
16 others?

17 A Nothing, nothing as I recall of particular interest was
18 found. Late -- latent smudges were found but nothing that
19 could actually identify anybody in particular.

20 (WHEREUPON, an identification card was marked as
21 Defendant's Exhibit No. 36 for identification purposes only
22 at this time.)

23 Q Okay. All right. All right. I'm handing you what's
24 marked for identification as 36.

25 Do you recognize that?

Michael McCauley - Cross-examination
By Mr. Butcher

1 A Yes, this is going to be the South Carolina ID for
2 Mr. Sharmine Pack.

3 Q Okay. And that was found in the photographs---

4 A No.

5 Q ---on the, on the---

6 A This was actually given to me later on.

7 Q Okay. But you took photographs of that when, when it
8 was laying on the car?

9 A No, that was for Mr. Anfernee Bradley.

10 Q Okay.

11 A The one from the backseat.

12 Q Okay. Okay. All right. You talked about the El
13 Cheapo --

14 A Yes, sir.

15 Q -- surveillance videos.

16 A Yes, sir.

17 Q All right. I just wanted you to identify.

18 Your Honor, I'm gonna mark these or I'd like to move
19 two videos in from El Cheapos. They're gonna be 36 and 37.

20 SOLICITOR FINNEY: Be 37 and 38 I believe.

21 THE COURT: I don't see a 36.

22 THE WITNESS: This is a---

23 MR. BUTCHER: 37, 38.

24 Okay.

25 THE WITNESS: Yeah, this was 36.

Michael McCauley - Cross-examination
By Mr. Butcher

1 MR. BUTCHER: 37, 38. I apologize.

2 A No, you're fine, sir.

3 (WHEREUPON, the two thumb drives were marked as
4 Defendant's Exhibit Nos. 37 and 38 for identification
5 purposes only at this time.)

6 MR. BUTCHER: I'd like to move 36 into evidence.

7 SOLICITOR FINNEY: No objection.

8 (WHEREUPON, Defendant's Exhibit No. 36 was received
9 into evidence at this time.)

10 Q Do you-all -- all right. It's operator head space
11 timing on me.

12 All right. There we go. I apologize.

13 All right. And is this the video that you got?

14 A Yes, it is.

15 Q Okay. You don't have to narrate it. I'm gonna just
16 let it play for the jury.

17 (WHEREUPON, the video was played at this time.)

18 Q All right. And so earlier you had testified that they
19 were there for just a moment.

20 would you say it was --?

21 A About three minutes --

22 Q Okay.

23 A -- as shown.

24 Q All right. All right. And that's similar to---

25 A Yes, that's a---

Michael McCauley - Cross-examination
By Mr. Butcher

1 Q ---the other vehicle?

2 A ---regular vehicle, yeah.

3 Q Okay. And that's towards the shop?

4 A Yes, sir.

5 Q Okay. All right. Okay. All right. Do you have any
6 knowledge as to if you participated in any part of the
7 investigation as to who had gotten into Lonnie's car?

8 A No, sir, I can not say at that time.

9 Q Okay. You just mostly -- are, are you in the field
10 that much with interviewing people?

11 A Very rarely.

12 Q Okay. All right. And -- okay. Was the red iPhone
13 ever signed back in to you?

14 A I don't have the paperwork showing that at this time.
15 I believe not. It was eventually just given back to
16 Mr. Bradley.

17 MR. BUTCHER: Okay. Okay. Your Honor, I'd like to
18 move No. 37 and 38 into evidence.

19 SOLICITOR FINNEY: No objection.

20 THE COURT: They are admitted.

21 (WHEREUPON, Defendant's Exhibit Nos. 37 and 38 were
22 received into evidence at this time.)

23 Q Okay. All right. And with the other video with the
24 black Explorer, do you -- was, was anybody able to ascertain
25 the license plate or the---

Michael McCauley - Cross-examination
By Mr. Butcher

1 A Not from that video.

2 Q ---anything to -- okay. It was a similar looking
3 vehicle that drove by at a time that could be reasonably
4 associated with --

5 A Yes, sir.

6 Q -- the shooting?

7 A Yes, sir.

8 Q Oh, okay. All right. Thank you. Answer any questions
9 from Mr. Finney.

10 SOLICITOR FINNEY: Just a few, Your Honor.

11 REDIRECT EXAMINATION

12 BY SOLICITOR FINNEY:

13 Q Sergeant McCauley, in your experience, people who
14 distribute drugs carry large amounts of money on them?

15 A In my experience, yes, they usually have money on them.

16 Q Tell the jury how much money Mr. Pack had on him.

17 A I believe just a little bit of pocket change was found
18 at the autopsy.

19 Q And have you taken Mr. Pack's blood samples to the SLED
20 lab?

21 A I have.

22 Q Have you seen the SLED lab report?

23 MR. BUTCHER: Objection.

24 Q Have you seen the SLED lab report?

25 A I've probably reviewed it. I can't tell you what the

Michael McCauley - Redirect examination
By Solicitor Finney

1 results of it are at this time without the---

2 Q Okay.

3 A ---review sheet.

4 Q Very good.

5 Is it your information, based on your connection with
6 the case, that other people were in the car besides Mr. Pack
7 --

8 A I am told there were.

9 Q -- when he got to the shop?

10 A I am told there were.

11 Q All right. And that would of been people maybe in the
12 front seat and the backseat?

13 MR. BUTCHER: Objection, Your Honor. Now we're going
14 into hearsay.

15 THE COURT: That's sustained.

16 Q All right. Mr. Butcher asked you about GSR.

17 You said GSR is particles of chemicals that are
18 contained in the bullet?

19 A Yes, specifically the primer.

20 Q All right. And the primer is used to do what in the
21 bullet?

22 A That's the part that sets off the ignition when struck.

23 Q And what does that allow?

24 Once the ignition is, is done, what does that do?

25 A That allows the bullet to be fired.

Michael McCauley - Redirect examination
By Solicitor Finney

1 Q All right. So, if you point a gun at somebody and you
2 pull the trigger, the bullet comes out of the barrel.

3 Is that correct?

4 A Yes, sir.

5 Q All right. And what follows -- what, what happens with
6 the primer you, you were talking about?

7 A The majority of the particles will come out behind the
8 bullet there as the burnt powder.

9 Q So --.

10 A Usually you're gonna see this as a small fireball or
11 maybe a little bit of smoke.

12 Q So, GSR is the chemical compound that is used to fire
13 the bullet.

14 Is that correct?

15 A Yes.

16 Q And it follows the bullet out of the gun?

17 A To some extent, yes.

18 Q So, if I shoot at you, would you expect GSR to be on
19 you?

20 A Depending on range, terrain, inside, outside,
21 temperature, humidity, yes.

22 Q Was---

23 A There can be.

24 Q And, and if it's on you, normally you test the hands of
25 the victim?

Michael McCauley - Redirect examination
By Solicitor Finney

1 A That's usually the only part tested in the test.

2 Q All right. And if there is GSR on the hands of a
3 victim, would that be expected normally if he -- a person
4 was shot?

5 A Depending on range it can be.

6 Q All right. So when you say range, would 6-feet be
7 close enough for the GSR to get to you?

8 A It can. Depending on -- depending again on the range
9 and the type of weapon, if it's raining at the time,
10 anything that may soak up the, the gunshot residue in the
11 mean time. But, yes, gunshot residue can get on the person.

12 Q And if a person was -- had his hands out to -- in a
13 defensive position, would GSR normally be associated with
14 falling on the hands?

15 A Yes, it can be.

16 Q All right. Now, do you ever do GSR testing on shooters
17 at crime scenes?

18 A If we have them within -- usually the hard and fast
19 rule is about two hours assuming they have not washed their
20 hands or jumped in the water or something like that.

21 Q And so if a person did fire a gun, and you were there
22 quickly, you could test his hands to see if he had GSR on
23 his hands?

24 A Yes.

25 Q And if a person left the scene, and wasn't available

Michael McCauley - Redirect examination
By Solicitor Finney

1 for three or four days, you wouldn't test the person at
2 the---

3 A No.

4 Q ---time?

5 A I would recommend that the test not even be tried.

6 Q And why is that?

7 A Simply because the wear and tear of, you know, daily
8 life is gonna cross-contaminate or, in that time, time
9 period, gunshot residue may come from another source wholly
10 unrelated.

11 Q Very good. Thank you.

12 Nothing further.

13 MR. BUTCHER: Just to follow-up.

14 RECROSS EXAMINATION

15 BY MR. BUTCHER:

16 Q But no one tested Mayfield Johnson who left the scene
17 and, and then came back to the scene, correct?

18 A Not to my knowledge, sir.

19 Q Thank you.

20 SOLICITOR FINNEY: Thank you.

21 THE COURT: Thank you, sir. You can step down.

22 Okay. Ladies and gentlemen, we're gonna take about a
23 10 minute break. We've had you here now for a couple hours.
24 Let you stretch your legs. Please don't begin discussing
25 the case.

1 Thank you.

2 (WHEREUPON, a short recess was taken at this time.)

3 SOLICITOR FINNEY: Judge, I just wanted to
4 double-check. This morning I asked you to allow me to enter
5 29, a picture of the victim.

6 Is it in evidence?

7 I think it's in evidence.

8 THE COURT: which, which is it?

9 SOLICITOR FINNEY: Twenty-nine.

10 MRS. BUTCHER: I --.

11 MR. BUTCHER: Defendant's or plaintiff or that's the
12 State's?

13 SOLICITOR FINNEY: State's 29.

14 MR. BUTCHER: Oh, did we consent?

15 SOLICITOR FINNEY: Is it in?

16 MRS. BUTCHER: I thought there was another one.

17 MR. BUTCHER: I don't know. It should be.

18 MRS. BUTCHER: Yeah, I thought it was -- it could of
19 been that one but there --.

20 SOLICITOR FINNEY: That's the one with the sticker on
21 it.

22 THE COURT: Yeah, we discussed it. Y'all said there
23 was no objection but it was not moved into evidence.

24 SOLICITOR FINNEY: All right.

25 MRS. BUTCHER: Yeah.

1 SOLICITOR FINNEY: Okay.

2 THE COURT: So, just a couple things to put on the
3 record.

4 First of all, during the breaks in the trial, just a
5 reminder, the witnesses are sequestered. Don't -- I'm not
6 gonna say that you can't talk to your witness but do not
7 talk to any witnesses about any previous witnesses testimony
8 certainly.

9 We have two, to our videographer over here, if I can
10 address you just a moment, ma'am.

11 Our jurors were asking if they're appearing on -- if
12 they're being filmed and I know Mr. Campbell discussed that
13 with you and, of course, I know that I've, I've had y'all in
14 Court before and I know that you're well aware, every time I
15 sign the order, I put in there the rule from the Appellate
16 Court rules and this time I actually attached a copy of it.

17 So I'm gonna address that with the jury and let them
18 know that, that y'all understand that you're not to
19 photograph them and you are not photographing them.

20 UNIDENTIFIED SPEAKER: Correct.

21 THE COURT: So I just -- before I tell them that I
22 wanted to make sure.

23 Okay. We ready for the jury?

24 SOLICITOR FINNEY: Yes, ma'am. We're ready for -- is
25 there any objections to 29 being moved in?

1 I was gonna ask the doctor.

2 MR. BUTCHER: No.

3 THE COURT: And then we can move it in through her.

4 MRS. BUTCHER: Well, she, she wouldn't know---

5 MR. BUTCHER: Well, just, just---

6 MRS. BUTCHER: ---anything about that.

7 MR. BUTCHER: ---when the jury sits---

8 MRS. BUTCHER: You can't even see his face.

9 SOLICITOR FINNEY: Well, she's -- the location of the
10 shots.

11 MR. BUTCHER: Sure. I mean she's not gonna be familiar
12 with that.

13 MRS. BUTCHER: Yeah, she, she wouldn't be who you get
14 it in with. The investigator or somebody.

15 SOLICITOR FINNEY: So are you---

16 MRS. BUTCHER: But we have no objection---

17 SOLICITOR FINNEY: Okay. All right.

18 MR. BUTCHER: Just enter it---

19 MRS. BUTCHER: ---if you want to go ahead and just do
20 it.

21 MR. BUTCHER: Just enter it when the jury comes in or
22 whatever.

23 SOLICITOR FINNEY: All right.

24 THE COURT: We're ready for the jury.

25 THE BAILIFF: Yes, ma'am.

1 THE COURT: Thank you.

2 (WHEREUPON, the following takes place within the
3 presence of the jury.)

4 THE BAILIFF: The jurors are all seated, Your Honor.

5 THE COURT: Thank you.

6 Ladies and gentlemen, I did want to address briefly
7 with you to let you know about our rules concerning cameras
8 in the courtroom. We do have a court rule that pertains to
9 cameras in the courtroom.

10 Our courtrooms are open to the public. And so we never
11 close the courtroom and prevent anyone entering into the
12 courtroom. But we do have special rules for when court
13 proceedings are gonna be covered by the media, and one of
14 the things set forth in the rule is that the jurors are not
15 to be photographed or videoed during the course of the
16 trial.

17 And so I had attached -- we always get a request from
18 the media to bring cameras in. And so I had attached to
19 that request a copy of the rule. There's several parameters
20 that they have to abide by that they're well aware of and
21 I've worked with these folks previously and they're well
22 aware of the rule. But I always attach it anyway every time
23 I get a request.

24 So, I, I did confirm, during our break, they are not
25 filming you or photographing you in any way.

1 Thank you.

2 SOLICITOR FINNEY: Please---

3 THE COURT: Mr. Finney.

4 SOLICITOR FINNEY: ---the Court, Your Honor.

5 We call Doctor Janice Ross.

6 THE BAILIFF: Raise your right-hand, ma'am. State your
7 name.

8 THE WITNESS: Janice Edwards Ross.

9 JANICE ROSS, being first duly
10 sworn, testified as follows:

11 THE BAILIFF: Thank you. Yes, ma'am, come around.
12 Take your mask off. State your name for the record and
13 spell your last name please.

14 THE WITNESS: Janice Edwards Ross. R-O-S-S.

15 DIRECT EXAMINATION

16 BY SOLICITOR FINNEY:

17 Q Good, good afternoon. Good morning, Doctor, Doctor
18 Ross.

19 A Good morning.

20 Q Tell the ladies and gentlemen of your profession
21 please.

22 A I'm a forensic pathologist which means I've had four
23 years of college, four years of medical school, and over
24 five years of training in the field of pathology. The field
25 of pathology, as opposed to something like surgery or

Janice Ross - Direct examination
By Solicitor Finney

1 pediatrics, trains us how to diagnose diseases using the
2 microscope, using the laboratory, and also to find a cause
3 of death using the autopsy.

4 I'm board certified in three areas of pathology. The
5 one that brings me here is forensic pathology. Forensic
6 means legal. The -- a forensic pathologist does autopsies
7 on unexpected deaths or unexplained or traumatic deaths and
8 we are trained how to identify patterns of injury and
9 document evidence for the court of law.

10 Q Thank you, Doctor Ross.

11 And how long have you been doing forensic pathology?

12 A Forty-five years.

13 Q And how many autopsies have you performed during that
14 time?

15 A 15,000.

16 Q And have you been qualified previously as an expert in
17 the field of forensic pathology for court purposes?

18 A Yes.

19 Q All right. And have you testified many, many times?

20 A Yes, in South Carolina, about 300 times.

21 Q Very good.

22 Do you have to maintain a certain amount of study or
23 training to keep your certification?

24 A Yes, we, we have continuing medical education.

25 Q And is that annually?

Janice Ross - Direct examination
By Solicitor Finney

1 You do that every year?

2 A Yes.

3 Q What group or clinic were you associated with in 2018?

4 A The -- a corporation called Newberry Pathology
5 Associates. We did autopsies for coroners out of the morgue
6 at Newberry County Memorial Hospital. But in late 2018 I
7 moved to Charleston and changed my corporation name to
8 Janice E. Ross, M.D., PA.

9 Q All right. And when you were called about this case
10 that we're here today on, you were still associated with
11 Newberry Pathology?

12 A I did the case under Newberry Pathology Associates,
13 yes.

14 Q All right. And that was done -- the autopsy was done
15 in Newberry?

16 A Correct.

17 SOLICITOR FINNEY: All right. At this time I would ask
18 that Doctor Ross be qualified as an expert in the field of
19 forensic pathology.

20 MRS. BUTCHER: No objection, Your Honor.

21 THE COURT: Okay. Ladies and gentlemen, I -- as we
22 discussed yesterday, sometimes a witness is qualified by
23 virtue of education, training, experience as an expert in
24 some particular field of study. I do find that Doctor Ross
25 is qualified to give you opinion testimony in the subject of

Janice Ross - Direct examination
By Solicitor Finney

1 forensic pathology. Once again, you can give the testimony
2 whatever weight you feel as a juror, juror you'd like to
3 give it.

4 Thank you.

5 SOLICITOR FINNEY: Thank you, Your Honor.

6 Doctor Ross, would you tell little us a little bit
7 about the case of Sharmine Pack from August of 2018?

8 A Yes, the coroner -- Sumter County coroner called and
9 scheduled the autopsy on Mr. Pack. The patient was brought
10 to us by transport to the morgue at Newberry County Memorial
11 Hospital where we received him in a body bag. Then he
12 proceed with identifying the body bag, opening the body bag,
13 identifying, identifying clothing and any kind of personal
14 items on the person taking photographs all the time. Then
15 identifying -- taking the clothes off and looking at the
16 patient front and back with photographs.

17 Q And could you give us a little information about him in
18 terms of his size and weight and things like that?

19 A Yes, he measured 68 and a half inches in height. We
20 did not have a scale in the morgue. So we estimated his
21 weight to be approximately 240 pounds.

22 Q All right. And do you have a -- an age given to you at
23 the time that he's brought in?

24 A Yes, 34.

25 Q All right. Did you, did you perform an autopsy?

Janice Ross - Direct examination
By Solicitor Finney

1 A Yes.

2 Q What were the findings, the forensic findings, in the
3 autopsy?

4 A We found evidence of gunshot wounds. So, we
5 automatically do x-rays to find out if there's any metal or
6 any bullets left in him. We found evidence of two gunshot
7 wounds. One went through and through. So, there's an
8 entrance and an exit wound. And one went in and the, the
9 bullet was still in him.

10 Q All right. Could you describe -- you got a pointer?
11 It's over here.

12 If you could, I'll just be your model, if you could
13 describe for the jury the location of the bullet wounds on
14 the body of the patient?

15 A Yes, we number these bullet one and bullet two just --
16 as an organization, we go from top to bottom. So the first
17 wound that we -- the first bullet wound that we found was
18 just above the right nipple, okay, and it went right to
19 left, downward, and slightly backward and it came out of
20 the -- no, this, this one came out on the left just almost
21 under the armpit. So it -- and its path, it went through
22 the heart and through the lower lobe of the left lung.

23 Q And that's the one that would be the through and
24 through?

25 A Correct.

Janice Ross - Direct examination
By Solicitor Finney

1 Q All right. And so you wouldn't expect to find, since
2 it exited the body, would you expect to find that bullet in
3 the body?

4 A Only if it fragmented but we did not find that.

5 Q All right. That was bullet number one?

6 A Correct.

7 Q Tell us about bullet number two.

8 A Bullet number two went into the right abdomen and it
9 went also right to left, downward, and to the back and that
10 bullet went through the liver and some blood vessels inside
11 the -- around the stomach, intestines, and the bullet itself
12 was found just behind the left pelvic bone on -- in the
13 back.

14 Q Tell the ladies and gentlemen of the jury what you
15 found when you went inside Mr. Pack as far as what caused
16 his death.

17 A Yes, all these wounds, of course, lacerating the organs
18 that I named caused hemorrhage into the chest cavities, into
19 the space around the heart, and into the abdominal internal
20 area.

21 Q All right. And is there a legal word that is used by
22 your department for the immediate cause of death?

23 A Yes, it's exsanguination.

24 Q And tell us what that means.

25 A Ex is out of. Sanguine has to do with blood. So, it

Janice Ross - Direct examination
By Solicitor Finney

1 means to bleed out.

2 Q All right. And the exsanguination suffered by Mr. Pack
3 was a -- as a result of what?

4 A Of the laceration of the heart and lungs --

5 Q All right.

6 A -- due to the gunshot wound to the chest.

7 Q All right. At the time you did the autopsy on
8 Mr. Pack, did you also prepare some type of biological
9 samples?

10 A Yes, we always draw blood -- for blood, urine, and
11 other fluids for the purpose of testing for drugs,
12 toxicology.

13 Q All right. And did you do that in this case?

14 A Yes.

15 Q Who were those samples turned over to?

16 A To Sheriff's Department from Sumter.

17 Q All right.

18 A McCauley.

19 Q All right. And after taking the samples, do you have
20 any other protocol as far as maybe for your files and for
21 the law enforcement agencies?

22 Do you prepare a report?

23 A Yes.

24 Q And was that prepared -- report prepared and sent to
25 Sumter County?

Janice Ross - Direct examination
By Solicitor Finney

1 A Yes.

2 Q All right. And so, based on your examination and
3 investigation, what is the cause of death for Mr. Lonnie
4 Pack?

5 A The exsanguination due to laceration of the heart and
6 lung due to, heart, lung, and liver actually, due to gunshot
7 wound of the chest.

8 SOLICITOR FINNEY: All right. One moment please.

9 (Pause.)

10 Q Doctor Ross, could you tell us, based on the review of
11 your report, whether you had any opinion as to the range of
12 the gunshot?

13 A The, the indication was that there was a distant range.
14 In other words, range indicates how close the gun -- the,
15 the, the muzzle of the gun was to the person. When a bullet
16 comes out of a gun, so does soot and powder. The soot and
17 powder only go 2-inches up to maybe 12, 18-inches whereas
18 the bullet obviously goes further than that.

19 So, if you have evidence of soot or powder on -- around
20 the wound, you can say it's within some many inches. But in
21 this case, there was no indication of soot or powder. So
22 the range was 18 to 24-inches and further.

23 Q So, 18 to 24-inches on the close side and further if --
24 depending on what was going on that day?

25 A Correct.

Janice Ross - Direct examination
By Solicitor Finney

1 Q All right. I want to show you what's been marked as
2 State's Exhibit No. 29 and ask if you can identify -- do you
3 see anything in, in 29 that matches the testimony you've
4 given this morning?

5 A I see the, the victim and the clothing on him that is
6 described in my report.

7 Q All right. And do you see two gunshot wounds on the
8 front area of the victim?

9 A All I see is blood on the shirt.

10 Q All right. Very good.

11 This is State's Exhibit No. 29.

12 Doctor Ross, did you take the clothes off Mr. Pack?

13 A Yes.

14 Q And you gave them or did what with them?

15 A We packaged them and, and send them along with the
16 blood and toxicology and the bullet to SLED by way of the
17 Sheriff's Office.

18 Q All right. Thank you, Doctor Ross. Answer any
19 questions the defense may have.

20 CROSS-EXAMINATION

21 BY MRS. BUTCHER:

22 Q Hi, Doctor Ross.

23 How are you?

24 A Fine. Thank you.

25 Q We've spoken on before about -- on the phone about

Janice Ross - Cross-examination
By Mrs. Butcher

1 other cases.

2 A Yes.

3 Q It's good to see you.

4 okay. Let me ask you. First you were talking about
5 you considered this to be a distant gunshot wound.

6 A Correct.

7 Q But you said it's only up to a distance of about 2-feet
8 or greater?

9 A That's correct.

10 Q Okay. So, when you say distance, are you -- I mean, to
11 me, 2-feet is not a grand bit of distance when you -- you
12 know, there's a gun.

13 Is that as opposed to that gun being right on the
14 person---

15 A Correct.

16 Q ---basically?

17 A I -- sorry. In, in the forensic language, you have a
18 contact wound where you actually see the, the muzzle imprint
19 on or you see -- have an intermediate range where you see
20 soot and/or powder and you, and you have distant wound.

21 Q So, what's intermediate then if you're considering
22 2-feet to be distant?

23 A Intermediate is, is not contact. So it's---

24 Q Uh-huh. (Affirmative).

25 A ---you know, maybe a half inch to, to 24-inches.

Janice Ross - Cross-examination
By Mrs. Butcher

1 Q Okay. So, for the lay person like me, it's a little
2 misleading about distance. It's -- you're talking about
3 2-feet from the gun to the body or greater.

4 A That's correct.

5 Q Okay. Now, Mr. Pack here was shot in the front. He
6 was not shot in the back.

7 A That's---

8 Q Correct?

9 A Correct.

10 Q Okay. You -- is there a difference between the
11 measurement of a body, the height if you measure this way,
12 from someone who is living and someone who has passed away?

13 Does that change?

14 A It shouldn't. It may be half an inch or less.

15 Q Okay. It changes some but not a great deal?

16 A Correct.

17 Q Okay. Does that -- how about if someone is standing
18 versus laying down, and what I'm getting at is someone who
19 is alive and standing, you said there's about an inch or a
20 half an inch I think you said between someone who's living
21 and has passed away and you -- is that -- also you've got to
22 factor in measurements when someone is laying down and
23 deceased, correct?

24 A I'm not sure what the question is but --.

25 Q I guess what I'm saying is, is there also a difference

Janice Ross - Cross-examination
By Mrs. Butcher

1 in measurement when someone is standing up and laying down
2 if you're measuring?

3 A Should not be, no.

4 Q Okay. All right. So, the difference that you were
5 speaking of, about a half an inch, is solely because of
6 someone who has passed away as opposed to they're being
7 measured while they're laying down?

8 A Well, it depends on if it's -- if there's rigor and
9 there's some curvature. You might get a little bit
10 different measure.

11 Q Okay. And, and -- okay. And how long does it take
12 that to set in?

13 A It depends. Generally rigor mortis, stiffening of the
14 muscles, occurs over a period of 12 hours and then it
15 dissipates over another 12 hours. But if you're -- it, it
16 occurs -- it starts when you use up all the energy inside
17 your cells.

18 So, if somebody -- if you're running or if you have a
19 high fever and you use up all that energy in your muscle,
20 and then you die, you can go into full rigor in five
21 minutes.

22 Q Okay. Had -- were you able to tell had rigor mortis
23 set in at the time that you examined Lonnie Pack?

24 A We didn't get -- receive him for four days. So, the
25 importance of rigor is, is identifying it at the scene,

Janice Ross - Cross-examination
By Mrs. Butcher

1 which I did not go to.

2 Q Okay. So, all you can say is that, at the time you
3 measured Mr. Pack, he was 68-inches, 68 and a half inches?

4 A Correct.

5 Q Okay. But that's not an accurate measurement?

6 SOLICITOR FINNEY: Objection. I don't understand the
7 question. She's---

8 MRS. BUTCHER: I haven't finished it.

9 SOLICITOR FINNEY: ---testified and given the answer to
10 her question earlier.

11 THE COURT: I'm sorry.

12 What's your question?

13 MRS. BUTCHER: I hasn't asked it.

14 The 68 and a half inches that you mark down, that was
15 his measurement at the time you took it?

16 A Correct.

17 Q That may not be accurate as far as his measurement at
18 the time when he was standing and alive, correct?

19 A Within a fraction of an inch. I -- you -- when they're
20 on the table, and you measure from the bottom of the heel to
21 the top of the head, you may go over an abdomen for
22 instance. So, it's, it's within, within less than a half an
23 inch.

24 Q Okay. I'm sorry. I thought you were saying rigor
25 mortis it takes -- it needs -- you know, takes -- makes

Janice Ross - Cross-examination
By Mrs. Butcher

1 someone appear shorter to -- also because of the contracting
2 of the muscles and things.

3 A No, it only changes if, if it causes a, a move -- a, a
4 bending over or something of the, of the body.

5 Q Okay. And I'm sorry I didn't understand that.

6 Okay. In this case, that, that wasn't the, the case --
7 the situation?

8 A Correct.

9 Q Okay. And I think you -- I believe you said his weight
10 was 240 pounds?

11 A That was an estimate, estimate. We didn't have a
12 scale.

13 Q Okay. But, in other words, he was not a small man?

14 A Correct.

15 Q Okay. Or weight.

16 Now, you stated that Mr. Pack died from bleeding out?

17 A Yes.

18 Q Okay. Not necessarily from -- at the time -- let me
19 put it like this.

20 Is it possible at the time that he was shot he was
21 still able to move around?

22 A Yes.

23 Q Okay. Now, nothing in your examination gives any
24 evidence as to whether Mr. Pack's death was the cause of
25 murder or someone acting in self-defense, does it?

Janice Ross - Redirect examination
By Solicitor Finney

1 A No.

2 Q Thank you. No further questions.

3 REDIRECT EXAMINATION

4 BY SOLICITOR FINNEY:

5 Q Doctor Ross, can you give any medical opinion on
6 whether Mr. Pack was standing or lying on the ground when he
7 was shot?

8 A I don't know.

9 Q And what factors would you need to know to be able to
10 talk about that?

11 A Bullets go straight. So, these bullets were going from
12 his right to his left and downward and slightly backwards.
13 So, if he were standing straight up, the bullet -- the
14 muzzle of the gun would of had to been slightly upward above
15 his right chest, for instance, or if the bullet was going
16 straight horizontal to the level of the ground, the patient
17 would of -- could of been bent over. So, it looks like it
18 goes downward but if he were standing up---

19 MRS. BUTCHER: Your Honor, I would just object if this
20 is any speculation.

21 THE COURT: I'm gonna allow it.

22 MRS. BUTCHER: Okay.

23 THE COURT: Thank you.

24 A So he, you know, those are the two scenarios. He could
25 of been standing up with the gun above him or he could of

Janice Ross - Redirect examination
By Solicitor Finney

1 been bent over with the gun in front of him.

2 Q All right. Thank you, Doctor Ross.

3 A Uh-huh. (Affirmative).

4 THE COURT: Anything further?

5 SOLICITOR FINNEY: Ask that the witness be excused.

6 THE COURT: Yes, ma'am.

7 MRS. BUTCHER: No objection, Your Honor.

8 SOLICITOR FINNEY: Your Honor, may we ask that we go to
9 lunch now and return at 2:30?

10 Our next witnesses will be here by then and we can
11 continue at that time.

12 THE COURT: Okay. Ladies and gentlemen, I'm gonna go
13 ahead and dismiss you for lunch. I have a, a couple of
14 pleas that we're gonna take around 1:30 or 2:00. So I'm
15 gonna ask if you'll please be back -- we'll be ready to move
16 right into the case at 2:30.

17 Again, please don't begin discussing the case.

18 (WHEREUPON, the following takes place outside the
19 presence of the jury.)

20 THE COURT: No. 29 I still don't think we've moved into
21 evidence.

22 SOLICITOR FINNEY: I have it marked as in, Your Honor.
23 Well, from him---

24 MR. BUTCHER: If we -- are we still on the record?

25 THE COURT: We can.

1 MR. BUTCHER: Can we agree to it now or do we have to
2 do it in front of the jury?

3 SOLICITOR FINNEY: Fine with me.

4 THE COURT: I'm fine if y'all agree to it.

5 SOLICITOR FINNEY: I have it circled.

6 MRS. BUTCHER: Yeah.

7 THE COURT: I think it's in.

8 All right. If we're all, if we're all onboard, then
9 that's fine. Twenty-nine is admitted.

10 (WHEREUPON, State's Exhibit No. 29 was received into
11 evidence at this time.)

12 THE COURT: Okay. We'll be at recess.

13 (WHEREUPON, Court was in recess for the lunch hour.)

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE BAILIFF: The jurors are all seated, Your Honor.

17 THE COURT: Thank you.

18 Okay. Mr. Finney.

19 SOLICITOR FINNEY: Thank you, Your Honor.

20 We call Agent Stephanie Carnes.

21 Your Honor, she's already under oath.

22 May she go to the stand?

23 THE COURT: Let's go ahead and swear her just for the
24 sake of our, our record. Thank you.

25 THE BAILIFF: All right. Raise your right-hand, ma'am.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 State your name.

2 THE WITNESS: Stephanie Carnes.

3 STEPHANIE CARNES, being first duly
4 sworn, testified as follows:

5 THE BAILIFF: Watch your step. You can pull your mask
6 down. State your name for the record and spell your last
7 name please.

8 THE WITNESS: Stephanie Carnes. Spelled C-A-R-N-E-S.

9 DIRECT EXAMINATION

10 BY SOLICITOR FINNEY:

11 Q Agent, welcome back to Sumter.

12 A Thank you.

13 Q You testified yesterday that you are employed by SLED?

14 A (WHEREUPON, there was no audible response.)

15 Q In what capacity?

16 A As a toxicologist.

17 Q All right. And you've been doing that for how long?

18 A Roughly five and a half years.

19 Q All right. And did you have occasion to receive
20 biologic samples from an autopsy in August of 2018 regarding
21 Mr. Lonnie Pack?

22 A If I remember correctly from yesterday, the evidence
23 that we received was labeled Sharmine --

24 Q Yes.

25 A -- Pack.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 Q Yes.

2 A I guess.

3 Q All right. I'm gonna show you what's been marked as
4 State's Exhibit No. 36. Ask if you could review it.

5 A Okay.

6 Q Tell us what it is.

7 A This is my toxicology report that I issued for the
8 evidence that was submitted.

9 Q And what evidence did you receive?

10 was it blood, other kinds of fluid, what?

11 A We received blood, ocular, and it looks like gastric
12 fluid.

13 Q All right. And did you analyze all three of those
14 fluids or just one?

15 A We analyzed the blood and the ocular. It's not
16 typical, per our policy, to ocular or to analyze gastric
17 samples unless it's the absolute only thing that we are
18 given.

19 Q All right. And just for the sake of giving the jury
20 full information, the ocular fluid comes from where?

21 A The eye. It's the fluid behind your eye.

22 Q And the blood would have been drawn?

23 A It could of been drawn from anywhere. It just depends
24 on where the coroner or medical examiner chooses -- whatever
25 site they choose to draw the blood from.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 Q All right. And the gastric fluid?

2 A That's from the stomach. That's your stomach contents.

3 Q All right. So you analyzed the blood of Mr. Sharmin
4 Pack?

5 A Uh-huh. (Affirmative).

6 Q Do you have a date on which you analyzed it?

7 A The actual date of analysis is not on this report.

8 Q All right.

9 A Yeah.

10 Q All right.

11 A It's not on this report.

12 Q And as a result of doing the analysis, tell the ladies
13 and gentlemen how you go about analyzing blood.

14 what are you looking for?

15 A Okay. So what happens is the blood or whatever
16 biologicals, they are submitted to our lab. They come up to
17 our department. We review the information that is provided
18 to us regarding the type of case that it is and that
19 determines how we work it.

20 Based on the nature of this case, we would move forward
21 with doing what is called blood alcohol analysis as well as
22 a drug screen. At the time we did a 12 panel drug screen.
23 So we looked for 12 major classes of drugs.

24 we analyzed both blood and ocular for alcohol and then
25 we analyze blood only for the presence of drugs. If we do

Stephanie Carnes - Direct examination
By Solicitor Finney

1 not have blood, we will then analyze the ocular fluid for
2 the presence of drugs. But, in this case, because we did
3 have blood, we went ahead and did all of our drug analysis
4 in the blood sample.

5 Q And how many panels did you say you checked?

6 A Twelve.

7 Q All right. And out of the 12 panels, does each panel
8 represent a different drug?

9 A In, in -- I guess the easy way to explain that is yes.
10 We have -- these panels represent a class of drugs in
11 particular. So, some will look for a very specific drug and
12 some look for other drugs that are within a class, and that
13 is simply because drugs that are in one particular class are
14 normally prescribed or used to achieve the same effects and
15 that's based on how they are structured as a molecule.

16 So, when we analyze a sample for a class of drugs,
17 we're able to look for more than just one based on
18 structural similarities in the drugs.

19 Q Now, as opposed to drugs that you might swallow or get
20 by injection, is alcohol also tested?

21 A Yes, we do it for alcohol.

22 Q And how do you label -- what panel is that?

23 A That's a completely separate test. It's not part of
24 your drug screen. We do what's called volatile analysis and
25 it's a completely separate process. But we also will look

Stephanie Carnes - Direct examination
By Solicitor Finney

1 at the occular and the blood and we have a method that
2 allows us to determine how much alcohol is present, if any
3 --

4 Q All right.

5 A -- in a sample.

6 Q Would you give us the results of Mr. Lonnie Pack's
7 blood analysis?

8 A Absolutely. The blood analysis was completely negative
9 for any ethanol or alcohol substances, and it was also
10 negative for all, all 12 panels of our drug screen.

11 Q And what does that mean negative?

12 A It just means that, for the 12 classes of drugs that we
13 look for, there was no presence or indication that any of
14 those drugs were present in his sample.

15 Q And that also -- is that also the result you obtained
16 from ethanol, which is what?

17 A The ethanol was also negative and yes.

18 Q What is the ethanol?

19 A Ethanol is just alcohol. So, if you consume an
20 alcoholic beverage, the alcohol that will -- we will see in
21 your blood is ethanol. It's just the scientific word for
22 that.

23 Q So basically there was nothing in his system of an --
24 of a -- drugs or alcohol, alcohol?

25 A Correct.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 Q All right. Are you familiar with a drug by the name of
2 Promethazine?

3 A Yes.

4 Q Could you tell us a little bit about your experience
5 with that drug?

6 A So, Promethazine is a drug that, in the past, has been
7 used as an antipsychotic. It's not typically used as that
8 anymore. It's used as an antihistamine, which is normally
9 most people know it to be used to treat allergies.

10 Q All right. And do you know if that is usually found in
11 pill form or liquid form?

12 A As far as I know, it's normally a pill.

13 Q All right. And if someone had a few pills of
14 Promethazine, what would you, in your experience, say that
15 they were using it for?

16 A My only knowledge of its use right now is as an
17 antihistamine or an allergy medication. If it's beyond
18 that, I, I couldn't give you any specifics.

19 Q All right. Did you pre -- prepare a report with the
20 findings that you just testified to?

21 A Yes.

22 Q And is that report in front of you?

23 A Yes.

24 SOLICITOR FINNEY: I would like to move Exhibit 36 into
25 evidence.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 THE COURT: Any objection?

2 MRS. BUTCHER: No objection.

3 (WHEREUPON, State's Exhibit No. 36 was received into
4 evidence at this time.)

5 Q Agent Carnes, thank you very much for coming.

6 A Yes.

7 MRS. BUTCHER: Your Honor, thank you.

8 THE COURT: Yes, ma'am, go right ahead.

9 CROSS-EXAMINATION

10 BY MRS. BUTCHER:

11 Q Hello again.

12 How are you?

13 A I'm good.

14 How are you?

15 Q You don't know the date of your analysis of the blood
16 sample?

17 A I can't tell you the specific date that the analysis
18 was performed specifically because, once we receive it to
19 the lab, it's taken into my custody and multiple tests are
20 performed on it throughout the time that I have it in my
21 custody for -- and, and that just starts in time of testing
22 to when the report is complete and generated for everybody
23 else to access.

24 Q And you only test the blood and the ocular fluid,
25 correct?

Stephanie Carnes - Direct examination
By Solicitor Finney

1 A Correct.

2 Q Okay. And does it matter with the length of the time
3 that the blood sample is taken until it's actually tested as
4 far as what you may find as far as drugs in that blood
5 sample?

6 A So, I guess there's a two part answer to that question.

7 The first part is, upon death, if there are any named
8 drugs, poisons, alcohol, or anything like that in an
9 individual's system, the process of metabolizing that drug
10 stops. There are very few exceptions to that rule. But
11 almost all drugs will stop metabolizing upon the time of
12 death.

13 when you die, your cells die. And so, that is part of
14 what helps our bodies break down those drugs. That's the
15 first part.

16 The second part is, once the samples are collected, the
17 coroner, medical examiner, whoever's collecting the samples,
18 will supply the samples to us in several different types of
19 tubes, and the most common tube type that we receive is a
20 gray top tube. And that simply just means that the sample
21 is being preserved. It has a preservative and an
22 anticoagulate in it.

23 So, as long as when we receive the sample, we keep it
24 at the appropriate temperatures which are refrigerated, and
25 it is in that gray top tube. There should be no breakdown

Stephanie Carnes - Direct examination
By Solicitor Finney

1 of any drugs, of any alcohol. The sample should be well
2 preserved. So there should not be any change.

3 Q Okay. And how long does it take marijuana, for
4 example, or well, well, marijuana, to metabolize into your
5 blood?

6 A So marijuana is actually a trickier drug. Marijuana
7 does tend to hang around in the system, blood, a little bit
8 longer than say some other drugs that we might see.
9 Normally, if a person uses marijuana daily, you can see that
10 in their urine specifically for up to, up to and over a
11 month. In their blood, several weeks if they're a chronic
12 user.

13 Q Okay. But say if you're not a chronic user.

14 A Uh-huh. (Affirmative).

15 Q But you may, you know, or any drugs or whatever.

16 A Uh-huh. (Affirmative).

17 Q Not, not just specifically marijuana. But it's how --
18 I guess what I'm asking, I think everything probably has a
19 different timeframe with the metabolism into the blood.

20 If you used a drug typically, and if -- and you're
21 welcome to say for different drugs what it is, how long
22 would it take to show up in your blood?

23 A Oh, okay.

24 Q I mean I'm sorry if I didn't state that very well the
25 first time.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 A That's fine. I, I might of misunderstood.

2 Q Okay.

3 A Again, it does depend on the drug and, and, more
4 importantly, it depends on the round of administration. If
5 it was something that was taken in pill form, normally you
6 would venture to see the or feel the effects and/or see it
7 in the blood within about 30 minutes to an hour. If
8 something is smoke, excuse me, smoked or injected, you'll
9 see it much more quickly. So it just depends.

10 Anything that has to go through your GI tract is going
11 to take a lot longer to actually reach the blood versus
12 something that's injected or smoked. It's more so route of
13 administration as opposed to the drug that you're ingesting.

14 Q Okay. And---

15 A I hope that helps.

16 Q ---specifically marijuana.

17 A Uh-huh. (Affirmative).

18 So, if you -- if somebody was to smoke marijuana, you
19 would start feeling the effects within several minutes. I
20 would say 30 minutes would be on the long side of it. You
21 would be able to see it in the blood relatively quickly
22 there like after that.

23 And if you -- a person was to eat something, say an
24 edible, you wouldn't see anything for at least 30 minutes or
25 feel any effects for at least 30 minutes.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 Q Okay. How about -- and if it were roughly four weeks
2 before a sample were taken, the blood were taken, are you
3 able to tell what was in the blood four weeks earlier?

4 A Yeah. So kind of going -- backtracking a little bit,
5 going back to the -- a couple of minutes ago, when a person
6 dies, if they were under the influence of a drug, and, and
7 for the specific example marijuana, the metabolism of that
8 drug is going to essentially cease upon death, upon death.
9 So, whatever's in their system at the time of death is what
10 you're going to see in the blood.

11 There, there are, like I said before, they're some
12 caveats to that rule for other drugs. But specifically
13 marijuana, you will, at a minimum, be able to see the
14 metabolites very easily upon death. And, and depending on
15 how soon or, I guess, how close the person had smoked or
16 consumed marijuana leading up to death, you would even be
17 able to see the parent drug---

18 Q And---

19 A ---that's present.

20 Q ---how long did you say the drugs typically stay in the
21 blood?

22 A In, in a living person, marijuana specifically can stay
23 in the blood, for a chronic user, for weeks. We can detect
24 certain amounts of it, trace levels of it. After a certain
25 period of time, you're really gonna only start seeing

Stephanie Carnes - Direct examination
By Solicitor Finney

1 metabolites that are present, and, and that's if they were
2 to cease smoking. If they were a chronic user and were to
3 completely cease smoking, then you would start seeing pretty
4 much only those metabolites for a couple of weeks. But if
5 they continue that chronic use, you'll be able to see both
6 parent marijuana and metabolites specifically.

7 Q Okay. The non-chronic user?

8 A A non-chronic user, if it was just maybe one time and
9 one time only, you wouldn't tend to see it hang around for
10 nearly as long. However, marijuana does have a long what we
11 consider halflife and that just is the length of time it
12 takes for the body to metabolize it. So, you'll see it for
13 a couple of hours and you could probably even see it for a
14 couple of days depending on -- again, depends on route of
15 administration and dose, how much they smoked.

16 Q Okay. So -- and what you're, you're seeing here on
17 your report, that is testing the metabolites, correct?

18 A Yes.

19 Q Okay.

20 A What we tested for in the lab tests for both parent
21 compounds and metabolites.

22 Q Okay. So what you're saying, correct me if I'm wrong
23 --

24 A Uh-huh. (Affirmative).

25 Q -- is that this report being negative doesn't mean

Stephanie Carnes - Direct examination
By Solicitor Finney

1 he -- that someone does not use drugs?

2 It just is that none were detected in that sample?

3 A Yeah. So, yes, to an extent. It doesn't necessarily
4 mean that they've never used drugs. But, at that time that
5 the sample was taken, at that time that, in this specific
6 case, the decedent passed, there were no drugs that were
7 acting on -- in their blood, acting on their body, acting on
8 their brain at that time.

9 Q Okay. Now, are y'all capable of testing urine?

10 A We are, yes.

11 Q And was any urine sample sent to you?

12 A If a urine sample was submitted, it would of been
13 listed on the report. So, based on that, it -- we did not
14 receive urine.

15 Q Okay.

16 A We received, I believe, blood, ocular, and gastric.

17 Q And is urine -- a urine sample, does that -- what does
18 that show differently than blood as far as back in time---

19 A Uh-huh. (Affirmative).

20 Q ---and history of use, things like that?

21 A Yeah. Absolutely. So, urine is a historical marker.
22 we don't normally test urine if we have blood because blood
23 shows us what was in their system at the time, what was
24 presently acting on their body. But urine is a historical
25 marker.

Stephanie Carnes - Direct examination
By Solicitor Finney

1 So, if testing warrants us to look at the urine, that
2 will let us know whether or not a person had used drugs in
3 the past and it does give us a longer history. So as I was
4 talking about with the blood, you can really only see things
5 for a few hours or a few days depending on the drug. With
6 urine, again depending on the drug, you could see things up
7 to a month out of last use. So --.

8 Q Okay. So, kind of possible that someone didn't use
9 drugs for a day, test their blood, and -- or negative,
10 correct?

11 A Yes, it's possible.

12 Q Tell me about hair follicle.

13 Are y'all capable of testing for hair follicle?

14 A We actually do not test hair follicle in our lab.

15 Q Y'all does not?

16 A No, we do not.

17 Q Okay. How about toenail clippings?

18 A No.

19 Q Okay. So -- but if you were trying to show that
20 someone wasn't a drug user, it can -- can you explain how
21 far back the hair follicles, toe nail clippings, go and
22 their relationships, relationships, excuse me, to the blood
23 or the urine samples?

24 A Unfortunately, that's kind of outside of our realm of
25 what we do. So, I can not confidently give you any

Stephanie Carnes - Direct examination
By Solicitor Finney

1 information on that. I, I -- what I can say is specifically
2 to hair follicles, I know that you can -- again, that is
3 historical and that gives you a representation of past use.
4 But that's all I can say really about that.

5 Q Okay. Additionally, on this, I'm looking over on the
6 far right where it has thresholds.

7 Can you explain what those are?

8 A So, what that comes down to is essentially, if one of
9 those classes of drugs that we screen for were to come back
10 positive, we establish thresholds or cutoff levels. And if
11 it were to be post -- come back positive, we have to send
12 that to a secondary test, what we call a confirmation test,
13 and all that does is that helps us prove additionally that
14 the drugs that we were looking for are actually present.
15 And then we're able to -- if it is in blood, we're able to
16 get a quantitative value and a specific number to that.
17 Those thresholds are simply the lowest number that we will
18 report out.

19 So, some of them have a threshold of 10, five, one. It
20 depends on the drug. But if there's -- if it's a drug
21 that's below that threshold, we do not report it because
22 it's considered insignificant and not impairing.

23 Q Okay. So, any of these drugs could of been present in
24 the blood, but if, if they were below your thresholds, you
25 would not have reported them as positive?

Stephanie Carnes - Direct examination
By Solicitor Finney

1 It would of been counted as a negative?

2 A That's correct.

3 Q Okay. So, basically any of these drugs could of been
4 in his system at that time from your testimony?

5 A They -- it's, it's possible---

6 Q It is possible.

7 A ---that they could have been. The -- going -- I guess
8 going back a couple seconds to what I said is, when we
9 report them out, we're reporting out levels that are
10 impairing and affecting the individual presently. So, if we
11 don't see it above that threshold level, it's not gonna be a
12 present and active -- it's not gonna be presently acting on
13 them if that makes sense.

14 Q Okay. And let me clarify one more thing.

15 A Uh-huh. (Affirmative).

16 Q I think Mr. Finney asked you if there were drugs in his
17 system.

18 A Correct.

19 Q And you said, I believe, no, but correct me if I'm
20 wrong, but there very well could of been historical drugs in
21 his system like you described with the urine and everything.
22 There simply weren't drugs that you detected in his blood.

23 Correct?

24 A Yeah. Correct. Based on, based on what we were
25 provided and the analysis that we're able to do, there was

Stephanie Carnes - Direct examination
By Solicitor Finney

1 nothing in his system that I could report out.

2 Q His system or his blood?

3 A Well, his, his blood.

4 Q Okay.

5 A His blood and his ocular.

6 Q Okay.

7 A Uh-huh. (Affirmative).

8 Q And that drugs could of been present but if they were
9 below the threshold, you would of just tagged them as
10 negative, correct?

11 A They would be considered negative per our policy.

12 Q Okay. I know I'm pronouncing this wrong probably.
13 The, the, the pills, Promalazine (phonetic).

14 A Promethazine.

15 Q Thank you.

16 A You're welcome.

17 Q Okay. Those -- if taken, they basically could make you
18 feel relaxed.

19 Is that correct?

20 A They, they could. But I, I know, in, in the past, they
21 have been used as an antipsychotic and they've also been
22 used to treat insomnia. They're not commonly used for that
23 anymore. There's just other drugs that are better, and for
24 lack of a better word, stronger and more efficient at doing
25 those same things. So, so, they're not typically used for

Stephanie Carnes - Direct examination
By Solicitor Finney

1 that anymore. If they were misused, could they potentially
2 produce those effects, possibly.

3 Q Okay. Cause -- so, in the world of misusing drugs,
4 basically they could be used as a downer?

5 A I, I don't know that I would say that specifically.

6 Q Uh-huh. (Affirmative).

7 A But I mean anything can have negative impairing effects
8 on you if it is not used properly. Especially if it's
9 something that is more or less a prescription drug.

10 Q One moment.

11 A Okay.

12 (Pause.)

13 Q The pills --

14 A Okay.

15 Q -- that's easier to say than the name of them.

16 Okay. If those are mixed with other drugs, what could
17 the effect be?

18 would they have more of a relaxing effect perhaps or
19 --?

20 A I, I would say it would depend on what drugs it's being
21 mixed with and without -- I, I, I don't know specifically
22 what type of effects you would see depending on what it's
23 mixed with.

24 Q Okay. So, it's possible the misuse that drug mixed
25 with other drugs may have more of, of an effect on somebody?

Stephanie Carnes - Direct examination
By Solicitor Finney

1 A Yeah, I mean that's, in, in general, when you're using
2 drugs, medication, or anything, mixing them, you -- that's,
3 that's always of concern.

4 Q Okay. Now, you tested for Benzos, cocaine, and the
5 other list.

6 A Uh-huh. (Affirmative).

7 Q Is, is this a full list of possible drugs that someone
8 could misuse or is this just the most popular or how does,
9 how does that work?

10 why, why these?

11 A So, we base all of our testing off of recommended,
12 recommended -- things that are recommended to us based on
13 just different, I can't think of the word, like medical
14 boards.

15 Q Uh-huh. (Affirmative).

16 A They'll -- these are the -- some of the most common
17 drugs that we see, drugs of abuse, and things like that. We
18 also look at places like Highway Patrol and they'll put out
19 reports that will give us lists of a lot of the most common
20 drugs that they see in like DUI cases.

21 So, we put together a group and classes of drugs that
22 are the most commonly seen to be abused, the most commonly
23 seen to be involved in, you know, fatal accidents, things
24 like that.

25 So, that list is a -- is constantly evolving. But, at

Stephanie Carnes - Direct examination
By Solicitor Finney

1 that time, those 12 panels that we were looking for were,
2 were recommended and suggested panels of drugs. It is not
3 the only thing that we look for. But per our policy as an
4 agency, when we test a sample especially for a case that has
5 a known cause of death --

6 Q Uh-huh. (Affirmative).

7 A -- we do the panel screen, and then if there's anything
8 passive or there's a specific drug that we are requested to
9 look for, we will go ahead and do more extensive screening
10 on it if it's, again, like I said, if it's requested. But
11 for, like I said, known causes of death, we do the panel.
12 If the panel's all negative and the alcohol comes back all
13 negative, for us, our testing is complete.

14 Q Okay. So, your, your test is limited to these certain
15 drugs and it, again, doesn't necessarily mean someone
16 doesn't use these drugs. It's just that you didn't detect
17 them at the time of death.

18 A For this specific case, it would mean that at -- yes,
19 at the time of death, a person was not under the influence
20 or impaired by any of those drugs or classes of drugs.

21 Q Okay. And, again, they could of been in the system but
22 not up to the threshold that you --?

23 A Yeah. And if they were in the system but not at that
24 threshold, they would not be considered impairing or
25 affecting them or their brain in any way that we would be

Stephanie Carnes - Direct examination
By Solicitor Finney

1 concerned with.

2 Q Okay. And so basically it doesn't mean -- this test
3 doesn't mean someone's not a drug user or drug dealer. It
4 just simply means they were not impaired at that time.

5 A Yeah. That is correct.

6 Q Okay. In any of your analysis that you've presented
7 here today have shown any evidence whatsoever that
8 Mr. Pack's death was due to murder or someone acting in
9 self-defense?

10 A That's not something that I could necessarily testify
11 to and specifically because I only test what I'm given and I
12 only base my route of testing on information that I'm
13 provided. So, if they submit a packing slip that tells us
14 it was a homicide or it was a suicide or whatever, that's --
15 that is the only thing that we base it off of.

16 We don't -- we do not test anything based on any
17 knowledge normally about the case other than whatever -- if,
18 if there's a specific drug they want us to look for, we'll
19 look for that. But aside from those very specific details
20 that we might be provided, we don't normally know much of
21 anything about them coming into it. So I can't answer that.

22 Q Okay. Thank you so much.

23 A Uh-huh. (Affirmative).

24 REDIRECT EXAMINATION

25 BY SOLICITOR FINNEY:

Stephanie Carnes - Redirect examination
By Solicitor Finney

1 Q Agent Carnes, let me just ask two questions. We --
2 the, the marijuana questions---

3 A Uh-huh. (Affirmative).

4 Q ---that you were asked, is marijuana considered a
5 cannabis or cannabinoid?

6 A Yes.

7 Q And is the -- one of the panels that you tested for
8 Cannabinoids?

9 A Yes.

10 Q Is it, in fact, the last -- I'm showing you the report
11 that you -- Cannabinoids were tested for?

12 A Yes, it is the last compound that we look for.

13 Q So now let me ask you the other question.

14 If you found marijuana traces --

15 A Uh-huh. (Affirmative).

16 Q -- meth -- meta, metabites (phonetic)?

17 A Metabolites.

18 Q Metabolites. But it was at a low level --

19 A Uh-huh. (Affirmative).

20 Q -- would it still show that you found marijuana but it
21 was at a level that you did not feel the person was under
22 the influence?

23 A That's when the thresholds come into play. So, if it
24 was below that threshold, it would be considered negative
25 but it---

Stephanie Carnes - Redirect examination
By Solicitor Finney

1 Q But would it show up positive as far as the can -- the,
2 the cannabis?

3 MRS. BUTCHER: Your Honor, I would just ask that she be
4 allowed to complete her answer.

5 THE COURT: Sure.

6 Q Okay. I'm sorry. I didn't mean to cut you off.

7 A You're fine. I was gonna say it goes back to the
8 thresholds. So, if it -- if there was some indication, we
9 use the word indication, that there was a presence of that
10 below the threshold, it could have been due to a metabolite.
11 However, if it's coming back negative, it's obviously well
12 below that threshold, that established threshold.

13 Q So -- and, and I'm gonna try to -- cause I, I want to
14 understand it.

15 A Uh-huh. (Affirmative).

16 Q Is it a two step process?

17 You could find marijuana but it would be below the
18 threshold. So it would be positive but below the threshold.
19 So you could testify you didn't think the guy was under the
20 influence.

21 A So, with the, with the screen that I have on this
22 report, no. It is a one step process. It's either negative
23 or it's positive.

24 Q Okay.

25 A If it comes back positive, we would do that following

Stephanie Carnes - Redirect examination
By Solicitor Finney

1 step where we send it for confirmation. At that point, if
2 it came back positive but the confirmation quantitated it as
3 a negative result, we could then report out yes, the drug
4 screen was positive. But, upon quantitation, which is a
5 more specific test, it was negative.

6 Q So based on your panels, the 12 panels --

7 A Uh-huh. (Affirmative).

8 Q -- including Cannabinoids, you didn't find anything in
9 Mr. Pack's system?

10 A Correct.

11 Q Thank you.

12 A Thank you.

13 MRS. BUTCHER: Your Honor?

14 SOLICITOR FINNEY: Nothing further.

15 MRS. BUTCHER: If I may just very briefly.

16 RE CROSS EXAMINATION

17 BY MRS. BUTCHER:

18 Q I just want to make sure I understand.

19 You -- if it had been above the threshold, then you
20 would enter the two step process?

21 A Yes.

22 Q Correct?

23 A Yes. Correct.

24 Q Okay. But since these tested below the threshold---

25 A Uh-huh. (Affirmative).

Stephanie Carnes - Recross examination
By Mrs. Butcher

1 Q ---even if like the marijuana threshold was 30, and if
2 it was 29, it wouldn't go into that two step process,
3 correct?

4 A That is correct.

5 Q It would just be negative?

6 A Correct.

7 Q Thank you.

8 SOLICITOR FINNEY: Nothing further, Your Honor.

9 THE COURT: The -- are you entering that into evidence?

10 SOLICITOR FINNEY: It's in evidence I believe.

11 THE COURT: I'm -- if you'll tell me what exhibit that
12 is.

13 SOLICITOR FINNEY: Twenty-nine. Excuse me.

14 Thirty-six, Your Honor.

15 THE COURT: Just want to make sure. I, I do not see
16 it. I, I don't have it listed but I could of just missed
17 it. So, if, if you want to go ahead and offer it into
18 evidence cause I don't have it on my list.

19 SOLICITOR FINNEY: I'd offer 36 into evidence.

20 MRS. BUTCHER: Oh, I thought we'd already agreed. Yes,
21 of course.

22 THE COURT: Okay. I could be just behind the eight
23 ball here.

24 Thank you, ma'am. You can step down.

25 THE WITNESS: Thank you.

Tracy Thrower - Direct examination
By Solicitor Finney

1 SOLICITOR FINNEY: We call SLED Agent Tracy Thrower.

2 THE BAILIFF: Raise your right-hand. State your name.

3 THE WITNESS: Tracy Thrower.

4 TRACY THROWER, being first duly
5 sworn, testified as follows:

6 THE BAILIFF: Thank you. Step around. Remove your
7 mask. State your name and -- state your name and spell your
8 last name for, for the record.

9 THE WITNESS: Tracy Thrower. T-H-R-O-W-E-R.

10 DIRECT EXAMINATION

11 BY SOLICITOR FINNEY:

12 Q Good afternoon, Agent Thrower.

13 A Good afternoon, sir.

14 Q Thank you for coming today.

15 Tell the ladies and gentlemen what you do for a living,
16 sir.

17 A I am a firearm and tool mark examiner for the South
18 Carolina Law Enforcement Division also known as SLED.

19 Q And how long have you been so employed?

20 A Almost 23 years.

21 Q All right, sir. Have you been in firearms most of that
22 time?

23 A I have been in firearms the entire time, yes, sir.

24 Q All right. Tell us a little bit about what you do on a
25 day-to-day basis.

Tracy Thrower - Direct examination
By Solicitor Finney

1 You work in the lab most everyday?

2 A Yes, sir. Technically I am the -- now the supervisor.
3 I'm the lieutenant of the firearms department. So I do have
4 some duties for managing the, the, the staff of the firearms
5 department in our daily caseload. But I also examine
6 firearms and firearm related evidence. I examine tool marks
7 and tool mark related evidence. I perform serial number
8 restorations, limited crime scene assistance, and would --
9 any other duties that are required by the job.

10 Q So, just by way of background, tell the ladies and
11 gentlemen what you do when you receive a package of evidence
12 in terms of what the firearms department is looking for to
13 try to see what they can tell us about the evidence that you
14 receive.

15 A Well, the first thing we would do is open our
16 laboratory information system. We would look at the
17 paper -- the submission paperwork to see what evidence is
18 claimed to have been submitted, and then we will open the
19 evidence, taking pictures along the way, documenting
20 packaging, documenting the evidence, documenting potential
21 trace evidence. And we actually look and see what evidence
22 is received and we try to marry up the paperwork with the
23 actual evidence to make sure we have the correct evidence.

24 Once that is complete, we will start analysis. We
25 will -- we have worksheets for each type of evidence. We

Tracy Thrower - Direct examination
By Solicitor Finney

1 will document all the details of the evidence. We will
2 photograph the evidence. And then we get into, if we have a
3 firearm, we would test fire the firearm into a bullet
4 recovery tank, which in our laboratory is about a 3-foot
5 diameter stainless steel pipe. It's two stories tall and
6 it's full of water and we shoot down to the water. The
7 water slows the bullet to a safe speed without damaging
8 those tiny scratches on the outsides of the bullet that were
9 placed there by the firearm.

10 As the bullet slows, the bottom of the tank is like a
11 giant funnel. The bullet will tumble down the funnel into a
12 cup. We can pull the cup up and that's how we get our test
13 specimens.

14 The test fired bullets we know came from that gun
15 because we fired them. So that's how we know that -- how
16 that gun marks the bullets.

17 At the same time, the cartridge case, which is the
18 component of a piece of ammunition that holds the bullet,
19 the gun powder, and the primer, ejects and we capture those
20 also. So now we have the other component of ammunition that
21 is marked by the gun. We can take those, we would simply
22 mark them with an engraver as to case number, item number,
23 initials, and that they were test specimens.

24 We would take our fired projectiles or bullets, fired
25 cartridge cases if we receive those from a crime scene as

Tracy Thrower - Direct examination
By Solicitor Finney

1 part of a submission. We use a comparison microscope, which
2 is simply it's two microscopes sitting side by side
3 connected by an ocular bridge with one set of eyepieces so
4 that when I'm looking through my eyepieces, I can see two
5 items at the same time under magnification, and there's a --
6 simply a dividing line down the center of my view so I sit
7 them side by side and line up the markings to see if I
8 believe they are a -- fired by the same gun.

9 So, in this instance---

10 THE COURT: Let me just stop you just a moment. I'm
11 sorry to interrupt.

12 Are you gonna offer him as an expert?

13 SOLICITOR FINNEY: I am.

14 THE COURT: Before we just get too far into the
15 technicalities---

16 SOLICITOR FINNEY: All right.

17 THE COURT: ---do you want to go ahead and do that?

18 Q All right. Have you been trained and certified as a,
19 as a firearms expert?

20 A Yes, sir.

21 Q And have you testified in courts across the State as an
22 expert with your credentials and experience?

23 A Yes, sir.

24 SOLICITOR FINNEY: All right. I would now offer
25 Lieutenant Thrower.

Tracy Thrower - Direct examination
By Solicitor Finney

1 MRS. BUTCHER: I wasn't going to object but yes.

2 THE COURT: Okay. Thank you.

3 THE WITNESS: Okay.

4 THE COURT: And he is -- I am finding he is qualified
5 to give opinion testimony in the area of firearms and tool
6 mark examination. Thank you.

7 Q I'm sorry to have to cut you off there.

8 Do -- did -- do you get a case number or do you put a
9 case number on each new case as it comes in?

10 A The evidence is received through a department known as
11 evidence control downstairs, and every submission that comes
12 in they, the ladies that work in evidence control, assign an
13 individual case number to that submission.

14 Q I want to bring your attention to SLED lab Number L as
15 in Larry 18-12002 and it says your case number.

16 Is that your case number or Sumter County's case
17 number?

18 A Sumter County's.

19 Q All right. And that would be 18110339.

20 A Yes, sir.

21 Q Have you prepared a report?

22 Did you prepare a report for that case number?

23 A Yes, sir.

24 Q Do you have it where you can look at it?

25 A I do, yes, sir.

Tracy Thrower - Direct examination
By Solicitor Finney

1 Q Okay. Tell us when you, if you can, when did you
2 receive the items from Sumter County that you tested.

3 A It looks like I received these items on 7/14 of 2021.

4 Q 7/14 of 2021?

5 A Yes, sir.

6 Q And do you start -- I mean is that when it comes into
7 your lab?

8 A No, sir, it would of been submitted at some time prior
9 to that. It would of been stored in evidence control and
10 then, at some point, I would of gone downstairs, taken
11 custody of it, brought it upstairs, and it would of been
12 stored in my personal evidence locker until I had time to
13 work it.

14 Q And just for the juries -- do you handle cases all over
15 the State of South Carolina?

16 A Yes, sir.

17 Q I want to show you what's been marked as State's
18 Exhibit 34 and 35 and ask if you have had any connection
19 with those items in terms of your lab number that we just
20 talked about.

21 A Yes, sir.

22 Q Tell the ladies and gentlemen what is in the ones
23 marked 34.

24 A Okay. State's Exhibit 34 is SLED Item Number 6.

25 Q All right. And what's in the other envelope marked 35

Tracy Thrower - Direct examination
By Solicitor Finney

1 I believe?

2 A State's Exhibit 35 is SLED Item Number 8.

3 Q All right. And are those both -- both of those items,
4 what are they?

5 A Both of these items, State's Exhibit 34 and 35, are
6 fired bullets or projectiles. You can see right here and
7 right here.

8 Q And what were you asked to do in terms of your
9 examination on those bullets?

10 A I was asked to compare them to each other to determine
11 if they were fired by a single firearm or if they were fired
12 by more than one firearm and determine what kind of firearm
13 could have fired them.

14 Q All right, sir. So far -- as far as step one, what
15 kind -- well, step one.

16 Did you analyze those projectiles to see if they came
17 out of the same gun?

18 A Yes, sir, I did.

19 Q And did you use your double telescope -- microscope to
20 make that determination?

21 A Yes, sir, I used my comparison microscope to visually
22 place these items side by side and rotate them until I found
23 where they had agreement and then rotate them together and
24 verify agreement all the way around the outside where the
25 barrel had marked them.

Tracy Thrower - Direct examination
By Solicitor Finney

1 Q And what, what markings are you looking for on those
2 bullets?

3 A It's called rifling impressions. The inside of a
4 firearm barrel, such as a pistol, revolver, rifle, has got a
5 series of spiraling grooves that travel down that barrel.
6 It's called rifling.

7 The purpose behind that rifling is, as that bullet
8 travels down the barrel, you want that bullet to spin on its
9 axis kind of like a football. If you've ever seen a super
10 bowl quarterback through that football, it has that nice
11 tight spiral. The purpose behind that spiral, it gives
12 gyroscopic stability to the bullet in flight, which will
13 cause it to travel farther and more accurately.

14 When I throw a football, it tumbles end over end and it
15 does not go where I intend it. So, the purpose is to make
16 these guns more accurate when shooting them.

17 The good thing for firearm and tool mark examiners is
18 it also scratches the outsides of the bullets as the bullet
19 travels down the barrel, which leaves individual identifying
20 characteristics, individual scratches, on the outside of the
21 bullets that can be used to identify a bullet to a firearm.

22 Q Tell the ladies and gentlemen what you found that --
23 when you examined those two bullets.

24 A It was -- it was my opinion that both of these bullets
25 were fired by the same firearm.

Tracy Thrower - Direct examination
By Solicitor Finney

1 Q All right. And the second part of your examination was
2 to determine what kind of bullet that was, what size bullet?

3 A Yes, sir.

4 Q What caliber?

5 A I weighed the bullets to see how much it weighed. I
6 also measured the diameter of the base of the bullet. So,
7 you know, how far is it across the base. Between the weight
8 and the diameter, you can determine caliber.

9 So, from this, I determined it was most likely or it
10 was most consistent with being from a .380 auto caliber
11 cartridge.

12 Q Now, once you determined that, would you have been able
13 to see if those bullets came out of a particular gun if you
14 had the gun?

15 A More likely than not. These were very well marked
16 bullets. If, if I had been provided the correct firearm,
17 there's a very strong possibility that I could of identified
18 these bullets to that gun.

19 Q Now, those bullets came out of a casing.

20 Is that correct?

21 A Yes, sir.

22 Q And the casing is part of the bullet that's put in the
23 gun when somebody's ready to fire it?

24 A Yes, sir, an unfired piece of ammunition is made up of
25 a cartridge case. The cartridge case is a cylinder and it's

Tracy Thrower - Direct examination
By Solicitor Finney

1 closed on one end. In that end is a primer, which is the
2 ignition component. You pour gunpowder inside the mouth of
3 the cartridge case and you seat the bullet on top.

4 That's a full unfired piece of ammunition. You place
5 that into the gun, and when you shoot the gun, the firing
6 pin strikes the primer. The primer causes sparks and
7 ignition component. The sparks light the gunpowder. The
8 gunpowder starts to burn very fast, which causes gas
9 pressure to swell inside the cartridge case, and that
10 swelling and that pressure is what pushes the bullet down
11 the barrel and towards the target.

12 Q Can you tell us what type of gun would have shot that
13 kind of bullet?

14 A Based on searches of our database, and my general
15 knowledge of firearms, it is most likely going to be some
16 sort of a semi, semiautomatic style firearm.

17 Q Tell us what that means in terms of how that gun
18 operates.

19 A A semiautomatic is typically a magazine fed firearm
20 where you have multiple unfired cartridges loaded into a
21 magazine. That magazine is loaded into the firearm. And
22 when it -- you either cock or pull the slide back on top.
23 It loads one round from the magazine into the chamber or you
24 may have a bolt handle on the side where it loads one round
25 into the chamber.

Tracy Thrower - Direct examination
By Solicitor Finney

1 when you pull the trigger, the firing pin is released.
2 Just like before, it causes ignition, bullet goes down the
3 barrel. All those -- gas pressure that is pushing that
4 bullet down the barrel, basic physics, for every action
5 there's an equal but opposite reaction. Those gases are
6 also pushing that cartridge case rearward, which will pull
7 the slide back or the bolt back by -- as a function.

8 The extractor pulls, it's like a little hook, pulls the
9 cartridge case out of the chamber. It strikes the ejector
10 and the cartridge case is flipped out. It's thrown out of
11 the gun like you may have seen on TV or in movies. When you
12 shoot, you see cartridge cases flying out of the side of a
13 gun.

14 When the bolt or the slide comes all the way to the
15 rear, it stops. It's under spring pressure. It wants to go
16 back forward. So, it starts going back forward. As it
17 does, the slide grabs the next cartridge out of the magazine
18 and loads it into the chamber of the gun. It resets the
19 sear. It is cocked. It's ready to go again.

20 Simply releasing the trigger, resetting the trigger,
21 and pulling it a second time causes that entire process to
22 happen again and will let the next round fire setting up,
23 every time you release the trigger and pull it, a new
24 cartridge is loaded. It will continue to fire until you
25 stop pulling the trigger or until you run out of ammunition.

Tracy Thrower - Direct examination
By Solicitor Finney

1 Q In your expertise, would the .380 type bullet and the
2 .380 firearm cause a empty casing to be expelled from the
3 gun every time the trigger is pulled and the, and the bullet
4 is fired?

5 A In a semiautomatic style firearm, that is the way it is
6 designed to operate. So unless there was a malfunction,
7 that is -- I -- that is what I would expect, yes, sir.

8 Q All right. And have you worked crime scenes before, to
9 visit crime scenes looking for firearm evidence?

10 A Yes, sir, I have been on a few.

11 Q And have you found shell casings lying around where a
12 shooting took place?

13 A Yes, sir.

14 Q And when I say shell casings, that means---

15 A Cartridge.

16 Q ---empty cases?

17 A Yes, sir.

18 Q What value is the casing to a examiner like yourself
19 back in the laboratory?

20 A Just like the fired projectile or bullet, the firearm
21 will leave markings on the cartridge case. But instead of
22 just having the rifling marks, we also have breach face
23 marks, firing pin marks, extractor marks, ejector marks,
24 chamber marks, magazine feed lip marks. We have a lot more
25 marks -- markings, styled markings, to work with based on

Tracy Thrower - Direct examination
By Solicitor Finney

1 different surfaces in that gun, that piece of ammunition, or
2 that cartridge case came into contact with.

3 Also, and more importantly, for cartridge cases, we
4 have a giant national database of pictures of breach face
5 markings, firing pin markings, and ejector markings so that
6 if the same gun is used in multi crime scenes, when the
7 evidence is submitted, we take pictures.

8 we upload them to the database called IBIS, or the
9 Integrated Ballistic Identification System, which is owned
10 by the Bureau of, Bureau of Alcohol, Tobacco, and Firearms
11 and we can search those pictures against all the other
12 pictures in the system. And if there -- if the same gun has
13 been used, it provides -- you know, we can get a lead so we
14 can put investigators from both agencies in contact with
15 each other to see what similarities they have in their
16 crimes, if the, the same person was there, if it just a gun.

17 Q If you had been called to the Sumter County crime scene
18 in August of 2018, would you have been looking for shell
19 casings if you knew that's the kind of bullet that was used
20 to kill Mr. Pack?

21 A Absolutely, yes, sir.

22 Q And if there were three shots, you would be looking for
23 three different shell casings?

24 A Yes, sir.

25 Q And then you could take those shell casings back to

Tracy Thrower - Direct examination
By Solicitor Finney

1 your lab and do the analysis?

2 A Yes, sir.

3 Q Would you be able to tell the ladies and gentlemen of
4 the jury if the same firearm fired all three of the shell
5 casings if you had them?

6 A Very likely, yes, sir.

7 Q Did you have occasion to later, I think it was later,
8 after you received the two fired bullets, did you have an
9 occasion to receive a handgun from Sumter County to be
10 examined in connection with that evidence?

11 A Yes, sir.

12 Q Can you tell us a little bit about that handgun?

13 A That firearm was a Browning model Hi-Power
14 semiautomatic pistol chambered in 9-millimeter Luger caliber
15 serial number 69C13550.

16 Q And did Sumter County ask you to examine that firearm
17 to see if it had any connection with those bullets?

18 A Yes, sir, they did.

19 Q And did you do that?

20 A Yes, sir, I did.

21 Q Did that require you to test fire the, the Browning Hi,
22 Hi-Power?

23 A Yes, sir, it did.

24 Q And you described how you shoot down into the water
25 tank?

Tracy Thrower - Direct examination
By Solicitor Finney

1 A Yes, sir.

2 Q Is that what you did in this case?

3 A Absolutely.

4 Q What were the results of the test bullets you found --
5 fired in comparison with those bullets that you examined?

6 A These two bullets, State's Exhibits 34 and 35, were not
7 fired by the Browning Hi-Power pistol that was submitted.

8 Q All right. Is there any other research you did for
9 Sumter County on this case in the firearms department?

10 A The -- I did look to see if there were any
11 non-semiautomatic firearms chambered in .380 auto caliber
12 that could have fired these, which would be a reason why you
13 may not find cartridge cases at, at the scene. I did find
14 two brands of revolvers, which is a type of firearm where
15 the ammunition is loaded into a cylinder in a circle, and
16 the cylinder is closed. So, when you shoot the revolver,
17 the cartridge cases stay in the gun.

18 It's not until you manually take the cartridge cases
19 out through the cart -- are they removed. So, revolvers do
20 not typically throw -- they don't throw cartridge cases and
21 leave them at the scene. Crimes with revolvers you do not
22 typically find the fired cartridge cases at the scene.

23 There was also, with a quick search, I did find one
24 style or one brand of a Derringer, which is a 2-barrel
25 firearm that it's hinged in the middle and you open it, you

Tracy Thrower - Direct examination
By Solicitor Finney

1 load two cartridges in the chamber, and you close it, latch
2 it, and you shoot those one at a time. And, when you're
3 done, the cartridge cases are still in the gun. Once again,
4 you would have to manually unload those cartridge cases.

5 So, those types of crimes, you typically do not find
6 cartridge cases at the scene.

7 Q And with the Derringer, it would a two shot.

8 So you couldn't -- you'd have to reload to get a third
9 shot on?

10 A Most Derringers that I'm familiar with are two shot --
11 one shot or two shot, yes, sir.

12 Q Final question, sir. If you were to give us a
13 comparison on the scale -- I think most people here are
14 familiar with the .22 bullet.

15 How does that bullet that you examined from Sumter
16 County stack up next to a .22 bullet in terms of power and
17 size?

18 A Power and size is definitely larger than a .22. A .22
19 is roughly about .221 inches in diameter. This bullet is
20 approximately .355 to 356 inches in diameter. So, it's not
21 quite twice as big but it is definitely larger.

22 Typical handgun ammunition you find up to mostly --
23 most common is around .45 auto, which will be .451 inches,
24 which would definitely be twice the diameter of a .22. The
25 bigger they get, also they get much, much heavier.

Tracy Thrower - Direct examination
By Solicitor Finney

1 So, this bullet probably started off at around 95
2 grains and grain is a type of weight measurement. There are
3 7,000 grains in a pound if that helps. A .22 is typically
4 around 40 grains. So, this will be 40 grains versus 95.
5 Essentially double the weight of, of a typical .22.

6 Q All right, sir. Could you give me a moment?

7 Beg the Court's indulgence.

8 THE COURT: Sure.

9 (Pause.)

10 Q Thank you much, Agent Thrower. Answer any questions
11 the defense may have.

12 CROSS-EXAMINATION

13 BY MRS. BUTCHER:

14 Q Good afternoon, Mr. Thrower.

15 How are you?

16 A I'm doing well, ma'am.

17 How are you?

18 Q Let me ask you.

19 Now, did I understand you to say that it was less
20 likely that these bullets came from a revolver than a
21 semiautomatic?

22 A Yes, ma'am.

23 Q But it's possible they came from a revolver?

24 A It's possible.

25 Q And are you basing that solely on the fact that you did

Tracy Thrower - Cross-examination
By Mrs. Butcher

1 not -- that law enforcement did not find any shell casings
2 on the ground?

3 A No, ma'am, I'm basing that on the fact that I've been a
4 firearm and tool mark examiner for 23 years and I have
5 examined thousands of guns, and with our destruction cases,
6 we've had ten of thousands of guns come through on
7 destruction. We've got 6,000 guns in our personal reference
8 collection at SLED, and I have never personally seen or
9 touched a gun, a, a revolver, chambered in .380 auto. It
10 would definitely be more along the, the lines of a, a rare
11 firearm to, to have.

12 Q Now -- okay. And when you say .380, is that like a
13 .38?

14 A It is in the same class, and by class, nominal .38
15 caliber, which goes back to simply the diameter of this
16 bullet, okay, around .355 inches diameter of a circle that
17 makes the, the base of the bullet. When you say nominal
18 .38, you start with how big around it is and this is where I
19 talk about we weigh the bullets also to determine what
20 caliber they are most consistent with.

21 .380's typically around 95 grains or less.

22 9-milliliter Luger typically start around 115 grain up to
23 about 147 grain, and then you can get into revolver
24 cartridges like she's talking about, .38 special and .357
25 magnum, still the same diameter of the bullet but they keep

Tracy Thrower - Cross-examination
By Mrs. Butcher

1 getting heavier and heavier.

2 So, based on the diameter and the weight and the
3 ammunition that we -- we've seen, this is most consistent
4 with being a .38 or a .380 auto caliber.

5 Q Okay. And I, I didn't know that.

6 A Uh-huh. (Affirmative).

7 Q So a .380 is different then when people say a .38?

8 A Yes, ma'am.

9 Q Okay. And when people say a .32, that is also a bullet
10 that can be shot interchangeably with some guns, with a .38,
11 correct, or .380 also?

12 A .32, you -- is -- the, the diameter of that bullet's
13 even smaller.

14 So, I would, I would not expect to see a .38 caliber or
15 a .380 auto be able to fire a .32. The only way you could
16 if is it would fit in the chamber lengthwise and if the
17 extractor of the gun was able to hold the extractor groove
18 or the head of the cartridge case tight enough so that the
19 smaller diameter cartridge doesn't flop around and get
20 loose, so that when the firing pin strikes the primer, it
21 holds it firm enough that it can actually cause the ignition
22 of that primer.

23 Then, if you get into the, the possibility of firing a
24 .32 and a .38 where the barrel, the bullet is much smaller
25 than the diameter of the barrel, all those hot pressured

Tracy Thrower - Cross-examination
By Mrs. Butcher

1 gases that are trying to push that bullet down the barrel,
2 okay, they can blow around the bullet because the bullet is
3 not sealing that hole. So, they can blow around the bullet
4 so the bullet does not have great power. It comes out much
5 slower.

6 Q Okay. And, like I said, and with some guns you can
7 interchange---

8 A Yes, ma'am, some guns---

9 Q ---but obviously not all?

10 A ---you can interchange calibers.

11 Q For those reasons you just stated?

12 A Yes, ma'am.

13 Q Okay. And I think I remember the old PP3s or 2s or
14 whatever they were when you -- back in World War II, those
15 took a .32 and isn't it correct that the newer versions take
16 a .38?

17 A I'm not familiar with what you're -- which---

18 Q PP3.

19 A I'm not familiar with a PP3.

20 Q Okay. Okay. Now, did you take the rifling off of
21 these two bullets and compare them with any other crimes?

22 The -- I mean do y'all take -- cause I noticed you -- I
23 think you had said you, you entered it into a data system,
24 the rifling, to be able to match with potentially crimes
25 down the road that came through SLED?

Tracy Thrower - Cross-examination
By Mrs. Butcher

1 A We -- if we have cartridge cases, like I said, we enter
2 the breach face markings, the firing pin markings, and
3 ejector markings on fired cartridge cases into the database
4 to be searched. We do not have a database for bullets. So,
5 I did not compare these bullets in this case to, to any
6 other case or database.

7 Q Okay. So it's only the cartridges that y'all can --?

8 A The fired cartridge cases.

9 Q I mean---

10 A Yes, ma'am.

11 Q Okay. One moment.

12 (Pause.)

13 Q Okay. All -- with all of your analysis and everything
14 that you did with these bullets, does it provide any
15 evidence whether Lonnie Pack was murdered or his -- someone
16 was acting in self-defense?

17 A I have no knowledge of, of what happened at the scene.
18 The only thing that I can tell you from my analysis is it's
19 my opinion that State's Exhibit 34 and 35 were fired by the
20 same gun.

21 Q Thank you very much.

22 A Thank you.

23 SOLICITOR FINNEY: Thank you, Lieutenant. Appreciate
24 you coming.

25 Thank you, Your Honor.

Brian Wilmoth - Direct examination
By Solicitor Finney

1 THE COURT: Thank you, sir. You can step down.

2 SOLICITOR FINNEY: We call Brian Wilmoth to the stand.

3 THE BAILIFF: Sir, state your name.

4 THE WITNESS: Brian Wilmoth.

5 BRIAN WILMOTH, being first duly
6 sworn, testified as follows:

7 THE BAILIFF: Thank you much, sir. Step around.
8 Remove your mask. State your name for the record and spell
9 your last name please.

10 THE WITNESS: Doyle, D-O-Y-L-E, Brian, B-R-I-A-N,
11 Wilmoth, W-I-L-M-O-T-H.

12 DIRECT EXAMINATION

13 BY SOLICITOR FINNEY:

14 Q Good afternoon, sir.

15 A Hello.

16 Q Tell us where you work.

17 A I work in -- with the Regional Organized Crime
18 Information Center out of Nashville, Tennessee.

19 Q And how long have you been with that agency?

20 A Twenty-nine years.

21 Q And what do you do for ROCIC?

22 A I do digital forensics work.

23 Q All right. And tell the ladies and gentlemen of the
24 jury what you do in your line -- in your office day to day.

25 A work on digital evidence such as computers, cellphones.

Brian Wilmoth - Direct examination
By Solicitor Finney

1 Agencies send me up the evidence and I'll make images of the
2 devices and create reports of the findings for the
3 investigators to review.

4 Q And ROCIC helps agencies all across the country?

5 A The southeastern United States.

6 Q All right. And how are you-all funded?

7 How do you get your money to do what you do?

8 A Through the Department of Justice and Bureau of Justice
9 Assistance. We get a grant every year.

10 Q All right. Did you have occasion to be contacted by my
11 office about helping to open a cellphone that we had in, in
12 this case?

13 A Yes, sir. Yes, sir.

14 Q All right. Can you tell us a little bit about the
15 cellphone that we sent you?

16 A Yes, it was a flip phone, a Samsung. It was a SMB311V
17 was the model number. A very -- kind of a cheap phone.
18 It's not your normal smart phone or Apple iPhone you would
19 see.

20 Q And were you given any information about why we needed
21 to send it -- send the phone to your office?

22 A Yes, sir, the officer called me and he, he -- the phone
23 was locked and he didn't have a way to get into it, and
24 he -- I told him to send me the make and model number of the
25 phone and I would check and see, with my tools, if I'd be

Brian Wilmoth - Direct examination
By Solicitor Finney

1 able to get into it or not and, sure enough, I was able to
2 get into it.

3 So I had him send it up, and as soon as it came in, I
4 did an extraction of it, was able to bypass the lock, and
5 generate a report for the officer.

6 Q Were you told who the phone belonged to?

7 A It was a victim's phone.

8 Q Mr. Pack?

9 A I didn't really know a name. I just knew victim.

10 Q All right. And have you been able to unlock it and
11 prepare a report for court today?

12 A Yes, sir.

13 SOLICITOR FINNEY: All right. Your Honor, he's gonna
14 need to come up here to the laptop so he can open and talk
15 about what's going on.

16 So if you don't mind, sir---

17 THE COURT: Sure.

18 Q ---come on up here and open up your screen?

19 A (WHEREUPON, the witness comes down from the stand.)

20 Q So tell us what's the first thing you did when you,
21 when you got the phone in your office.

22 A Well, I logged it in as evidence and then I basically
23 had to charge the phone up cause it needs power to be able
24 to do the procedure. Once the phone was charged, basically
25 Cellbrite, UFED Touch 2 is the tool -- the extraction tool I

Brian Wilmoth - Direct examination
By Solicitor Finney

1 use to do the extraction.

2 I checked the make and model number of the phone. The
3 tool set, it could, it could bypass it doing the certain
4 procedure, and basically, once it was charged up, I removed
5 the battery, put the battery back in, hooked it up to the
6 UFED, and the UFED obtained the extraction and, and copied
7 it over to a USB. And I took that USB extraction and took
8 it to my computer and used Cellbrite's physical analyzer
9 tool. It basically analyzes Cellbrite extractions and
10 decodes them, and, and basically generate a report from
11 that---

12 Q All right.

13 A ---from that extraction.

14 Q So, I see that there are six boxes, black boxes on the
15 bottom right-hand side there, which -- what do those boxes
16 represent?

17 A Those are the findings for specific categories of call
18 logs, contacts, instant messages. The call logs would be
19 your calls coming in, going out. Your contacts would be
20 basically saved contacts in your phone that you feel are
21 significant. Then you got your instant messages or
22 instant -- or, or text messages going in and out. Not voice
23 but text.

24 Q All right.

25 A And you've got image files and video files and some

Brian Wilmoth - Direct examination
By Solicitor Finney

1 database files that are -- deal with the operating system
2 and you got text files.

3 Q All right. Would you go to the calls coming in and
4 going out of the phone?

5 A (WHEREUPON, the witness complies.)

6 Q Can you give us an idea of how long this phone had been
7 in service in terms of the dates?

8 A Roughly from about 8/12 was probably the last activity.

9 Q 8/12 of what year?

10 A of 2018.

11 Q And when, when, when was it kind of first activated and
12 used?

13 A Well, the first call activity was on 11/16/2017.

14 Q 11/6?

15 A 2017.

16 Q '17?

17 A Yes, sir.

18 Q So, not quite a year.

19 From November '17 till August of '18 is the period of
20 time that this information was stored?

21 A The, the call logs, yes, sir.

22 Q All right. The, the date in question for this case is
23 August the 11th, 2018.

24 Can you tell us whether or not there were calls made
25 from that phone on August 11th, 2018?

Brian Wilmoth - Direct examination
By Solicitor Finney

1 A Yes, sir, there was calls coming in and going out I
2 believe.

3 Q All right. Did the calls going out on that day stop at
4 any particular time?

5 Tell the jury when were -- the last call was made on
6 August 11th, 2018?

7 A The green emblem in there shows the outgoing calls. It
8 shows 8/11/2018 at 3:45 or 3:44.

9 Q 3:44PM?

10 A Yes, sir.

11 Q And how long was that call?

12 A Fifty-seven seconds.

13 Q And after that, there were no more outgoing calls on
14 that phone?

15 A No, sir.

16 Q All right. Now, would you be able to tell us if the
17 number that was made or used in that last call if that
18 number was in the contact section of that phone?

19 A Yeah, I can do a search.

20 Q All right.

21 A Do you have the number or do you need me to look it --
22 back it up?

23 Q Yes, sir, look at -- I'll write it down if you look it
24 back up.

25 A Okay. I, I found it. Eight -- 803 --

Brian Wilmoth - Direct examination
By Solicitor Finney

1 Q Yes, sir.

2 A 406 --

3 Q Yes, sir.

4 A -- 7329.

5 Q Would you see if you could find that in the contacts of
6 that phone?

7 A Yes, there was two calls.

8 MR. BUTCHER: Your Honor, could we identify this for
9 the Court or have, have it identified?

10 THE COURT: And tell me what you're referring to,
11 identifying the program---

12 MR. BUTCHER: We've gotten---

13 THE COURT: ---or the exhibit?

14 MR. BUTCHER: The digital data. I mean it's, it's a,
15 it's a, it's a data form. So, from that prospective, is
16 it -- is it something that's physical or solid going to be
17 put into the record for the courts -- for the record?

18 SOLICITOR FINNEY: The flash drive.

19 MR. BUTCHER: Sure.

20 SOLICITOR FINNEY: The flash drive that it's on is
21 gonna be put in as an exhibit.

22 MR. BUTCHER: Okay. Understood. And, and we'll, we'll
23 consent to being, being admitted to -- as an exhibit.

24 SOLICITOR FINNEY: Thank you.

25 THE COURT: Okay.

Brian Wilmoth - Direct examination
By Solicitor Finney

1 SOLICITOR FINNEY: What number would that be?

2 THE DIGITAL REPORTER: Thirty-seven.

3 THE COURT: No. 37 would be the computer phone flash
4 drive records.

5 (WHEREUPON, the flash drive was marked as State's
6 Exhibit No. 37 and received into evidence at this time.)

7 Q I heard you say something about that number appears
8 twice?

9 A In the call logs.

10 Q All right. When was the first time it was called if
11 you can tell me?

12 A There was a missed call at 4:04PM and then there was a
13 outgoing call to the number at 3:44:45.

14 Q All right, sir. So tell the ladies and gentlemen of
15 the jury, the 3:44 call was from Mr. Pack's phone going out
16 to that number?

17 A Yes, sir.

18 Q And it lasted how long?

19 A Fifty-seven seconds.

20 Q Fifty-seconds.

21 And then, later on, at what time did you say?

22 I'm sorry. I should of wrote it down.

23 Was it 4:04?

24 A Yes, sir.

25 Q 4:04PM the same day that number called Mr. Pack?

Brian Wilmoth - Direct examination
By Solicitor Finney

- 1 A Yes.
- 2 Q But it was a missed call?
- 3 A Yes, sir.
- 4 Q Nobody answered it.
- 5 And as far as your records show, those were the only
- 6 two calls with that number on Mr. Pack's phone?
- 7 A Yes, sir.
- 8 Q All right. Now, would you go to the -- if, if that
- 9 number had been in Mr. Pack's phone as a contact, would it
- 10 show up under the contact section?
- 11 A Yes, sir.
- 12 Q All right. Do you see that number in the contact
- 13 section?
- 14 A If -- I can go into the contact themselves and do a
- 15 search.
- 16 Q Yes, sir. Do a search under contact and I'll give you
- 17 the number if you need me to give you the number.
- 18 A I've, I've still got it. 803 --.
- 19 Q 406 --
- 20 A -- 406 --
- 21 Q -- 7329.
- 22 A -- 7329 and it's showing no contacts.
- 23 Q So, that number is not in Mr. Pack's contact section --
- 24 A No, sir.
- 25 Q -- as far as your records show.

Brian Wilmoth - Direct examination
By Solicitor Finney

1 All right. Now, let me ask you this. Let me give you
2 another number.

3 Can you do a search on [REDACTED]-1060?

4 [REDACTED]-1060.

5 A Okay. I'm showing one contact.

6 Q That number is in the contact section?

7 A Yes, sir.

8 Q How is it listed?

9 A It's listed as Big Dot D.

10 Q Big Dot D.

11 And has it been used by Mr. Pack to call that number
12 that's listed in this contact as Big D?

13 A It's not showing any, any calls to or from that number.

14 Q And would your records show any calls to or from that
15 number from the 9th -- from seven -- nine -- 19th, 2017,
16 through August 12th, 2018?

17 A Yes, sir, it would of showed -- it would of showed that
18 there were -- had been calls if I searched.

19 Q All right. And then nothing, nothing comes up on your
20 search?

21 A No, sir.

22 Q All right. Now, can you just look -- when you pull up
23 contacts, how many contacts did Mr. Pack have in his phone?

24 Does it give you a number?

25 A He had 293.

Brian Wilmoth - Direct examination
By Solicitor Finney

- 1 Q 293 contacts.
- 2 All right. And on the day in question, on the day in
- 3 question, August the 11th, 2018, can you tell me when the
- 4 first call he either made on his phone or received on his
- 5 phone?
- 6 A On August 11th?
- 7 Q August 11th, 2018.
- 8 A He received a call from Buck.
- 9 Q That would of been --
- 10 A And---
- 11 Q Buck was the name in the contact list?
- 12 A Yes, sir.
- 13 Q All right.
- 14 A The number---
- 15 Q Did you---
- 16 A Do you need the number?
- 17 Q No, sir, I don't need the number.
- 18 A Okay.
- 19 Q Anybody -- that was -- was that the first call he
- 20 received on August the 11th?
- 21 A Yes.
- 22 Q What time would that -- he have received that call?
- 23 A At 12:20AM.
- 24 Q All right. That would of been right after midnight?
- 25 A Yes, sir.

Brian Wilmoth - Direct examination
By Solicitor Finney

1 Q Okay. And can you tell us how many calls show up on
2 the records for that date August 11th?

3 Is it a lot of calls or is it just like five or 10
4 calls?

5 A It's a -- quite a few.

6 Q All right.

7 A It's probably, just estimating, probably 92, 93.

8 Q Ninety-two or 93---

9 A Ninety-three.

10 Q ---calls?

11 And out of those calls, does your chart show whether
12 they were of any duration or were some of them missed, some
13 of them --?

14 A Yeah, some were missed -- some were -- had some
15 duration.

16 Q All right. When you also did the analysis, you did the
17 contacts. You did the call logs, which we've reviewed.

18 Were there also images?

19 A Yes, sir.

20 Q Okay. And what would the images file hold on that
21 phone?

22 A Pictures basically of whatever he took with the phone
23 or whatever pictures he received from other people.

24 Q All right. Can you go to the last picture that was put
25 on that phone?

Brian Wilmoth - Direct examination
By Solicitor Finney

- 1 A The last good date for a picture was on 8/8/2018.
- 2 Q All right, sir. 8/8/2018.
- 3 And is that the picture on the right side of the
- 4 screen?
- 5 A Yes, sir.
- 6 Q What does it appear to be?
- 7 A Appears to be a steering wheel and a dash of a vehicle.
- 8 Q And can you tell me what time that image was captured
- 9 on this phone?
- 10 A Yes, sir, at 4:29:18PM.
- 11 Q That's August the 8th at 4:29?
- 12 A Yes, sir.
- 13 Q All right. All right, sir. Now, if you click back out
- 14 and go back to the, the, the box, the six black boxes we saw
- 15 earlier --
- 16 A Uh-huh. (Affirmative).
- 17 Q -- can you tell me how many images are on the phone?
- 18 A 438.
- 19 Q Got 438 pictures on the phone and tell me again how
- 20 many contacts?
- 21 A 293.
- 22 Q Does it give you a, a listing of how many calls have
- 23 been made on the phone?
- 24 A Yes. Well, 270 calls were in the call log, calls
- 25 received and made.

Brian Wilmoth - Direct examination
By Solicitor Finney

1 Q 270 calls over that period of time that we've discussed
2 from 2017 to 2018?

3 A Yes, sir.

4 SOLICITOR FINNEY: Beg the Court's indulgence.

5 (Pause.)

6 Q Mr. Wilmoth, thank you for that information. Please
7 answer any questions the defense may have---

8 A Yes.

9 Q ---please.

10 CROSS-EXAMINATION

11 BY MR. BUTCHER:

12 Q All right, sir. You can have a seat. I'm not gonna
13 have you---

14 A Okay. Thank you.

15 Q ---perform anything on the computer if that's okay.

16 Now, I'm Robert Butcher. I'm the attorney for
17 Mr. Brown. It's a pleasure to see you.

18 All right. All right. Now, if you want, can you get a
19 report printed instead of using the --?

20 A Yes, sir. Yes, sir.

21 Q -- instead of -- database from the -- and they're
22 several types of records it will make, correct?

23 A Yes. Yes.

24 (WHEREUPON, a report was marked as Defendant's Exhibit
25 No. 39 for identification purposes only at this time.)

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 Q I'm gonna hand you what's marked for identification as
2 No. 39.

3 will you please tell me what kind of report that is and
4 tell me if that is -- does that relate to this case?

5 Is that -- if -- and you certainly -- I can bring you
6 the computer or, or you can certainly look at the computer.
7 Let's see.

8 A Yes, it appears to be extraction of the same device.

9 Q Okay. And if you had downloaded it into a PDF format,
10 pretty much that's not gonna get manipulated?

11 A No. No, sir.

12 Q Okay. All right. Just the --.

13 (WHEREUPON, the call log was marked as Defendant's
14 Exhibit No. 40 for identification purposes only at this
15 time.)

16 Q And it's -- I'm gonna hand you what's marked for
17 identification as, as No. 40.

18 Do you recognize what that is and can you tell the jury
19 what that is and if you recognize it?

20 A That's a list of the contacts and images basically of
21 time line list of the phone -- of the files on the phone.

22 Q Okay. It's a timeline?

23 A Uh-huh. (Affirmative).

24 MR. BUTCHER: Your Honor, I'd like to move No. 39 and
25 40 as, as paper of the printouts of what's in the database

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 on the computer.

2 SOLICITOR FINNEY: Your Honor, I'm not sure I
3 understand enough about this document to allow it to come
4 in. So, I need to know who prepared it and how did it get
5 here.

6 Q Okay. Is this a -- would you like to take a moment or
7 do you need a few moments to look at the database and see if
8 it's an accurate representation and I'd also like to
9 actually, before we do that, can you tell us how much time
10 it might take, I'd like to have you look at this one also?

11 (WHEREUPON, an extraction report was marked as
12 Defendant's Exhibit No. 41 for identification purposes only
13 at this time.)

14 Q I'm handing you what's marked for identification as No.
15 41.

16 If you recognize that, could you tell me---

17 A It appears to be an extraction of the contacts list of
18 the -- on the -- from the phone.

19 Q Okay. Now, let me ask you this.

20 would it be easier for you to go to Mr. Finney's office
21 and print out a timeline and the -- that those three
22 documents from the actual exhibit or could you do it just as
23 quickly as just looking at the computer and how long would
24 you need to be able to do that cause I, I didn't have --
25 I'll let you answer that first.

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 A I'm sorry.

2 Could you repeat it for me?

3 Q Okay. First of all, one, you, you -- you-all don't
4 communicate or won't communicate with attorneys from or who
5 represent defendants, correct?

6 A Yeah, we're not allowed to.

7 Q Okay. So---

8 A Unless, unless a prosecutor or is with us for type --
9 disclosure type thing.

10 Q Okay. And, two, if you want a paper -- how long would
11 it take for you to either verify the paper or just print up
12 a, a copy of those three particular printouts?

13 A I mean I could print them out for you anytime you --
14 anytime you wanted from the, from the digital report.

15 Q Okay. Which would you rather do, look at the computer
16 and verify that that's an accurate document or would you
17 rather go to Mr. Finney's office and print it out?

18 Both of those---

19 A I'd rather look at the computer cause it's easier to,
20 to search for --

21 Q Okay.

22 A -- for things cause --

23 Q How much time would that take?

24 A To search from the computer?

25 Q Right.

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 And I -- what I'm trying to do is get the judge to
2 gauge whether or not she should send the jury out to go
3 relax or if---

4 THE COURT: So, if I can interject, I think what he's
5 asking you is can you tell, by looking at those reports, if
6 it's, if it's accurate and came out -- off of your computer
7 program.

8 THE WITNESS: Oh, I can -- it has my name listed as the
9 examiner's name and it has the case number. It appears the
10 contacts -- it's basically just printed out different sorts
11 from my, from my report.

12 THE COURT: Can you verify the authenticity of it
13 without generating a separate report from your computer or
14 can you look at it and verify the authenticity?

15 SOLICITOR FINNEY: Your Honor, may I ask that we just
16 take our afternoon break right now?

17 THE COURT: Sure.

18 Ladies and gentlemen, let's go ahead and we've had you
19 in here over an hour. Let's take about 10 minutes and we'll
20 hope to resolve this for y'all one way or another. Please
21 don't begin discussing the case.

22 (WHEREUPON, the following takes place outside the
23 presence of the jury.)

24 MR. BUTCHER: And, Your Honor, if -- we're still on the
25 record, correct?

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 If, if I may, can I also hand him one last thing to
2 authenticate?

3 THE COURT: Sure.

4 Does that one need to be marked?

5 MR. BUTCHER: I'm sorry, Your Honor?

6 THE COURT: Does that need to be marked.

7 MR. BUTCHER: Yes, ma'am.

8 (WHEREUPON, a group of photographs was marked as
9 Defendant's Exhibit No. 42 for identification purposes only
10 at this time.)

11 MR. BUTCHER: I'm handing you 42. And is it okay, if
12 he needs to get up, he can get up and, and look at the
13 computer or do whatever?

14 Are we at ease essentially?

15 THE COURT: Sure. We'll just take a break. Give you a
16 chance to see if you can verify---

17 THE WITNESS: Okay.

18 THE COURT: ---by looking at it or if you need to
19 actually go print it in a second.

20 THE WITNESS: I could probably go to the computer and
21 do some sorts similar what he did here and go through and
22 verify it for you.

23 THE COURT: Okay. We'll just be at ease for about 10
24 minutes if that---

25 SOLICITOR FINNEY: I, I just---

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 THE COURT: You're good with that?

2 SOLICITOR FINNEY: I thought it might be helpful if we
3 were on the record outside the jury's presence for me to ask
4 some questions---

5 THE COURT: Okay.

6 SOLICITOR FINNEY: ---so I can understand from him what
7 this is and I may not have any problems.

8 THE COURT: I think what I understood from him though
9 is that he's got to look at the computer---

10 SOLICITOR FINNEY: Okay. All right.

11 THE COURT: ---before he can probably answer your
12 questions.

13 Okay. We'll be at ease for about 10 minutes.

14 (WHEREUPON, a short recess was taken at this time.)

15 SOLICITOR FINNEY: I'll start with Mr. Butcher.

16 Can you tell me where these reports came from?

17 MR. BUTCHER: Well, he, he just talked about printing
18 them from a PDF -- in the PDF file from that document.

19 SOLICITOR FINNEY: All right.

20 MR. BUTCHER: That's why I---

21 THE COURT: Well, then let me ask him.

22 MR. BUTCHER: ---testify to that---

23 SOLICITOR FINNEY: Mr. Brian, I saw a tab on the screen
24 a few minutes ago that said something about create document.

25 THE WITNESS: Yeah, basically---

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 SOLICITOR FINNEY: Is that---

2 THE WITNESS: Basically the report that I was working
3 from, you can actually generate a report from that.

4 SOLICITOR FINNEY: If you could---

5 THE WITNESS: And you can generate it into, into a PDF
6 format.

7 SOLICITOR FINNEY: Is, is this how it would look?

8 THE WITNESS: And that's basically I believe how he got
9 these printed off.

10 SOLICITOR FINNEY: Okay. So you, you can create the
11 document from the software system that you were operating
12 out of?

13 THE WITNESS: Yes, sir.

14 SOLICITOR FINNEY: Okay. And you believe that what you
15 have been operating with is this information here?

16 THE WITNESS: Yes, sir, I believe he went to the---

17 SOLICITOR FINNEY: All right.

18 THE WITNESS: -- to created -- he created a contacts
19 report of just the contacts. Then he did one of just the
20 text messages and then he did a timeline one. So, he went,
21 he went to the timeline, opened it up, and sorted it, and
22 then he generated a PDF report of that.

23 SOLICITOR FINNEY: Okay.

24 THE WITNESS: Then he went to the contacts and did the
25 same thing, generated a report of the contacts.

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 SOLICITOR FINNEY: Okay.

2 THE WITNESS: And did the same thing with the text
3 messages and they, they look identical to what I was working
4 with.

5 SOLICITOR FINNEY: All right. Your Honor, I'm not
6 sure -- I, I -- I'm starting to feel like there's -- that
7 we've gone way out of the field on the case itself, and I
8 know you have to give them latitude. But the cellphone
9 messages and text messages, other than probably the week of
10 the event, don't seem to be relevant to me and I don't know
11 how far Mr. Butcher wants to go. But I'm gonna ask the
12 Court for a side bar as, as soon as I think it's gone too
13 far.

14 THE COURT: Well sure. I mean you -- if you make a, a,
15 a contemporaneous objection with whatever you want to
16 object, I'll certainly make a ruling at that time.

17 SOLICITOR FINNEY: Thank you, Your Honor. And other --
18 the other part, Your Honor, is, I don't know if you've seen
19 it, Mr. Butcher has handed the witness about 12 or 15
20 photographs. I think it is an invasion of the deceased
21 privacy to have his photographs entered at this point. I
22 don't see any relevancy to this case of any of the
23 photographs and some of them are highly prejudicial.

24 I would ask that you not allow the jury to see any of
25 the photographs that Mr. Butcher has compiled for reasons of

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 privacy and relevancy.

2 THE COURT: This is Defendant's Exhibit what for the
3 record?

4 Has this been marked yet?

5 MR. BUTCHER: It is.

6 SOLICITOR FINNEY: No, ma'am, it's suppose to be 42 I
7 think.

8 MR. BUTCHER: Forty-two, Your Honor.

9 THE COURT: Okay. Mr. Butcher, what's the relevance?

10 MR. BUTCHER: Well, the relevance is as it pertains to
11 identification of the phone, that, you know, there's
12 basically one user of the phone, that type of stuff, with --
13 when the Court makes any analysis under present sense
14 impression. The case law says that one way that the Court
15 identifies whether or not a message is from or, or calls or
16 any communications from a particular phone, it looks at
17 pictures. It looks at possessions. It looks at things that
18 are I -- uniquely associated with that person because
19 they're, you know, they're arguments when you talked about
20 messaging or phonecalls that someone else could of used that
21 phone.

22 And so, what the Courts look is, is this inherently
23 reliable because most people have a personal cellphone and
24 all their -- with all their personal information. And now
25 we didn't put all the pictures on there. They're, you

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 know -- he, he -- it was testified a few minutes ago they're
2 like 400 and something pictures. But what we did was we
3 choose -- we chose pictures with him to show that this is
4 him.

5 THE COURT: Is---

6 SOLICITOR FINNEY: And that's my objection. They
7 cherry picked what they wanted to show the jury.

8 THE COURT: Is this---

9 MR. BUTCHER: Well, I mean I, I---

10 THE COURT: Is there an issue about whose phone this
11 is?

12 SOLICITOR FINNEY: Not from the State.

13 MR. BUTCHER: I don't---

14 THE COURT: The State is contending it's the phone.

15 MR. BUTCHER: Okay.

16 THE COURT: Assuming you're contending that it's the---

17 MR. BUTCHER: It is.

18 THE COURT: ---victim's phone.

19 MR. BUTCHER: And it -- so I can just pull two things
20 out of, out of there and we can narrow down that exhibit if
21 that's okay, Your Honor. But actually, no, I wanted to keep
22 the pictures of the drugs in here.

23 THE COURT: And what's the relevance, sir?

24 MR. BUTCHER: Well, I mean they, you know, Mr. Finney
25 has gone on this, and he's insisted this whole time, that,

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 that Mr. -- that, that the decedent didn't have any --
2 wasn't associated with drugs and, you know, and, and he's
3 been relying on this negative drug test. And obviously, you
4 know, people take selfies with or, or pictures of themselves
5 with drugs and keep it on their phone.

6 That, you know, it goes -- it, it -- it's evidence -- I
7 mean it's, it's probative evidence against him and, sure,
8 it's prejudicial because, you know, it's negative evidence.
9 But, you know, all evidence is prejudicial.

10 SOLICITOR FINNEY: But he's not here on trial.

11 THE COURT: Okay. Well, how does, how does these
12 pictures make it either more or less possible that -- how do
13 they bear on the issue of murder versus self-defense in any
14 way, shape, or form?

15 MR. BUTCHER: It's, it's going to relate to our
16 self-defense and the, the fact that these people were
17 involved with the drug trade and with violence in the, in
18 the community.

19 THE COURT: Is there any way for you to determine when
20 these photos were taken?

21 MR. BUTCHER: Sure. We can---

22 THE COURT: Are any of these --

23 MR. BUTCHER: I can go---

24 THE COURT: -- taken on the date of the murder?

25 MR. BUTCHER: No, I, I don't, I don't think so. It's

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 certain they weren't. But I don't, I don't see how that
2 changes this especially because I mean -- and, you know, in
3 opening argument, Mr. Finney put his -- the decedent's
4 character in issue, you know. I mean so -- and, and I don't
5 have the exact quote but I, I know I wrote it down and
6 Debbie pointed at it and said hey, he's -- he's put the
7 decedent's character at issue, you know. So, from that
8 prospective, you know, it---

9 THE COURT: Okay. I think there's, there's both rules
10 and case law specifically on point regarding the character
11 of the victim.

12 MR. BUTCHER: Yes, ma'am.

13 THE COURT: That would be Rule 404(a)(2).

14 MR. BUTCHER: Yes, ma'am.

15 THE COURT: I'm looking at State versus McCray. In the
16 murder prosecution of one pleading self-defense against an
17 attack by the deceased, evidence of other specific instances
18 of violence on the part of the deceased are not admissible
19 unless they were directed against the defendant or against
20 others so closely connected to the point of time or occasion
21 with the homicide as to reasonably indicate the state of
22 mind of the deceased at the time of homicide.

23 Extrapolating from that the fact that he may have had a
24 gun in his possession at some time previous, I, I can not
25 imagine how that would be in any way relevant.

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 MR. BUTCHER: Well, can -- do you have a copy of that,
2 Your Honor?

3 THE COURT: A copy of what?

4 MR. BUTCHER: Of, of, of the, the proposed exhibit.

5 THE COURT: Uh-huh. (Affirmative).

6 MR. BUTCHER: Well, if you look at the photograph of
7 the black gun, it is a black Ruger which has already been
8 identified by Anthony Bradley, A.J. Bradley, during his
9 testimony. So, from that prospective, he -- he's got a
10 picture of the gun that was identified.

11 THE COURT: He has a picture of a gun.

12 MR. BUTCHER: Yes, ma'am.

13 THE COURT: Is, is there any possible way to
14 authenticate whose gun this is or that it was at the scene
15 that day?

16 MR. BUTCHER: We will when, when---

17 SOLICITOR FINNEY: Or, or when he got---

18 MR. BUTCHER: We will when the defendant takes the
19 stand. So I can---

20 THE COURT: I don't.

21 MR. BUTCHER: How about I just mark that for -- mark,
22 mark it as an -- for identification as I'm getting the
23 foundation set?

24 THE COURT: Yeah, I'm not allowing any photos of -- I
25 mean, again, I don't see what this is relevant to.

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 Everybody is in agreement that it's the victim's phone. So,
2 I don't know that the pictures of him are relevant to this.

3 The pictures of handguns from some period in time
4 previous to this are highly prejudicial and have virtually
5 no probative value whatsoever.

6 A picture of marijuana, I don't see how that is -- has
7 any probative value as to anything that happened on that
8 particular day.

9 MR. BUTCHER: But -- and, Your Honor, there was
10 testimony by A.J. that he didn't use drugs, didn't do
11 anything with drugs. The -- you know, and look at all the
12 drugs that were found in the car.

13 So, I mean if the State's going to present him as
14 completely innocent, and with no drugs, and, yeah, he's got
15 photos and I don't -- you know, that -- of drugs and the --
16 then you've got testimony that the phone was basically
17 activated within the past year from Mr. -- starts with a W.

18 THE WITNESS: Wilmoth.

19 SOLICITOR FINNEY: Wilmoth.

20 MR. BUTCHER: Okay. I apologize, sir.

21 THE WITNESS: No, no problem.

22 MR. BUTCHER: And I, I mean so, from that prospective,
23 I mean if they, if they want to build, build this tower of,
24 you know, innocence, then I, I should have the opportunity
25 to address these issues that they've laid out. And the --

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 so, with the -- you know, so I, I, I think that the pictures
2 of the drugs, which kind of -- I mean directly conflicts
3 A.J. Bradley's testimony. It conflicts with the
4 representations and it, it also, you know, leans -- it, it
5 also goes to the relevancy of whether or not the toxicology
6 is dispositive of what -- of, of anything, you know, because
7 plenty of -- they're plenty of drug dealers who don't sell
8 drugs. They're plenty of bartenders who don't drink. You
9 know so---

10 THE COURT: And that's certainly an argument that you
11 can make to the jury. But I am sustaining the objection to
12 this exhibit coming in and---

13 MR. BUTCHER: As it---

14 THE COURT: ---that is Defendant's Exhibit 42.

15 MR. BUTCHER: Okay. What I would like to do is go
16 ahead and, and keep that identified.

17 SOLICITOR FINNEY: Sure.

18 MR. BUTCHER: And you're saying all the pictures?

19 THE COURT: I don't see the relevance of, of any of
20 these photos to any issue in this case.

21 MR. BUTCHER: Okay. And obviously -- okay.

22 THE COURT: And it's -- you've proffered it. We've
23 marked it and but I'm not, I'm not allowing that to come
24 into evidence, no, sir.

25 MR. BUTCHER: Okay.

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 THE COURT: Okay. Are we ready for the jury?

2 MR. BUTCHER: Is the foundation established if we ask
3 our client to identify and -- are we, are we good on---

4 THE COURT: If you want to ask him on the record
5 whether those are the, the photos off of that cellphone
6 before we bring the jury, that's fine.

7 MR. BUTCHER: Okay. All right.

8 THE COURT: And you've got about two minutes.

9 MR. BUTCHER: Okay. So -- you can.

10 All right. All right. Mr. Wilmoth?

11 A Yes, sir.

12 Q You've had a chance to look at the database and this --
13 documents and the photos in Exhibit 42.

14 Are they -- were, were they found in the database and
15 are they accurate, accurate portrayals of what was on that
16 cellphone?

17 A I believe I saw those pictures on the -- in the
18 pictures that were in the report.

19 MR. BUTCHER: Okay. And, Your Honor, did you hand the
20 exhibit back to the clerk?

21 SOLICITOR FINNEY: I did. She did. I have it.

22 MR. BUTCHER: Okay. All right. Oh, you have it in
23 front of you.

24 Okay. So that's not coming in. The photographs.

25 THE WITNESS: Oh, I've already -- I think you already

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 got them. I think you, you had handed them to the judge and
2 then she handed them back to you.

3 THE COURT: You carried them over there?

4 MR. BUTCHER: It should have an exhibit number. That
5 one doesn't. That one doesn't have an exhibit number.

6 SOLICITOR FINNEY: Okay.

7 MR. BUTCHER: Or maybe you objected before.

8 THE COURT: I don't -- it didn't have a sticker on it
9 when I looked at it. So, if you'll go ahead and --.

10 THE DIGITAL REPORTER: It's Plaintiff's 42.

11 THE WITNESS: And I believe it -- the one that was
12 laying up here had one.

13 THE DIGITAL REPORTER: It was laying up there.

14 THE COURT: Okay.

15 THE WITNESS: But it's not here now.

16 MR. BUTCHER: So where is it?

17 THE COURT: Okay. Well, we can put a, a 42 sticker on
18 that if we need to after we adjourn.

19 MR. BUTCHER: Okay. All right. Sorry about that.

20 THE WITNESS: Oh, no problem.

21 MR. BUTCHER: All right. Okay. And, and so I don't
22 need to do anything. So I can do the rest of the foundation
23 in front of the jury for the other documents.

24 THE COURT: I think we're satisfied, yeah.

25 MR. BUTCHER: Okay.

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 THE COURT: Okay. Let's bring the jury in.

2 MR. BUTCHER: And, Your Honor, State's 37 is already
3 in?

4 THE COURT: Those are -- 37 and 38 are the El Cheapo
5 videos.

6 MR. BUTCHER: No, State's --.

7 SOLICITOR FINNEY: I did not enter 37 into evidence.
8 Just as an exhibit.

9 THE COURT: I have down here Lonnie Pack flash drive
10 data.

11 MR. BUTCHER: Yeah. So it's already in.

12 SOLICITOR FINNEY: You have it down as an, as an
13 exhibit that's in --

14 MR. BUTCHER: Yep.

15 SOLICITOR FINNEY: -- or just marked?

16 THE COURT: It's in. I checked off that it's in
17 evidence.

18 SOLICITOR FINNEY: Ms. Court Reporter, is that --?

19 THE DIGITAL REPORTER: Yes.

20 THE COURT: That's what I'm showing.

21 Okay. Yes.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE BAILIFF: The jurors are seated, Your Honor.

25 CONTINUED CROSS-EXAMINATION

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 BY MR. BUTCHER:

2 Q All right. Mr. Wilmoth, what are the three documents
3 you have in front of you?

4 If you don't -- remember or --?

5 A Yes, sir, they were three reports. One appears to be
6 the con -- a report of the contacts that we were looking at
7 from the laptop earlier. And then one is a report of the
8 text messages, all the text messages we were looking at
9 before, and then one appears to be a timeline the --
10 basically you can sort all the files on the phone by, by
11 time and that's a report that was generated from that
12 report, the digital report, that I did.

13 Q Okay. And is, is that 40, 41, and 42, sir, or 40 --
14 I'm sorry. It's 39, 40, and 41.

15 A Yes, sir.

16 MR. BUTCHER: Okay. Your Honor, I'd like to move those
17 three documents into evidence please.

18 THE COURT: Any objection?

19 SOLICITOR FINNEY: Your Honor, please may I have a
20 moment?

21 (Pause.)

22 MR. BUTCHER: I'm, I'm sorry. I didn't -- I thought we
23 were doing a side bar.

24 (Pause.)

25 SOLICITOR FINNEY: Could we, could we get those at the

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 side bar, Your Honor?

2 (WHEREUPON, a bench conference was held out of the
3 hearing of the jury at this time.)

4 THE COURT: Yes, sir.

5 MR. BUTCHER: Is there any object -- it's in or it's
6 out or --?

7 THE COURT: well, are you withdrawing your objection,
8 sir?

9 SOLICITOR FINNEY: Your Honor, let me place an
10 objection on the record to No. 40 at this time. I do not
11 feel like the data that's being presented is, is accurate
12 but I will -- subject to my ability to cross-examine the
13 witness on it, I can reserve your ruling until that time.

14 THE COURT: Okay. well, I -- I'm gonna allow it into
15 evidence and, again, you can -- you're certainly welcomed to
16 cross-examine against anything you think you want to
17 address.

18 SOLICITOR FINNEY: Thank you, Your Honor.

19 (WHEREUPON, Defendant's Exhibit Nos. 39 through 41 were
20 received into evidence at this time.)

21 Q All right. Something that didn't -- what, what is your
22 background?

23 How -- are you a law enforcement officer?

24 A No, sir.

25 Q Have you been in the past?

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 A No, sir.

2 Q What's -- what is your education?

3 A I went to Tennessee Technological University, got a
4 Bachelor's Degree in Sociology, and an Associate's Degree in
5 Criminal Justice and I've been -- I've got over 300 hours of
6 training in digital forensics through several law
7 enforcement organizations, and software, and hardware
8 companies that develop digital forensic equipment. I've
9 been to training in multiple, multiple -- people that
10 produce these different types of software and, and hardware
11 devices, I've been to multiple, multiple of their training
12 --

13 Q Okay.

14 A -- multiple of their classes and --

15 Q All right.

16 A And I've received certification with Cellbrite---

17 Q All right.

18 A ---in multiple areas.

19 Q And Cellbrite's a multi national corporation that
20 creates this -- the software to unlock phones?

21 A Yes, sir.

22 Q Okay. Have you ever been qualified as an expert in the
23 past?

24 A I believe I have.

25 Q Okay. And you're, you're not super sure?

Brian Wilmoth - Cross-examination
By Mr. Butcher

- 1 A But I'm not positive about where it was at and---
- 2 Q Okay.
- 3 A ---what---
- 4 Q Have you ever testified in Court before?
- 5 A Yes, sir.
- 6 Q Okay. How many times do you think you've testified in
- 7 Court?
- 8 A Probably around 10.
- 9 Q Around 10 times.
- 10 And how many phones do you think you could -- helped
- 11 assist in unlocking?
- 12 A Probably, probably a thousand. Close to a thousand.
- 13 Q Close to a thousand?
- 14 A Well, not unlocking but processing.
- 15 Q Processing phone data---
- 16 A Not everyone I get is locked. You know, sometimes they
- 17 have the code to them or --
- 18 Q Okay.
- 19 A -- or they're unlocked, you know.
- 20 Q Okay. So sometimes they'll get a code from someone and
- 21 give it to you to download -- help unlock it?
- 22 A Yeah, and sometimes people don't lock their phones.
- 23 You'd be amazed.
- 24 Q Right. Understood.
- 25 Okay. All right. And to, to the best of your

Brian Wilmoth - Cross-examination
By Mr. Butcher

1 knowledge, the data that you pulled off of that phone is
2 accurate?

3 A Yes, sir.

4 Q Okay. And this No. 32, what -- was, was this what you
5 received, Exhibit 32?

6 A Yes, sir.

7 Q Okay. And how, how, how do you know?

8 A That's my evidence tag on the --

9 Q The---

10 A -- on the bag.

11 Q All right. where -- okay.

12 A Right there. And that's a -- and that's the, the item
13 number they had listed when I took a photograph of it also
14 for my report.

15 Q Okay. And you sealed this back up in a baggy and sent
16 it back to Sumter?

17 A Yes, sir.

18 Q Okay. All right. So it's how you found it you think?

19 A Uh-huh. (Affirmative).

20 Q Okay. All right. And -- all right. I don't have any
21 further questions. Please answer any questions from Mr.
22 Finney.

23 SOLICITOR FINNEY: Did you put 32 in?

24 MR. BUTCHER: Yeah, 30 -- 32's the one we got in
25 earlier with the evidence guy.

Brian Wilmoth - Redirect examination
By Solicitor Finney

1 REDIRECT EXAMINATION

2 BY SOLICITOR FINNEY:

3 Q Mr. Wilmoth?

4 A Yes, sir.

5 Q The -- Exhibit No. 40 I think -- do you have it in
6 front of you?

7 A Nah, they took it from me.

8 Q Okay. Let me get -- I got it right here. Look at No.
9 40 please, sir, and look at the first end, end --
10 indicators, the first data. It says contacts and then
11 there's a timestamp.

12 A Yes, sir.

13 Q Why does it say January the 1st, 1980?

14 A That's, that's a -- you can see on the right it shows a
15 source file.

16 Q Yes, sir.

17 A And it's -- basically these, these phones have a
18 special kind of operating system. It's called BREW,
19 B-R-E-W. It's a very small operating system similar to what
20 you would have like on an android smart phone --

21 Q All right.

22 A -- or an iPhone has the and I -- Apple IOS. But
23 they're very large applications that have tons of
24 applications -- apps already on them and, and whatnot.

25 This is a very small amplification for -- because the

Brian Wilmoth - Redirect examination
By Solicitor Finney

1 phone doesn't have very much storage space at all to, to
2 hold that type of operating system.

3 Q All right.

4 A And so basically those appear to be files from the
5 operating system that are just generic dates that, that were
6 generated by the, the phone.

7 Q All right, sir. That would be 40 years ago.

8 A Yeah.

9 Q I didn't even know we had cellphones in 1980.

10 A Yeah. It's just a---

11 Q All right.

12 A Basically my extraction pulls off -- it was basically a
13 physical extraction that I got from the phone.

14 Q All right, sir.

15 A Basically it pulls that data off and basically
16 Cellbrite's physical analyzer interprets that data. And so
17 it, it found something that it thought was a, a date and
18 time, it tries to convert it.

19 Q All right. The information that you looked at in your
20 office when you received the phone is, is the same
21 information that's on these paper reports?

22 A Yes, sir.

23 Q In 30 -- Defense Exhibit 39, 40, and 41?

24 A Yes, sir, same, same as that was on the laptop whenever
25 I was up there.

Brian Wilmoth - Redirect examination
By Solicitor Finney

1 Q All right, sir. Thank you.

2 You have those -- I left those with you, right?

3 A Yes, sir.

4 SOLICITOR FINNEY: Okay. Nothing further. Thank you.

5 MR. BUTCHER: Nothing further, Your Honor.

6 THE COURT: Okay. Thank you, sir. You can step down.

7 THE WITNESS: Thank you, ma'am.

8 SOLICITOR FINNEY: Your Honor please, could we recess
9 for the day?

10 THE COURT: Yes.

11 Okay. Ladies and gentlemen, I'm gonna ask if you will
12 please be back at the same time tomorrow and I do appreciate
13 that you-all have been so prompt in getting here in the
14 morning. We sure appreciate it. And, again, it's our
15 intention to start right at 9:30.

16 Please don't begin discussing the case overnight. Have
17 a good night.

18 (WHEREUPON, the following takes place outside the
19 presence of the jury.)

20 SOLICITOR FINNEY: Your Honor please, I did not believe
21 that I marked the flash drive for Mr. Wilmoth's report to be
22 put into evidence. I thought we marked it to give it an
23 identifying number. It is a flash drive. It's still in the
24 computer. It does not have a sticker on it. And I -- it
25 was not my intention at this time to mark it and put it into

1 evidence. Just to mark it as an exhibit.

2 And so, if I could, I, I -- obviously I, I would like
3 to have the court reporter, if she has the ability, to play
4 back the tape from that episode.

5 THE COURT: I don't know if she's able to do that or
6 not.

7 UNIDENTIFIED PERSON: It was at 4:06.

8 SOLICITOR FINNEY: PM?

9 (Pause.)

10 THE COURT: I'm showing it would of been prior to 4:05
11 cause that's when we started the cross of Mr. Wilmoth.

12 (WHEREUPON, a portion of the audio was played back at
13 this time.)

14 SOLICITOR FINNEY: That was it, Your Honor. We just
15 identified it as---

16 MRS. BUTCHER: No.

17 SOLICITOR FINNEY: ---No. 32 or whatever the number it
18 was.

19 THE DIGITAL REPORTER: And he said it would be
20 consented to it going into the record. However, you never
21 said it was admitted.

22 THE COURT: Yeah, I mean I think he asked if we had
23 given it a number or whatever and consented to it going into
24 the evidence.

25 SOLICITOR FINNEY: She gave me the number and I put it

1 out -- I just said -- and then he said we would consent and
2 I just -- I didn't say anything cause I wasn't moving it
3 into evidence.

4 MRS. BUTCHER: Well---

5 THE COURT: I'm sorry. I can't hear you.

6 SOLICITOR FINNEY: The sticker was never placed on it.

7 THE DIGITAL REPORTER: I have the sticker here.

8 SOLICITOR FINNEY: The sticker was never placed on it.

9 THE COURT: Right. You couldn't have put it on -- a
10 sticker on it cause it was still in the computer.

11 So, you do not want to enter it into evidence?

12 SOLICITOR FINNEY: No, Your Honor.

13 THE COURT: Do y'all want to be heard on that?

14 MR. BUTCHER: Certainly, Your Honor. They started
15 utilizing the software and they are not gonna give the jury
16 access to what is evidence to take back in the jury room to
17 discuss, touch, feel, do whatever, and reproduce what they
18 did in front of them?

19 You know, I mean, first, first of all, they should of
20 had it marked for identification for the record so
21 especially, if this goes up on appeal, the Court actually
22 knows what's happening, and what's being looked at. And,
23 secondly, I -- you know, the -- it's, it's my -- my
24 interpretation was that it was, it was coming in, that the
25 State wanted it -- the, the flash drive in.

1 You know, the -- it's -- just because the State didn't
2 bother to look at it doesn't mean -- and, and know what's on
3 it and suddenly has buyer's remorse, I, I don't, I don't
4 understand. I mean they -- they certainly want to use the
5 evidence.

6 But how is it -- so now, with what they've done, how is
7 the jury suppose to utilize the evidence that they've seen
8 before them?

9 THE COURT: Let me ask you, just from a practical
10 standpoint, how would the jury use the flash drive in the
11 jury room?

12 I mean is it -- does it just go in a regular computer?

13 SOLICITOR FINNEY: Yes, Your Honor.

14 THE COURT: Okay.

15 SOLICITOR FINNEY: And may I just say for the record
16 that obviously I have objected to the photographs that were
17 on the phone, and those photographs are on the flash drive,
18 which is one of the reasons I didn't move the flash drive
19 in.

20 The other situation that Mr. Butcher is just un --
21 uncomfortable about has just been remedied because he put
22 the technical reports -- contacts, numbers, and dates of
23 service are all in evidence on his exhibit.

24 THE COURT: Let me, let me review the 39, 40 and 41.

25 SOLICITOR FINNEY: I'm not sure they're here. Let's

1 see.

2 Did he leave them?

3 UNIDENTIFIED PERSON: Yes.

4 SOLICITOR FINNEY: Here they are.

5 THE COURT: Just seeing if that was the same thing he
6 was testifying and it looks it -- during the direct in other
7 words.

8 what I would say is this is that I still do not feel
9 that it is appropriate for those photos to come in front of
10 this jury. I just don't know that there's any way to
11 extract or to, to keep those off of the flash drive. If
12 this is all the relevant data off of that flash drive, then
13 I'm gonna allow 39, 40 and 41 and not 37.

14 And I would like to talk about the defendant's record
15 if we can go back to that since I'm assuming the State is
16 going to rest at some point tomorrow.

17 SOLICITOR FINNEY: I think we have two witnesses, Your
18 Honor. A short witness on cellphone information by Sumter
19 County and they a -- Mr. Bonner, the chief investigating
20 officer, to wrap up the case.

21 MR. BUTCHER: And, and we can address the cellphone
22 information today because they don't have any of the
23 foundation data to talk about what they want to testify to.
24 I mean the, the -- it got destroyed.

25 THE COURT: Okay. Well, I'm assuming -- you're gonna,

1 you're gonna object at the appropriate time to the testimony
2 before they offer it.

3 MR. BUTCHER: Yes, ma'am.

4 THE COURT: Do we need to have any other discussion on
5 that?

6 SOLICITOR FINNEY: I, I can give you a summary of
7 Investigator Monahan's testimony if you want to hear it,
8 I'll be glad to give it to you.

9 Investigator Monahan, who was helping on this case, was
10 given Mr. Brown's cellphone number and he started using --
11 got a search warrant. He did whatever he could to develop
12 information on where that phone was being used, and it was
13 being used in Sumter County for a while so the officers
14 could go out and see where they could of -- find Mr. Brown.

15 The next day they got a Crime Stoppers tip that gave
16 them an, an additional number for Mr. Brown, a new number,
17 and they started doing data searches on that phone, which
18 led them to be able to see that that phone was no longer in
19 Sumter County. And based on that information, they reached
20 out to federal authorities, got some assistance, which led
21 to the capture of Mr. Brown four days later in Florida.

22 THE COURT: Okay.

23 MR. BUTCHER: So, I -- so the cool part about that is
24 they sent a subpoena to AT&T and they got a wire tap order
25 and the Secret Service was doing the trafficking. They got

1 all the data.

2 Now, they've got these cool little Power Point things
3 would show where he was and all this other stuff. They have
4 no underlying data. They can't even provide a foundation
5 for the data. They just want to present pretty pictures on
6 where he went and, and, and that type of stuff.

7 So, that's the problem and that's something we asked
8 them for in our motions for discovery. George McFadden
9 ordered that it got turned over. And so they sent us a
10 policy from the Department of Homeland Security saying we
11 destroy the data when the, when the search is over and we
12 also got told we don't have any data.

13 So, I, you know, from that prospective, if they want to
14 present all this fancy information on where he was, they
15 need the data.

16 SOLICITOR FINNEY: I don't need to present any
17 information to the Court or the jury on where he was, just
18 that he wasn't in Sumter, and they took certain steps to
19 locate him. They found him and they brought him back to
20 Sumter.

21 MR. BUTCHER: So, again, foundation. I mean unless---

22 THE COURT: well, I mean I -- maybe I'm being simple
23 but I mean he can testify he drove to Florida and I mean
24 somebody went and got him.

25 MR. BUTCHER: Right. But, you know, he was by this

1 cell tower at what -- you know, 29:00, well where's---

2 THE COURT: I would, I would a hundred percent agree
3 with you. But I mean somebody physically found him on a
4 certain date and he was not in South Carolina. So I mean
5 --.

6 MR. BUTCHER: We're fine with that.

7 THE COURT: Regardless, y'all aren't gonna try to get
8 in any cellphone data?

9 SOLICITOR FINNEY: No, ma'am.

10 THE COURT: We don't have them.

11 SOLICITOR FINNEY: And no maps or pictures. I -- but I
12 do want to say that the officer that went to Florida is not
13 on my witness list. I'll have him here tomorrow but he's
14 not on my witness list.

15 MR. BUTCHER: Well, I mean we -- put the extradition.

16 THE COURT: I'm sorry?

17 MR. BUTCHER: We can put the extradition in. I mean he
18 can't, he can't deny that.

19 SOLICITOR FINNEY: I apologize. My, my colleague tells
20 me that Mr. Dubose is on my witness list. I'm -- Wayne
21 Dubose. I don't --.

22 THE COURT: Well, I -- so he was, he was picked up in
23 Florida and then was extradited to South Carolina?

24 SOLICITOR FINNEY: Yes, ma'am.

25 THE COURT: Okay. Well, I, I -- that, that fact I

1 think -- y'all are asking me to make rulings on things that
2 aren't in front of me yet but I, I don't think that that's
3 an issue as long as you're not trying to get into the
4 cellphone records of where he was on any specific date and
5 time without somebody here to testify to that.

6 SOLICITOR FINNEY: well, I'll have the witness here,
7 Your Honor. He's not on my witness list cause I wasn't
8 trying to call him. But I can -- I didn't --.

9 THE COURT: Okay. So if we address -- because
10 Mr. Brown needs to know before he makes a final decision
11 about whether or not he's gonna testify as to what he can be
12 impeached with and y'all gave me his criminal history I
13 think on Monday. So, if we can address that.

14 MRS. BUTCHER: And, Your Honor, what -- I, I apologize.
15 I just want to -- because we were all reading what was
16 presented was something they had typed up, and I have not
17 compared it to his actual SLED report. I -- yeah, I just
18 want to make -- just let the Court know I will compare them.
19 Whatever we rule on today, I'm sure it's accurate. But if
20 it's not, I'll let the Court know.

21 THE COURT: Okay. I think I've already gone over most
22 of this but let's just make sure we have clarification.

23 The North Carolina 1998 conviction for larceny of a
24 motor vehicle, the 1998 common law robbery, and the 2001
25 obtaining property by false pretenses, I find all of those

1 are, are too remote in time to offer any real probative
2 value. The burden is on the State whether it's a crime that
3 is a -- pertains to falsehood, fraud, dishonesty. When it's
4 past the 10 years, there's a -- I'm gonna call it a
5 heightened burden on the part of the State if it's a remote
6 conviction.

7 The State has got to, has got to show that it
8 substantially outweighs its prejudicial, prejudicial effect,
9 the probative value supported by specific facts and
10 circumstances, and, of course, presumption is against the
11 admissibility. So, I find that those North Carolina
12 convictions are too remote.

13 The federal charge, looks like it was a 2001 conspiracy
14 to transport a stolen motor vehicle possibly. Looks like a
15 release date of 2003. Again, I'm finding that it's too
16 remote to use for impeachment purposes.

17 The Georgia cases from 2005, 2007, 2008, again, that's
18 for a forgery first degree, like 17 years old, a theft by
19 deception, two counts, that's 15 years old and a 14 year old
20 forgery charge. Those are all crimes of dishonesty under
21 Rule 609(a)(2). But, again, because they're so remote in
22 time, the State's still got that enhanced burden of showing
23 that the probative value substantially outweighs its
24 prejudicial effect. I do not find that it meets that
25 threshold.

1 For the South Carolina -- I'm sorry. For the Florida,
2 three counts of grand theft from 2013, this is not a crime
3 of dishonesty. So, it's under 609(a)(1). It's nine years
4 ago. The, the burden is on the State to show that its
5 probative value outweighs its prejudicial effect. There is
6 some impeachment value of, of this certainly even though
7 it's not a crime of dishonesty under the case law. It
8 certainly has some impeachment value.

9 Looking at his record between 2013 and now, which is
10 one of the factors we've got to look at, the similarity
11 between the past crime and the charged crime is not great,
12 but the importance of the defendant's testimony is high, and
13 the credibility issue is gonna be very central in this
14 trial. So, I don't find that the 2013 conviction out of
15 Florida for three counts of grand theft is admissible just
16 for impeachment purposes.

17 For the South Carolina offenses, there's a 2009
18 financial transaction card fraud. It's 13 years old. So,
19 again, it's that heightened standard on the part of the
20 State. I do not find that that is admissible.

21 The 2017 burglary in the third degree, again, it's not
22 a crime of dishonesty. So, it's under 609(a)(1). It's five
23 years old and then we've got a 2019 that is a crime of
24 dishonesty of forgery. That one is admissible. There's
25 no -- there's no weighing test because it is under

1 609(a)(2).

2 The burglary third, again, looking at the factors,
3 there is some impeachment value it to. It's, again, not a
4 crime of dishonesty but it does not have some impeachment
5 value. It's certainly more recent. There's not a high
6 degree of similarity between the past crime and, and this
7 crime honestly. But, again, I do think that the defendant's
8 credibility is central to this case and the defendant's
9 testimony will be certainly important in the case.

10 So, the 2013 grand theft, three counts out of Florida,
11 the 2017 burglary third, and the 2019 forgery out of South
12 Carolina would be admissible again just for impeachment
13 purposes.

14 SOLICITOR FINNEY: Thank you, Your Honor. I thought
15 there were two forgeries in South Carolina around the same
16 time. I -- you've, you've addressed one. But I thought
17 there was another one.

18 THE COURT: I'm looking at the 2009 financial
19 transaction card fraud. Looks like a guilty plea in 2009.
20 And then I see a burglary and a forgery in 2017, which I,
21 I -- okay. So I, I left out when I talked about the
22 burglary.

23 Looks like there's a 2019 forgery and then there's 2017
24 forgery and burglary.

25 SOLICITOR FINNEY: That's correct, Your Honor.

1 THE COURT: So, the 2017 forgery, again, that's a
2 609(a)(2), it is a crime involving dishonesty. So, there's
3 no balancing test. It is admissible. It's within the 10
4 years.

5 SOLICITOR FINNEY: Thank you, Your Honor.

6 THE COURT: Since the State should be resting tomorrow,
7 again if I can just address you, Mr. Brown, regarding your
8 right against self-incrimination. Sir, we talked about this
9 on Monday I believe but let's make sure we go over it again.

10 It's your decision whether or not you want to testify.
11 If you decide not to testify, I will instruct the jury they
12 can not hold that against you. They can't even discuss it
13 during their deliberations.

14 I will further instruct them, during my final
15 instructions on the law to the jury, that it's the State
16 that has the burden of proof, that you don't have to prove
17 yourself innocent. The State has the burden of proving you
18 guilty.

19 If you choose not to testify, again, I'll further
20 instruct them they can not hold that against you and they
21 can't discuss it during their deliberations. But having
22 said that, it's your day in court, sir, and so that
23 decision's up to you.

24 Again, you should discuss it with your attorneys. You
25 can discuss it with anybody whose opinion you value and you

1 certainly, certainly should discuss it with your attorneys.
2 But, ultimately, it's your decision.

3 If you testify, then the State can bring up your past
4 convictions solely for impeachment purposes and just those
5 that I've gone over.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Anything else that y'all want me to address
8 with him?

9 MR. BUTCHER: Yes, Your Honor.

10 From the Court's prospective, if, in direct, we go
11 ahead and address these four issues, does -- is, is that
12 going to open the door for any -- anything else?

13 I'm, I'm -- unless he opens the door. But I mean if he
14 confirms those four charges, are, are we gonna open the door
15 for any -- anything else?

16 THE COURT: Only if you give the jury the impression so
17 this is all -- the only trouble you've ever been in.

18 Okay. I guess I don't really have any problem with if
19 you want to address those head on in direct.

20 MR. BUTCHER: Yes, ma'am.

21 THE COURT: Now, if you make some statement to him that
22 it's -- some statement to give the jury the impression that
23 this is the only trouble he's ever been in, something along
24 those lines that opens the door --

25 MR. BUTCHER: Right. Or if he says something like

1 that's the only time I've ever been in trouble, Mrs.---

2 THE COURT: Correct.

3 MR. BUTCHER: ---Mrs. Butcher. Yeah.

4 Okay. Understood. I just -- you know -- and I've,
5 I've seen it both ways and I think --.

6 THE COURT: I'm not gonna hold that that opens the
7 door.

8 MR. BUTCHER: Okay.

9 THE COURT: Again, absent some other, some other
10 statement that does open the door. But just the fact of
11 those, I would not hold that that opens the door to
12 everything else.

13 MR. BUTCHER: Thank you, Your Honor. I think that's
14 everything from the defendant.

15 MRS. BUTCHER: Um.

16 MR. BUTCHER: Oh, I didn't ask my boss.

17 MRS. BUTCHER: Mr. Finney had said he didn't have a
18 problem with putting the ballistic report in. I thought he
19 had done it and he didn't. And so we would just like to
20 enter that as defendant's whatever number we're on.

21 Do you have a copy?

22 SOLICITOR FINNEY: I think that's---

23 MRS. BUTCHER: Is this it right here?

24 MR. BUTCHER: I'm not sure.

25 MRS. BUTCHER: Yeah, that's it.

1 SOLICITOR FINNEY: That's ballistics. Yeah, that's
2 Thrower.

3 MR. BUTCHER: Thrower.

4 MRS. BUTCHER: Yeah, Thrower.

5 So that would be Defendant's 43.

6 THE COURT: Okay. So 43 is --?

7 MRS. BUTCHER: In evidence.

8 THE COURT: Is that --

9 SOLICITOR FINNEY: No objections.

10 THE COURT: Okay. All right. Forty-three is admitted.

11 (WHEREUPON, the report was marked as Defendant's
12 Exhibit No. 43 and received into evidence at this time.)

13 SOLICITOR FINNEY: And, judge, we need to talk about
14 the stipulation agreement.

15 THE COURT: Okay.

16 MRS. BUTCHER: Well, I think she's, she's made her
17 ruling. We need to talk.

18 THE COURT: Well, I guess we need to discuss how is it
19 going to be presented to the jury.

20 MRS. BUTCHER: Yeah, I -- and we're, we're comfortable
21 with you just reading the stipulation -- that we stipulate
22 he was not able to have the handgun and was aware that he
23 was not able to possess a gun.

24 THE COURT: And at what point do y'all want -- do you
25 want me to read this to the jury before you rest or do you

1 want me just to include it in the -- normally in our, in our
2 jury charges it just say -- it just says something,
3 something to the effect that any stipulations of counsel you
4 should consider those as --

5 SOLICITOR FINNEY: I --

6 THE COURT: -- established.

7 SOLICITOR FINNEY: I think before I rest. In other
8 words, after my last witness, I'd like for you to tell the
9 jury that there's been a stipulation --

10 MRS. BUTCHER: Yeah.

11 SOLICITOR FINNEY: -- about Mr. Brown because he would
12 probably be the next witness.

13 THE COURT: Okay.

14 SOLICITOR FINNEY: Do you --?

15 THE COURT: Yeah, if you'll give me a copy of that.

16 MRS. BUTCHER: Okay. So, my understanding is you will
17 read it and we -- we'll consent to the next line. You're
18 reading it. It's not going back. The next paragraph. I
19 think I --.

20 SOLICITOR FINNEY: Okay.

21 MRS. BUTCHER: So we'll consent to it as written, in
22 other words.

23 SOLICITOR FINNEY: Okay.

24 MRS. BUTCHER: Okay.

25 SOLICITOR FINNEY: I don't do any civil work. So I

1 don't know anything about stipulations.

2 MRS. BUTCHER: Yeah, you --.

3 THE COURT: well, I have, I have a -- I'll read it and
4 then I have a charge that --

5 SOLICITOR FINNEY: Okay.

6 THE COURT: -- we'll charge the jury on --

7 SOLICITOR FINNEY: All right.

8 THE COURT: -- as to what they do with stipulations.

9 SOLICITOR FINNEY: All right. Thank you.

10 THE COURT: All right. I'll see y'all in the morning.

11 SOLICITOR FINNEY: Thank you.

12

13 (Whereupon, Court was in recess for the evening.)

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1 Thursday, February 17th, 2022

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3 MRS. BUTCHER: I would not need him first thing this
4 morning and I could call -- would call him when needed
5 cause -- so, I didn't want him to have to come up here and
6 miss work or anything of that nature.

7 THE COURT: Okay. Well, now he's here.

8 Do you have an idea when you might want to call him?

9 The State's got two witnesses this morning and then
10 you'll be resting.

11 MRS. BUTCHER: Yeah, and I think -- I, I kind of think
12 one of their witnesses will be long, and what I would like
13 to do, since he is in town, is just simply -- I've got his
14 cellphone, call him, you know, a couple hours before. I'm
15 kind of thinking we may not need him until tomorrow morning.

16 THE COURT: Okay. I'm---

17 MRS. BUTCHER: But we may need him at the very end of
18 the day. I have Mr. Powell coming in at 2:00.

19 THE COURT: Okay.

20 MRS. BUTCHER: So, if we wants to come back at 4:00 or
21 I could call him and let him know if it's, you know, later
22 when I have a better idea.

23 THE COURT: Can we say that you'll come back at three
24 o'clock?

25 UNIDENTIFIED SPEAKER: Yes, ma'am.

1 THE COURT: All right. Thank you.

2 UNIDENTIFIED SPEAKER: You welcome. Thank you.

3 THE COURT: Okay. All right. We're bringing the jury
4 in.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE BAILIFF: The jurors are all seated, Your Honor.

8 THE COURT: Thank you.

9 Okay, Mr. Finney.

10 THE COURT: Good morning, Your Honor.

11 Good morning, ladies and gentlemen.

12 (WHEREUPON, the jurors respond good morning.)

13 SOLICITOR FINNEY: We call Investigator Lee Monahan.

14 THE BAILIFF: Sir, raise your right-hand. State your
15 name.

16 THE WITNESS: John Lee Monahan.

17 JOHN MONAHAN, being first duly
18 sworn, testified as follows:

19 THE BAILIFF: Thank you much, sir. State your name for
20 the record and spell your last name please.

21 THE WITNESS: John Lee Monahan. M-O-N-A-H-A-N.

22 DIRECT EXAMINATION

23 BY SOLICITOR FINNEY:

24 Q Good morning, sir.

25 A Good morning, sir.

John Monahan - Direct examination
By Solicitor Finney

1 Q Tell the ladies and gentlemen of the jury where you are
2 employed.

3 A I'm a -- an investigator with the Sumter County
4 Sheriff's Office.

5 Q And how long have you been in law enforcement?

6 A Right at 26 years now.

7 Q All right, sir. And you haven't been in investigations
8 that whole time, have you?

9 A No, sir.

10 Q Tell us a little bit about your track.

11 A I start off in the, in the uniform patrol division for,
12 for about five years and I went to investigations for a
13 couple years. I came back to -- transitioned back out. I
14 was in an administrative position for, for about 11 years
15 before being asked to take over the, the investigations --
16 the criminal investigations division back in the beginning
17 of 2017.

18 Q All right, sir. Have you been a part of the
19 investigation team that worked on the death of Lonnie Pack?

20 A Yes, sir.

21 Q And can you tell us a little bit about how you-all --
22 the protocol you-all set up?

23 whose the chief investigating officer on this case?

24 A The case was Investigator Bonner.

25 Q Bonner was the, the chief?

John Monahan - Direct examination
By Solicitor Finney

1 A Yes, sir, he was.

2 Q And you were working with him---

3 A ---the primary.

4 Q ---on the team?

5 A Yes. As, as a supervisor, anytime we have any, any
6 kind of major case or anything else, I would, I would get
7 notified and as well as some of our superiors. But -- and,
8 and anytime we have a -- any -- have any kind of, you know,
9 major case and then we use to get a lot more people
10 involved. So I was called out on that---

11 Q Did you---

12 A ---on that afternoon to come assist.

13 Q So when you have a team working on a case like that, is
14 it the protocol that some people are assigned different
15 tasks on the team?

16 A Yes, sir.

17 Q All right. Tell us a little bit about what your task
18 was on this investigation.

19 A This particular day I was actually -- it took me a
20 little while because of the primary engagement of where I
21 was at. So, I was one of the last two to get on there. I
22 didn't actually go to the scene. I went straight to the
23 office. They were already clearing up when he started
24 getting information.

25 And so one of the things that I, I would usually do,

John Monahan - Direct examination
By Solicitor Finney

1 because some of the things I've done in my background, was
2 trying to do some of the background stuff, trying to find
3 out what we can for any of the names that had come up so
4 far, doing background checks and that sort of thing, and
5 then trying to follow up any leads that could be done
6 either, either online or through internal resources that we
7 don't have access to out in the field.

8 Q So, as far as one of the leads, what was one of the
9 first leads that you took to take action on?

10 A When we first got the information that was relayed to
11 me as far as on who the suspect was, we started looking
12 around trying to find out any social media accounts,
13 anything along like that, anything, anything at all we could
14 find out looking at previous history in, in our -- you know,
15 through our local, local databases and everything. And then
16 we were also provided with a, with a possible cellphone
17 number for him.

18 Q All right. And what action did you take to take the
19 cellphone number that you had for the suspect to try to find
20 the suspect?

21 A One things we do in a, in a circumstance where we have
22 something where it, it -- what's called exigent
23 circumstances, so whether there's a, a life, a life,
24 somebody in danger, we done it in kidnappings, we've done it
25 in, you know, child endangerment type stuff, anything where,

John Monahan - Direct examination
By Solicitor Finney

1 where there's an immediate need or an immediate concern for,
2 for the safety of an individual or just the public in
3 general, we can make contact with a, with a phone carrier
4 and make contact with them.

5 we have two -- we have some databases that we can look
6 out, take the phone number, figure out which carrier has
7 that phone number, and then make contact with that carrier
8 and make a request, under exigent circumstances, to find
9 out -- try and getting in what, whatever kind of
10 information, you know, we can, you know, immediately trying
11 to figure out where his phone is because likely people
12 usually have their phones on them, you know, in this day and
13 age.

14 MR. BUTCHER: Judge, if I may?
15 Foundation.

16 THE COURT: I'm gonna allow this question.

17 Q So, after receiving the phone number for the suspect,
18 and, and doing some checking with the carrier, the people
19 who run the phone service, were you able to develop some
20 leads and information on the phone number?

21 MR. BUTCHER: Objection. Foundation.

22 THE COURT: I'm gonna allow the question.

23 A Yes. So when we make contact with, with a carrier in,
24 in a situation like this, we provide the information. They
25 have an -- all, all the major carriers, they have an

John Monahan - Direct examination
By Solicitor Finney

1 automated system.

2 So, anybody who has, who has a cellphone basically
3 anywhere in America, or anywhere in the world for that
4 matter, when the phone's powered on, it connects to towers.
5 It connects to the network and everything.

6 MRS. BUTCHER: Objection. Foundation. Can we---

7 THE COURT: Yeah, I'm gonna sustain that.

8 THE WITNESS: Sure.

9 THE COURT: Y'all want to approach?

10 (WHEREUPON, a bench conference was held out of the
11 hearing of the jury at this time.)

12 Q Let me rephrase the question.

13 A Yes, sir.

14 Q Based on the information that you acquired through your
15 investigation, were you able to locate Mr. Brown, the
16 suspect, Demetrius Brown, using the phone number that you
17 had?

18 MR. BUTCHER: Objection, Your Honor. Foundation.
19 Hearsay.

20 THE COURT: I'm gonna allow the question.

21 MR. BUTCHER: Could, could we---

22 MRS. BUTCHER: We---

23 MR. BUTCHER: May we, may we approach, Your Honor?

24 THE COURT: Sure.

25 (WHEREUPON, a bench conference was held out of the

John Monahan - Direct examination
By Solicitor Finney

1 hearing of the jury at this time.)

2 THE COURT: Okay. Ladies and gentlemen, we've got an
3 issue of law we need to take up outside of your presence.
4 So, I'm gonna ask if you'll please go back to the jury room.
5 Please don't begin discussing the case.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: Okay. Yes, sir.

9 SOLICITOR FINNEY: Your Honor, at this time I would
10 like to do a little summary with the witness because they're
11 two issues -- well, three. The first issue is trying to
12 locate the defendant by using the original cell number that
13 they had.

14 THE COURT: Okay. Don't tell me. Just ask him---

15 SOLICITOR FINNEY: Okay.

16 THE COURT: ---the questions---

17 SOLICITOR FINNEY: All right.

18 THE COURT: ---and you can proffer the testimony.

19 Q Let me proffer -- I'm gonna proffer the testimony,
20 officer, so we'll just kind of do a, a summary.

21 A Yes, sir.

22 Q Did you have a phone number for the suspect on August
23 the 11th or 12th that you used to try to find him?

24 A Yes.

25 Q And you did get a search warrant from the Court for

John Monahan - Direct examination
By Solicitor Finney

1 that information?

2 A Later, yes, sir.

3 Q Later?

4 A Yes.

5 Q All right. So the first step, as far as what you
6 talked about earlier, contacting the carrier, that was done
7 without a warrant but you have an exigent circumstance
8 exception that, that you used?

9 A Yes, sir.

10 Q Once you started tracking and receiving the information
11 on the phone, were you able to locate him in a different
12 location rather than Sumter?

13 A On, on the first phone, no.

14 MR. BUTCHER: Objection. Foundation.

15 Q Okay.

16 THE COURT: And, again, this is a proffer.

17 MR. BUTCHER: Do -- oh, okay. So you don't -- I, I
18 just wanted to make sure that, you know, for the record and
19 I understand it's a proffer and --.

20 THE COURT: I've already ruled that this testimony is
21 not admissible.

22 MR. BUTCHER: Okay. I just didn't know---

23 THE COURT: So this is his proffer.

24 MR. BUTCHER: I didn't know if I had to do it for the
25 record. I'm always---

John Monahan - Direct examination
By Solicitor Finney

1 THE COURT: You are protected for the record in the
2 event you've already objected to this. This is him getting
3 a proffer in of evidence that I have deemed inad --
4 inadmissible.

5 Q As a result of using the first phone number, did you
6 later, I believe the next day, receive information that the
7 suspect was using a new phone number?

8 A That is correct. The next day we received a, a
9 Crime -- anonymous Crime Stoppers tip with a, with a second
10 number.

11 Q And did you start using the same exigent circumstances
12 to follow that number to see where that number led you?

13 A Yes.

14 Q As a result of following the new number, were you able
15 to locate or get information that you located the suspect in
16 another jurisdiction?

17 A Yes.

18 Q As a result of locating him in another jurisdiction,
19 did you determine that he was driving a different vehicle
20 than the one you were looking for as associated with the
21 crime?

22 A After -- afterwards, yes, sir.

23 Q All right. And as a result of further information you
24 received on the new telephone number, were you able to
25 locate him on the 15th of August in another jurisdiction?

John Monahan - Direct examination
By Solicitor Finney

1 A Yes.

2 Q As a result of locating him, did the authorities arrest
3 him and detain him until he could be brought back to Sumter?

4 A That's correct.

5 THE COURT: Okay.

6 SOLICITOR FINNEY: That would be the summary of the
7 information. I, I don't want to talk about tracking. I
8 will do my best not to use that word. But there -- this
9 investigation allowed -- well, well, was, was assisted by
10 other agencies that were, were receiving information. Based
11 on the information they were receiving, it allowed them to
12 keep up with Mr. Brown and find him and bring him ultimately
13 back to Sumter.

14 THE COURT: Okay. And do y'all want to be heard on
15 this --

16 MR. BUTCHER: Yes.

17 THE COURT: -- since I know we had some conversation at
18 side bar?

19 MR. BUTCHER: Our, our whole basis is lack of
20 foundation and it's hearsay and it doesn't meet any of the
21 hearsay exceptions, and, therefore, shouldn't be allowed in.
22 we believe that, one, one, it adds nothing to the trial.
23 They have no firsthand knowledge of what happened, how it
24 happened, and, bottom line, I think they can say, you know,
25 he was caught in Florida and extradited because they have

John Monahan - Direct examination
By Solicitor Finney

1 that and they have the documents that show it, you know, if
2 they provide that foundation.

3 So, from our prospective, the whole of that testimony
4 is inadmissible except for he got caught in another
5 jurisdiction.

6 THE COURT: So, I, I would agree the information about
7 him -- that you discovered he was using a new cellphone and
8 that you were tracking him that way, you know, I think it's
9 fine to say you were assisted by other agencies and you
10 ultimately located him in the State of Florida.

11 SOLICITOR FINNEY: What about the, the---

12 THE COURT: That---

13 SOLICITOR FINNEY: ---change of the cars?

14 The, the new cellphone number is one thing I wanted to
15 make sure the jury understands. The new car---

16 THE COURT: Yeah, I'm not letting in about the, the
17 fact that you discovered he was using a new -- I mean that's
18 hearsay upon hearsay cause it -- you've, you've got an
19 anonymous tip and the -- then the only way you would know
20 that is now you're tracking the new number and that leads
21 you to the location.

22 So, again, I think it's fine to say you had the
23 assistance of other agencies. You ultimately located him in
24 the State of Florida. I think it's fine to say, when you
25 found him, he was driving a different vehicle.

John Monahan - Direct examination
By Solicitor Finney

1 SOLICITOR FINNEY: And just for the record, he wasn't
2 driving a different vehicle. He, he was driving a different
3 vehicle but, at the time he was detained, he was in an Uber.
4 He wasn't driving---

5 THE COURT: Okay.

6 SOLICITOR FINNEY: ---himself.

7 THE COURT: Okay.

8 SOLICITOR FINNEY: So I just, for the Court's -- first
9 of all, I, I would ask the Court to allow me to make the
10 summary with the witness that I just made. If the Court
11 rules that I am limited, I want to be able to establish a
12 new phone number. I want to be able to establish that he --
13 you're saying I can not say anything about the car?

14 So, the next point that I would make is that he was,
15 was arrested on the 15th of a -- of August in Florida and
16 brought back to South Carolina.

17 THE COURT: Correct. And, again, the new phone number
18 I find is not admissible.

19 SOLICITOR FINNEY: It is not admissible?

20 THE COURT: No, sir, cause, again, we're -- the, the --
21 I thought the whole purpose of our conversation yesterday
22 was that the, the raw data and the, the information was
23 destroyed by SLED.

24 MR. BUTCHER: Secret Service.

25 SOLICITOR FINNEY: It was the Secret Service. Part of

John Monahan - Direct examination
By Solicitor Finney

1 their protocol is to, once the capture is made, to destroy
2 the record.

3 THE COURT: Okay. So I've already ruled on that
4 yesterday.

5 SOLICITOR FINNEY: All right.

6 THE COURT: So, again, you can talk about the fact that
7 you were assisted by other agencies and that you ultimately
8 located him out of State and that he was arrested on
9 August 15th in Florida --

10 SOLICITOR FINNEY: All right.

11 THE COURT: -- and extradited to South Carolina.

12 SOLICITOR FINNEY: All right. Subject to your ruling,
13 Your Honor, we'd like to, you know, we, we preserve our, our
14 rights under the objection and the proffer that was made.

15 THE COURT: Yes, sir.

16 Okay. We're ready for the jury.

17 (WHEREUPON, the following takes place within the
18 presence of the jury.)

19 THE BAILIFF: The jurors are all seated.

20 THE COURT: Thank you.

21 Yes, sir.

22 SOLICITOR FINNEY: Please the Court.

23 CONTINUED DIRECT EXAMINATION

24 BY SOLICITOR FINNEY:

25 Q Lieutenant Monahan?

John Monahan - Direct examination
By Solicitor Finney

1 A Yes, sir.

2 Q After receiving information about the cell number, did
3 you and your agencies work with other law enforcement
4 agencies to find Mr. Brown?

5 A Yes, sir.

6 Q And was Mr. Brown located?

7 A Yes, sir.

8 Q Do you know where?

9 A He was located in Florida.

10 Q All right. And do you know what date he, he was
11 located in Florida?

12 A It would of been on the 15th.

13 Q The 15th of August?

14 A Yes, sir.

15 Q 2018?

16 A Yes, sir.

17 Q All right. And was an extradition done on Mr. Brown to
18 bring him back to Sumter?

19 A Yes.

20 Q And he was brought back a day or two later or some time
21 later?

22 A Yes, sir.

23 Q All right. Thank you. Answer any questions the
24 defense may have.

25 CROSS-EXAMINATION

John Monahan - Cross-examination
By Mr. Butcher

1 BY MR. BUTCHER:

2 Q Sir, Mr. Brown waived expedition (sic), correct?

3 A Yes.

4 Q Thank you.

5 SOLICITOR FINNEY: Thank you. Nothing further.

6 THE COURT: Yes, sir.

7 SOLICITOR FINNEY: Call Investigator Scott Bonner.

8 THE BAILIFF: Raise your right-hand. State your name.

9 THE WITNESS: Charles Bonner.

10 CHARLES BONNER, being first duly
11 sworn, testified as follows:

12 THE BAILIFF: Thank you much. Come around, sir. State
13 your name for the record and spell your last name please.

14 THE WITNESS: Charles Scott Bonner. B-O-N-N-E-R.

15 DIRECT EXAMINATION

16 BY SOLICITOR FINNEY:

17 Q Good morning, Investigator Bonner.

18 A Good morning.

19 Q What rank do you hold at the Sheriff's Office?

20 A I'm a sergeant investigator.

21 Q All right, sir. And how long have you been an
22 investigator with the Sheriff's Office?

23 A I been in investigations for more than seven years.

24 Q All right.

25 A About seven and a half.

Charles Bonner - Direct examination
By Solicitor Finney

1 Q Do you work all kinds of cases?

2 A Yes, sir, I work all kind of cases but my specialty is
3 special victims units where I work sexual assaults, domestic
4 violences.

5 Q All right, sir. And did I ask how long have you been
6 with law enforcement?

7 A Law enforcement all together, over 16 years.

8 Q All right, sir. You were assigned to do the
9 investigation on the Lonnie Pack murder?

10 A That is correct. As, as a investigator, we take a
11 rotation as an on call investigator through the weekend. So
12 that way there's always an investigator available 24/7.
13 That was my weekend to work on call.

14 Q All right, sir. Did you respond to the scene at South
15 Pike?

16 A I did.

17 Q All right sir. And what is your normal protocol when
18 you arrived at a scene and a call like that?

19 A Yeah. So I collect all the information. The City
20 Police Department was there first. They thought that it was
21 a city jurisdiction. Came to find out it was county
22 jurisdiction.

23 So, when I, when I arrived there, I got all the
24 information from the city officers as well as a couple of
25 the county deputies who was -- already arrived there before

Charles Bonner - Direct examination
By Solicitor Finney

1 I did. I guess take an overall -- and I'm hearing an echo
2 on my---

3 Q That's the court reporter's---

4 A Okay.

5 Q ---equipment. Don't worry about it.

6 A So I take general, I guess, just notes of in my head
7 kind of what's going on, what the scene looks like, who was
8 all present, who was not present. Just general information
9 that was gathered before I got there.

10 Q All right. Did you have an occasion to speak to
11 Mr. Steve McCain at that time, the owner of the shop?

12 A I did.

13 Q All right. Was that at the scene?

14 A That was at the scene.

15 Q All right, sir. And any other witnesses that you
16 talked to at the scene that day?

17 A I believe I also talked just briefly to his daughter --

18 Q All right.

19 A -- who was there on the scene at well.

20 Q All right. After doing your protocol, did you have
21 occasion to go down to your office -- how, how far is the
22 Sheriff's Office located from South Pike where the incident
23 occurred?

24 A Yeah. So -- and, and let me back up a little bit.
25 while I was there -- as the on call investigator, you also

Charles Bonner - Direct examination
By Solicitor Finney

1 make phonecalls on distributing people out. That's whenever
2 I also called crime scene investigations to come out, which
3 Investigator or Sergeant McCauley advised that he came out,
4 as well as other investigator to assist in this.

5 while I was -- you know, while Investigator McCauley
6 was there, I also stayed around just to see if there was any
7 more evidence, any more collections was to be done.

8 To answer your question on how far away the Sheriff's
9 office is, approximately a mile away if, if that.

10 Q All right. And if you left the scene of South Pike,
11 how would you get to the Sheriff's Office?

12 A Yeah, leaving the scene, just take a right onto North
13 Main from South Pike and then again that goes from four
14 lanes to two lanes. Well, again, within a mile. This is
15 before -- even before a mile on the right-hand side. For
16 the older generation, it's where the old jail use to be.

17 Q And that's the Sheriff's Office?

18 A That's the Sheriff's Office now.

19 Q All right. As a result of the information you learned
20 and the, the work you were doing with the other
21 investigator, did you have occasion to talk to Mr. or did
22 you learn I -- when did you learn of a possible another
23 witness that was with Lonnie Pack that day?

24 Specifically Mr. A.J. Bradley.

25 A Correct.

Charles Bonner - Direct examination
By Solicitor Finney

1 MR. BUTCHER: Objection. Leading.

2 THE COURT: I'm gonna allow the question.

3 A Yeah. So, I don't know the, the exact time and I, and
4 I do have my notes with me from the investigative report.
5 There was a time where we, we did find out that Mr. Anfernee
6 Bradley was, was in the vehicle because his, whenever I
7 looked on the scene, his ID was in the backseat. It's kind
8 of a good indicator that hey, this person might actually
9 been here if their ID was there.

10 Q All right. And did you locate him?

11 A Subsequently, yes, sir, we did locate him.

12 Q And did you have a conversation with him?

13 A I did.

14 Q I believe there was a video clip of that conversation.

15 A That's correct. That was, that was in my car.

16 Q All right. And you got a statement from him?

17 A That's correct.

18 Q All right. After talking with Mr. Bradley, did you
19 learn there was another person in the car?

20 A That is correct.

21 Q All right. Have you, have you reached out to try to
22 find him and get him?

23 A So that person -- I couldn't identify who that person
24 was. So, at the time of this investigation I couldn't.

25 Q All right. Proceeding forward, were you looking for

Charles Bonner - Direct examination
By Solicitor Finney

1 Mr. Demetrius Brown as a suspect in this case?

2 A Absolutely.

3 Q All right. And who did you talk to or what did you do
4 to, to find -- to try to find him?

5 A Just so -- as, as speaking with Mr. McCain on the scene
6 and then finding where the other investigators that did
7 interviews with Mr. McCain as well as the daughter, they all
8 advised that Mr. Brown was the person involved in the
9 shooting and the one who left the incident location in the
10 black Ford Expedition.

11 Q All right. What information did you get from Steve
12 McCain about the black Ford Expedition?

13 A That it was -- had primer on the vehicle on the
14 driver's side vehicle. That was about the, the information
15 that, that we had and that he left I believe heading towards
16 McLaughlin Ford which would of been taking a left out of the
17 parking lot of the -- out of the shop.

18 Q All right. Did you have occasion to send Sergeant
19 McCauley to the El Cheapo to see if they had any video?

20 A That's correct. We've had several instances previous
21 on unrelated stuff that, that we know that they have video
22 footage inside and outside the video -- out of the store.
23 So, I knew that if he had passed through there hopefully
24 would have video of it.

25 Q All right. I want to show you video, Officer Bonner.

Charles Bonner - Direct examination
By Solicitor Finney

1 I need just to have a second to get it set up.

2 (Pause.)

3 THE COURT: And tell us what video you're getting ready
4 to show.

5 SOLICITOR FINNEY: State's Exhibit 30, Your Honor. I'm
6 sorry. It's 33.

7 THE COURT: But it's already in evidence I see.

8 SOLICITOR FINNEY: Yes, ma'am.

9 Q Is your screen on?

10 A No, sir.

11 Q Screen's on.

12 A It's on.

13 Q All right. I want to show you State's Exhibit 33.

14 First of all, did you see this video?

15 A Yes, sir.

16 Q Did you see it with Officer McCauley?

17 A He downloaded the, the video and then gave me a copy of
18 it so I can watch all of its entirety.

19 Q All right.

20 A It's --.

21 Q And did you coordinate with him the timestamp and the
22 actual time of day it was?

23 A Correct. Gave him the -- through the CAD report of the
24 time of the 9-1-1 call and then just that date and time.

25 Q All right.

Charles Bonner - Direct examination
By Solicitor Finney

1 A Told him that's what time to look for.

2 Q So, so the timestamp on the video was what?

3 MR. BUTCHER: I'm gonna object, Your Honor. This is
4 redundant on what's already been presented to the jury and
5 the Court, and I, you know, so from that prospective.

6 THE COURT: I mean it's cumulative but I'm gonna allow
7 it if, if that's what you want to do.

8 SOLICITOR FINNEY: All right.

9 MR. BUTCHER: Thank you, Your Honor.

10 A Yes, sir, it's 1:40 -- the time shows from the, the
11 camera which we knew to be off, it says 1:46:39PM on
12 August 11th, 2018.

13 Q And what is the actual time?

14 A would of been 3:46.

15 Q All right.

16 A PM.

17 Q Okay. Can you stop it?

18 When you saw this video, did you see anything in the
19 video that related to what Mr. McCain had told you?

20 A Yes, sir.

21 Q What was that?

22 A See a black Ford Expedition with primer on the driver's
23 side.

24 Q All right. And how far is that black Ford Expedition
25 from the shop where the shooting occurred at, at this point

Charles Bonner - Direct examination
By Solicitor Finney

1 right here on the video?

2 A Approximately 100, 150 yards --

3 Q All right.

4 A -- from, from the shop.

5 Q All right. And as far as you can recall, 3:36 in the
6 afternoon, is that before or after the 9-1-1 call?

7 A That is one minute before the 9-1-1 or a couple seconds
8 before the, the 9-1-1 call.

9 Q All right. Thank you. That's, that's -- thank you.
10 When you got to the scene on August the 11th, that
11 afternoon, did you discover any handguns?

12 A No, sir.

13 Q Did you discover any shell casings that had been fired?

14 A No, sir.

15 Q Was Mr. Lonnie Pack still there when you got there?

16 A No, sir, he wasn't.

17 Q Okay. Mr. Pack's car was there.

18 Is that correct?

19 A That's---

20 Q The silver car.

21 A That's correct.

22 Q All right. And you told Sergeant McCauley to collect
23 all the evidence that he could outside and inside the car?

24 A That's correct. We told him that the -- that that was
25 the victim's vehicle and he knew the protocol to take for in

Charles Bonner - Direct examination
By Solicitor Finney

1 reference to this, this particular type of case to take for
2 the victim's vehicle.

3 Q All right. And did you know that, after the evidence
4 was collected, that certain items were gonna be sent to SLED
5 for analysis?

6 A Yes, sir.

7 Q All right. Beg the Court's indulgence.

8 (Pause.)

9 Q So, if we might just summarize your investigation.
10 When you found the video from the El Cheapo, what time
11 of day, if you have recollection of it, did the Chrysler
12 driven by Lonnie Pack arrive at the El Cheapo on Saturday,
13 August the 11th?

14 A Right. And so I'll give a -- two different answers if
15 the video was being put into -- to evidence. The time of
16 day that the Chrysler arrives at the El Cheapo, the time
17 stamp shows 1:39:22 -- 27 seconds, which remember we
18 established that this was two hours, you know, in the past.
19 The time stamp is off. So, for time stamp purposes, 1:39:27
20 is when the Chrysler arrives at the El Cheapo. At 1:42 and
21 40 seconds, the Chrysler leaves the gas pumps at, at the El
22 Cheapo. At one---

23 Q When it, when it leaves -- you're saying leaves.

24 What does it do when it leaves the El Cheapo?

25 A So when it leaves at, at 1:42:47, it takes a right onto

Charles Bonner - Direct examination
By Solicitor Finney

1 South Pike which is towards the direction of the shop.

2 Q All right.

3 A And at 1:43 and eight seconds is the last time it's
4 seen on the video on Pike Road heading towards the shop.

5 Q All right.

6 A Right -- shortly right after that at 1:46 and 46
7 seconds, that's when the black Expedition arrives on video
8 on Pike heading towards the opposite direction towards
9 McLaughlin Ford.

10 Q What time do you have in your records for the 9-1-1
11 call to be having -- to, to have been made?

12 A That would of been 3:46, which was, again, you know, a
13 couple seconds to a minute after we last see the vehicle,
14 the Ford Expedition.

15 Q All right. And based on information that you learned,
16 did you understand that Mr. Pack used his phone the last
17 time during that time period?

18 A That's correct.

19 Q What time was that?

20 A That was at 3:44PM, which was just a couple seconds
21 after you last see him or his vehicle on the video leaving
22 the El Cheapo.

23 Q All right. All right. Thank you very much.

24 Would you answer any questions the defense may have?

25 CROSS-EXAMINATION

Charles Bonner - Cross-examination
By Mr. Butcher

1 BY MR. BUTCHER:

2 Q Investigator Bonner, when you're looking at all these
3 different times, you don't know exactly how many seconds off
4 the El Cheapo videos were from say the satellite time that
5 the cellphone carriers are tracking and, and your 9-1-1
6 where you're tracking, right?

7 A Correct. Our, our cellphones don't track in seconds.

8 Q Okay. And so, to the best of our ability, we know
9 within a period of minutes, more or less, or plus or minus
10 one or two minutes, correct?

11 A On what?

12 Q On the El Cheapo video versus what happened at Mr.
13 McCain's shot versus the 9-1-1 call.

14 A Correct.

15 Q Okay. All right. Now, your office submitted a
16 subpoena to Facebook on August 15th, 2018, correct?

17 A I believe so. I don't have the -- that subpoena in
18 front of me.

19 (WHEREUPON, a search warrant was marked as Defendant's
20 Exhibit No. 44 for identification purposes only at this
21 time.)

22 Q Okay. I'll help you out. I'm handing you what's
23 marked for -- it's No. 44.

24 Do you recognize that document?

25 A Yes, sir, I do.

Charles Bonner - Cross-examination
By Mr. Butcher

1 Q All right. Does that assist you in remembering the
2 date of when that subpoena was sent?

3 A Yes, sir, August 15th, 2018.

4 Q Okay. And you -- and when did you receive those
5 Facebook records?

6 A I don't have that information on me right now.

7 Q Okay. But you did receive Facebook records?

8 A I, I believe it was either myself or Lieutenant Monahan
9 since he's the one that wrote the search warrant.

10 Q All right. And when you finish the investigation, you
11 sent the Facebook records to, to, to the solicitor, correct?

12 A Correct.

13 Q All right. And those were turned over?

14 A Yes, sir.

15 Q Now, did you read the Facebook records?

16 A I read over them from what Lieutenant Monahan wrote
17 down.

18 Q Okay. Now when Facebook sends you the records, it
19 comes in what, a thumb drive, a disk, or you download it?

20 A You download it.

21 Q Okay. So you download it and are they all HTML files?

22 A I don't know what that means.

23 Q Are they all like web based, web browser based files?

24 A I believe they come through different emails and sorts
25 of that.

Charles Bonner - Cross-examination
By Mr. Butcher

1 Q Okay. And when you pull the data, it doesn't
2 necessarily -- it doesn't look like an actual Facebook page,
3 does it?

4 A That's correct.

5 Q Okay. All right. And I'm gonna hand you -- well,
6 let's go ahead and mark it and then I'll hand copies --.

7 (WHEREUPON, the Facebook records were marked as
8 Defendant's Exhibit No. 46. A gray screenshot was marked as
9 Defendant's Exhibit No. 47. Both exhibits were for
10 identification purposes only at this time.)

11 MR. BUTCHER: Thank you.

12 All right. I'm gonna hand you 45, which is green on
13 top, and 46 and do you recognize those and we can stop and
14 have you look at the disk and verify if you want?

15 A As you mentioned before, yes, sir, this does look like
16 information that would come from Facebook. Like you said,
17 it doesn't come into a, you know, same kind of format you
18 would initially see as a Face -- as a Facebook page.

19 Q Okay. And these, these, these green screenshots of
20 texts, were that -- was that included with the Facebook?

21 A Yes, sir.

22 Q I'm gonna hand you what's marked for identification as
23 No. 47.

24 Do you know if that screenshot was found on the
25 Facebook?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A As I'm aware of, yes, sir.

2 Q Okay. All right. So -- and you read all these
3 documents when you got them?

4 A Yes, sir.

5 Q Okay. All right. So, hold on for a second.

6 (Pause.)

7 MR. BUTCHER: Okay. Okay. So -- all right. Your
8 Honor, I'd like to move No. 45, 46, and 47 into evidence.

9 SOLICITOR FINNEY: At this point, Your Honor, I
10 haven't -- I object because I don't think the foundation has
11 been laid. I don't know what Facebook account this refers
12 to. I don't know if this -- who was, who was sending it,
13 who was receiving it. I don't know when it was sent or
14 received. I think I need to know a little bit more before I
15 can --.

16 MR. BUTCHER: Okay. All right. I'll go ahead.

17 THE COURT: Sure.

18 Q So whose Facebook did you subpoena?

19 A Mr. Brown's.

20 Q Okay. And, and did you ask for a, a time period or all
21 of it or, or what did you do?

22 A That would have to be asked by -- to Lieutenant
23 Monahan.

24 Q Okay. Well, the initial document, what does -- what is
25 that No. 4---

Charles Bonner - Cross-examination
By Mr. Butcher

- 1 A Forty-four.
- 2 Q Is that 44?
- 3 A Yes, sir.
- 4 Q Does it ask for a specific time period?
- 5 A Between August 1st, 2018, and August 15th, 2018.
- 6 Q Okay.
- 7 MRS. BUTCHER: You -- Your Honor, may we approach?
- 8 (WHEREUPON, a bench conference was held out of the
- 9 hearing of the jury at this time.)
- 10 MRS. BUTCHER: Thank you.
- 11 Q All right. And so --.
- 12 A Excuse me.
- 13 Q And so you-all ordered this information---
- 14 THE COURT: Hang, hang on just a minute.
- 15 Q ---to get background information.
- 16 THE COURT: If you'll hang on---
- 17 MR. BUTCHER: Oh.
- 18 THE COURT: ---just a minute.
- 19 MR. BUTCHER: I apologize.
- 20 THE COURT: Okay.
- 21 Q All right. And so you-all ordered, ordered or
- 22 subpoenaed this information in order to get the background
- 23 information on D. Brown and, and where he was going and
- 24 possibly and that information, correct?
- 25 A We did a search warrant for his Facebook records from

Charles Bonner - Cross-examination
By Mr. Butcher

1 August 1st till August 15th --

2 Q Okay. Is that---

3 A -- of that year.

4 Q Is that standard in, in a lot of criminal
5 investigations?

6 A That was standard for this criminal investigation.

7 Q Okay. All right.

8 Okay. And so, Your Honor, from that prospective, I'd
9 like -- I'd ask to admit it in evidence, 45, 46, 47.

10 THE COURT: Mr. Finney.

11 SOLICITOR FINNEY: Please the Court, Your Honor.

12 I understand that they got the records, which I think
13 the records are on Exhibit 46. I believe that's correct.

14 Is that, is that---

15 THE COURT: 45---

16 SOLICITOR FINNEY: ---the record---

17 THE COURT: Looks like 45, 46, and 47 should contain
18 something---

19 MR. BUTCHER: Yes, ma'am. So 45---

20 THE COURT: ---from Facebook.

21 MR. BUTCHER: ---would be like, like the -- a printed
22 body of Facebook.

23 SOLICITOR FINNEY: Is this the -- it here?

24 Is this 45?

25 MR. BUTCHER: Yes, sir.

Charles Bonner - Cross-examination
By Mr. Butcher

1 SOLICITOR FINNEY: 46 I mean?

2 MR. BUTCHER: No, this is 45. This is 46 and then the
3 white screenshot is 47.

4 SOLICITOR FINNEY: I have no objection to 45, the
5 Exhibit 45.

6 MR. BUTCHER: Okay.

7 SOLICITOR FINNEY: My understanding was that 46 was the
8 thick package.

9 THE COURT: 45 is the thick package.

10 SOLICITOR FINNEY: 45 is---

11 THE COURT: 46 is---

12 SOLICITOR FINNEY: ---the thick packet.

13 THE COURT: ---is got the green face. 47's---

14 SOLICITOR FINNEY: The green---

15 THE COURT: ---got---

16 SOLICITOR FINNEY: The green faces.

17 THE COURT: That's 46.

18 SOLICITOR FINNEY: Forty -- 46.

19 THE COURT: 47 has the gray face.

20 SOLICITOR FINNEY: All right. At this point I object
21 to 46 and 47 if I'm not mistaken --.

22 THE COURT: Can I get you to hand me 46 and 47 please
23 so I can see it?

24 MR. BUTCHER: Well, and I clarify it. I can go more
25 with 46 and 47, Your Honor, now that 45's in.

Charles Bonner - Cross-examination
By Mr. Butcher

1 THE COURT: And so I'm sorry.

2 Tell me what your objection is, sir.

3 SOLICITOR FINNEY: Well, I'm, I'm confused because I
4 think 40 -- 46 is enclosed in Exhibit 45. I, I think it is
5 but I don't know where 47 comes from. So, my objection to
6 46 is it's already in evidence apparently under 45 and 47 I
7 don't know where -- is it, is it located --?

8 MR. BUTCHER: I'll find the page for you, sir.

9 SOLICITOR FINNEY: Your Honor please, I'm sorry. But I
10 need to ask you to allow us to put something on the record
11 outside the presence of the jury.

12 MR. BUTCHER: Okay.

13 THE COURT: Okay. Ladies and gentlemen, I'm gonna ask
14 you to return to the jury room while we take this up.
15 Please don't begin discussing the case.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Okay. Yes, sir.

19 SOLICITOR FINNEY: Your Honor please.

20 I'm very concerned by keeping this case going forward
21 and not having anything happen that would cause it to come
22 back to us at a later date doing a different hearing. This
23 document 45 put up by the defense, it, it, it apparently is
24 about 90 or 100 pages. It's 88, 88 pages long.

25 In the middle of it, on Page 62, is a -- if you look at

Charles Bonner - Cross-examination
By Mr. Butcher

1 Page 62 is the picture of Mr. Brown on a wanted poster
2 saying armed and extremely dangerous.

3 I believe that that would be improper for the jury to
4 see, and I believe that his lawyers are, are, are not
5 protecting his rights the way they should be if that were to
6 go to the jury.

7 You also see, on Page 87 of the same document, a
8 cartoon that shows a man having sex with a woman. Both of
9 them are nude and it I think would be highly prejudicial.
10 And I don't think that the Court should allow this document
11 to go in as an exhibit because it will affect the ability to
12 have a jury decide this case on the evidence.

13 MR. BUTCHER: we'll take those pictures out, Your
14 Honor.

15 THE COURT: Okay. Is there anything else on either of
16 those pages or you want to just remove Pages 62 and 87?

17 SOLICITOR FINNEY: Well, first of all, Your Honor, if
18 you don't mind, for the record, I would be opposed to having
19 this whole document. Since we haven't had the document
20 prior to trial, we don't know what other things are in here
21 that would be prejudicial or inflammatory or not in the best
22 interest of the defense -- defendant going forward.

23 THE COURT: Okay. Well, I understand that this came
24 from your agency. I mean it was, it was produced to your
25 agency, which is how they got it. I'm assuming it's through

Charles Bonner - Cross-examination
By Mr. Butcher

1 Rule 5 cause they got it from the State.

2 So, it shouldn't be any new evidence. It, it should of
3 come---

4 SOLICITOR FINNEY: I---

5 THE COURT: ---directly from your office.

6 Is there something specific that you're objecting to in
7 it?

8 SOLICITOR FINNEY: Well, here's the problem, Your
9 Honor. I'm not a tech person. But apparently if you are a
10 member of Facebook, you can put things on your page that
11 doesn't -- that didn't come from you, that you didn't
12 produce, and that you -- they just may appear on your page
13 because your friend sent it to you. And I don't think that
14 is relevant to the determination of Mr. Brown's guilt or
15 innocence.

16 Obviously the 88 pages if -- apparently from -- I'm
17 just stopping on a page. We don't even know if these were
18 actually messages that were actually sent to Mr. Brown and
19 Mr. Brown sent them back or they came from other people.
20 All of that would need to be put in the foundation before
21 the document like this could be sent to the jury. This
22 officer doesn't know that information.

23 THE COURT: For what purpose is it being offered?

24 MR. BUTCHER: For purposes that they, they were getting
25 background information. They were tracking him and I was

Charles Bonner - Cross-examination
By Mr. Butcher

1 going to go into more once it got into evidence, which is
2 the State has said they, they had no objection to this
3 particular exhibit except for those two pages, which was
4 after they said that it was okay to come into evidence.
5 And, Your Honor, you know, once again, this is three and a
6 half year old case. These -- this is another time the State
7 has presented---

8 THE COURT: Okay.

9 MR. BUTCHER: ---given us evidence---

10 THE COURT: Here's my, here's my question.

11 Are you offering it for the proof -- for the truth of
12 the matter asserted or are you offering it to show your
13 client's state of mind on August 11th?

14 MR. BUTCHER: I'm showing the state of mind---

15 THE COURT: Or August 14th.

16 MR. BUTCHER: ---on August 11th and, and -- from,
17 from two instances, the green document and, and the white
18 document, the, the, the two latter ones. Both of them are
19 threatening which demonstrates -- and, you know, one's a
20 threat before and after, the, the green one is, and then the
21 white document is a threat afterwards and would you like---

22 THE COURT: Is there any way to identify who this is
23 coming from?

24 MR. BUTCHER: Yes, ma'am. So you want me to hand you
25 the or have, have the bailiff hand you 45 and -- oh, wait.

Charles Bonner - Cross-examination
By Mr. Butcher

1 That's, that's the wrong one.

2 THE COURT: I've got 46 and 47 in front of me.

3 THE WITNESS: She's got them.

4 MR. BUTCHER: Oh, she's got them. Okay.

5 SOLICITOR FINNEY: No, 45 is the thick one.

6 THE COURT: I'm sorry. The thick one has got a, a -- I
7 misspoke. The -- looks like the thick one's got a 46 on it.

8 SOLICITOR FINNEY: That's what I thought, Your Honor.

9 THE COURT: I'm sorry. You were right.

10 SOLICITOR FINNEY: Have the other two got stickers on
11 them?

12 THE COURT: Yes, sir. So --.

13 SOLICITOR FINNEY: The, the little ones?

14 THE COURT: Okay. And I may of created some confusion
15 earlier because I misspoke with the numbers.

16 46 is the thick one with all of the printouts.

17 MR. BUTCHER: 46?

18 THE COURT: 45 is the green screenshot. 47 is the gray
19 screenshot.

20 SOLICITOR FINNEY: Single page?

21 THE COURT: Correct.

22 SOLICITOR FINNEY: All right.

23 THE COURT: So, in other words, I can call myself Uncle
24 Fester and I can set up a Facebook page and not -- I can
25 call myself Princess Diana, anybody I want to, and I can set

Charles Bonner - Cross-examination
By Mr. Butcher

1 up a Facebook page. My children have tried this on me. It
2 doesn't mean necessarily that Uncle Fester is sending me
3 this message.

4 So, I don't know that you can offer it for the truth
5 of -- that whoever this purports to be is the one sending
6 this and I, I guess you can cross-examine on that point. I
7 do think that -- will it be relevant to show the defendant's
8 state of mind on the date of the shooting.

9 SOLICITOR FINNEY: Your Honor, I, I just -- I agree
10 with you a hundred percent. But it seems like, from a
11 foundation standpoint, it would have to be the person whose
12 page it is answering the question. Not the officer who just
13 received whatever Facebook had that we don't know who put on
14 Facebook.

15 For example, as to 47, the date that's on this single
16 sheet of paper says March 15th. We don't know what year
17 and we don't know who this is and we don't know who this is
18 talking to or about.

19 MR. BUTCHER: Well---

20 THE COURT: And that's from what page of the larger
21 printout?

22 47 is from what page of 46?

23 Okay. It looks like it appears on several pages. One
24 of which is 51 of 88.

25 MR. BUTCHER: Right.

Charles Bonner - Cross-examination
By Mr. Butcher

1 THE COURT: Also on 52. So, it appears that this is a
2 screenshot from Sharneka Wilson's phone that has been sent
3 to --.

4 MR. BUTCHER: It would -- generally screenshots, when
5 they show someone's name, that's because they're in their
6 contact and that's showing who it is. So, it's, it's a
7 screenshot received from Sharneka Wilson.

8 THE COURT: It looks like I take my phone. Someone has
9 texted me.

10 MR. BUTCHER: Yes, ma'am.

11 THE COURT: I take a screenshot of that text and then I
12 can send that image to whoever I want it to go to. That's
13 what that appears to me to be is that someone sent, on his
14 Facebook Messenger, a screenshot of something that Sharneka
15 Wilson received on I don't know what date.

16 SOLICITOR FINNEY: March 15th is the only date on
17 there.

18 THE COURT: Okay. March 15th at 11:57, looks like
19 somebody screenshotted this message to a phone or Sharneka
20 Wilson. I can't tell if Sharneka Wilson sent this or
21 Sharneka Wilson received it. But this is a screenshot of a
22 text that somebody received on March 15th.

23 MR. BUTCHER: And what page are you on again, Your
24 Honor?

25 THE COURT: Page 52 of 88 --

Charles Bonner - Cross-examination
By Mr. Butcher

1 MR. BUTCHER: Okay.

2 THE COURT: -- is the -- is where --

3 MR. BUTCHER: So --.

4 THE COURT: -- your Defendant's Exhibit 47 appears in
5 the larger.

6 MR. BUTCHER: So, if you go to the page before, it says
7 author, D. Brown, and it says it was sent on 2018
8 August 13th at 21:58 hours. And it says you sent a photo.
9 That's Facebook saying what, what he sent. And, and it
10 leads -- goes to the linked media file.

11 And if you were to dig, which I'm happy to go further
12 into if we need to, but I've got a screenshot of -- here you
13 go. I've got a screenshot of the actual file tree and that
14 goes to the different jpegs that were---

15 THE COURT: Okay. Here's my, here's my question.

16 MR. BUTCHER: Yes, ma'am.

17 THE COURT: So your client sent this image of a
18 screenshot again either to or from Sharneka Wilson?

19 MR. BUTCHER: It -- and, and there -- yes, Your Honor.
20 They're from -- so, if you did a screenshot of a text I sent
21 to you that said happy birthday and I was in your
22 contacts---

23 THE COURT: Yeah, but how do I---

24 MR. BUTCHER: ---the screenshot would say Robert
25 Butcher up top.

Charles Bonner - Cross-examination
By Mr. Butcher

1 THE COURT: How do I know whose phone this text came
2 from?

3 MR. BUTCHER: The -- it's a, it's a -- so it's a
4 Facebook Messenger screenshot and it was sent by D. to, to,
5 to, to someone else. He was -- it was sent by D. to someone
6 else.

7 There's no record in the Facebook that he received that
8 from anybody else. Of course, we can clarify that, that
9 issue in those questions and the State can certainly cast
10 doubt on us. But from the prospective -- and, you know,
11 like I talked about yesterday, the inclusion of additional
12 data isn't just to fill the Court up. It's to show the
13 Court that there is some genuineness that this is his
14 personal Facebook account because it shows him using it and
15 that lets the Court make additional findings of authenticity
16 and ownership because, as you heard Mr. Finney said, anybody
17 could use their or anybody could of made it.

18 But -- and, and it, and it -- you know, if you read
19 through, it shows, you know, the other, other messages. D.
20 what, what happened, D. what did you do, those types of
21 things. So, from that prospective that's ownership and
22 custody and control of the account. And these texts are
23 coming from him to others and they show---

24 THE COURT: See these aren't texts. These are
25 screenshot of texts from somebody's phone that I, I don't

Charles Bonner - Cross-examination
By Mr. Butcher

1 know that we can---

2 MR. BUTCHER: The green document's---

3 THE COURT: ---verify---

4 MR. BUTCHER: ---texts.

5 THE COURT: I'm sorry?

6 MR. BUTCHER: The green document are texts.

7 THE COURT: well they're not -- they've come from his
8 Facebook account.

9 MR. BUTCHER: Yes, ma'am.

10 THE COURT: And so let's talk about -- we're still
11 talking about 47 first of all --

12 MR. BUTCHER: Okay.

13 THE COURT: -- before we move to 45.

14 Tell me how -- what the relevance is of a screenshot of
15 a text message that your client sent to somebody.

16 MR. BUTCHER: And just for the record, it's the
17 screenshot of a Facebook Messenger.

18 THE COURT: Okay.

19 MR. BUTCHER: Okay. So, from that prospective, I -- it
20 shows state of mind and you've got to remember, in opening
21 argument and then what they tried to show with Mr. Monahan,
22 was Mr. Brown was evading police.

23 THE COURT: So you're, you're proposing that this is a
24 screenshot of Facebook Messenger from March 15th from who
25 to who cause I mean I -- here's my issue is I can screenshot

Charles Bonner - Cross-examination
By Mr. Butcher

1 something. I can send it to him and then he can send it to
2 you and we can send it indefinitely.

3 MR. BUTCHER: Okay. How about this?

4 we've got the foundation. We can get what -- we'll,
5 we'll get in later.

6 THE COURT: Okay. Let's talk about No. 45.

7 MR. BUTCHER: Which is -- and I think I may of mixed up
8 my -- 45 is the---

9 THE COURT: 45 is the green screenshot.

10 MR. BUTCHER: Okay. So I mixed that up.

11 THE COURT: I, I missed it -- I'm the one who mixed
12 that initially and I, I apologize.

13 MR. BUTCHER: 45. The big thick one's 46.

14 Okay. Yes, ma'am.

15 THE COURT: Can we see what page -- looks like this is
16 from maybe Page 88.

17 MR. BUTCHER: This is numerous pages?

18 THE COURT: I'm sorry. Eighty-one.

19 MR. BUTCHER: Yes, ma'am. So these are on numerous
20 pages.

21 SOLICITOR FINNEY: It's also on Page 57 I believe.

22 THE COURT: And, again, these look like screenshots.

23 MR. BUTCHER: Your Honor, I'll -- you know, we'll --
24 we -- we'll get the rest in. We -- I don't want to kill too
25 much time. I -- we can certainly get them in when Mr. Brown

Charles Bonner - Cross-examination
By Mr. Butcher

1 takes -- if Mr. Brown takes the stand. So, they're
2 identified. I think, I think the foundation is there.

3 THE COURT: Okay. So we're not admitting these into
4 evidence at this point.

5 MR. BUTCHER: Well, I, I think the State agreed that
6 the -- that the, the thick one was, was coming in.

7 THE COURT: And I think it was because I said the thick
8 one was 46.

9 SOLICITOR FINNEY: That's correct, Your Honor.

10 MR. BUTCHER: Okay.

11 THE COURT: He agreed to 45 --

12 MR. BUTCHER: So, you've agreed to---

13 THE COURT: -- I thought.

14 MR. BUTCHER: ---the green one?

15 SOLICITOR FINNEY: Well --.

16 THE COURT: I'm sorry. Is the State agreeing to 45?

17 SOLICITOR FINNEY: Your Honor, at this point I think,
18 because of the confusion and because of the, the, the
19 confusion over the numbers, and then the, the finding just
20 now of information in 46 that I, and 47, I strongly disagree
21 with, I would ask the Court to take all of the exhibits away
22 for now and let a foundation be laid by the proper witness
23 and then let me have the opportunity to rule on it or
24 consent to it.

25 THE COURT: All right. So, 45, 46, and 47 are for

Charles Bonner - Cross-examination
By Mr. Butcher

1 identification only at this point.

2 MR. BUTCHER: Okay.

3 THE COURT: Okay. We're ready for the jury.

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE BAILIFF: The jurors are all seated.

7 THE COURT: Thank you.

8 Mr. Butcher.

9 MR. BUTCHER: All right. Thank you, Your Honor.

10 CONTINUED CROSS-EXAMINATION

11 BY MR. BUTCHER:

12 Q All right. Investigator Boland (sic), so 45 is the
13 green one. 47 is the white one.

14 A Yes, sir.

15 Q Okay. Do you have any doubt that those two documents
16 are derived from 46?

17 A They do appear to come from document 46.

18 Q Okay. All right. All right. Moving on.

19 where's those notes?

20 Oh, they're right here. Sorry.

21 All right. As the lead investigator, are you
22 responsible for making sure that evidence gets sent to the
23 lab or gets -- or digital evidence gets sent to computer
24 folks?

25 A What do you mean?

Charles Bonner - Cross-examination
By Mr. Butcher

1 Q Who's responsible for making sure evidence gets
2 analyzed and tested?

3 A That would be the -- for particular evidence, that
4 might be crime scene. It depends on what officer has it.

5 Q Okay. Overall in charge of the investi -- you're in
6 charge of the investigation, correct?

7 A That's correct.

8 Q If stuff isn't done timely, whose responsibility is it
9 for not following up?

10 A Overall it would be me.

11 Q Okay. All right. Now, you-all re -- you know -- so
12 for instance, Mr. Pack's phone wasn't sent till June 24th,
13 2021, to get looked at, correct?

14 A I believe so.

15 Q Okay. Any reason why you take almost three years to
16 look at that?

17 A That wasn't through me.

18 Q Okay. All right. So whose fault is that?

19 A I can't give you an answer on whose fault it is.

20 Q All right. How about sending the bullets to SLED on,
21 on June 11th, 2021?

22 A That'd be crime scene that can answer that question.

23 Q Okay. So that's Mr. McCauley's fault?

24 A I don't say it's his fault.

25 Q Okay. How about looking -- was, was there a, a third

Charles Bonner - Cross-examination
By Mr. Butcher

1 cellphone found in a, in a door pocket of Mr. Pack's
2 vehicle?

3 A I believe so.

4 Q All right. And why wasn't that sent out to get or sent
5 or looked at until August 11th, 2021?

6 A I believe -- I'm trying to think of which cellphone
7 that was, sir.

8 Q It was the, the UMX cellphone.

9 A UMX, I'm not -- I can't answer that one, sir.

10 Q Okay. Now, how about, how about A.J. Bradley's red
11 iPhone?

12 what -- did, did you send it off at all?

13 A I believe we did, yes, sir.

14 Q Okay. Now, did you have any part in returning it to
15 A.J. Bradley?

16 A No, sir, not to -- returning it to him.

17 Q Oh. Did you know it was being returned?

18 A Yes, sir.

19 Q Okay. Did you ask if the defendants had had a chance
20 to look at it?

21 A No, sir.

22 Q That didn't concern you at all?

23 A I didn't ask.

24 Q Now, you're, you're obligated to collect and provide
25 exculpatory evidence to someone who's accused of a crime

Charles Bonner - Cross-examination
By Mr. Butcher

1 just as much as inculpatory or evidence that shows guilt,
2 correct?

3 A what do you mean?

4 Q Like if you see evidence that may show innocence or may
5 lead to evidence of innocence, you're required to produce
6 it, correct?

7 A we didn't find any innocence in that, sir.

8 Q Okay. But you didn't -- you, you didn't look and you
9 didn't give the defendants an opportunity, did you?

10 A I did through questioning, sir.

11 Q You didn't give the defendants an opportunity to look
12 at the evidence that you were holding, did you?

13 A On which evidence?

14 Q I'm talking about the red iPhone before you gave it
15 back to A.J. Bradley.

16 A No, sir, I did not.

17 Q Okay. And why didn't you send the drug test results to
18 the solicitor's office when you sent all the case file?

19 A I believe I did, sir.

20 MR. BUTCHER: I want to mark this just for
21 identification.

22 (WHEREUPON, a table of contents was marked as
23 Defendant's Exhibit No. 48 for identification purposes only
24 at this time.)

25 MR. BUTCHER: 48 just for ID.

Charles Bonner - Cross-examination
By Mr. Butcher

1 I'm gonna hand you 48.

2 Do you recognize or do you see anything related to drug
3 test results on here?

4 A No, sir, I don't.

5 Q Okay. Is there any reason why you failed to do that?

6 A It wasn't a failure, sir. The -- I don't believe -- I
7 don't know when the drug test analysis came back by the time
8 that I made this case file. I'd have to look at those
9 notes.

10 Q Do you have any notes with you on the, on the stand?

11 A No, sir.

12 Q Where's this?

13 Where's the report?

14 We'll mark this for identification only. It's number
15 49.

16 (WHEREUPON, the investigative report was marked as
17 Defendant's Exhibit No. 49 for identification purposes only
18 at this time.)

19 Q I'm handing you what's marked for identification.

20 What was -- is there a date on there at the tail end
21 that would show you when, when this was finalized?

22 A Yes, sir, 10/30/2018.

23 Q I'm gonna hand you ex -- Defendant's Exhibit 20.

24 Would you look at that document please, sir?

25 A (WHEREUPON, the witness complies.)

Charles Bonner - Cross-examination
By Mr. Butcher

1 Q Does that refresh your memory on when the drugs were
2 analyzed?

3 A It says submitted 8/27 --

4 Q Okay.

5 A -- 2018.

6 Q So help me out.

7 Does that -- is that before you finished your report?

8 A The day that it was submitted was the day that I was --
9 that was -- of the -- before I finished my report, yes, sir.

10 Q Okay. So why didn't you send that information to the
11 solicitor to be turned over to the defendant?

12 A I did.

13 Q You sent -- I'm sorry?

14 A I did.

15 Q Okay. So, if it didn't come to us, then that's the
16 solicitor's fault?

17 A I can't blame -- put blame on anybody.

18 Q Okay. But you know for sure you gave it to the
19 solicitor?

20 A Yes, sir.

21 Q Okay. Now, how -- when you get a search warrant, is
22 it -- is that search warrant a Court order?

23 A Yes, sir.

24 Q All right. And how many days afterwards are you
25 suppose to file a return?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A If you get on a normal search warrant or a usual search
2 warrant we'll do like on a residence, usually like the day
3 of, we'll -- as soon as we execute the search warrant.

4 Q Okay. Ten days is how long you're suppose to do it,
5 correct?

6 A Under normal standard rules, yes, sir.

7 Q Okay. And for the majority of the search warrants, how
8 long did it take for you to file the returns to the search
9 warrants in this case?

10 A It took a while on this -- on these search warrants.

11 Q Years?

12 A Yes, sir.

13 MR. BUTCHER: I'm marking this for identification only.

14 (WHEREUPON, an email to Mrs. Butcher was marked as
15 Defendant's Exhibit No. 50 for identification purposes only
16 at this time.)

17 Q I apologize. Fifty -- the first page to Exhibit 50 is
18 actually upside down. So, if you flip it over, it will --
19 that's completely my fault.

20 A Oh, yes, sir.

21 Q For -- it's not Exhibit 50. It's marked for
22 identification 50.

23 And isn't it true it took you almost three years to
24 file returns to search warrants in this case when you were
25 suppose to do it in 10 days?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A Like I said on certain search warrants we'll do for
2 like residents, anytime we do a search warrant on a
3 residence where we're actually collecting items firsthand,
4 we'll do the search warrant return, send it to the judge
5 on -- and actually give a copy to the person we're doing
6 like, for example, like on a residence where we're seizing
7 items.

8 we'll give that copy to the person then as well as go
9 to the judge and get a, a written statement on the return.
10 A lot of this stuff, Facebook and so on and so forth, takes
11 a while to come back. It was an oversight that I saw. As
12 soon as it was given to me, I corrected the, the, the
13 information and had the, the search warrant signed.

14 Q Isn't it true you didn't correct it until the
15 defendants raised that issue?

16 A Oh, that's---

17 Q Not that you've discovered the oversight?

18 A That's correct.

19 Q Okay. Now, you knew that there were three people
20 present -- three, three people who were associated with
21 working at the garage present on the day of the shooting,
22 correct?

23 A Three people present, yes, sir.

24 Q Okay. And you learned that one person, immediately
25 after the shooting, got in the car and drove off?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A That's correct.

2 Q Okay. And you had a missing weapon when -- you've
3 never found a gun at, at, at the, the scene, correct?

4 A That is correct.

5 Q All right. And within an hour and a half, you had all
6 three people at the Sheriff's Department for interviews,
7 correct?

8 A Within that time, yes, sir.

9 Q Okay. Did you take -- did you swab any of these three
10 witnesses for gunshot residue?

11 A I personally didn't, no, sir.

12 Q Did -- and who were -- you were in charge of the
13 investigation?

14 A I was doing, like I said, whenever I first got to the
15 scene, I stayed on scene while the interviews were being
16 collected and, and done at the Sheriff's Office so I can
17 stay at the scene and see if there's any more evidence to be
18 done.

19 Q Okay. But my question is were you in charge of the
20 investigation?

21 A That's correct.

22 Q All right. And no matter what happens, you're in,
23 you're in charge, whatever is done or failed upon, correct?

24 A Overall, yes, sir.

25 Q Okay. All right. And -- but you never -- you never

Charles Bonner - Cross-examination
By Mr. Butcher

1 went and swabbed Mr. McCain, Ms. Singleton, or Mr. Johnson
2 who had run from the scene?

3 A That's correct. I didn't -- I personally didn't.

4 Q All right.

5 SOLICITOR FINNEY: I object to that. None of those
6 witnesses ran from the scene.

7 MR. BUTCHER: Objection, Your Honor, for the speaking
8 objection.

9 Can we approach?

10 (WHEREUPON, a bench conference was held out of the
11 hearing of the jury at this time.)

12 THE COURT: Okay. Mr. Finney, your objection is
13 overruled, sir.

14 SOLICITOR FINNEY: Thank you, Your Honor.

15 Q Now, when you met with A.J. Bradley, you promised that
16 you wouldn't do anything to him and, and he'd be going home
17 that night no matter what he said, correct?

18 A I believe I made a, a comment that he wasn't in
19 trouble, yes, sir.

20 Q Okay. And you did the same thing when you interviewed
21 Daquan Dwyer, correct?

22 A I would have to look at that interview.

23 Q We can do that actually. I'll come back to that.

24 And, and you, you said the, the same thing to Travis
25 Rouse, correct?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A I don't remember that.

2 Q Okay. Is this still working?

3 On October 30th, 2018, is that when you interviewed
4 Daquan Dwyer?

5 A I would have to see that particular date.

6 Q You don't have your report in front of you still?

7 A You said what day?

8 Q October 30th, 2018.

9 A That's correct.

10 Q Oh, you know what?

11 I have to turn the sound on. No. Pardon me. I don't
12 know why no -- why sound isn't -- I'm gonna try to move it
13 over here.

14 SOLICITOR FINNEY: That's fine.

15 MR. BUTCHER: Okay.

16 (WHEREUPON, an audio clip was played at this time.)

17 Q Did that sound like your voice?

18 A It does.

19 Q And do you know if that's from body worn camera video
20 that you had?

21 A It says Bonner, BWC, body worn camera.

22 Q Okay.

23 (WHEREUPON, another audio clip was played at this
24 time.)

25 Q All right. And you were, you were telling -- all

Charles Bonner - Cross-examination
By Mr. Butcher

1 right. And then with Mr. Rouse on -- did you interview him
2 on October 18th, 2015 -- I mean October -- hold on.

3 August 15th, 2018.

4 A You said August 15th?

5 Q Yes, sir.

6 A I believe that's correct, yes, sir.

7 Q Okay. And where'd you interview him at?

8 A I believe that's Probation Pardon & Pardon.

9 Q Okay. I, I apologize for my computer skills.

10 (WHEREUPON, an audio clip was played at this time.)

11 Q All right. And -- again with Rouse?

12 (WHEREUPON, an audio clip was played at this time.)

13 Q All right. So now that I've refreshed your memory, you
14 told these folks, in addition to A.J. Bradley, that they
15 weren't in trouble, correct?

16 A At that time, yes, sir.

17 MR. BUTCHER: Okay. Your Honor, I'd like to me -- move
18 these four video clips in. I can put them on one disk and
19 we can make it one exhibit.

20 Is that okay?

21 THE COURT: Any objection?

22 SOLICITOR FINNEY: I, I don't -- I don't understand,

23 Your Honor. The -- I thought he said A.J. Bradley. He said
24 Dwyer and then -- were there two for Rouse?

25 Is that what you said?

Charles Bonner - Cross-examination
By Mr. Butcher

1 That's the four?

2 MR. BUTCHER: There were two on Dwyer and two on Rouse.
3 The two for Bradley are, are already in.

4 SOLICITOR FINNEY: All right. No objection.

5 THE COURT: Okay. And what if we -- we're, we're gonna
6 mark this as what exactly?

7 MR. BUTCHER: Ms. Court Reporter or the --?

8 THE DIGITAL REPORTER: Fifty-one.

9 THE COURT: Fifty-one?

10 MR. BUTCHER: Yes Your Honor.

11 THE COURT: Okay. Fifty-one is admitted.

12 MR. BUTCHER: Okay.

13 (WHEREUPON, the video clips were marked as Defendant's
14 Exhibit No. 51 and received into evidence at this time.)

15 Q Here's 51, sir.

16 Now, with Mr. Pack's phone, have you reviewed that?

17 A I believe so, yes, sir.

18 Q I'm gonna hand you Exhibit 40.

19 All right. You heard the testimony yesterday regarding
20 about pulling, pulling the data into a PDF, correct?

21 A Yes, sir.

22 Q Okay. But you're familiar and did you review all the
23 texts on that?

24 A No, sir, I did not.

25 Q All right. I'm gonna -- and you're, you're holding

Charles Bonner - Cross-examination
By Mr. Butcher

1 Exhibit 40?

2 A Yes, sir.

3 Q Okay. I'm gonna ask you to go ahead and go to five --
4 actually Line Number 632.

5 A (WHEREUPON, the witness complies.)

6 Q I don't know if we can make that bigger.

7 Can anybody see that on the screen?

8 What's that?

9 Okay. So what's it say on 632?

10 A It says instant messages.

11 Q Okay. And what's, what's the date and timestamp on
12 this instant message?

13 A August 11th, 2018.

14 Q And it -- it's an incoming message?

15 A Yes, sir.

16 Q All right. And that phone number, [REDACTED]-7329, is
17 that a familiar number?

18 A Not offhand, sir.

19 Q You don't remember if that's the 57 second phonecall
20 that you testified to a few minutes ago when Mr. Finney was
21 doing the direct examination?

22 A Oh, yes, sir.

23 Q Okay. All right. And---

24 A I don't, I don't believe I said a phone number to it.

25 Q Okay. Well -- but I was asking -- okay. All right.

Charles Bonner - Cross-examination
By Mr. Butcher

1 Now, do you -- so with 632, what's, what's the actual
2 text of the message say?

3 A It says on August 11th at 3:13AM in the morning. Got
4 major little job, buddy, for you. Fake ass Muslim dude.

5 Q All right. What's the religion of my client?

6 A I believe Muslim.

7 Q All right. And going down to 633, what's, what's the
8 response say?

9 A At 633 at 3:14 in the morning it says where and when.

10 Q And that's an outgoing text from --

11 A Correct.

12 Q -- Mr. Pack, correct?

13 A Correct. Or that's an outgoing text, yes, sir.

14 Q All right. And incoming, what does it say?

15 It -- Line 634, sir.

16 A The text message says tomorrow champ.

17 Q Okay. And the outgoing on six -- Line 635, what does
18 that say?

19 A Okay.

20 Q Okay. And Line 636, it's still going on 3:00 in the
21 morning, correct?

22 A That is correct.

23 Q And, and what's, what's Line 636, that one message say?

24 A It says Sumter.

25 Q All right. And then how about 637?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A It was incoming. It said yeah, dude sold my people a
2 car that was stolen. Word. Police around my rentals.

3 Q Okay. And what's 638 say?

4 A The message says about stolen car. This sucker done.

5 Q All right. So, based on your experience as an
6 investigator for how many years?

7 A Six, seven years.

8 Q All right. Have -- you've learned some vernacular of
9 texting?

10 A Yes, sir.

11 Q Does it sound like someone put a hit on Mr. Brown?

12 A No, sir.

13 Q No?

14 What do you think, they, they are just gonna go share
15 with each other?

16 A Possibly, yes, sir.

17 Q Share emotions?

18 A Could be.

19 Q What's 639 say?

20 A I'll get him now.

21 Q And what's in -- and what's 640 say?

22 A Word facts.

23 Q All right. And the outgoing for 641?

24 A K.

25 Q All right. And then 642, we're still at 3:00 in the

Charles Bonner - Cross-examination
By Mr. Butcher

- 1 morning -- 3:30 in the morning, right?
- 2 A Yes, sir, 3:23.
- 3 Q Okay.
- 4 A It says want me to pull up on you.
- 5 Q Okay. And then 643, what does that say?
- 6 A Tomorrow we good fam.
- 7 Q Okay. All right. And then what's the next line say?
- 8 A The text says okay.
- 9 Q All right. And then what does the next outgoing
- 10 message say?
- 11 A I need this. Child support killing me, brah. I'm
- 12 broke.
- 13 Q And he wants to get paid, doesn't he?
- 14 A Looks like he needs some money.
- 15 Q And what does the incoming message say after that?
- 16 A You good.
- 17 Q All right. And it says again, 647?
- 18 A Oh, that's another page for me. Hang on, sir. Got you
- 19 covered.
- 20 Q All right. And then what does 745 say?
- 21 A Yo.
- 22 Q All right. And what time is that?
- 23 A 3:02PM.
- 24 Q All right. How long before the shooting is that?
- 25 You can ballpark it.

Charles Bonner - Cross-examination
By Mr. Butcher

- 1 A Thirty, forty minutes --
- 2 Q Okay.
- 3 A -- give or take.
- 4 Q All right. And what's -- so, what's the response, the
- 5 incoming response?
- 6 747.
- 7 A Heading to the shop.
- 8 Q All right. And 749?
- 9 A Come down.
- 10 Q All right. And what does 750 say?
- 11 A OTW.
- 12 Q And what does that mean?
- 13 A Generally it's on the way.
- 14 Q Okay. All right. And OT -- when, when he says OTW,
- 15 what time is that?
- 16 A That is 3:06PM---
- 17 Q Okay.
- 18 A ---and 32 seconds.
- 19 Q All right. And then it -- 750 or Line 751 it says
- 20 okay, correct?
- 21 A Correct.
- 22 Q All right. Look at Line 773.
- 23 what, what, what is that?
- 24 A It's a call log outgoing.
- 25 Q Okay. And that's the call that occurred at 3:44 and 45

Charles Bonner - Cross-examination
By Mr. Butcher

1 seconds from that same number on August 11th, 2018,
2 correct?

3 A That's correct.

4 Q And you don't believe, with what was said in that
5 conversation, that a hit was put on my client?

6 A Nah, it could mean a whole bunch of stuff, sir.

7 Q Okay. And this is the first time you've seen this,
8 isn't it?

9 A I've looked at it before.

10 Q I'm sorry. And then, and then going, going back to 783
11 or it -- at four o'clock, there's a text.

12 what does it say?

13 A OTW.

14 Q And that's an incoming text, correct?

15 A On what -- on which one?

16 On which one you're looking?

17 You said 783?

18 Q Yes, sir, 783.

19 A OTW, yes, sir.

20 Q Okay. And would you go to Line 367, sir?

21 A Okay.

22 Q All right. And so the first communication with this
23 phone was an incoming on July 28th, 2018, correct?

24 A Yes, sir, July 28th, 2018, or -- yeah, July.

25 Q When did you first read the text messages?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A I don't know a date, sir.

2 Q Now, yesterday we talked about the baggies and the
3 scale in, in the vehicle and, and your crime scene
4 investigator talked about that they, that they were
5 considered instrumentalities of drug distribution.

6 How is the -- how are scales used in drug distribution?

7 A My assumption would be for weight.

8 Q Okay. And how are baggies used, like little sandwich
9 bags?

10 A I guess to place items inside of it.

11 Q You, you don't know?

12 A To place items inside of it.

13 Q Okay. All right. Like drugs or if, if it's used in
14 drug distribution?

15 A Or sandwiches, yes, sir.

16 Q Or sandwiches?

17 A Yes, sir.

18 Q But if it's used as an instrumentality of drug
19 distribution --

20 A Yes, sir.

21 Q -- how are bags used?

22 A That's correct.

23 Q So they'll measure it or they'll weigh it and they'll
24 and, and how do they -- they just use the whole bag, put it
25 in the, in the whole bag, or do they use the corners?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A I, I can't answer that.

2 Q Okay. So, you, you aren't trained very much in drug
3 distribution?

4 A No, sir, not in drug distribution.

5 Q Okay. And you've been a police officer for how long?

6 A Sixteen years.

7 Q Okay. How many times have you strip searched my client
8 in the past three years?

9 A I personally didn't strip search him.

10 Q How many times have you come down to the jail and strip
11 searched my client over the past three years?

12 A Once.

13 Q Not three times?

14 A No, sir.

15 Q Did you order him be kept in solitary confinement for
16 the past three years?

17 A No, sir.

18 Q And the exhibit I presented for the El Cheapo videos,
19 there were three cars there, correct, when, when Lonnie Pack
20 and his crew drove up?

21 A Talking about all -- in general in the entire parking
22 lot?

23 Is that what you're asking?

24 Q No.

25 There -- when Lonnie Pack drove up in his vehicle,

Charles Bonner - Cross-examination
By Mr. Butcher

1 there were three cars side by side.

2 A Okay.

3 Q And they -- and did -- you watched that, correct?

4 A Yes, sir.

5 Q And they all appeared to know each other, correct?

6 A It appeared to be so.

7 Q Okay. And did you identify those individuals and speak
8 with them?

9 A No, sir.

10 Q Why?

11 A I didn't identify them.

12 Q They -- but they were with him moments before his
13 death, correct?

14 A I believe they were inside the car, yes, sir.

15 Q Okay. So you saw at least two other people get out,
16 correct?

17 A Correct.

18 Q And you didn't, you didn't try and identify them?

19 A I know there was one person that got into the car and
20 then got right back out moments later but I did not identify
21 him.

22 Q Just no interest in doing that?

23 A I didn't answer that. I said I didn't identify him.

24 Q Okay. All right. Okay. So, who exactly was the
25 person that sent the phone to get looked at in Tennessee?

Charles Bonner - Cross-examination
By Mr. Butcher

- 1 A I believe that would be the Solicitor's Office.
- 2 Q Okay. Was it Investigator Burnish?
- 3 A Yes, sir, I believe so.
- 4 Q All right. But you were in charge of the
- 5 investigation?
- 6 A In the investigation, yes, sir.
- 7 Q Okay. And you knew beforehand that they were going --
- 8 that the Solicitor's Office was going to get rid of the red
- 9 iPhone?
- 10 A I believe so, yes, sir.
- 11 Q And when did you first read these text messages?
- 12 A Again, I don't know the particular time.
- 13 Q All right. Was it last week?
- 14 A I, I can't remember the time, sir.
- 15 Q Was it -- do you know if it was months ago or --?
- 16 A It was within the, the past month.
- 17 Q Within the past month?
- 18 A Yes, sir, past week I believe.
- 19 MR. BUTCHER: Okay. Pardon me, Your Honor.
- 20 (Pause.)
- 21 Q Go to Line 147 on Exhibit 40 please.
- 22 A All right.
- 23 Q All right. Whose name is that?
- 24 A It says capital D then lower case v.
- 25 Q Okay. And is, is D.V. the person whose name you

Charles Bonner - Cross-examination
By Mr. Butcher

1 learned from Bennie and -- on September 19th, 2018?

2 A I did hear of a D.V., yes, sir.

3 Q Okay. Okay. And did you ever try following up with
4 those phone numbers to find D.V.?

5 A No, sir, it was said it was -- the contact was created
6 from that one, D.V.

7 Q Okay. But you never tried to contact D.V., did you?

8 A No, we tried to reach out and find out who D.V. was but
9 we came unsuccessful in that one.

10 Q And it's not Devin Harrison?

11 A From the time that we had, we didn't know who the D.V.
12 was.

13 Q Okay. But you had his phone number and numerous people
14 with the Pack family and the associates that were there at
15 the scene knew, knew him, correct?

16 A I, I believe -- I'm not sure on the numerous people on
17 scene.

18 Q Okay. But you were, you were willing to just take any
19 story they'd tell you, correct?

20 A I'm willing to follow-up on any kind of investigations
21 that we have, yes, sir.

22 Q Okay. And even when they say they don't, they don't
23 know who picked him on -- picked him up on the middle of the
24 street, you just let that slide and don't follow-up with it,
25 do you?

Charles Bonner - Cross-examination
By Mr. Butcher

1 A What do you mean?

2 I'm sorry.

3 Q Like when, when -- like A.J. Bradley, didn't -- when,
4 when he interviewed with you and you heard him on the stand
5 he didn't know who picked him up on the street, correct?

6 A That's correct.

7 Q Okay. And -- okay. All right. Who's, who's in charge
8 of the evidence at the Sheriff's Office?

9 A I believe that would be the evidence custodian.

10 Q Okay. And is -- does the solicitor have the right to
11 just go in and take evidence from the Sheriff's Office and
12 give it away?

13 A They would have to contact the evidence custodian or
14 the crime scene investigations.

15 Q Okay. And possibly the investigator of the case?

16 A I don't have the ability to take out evidence and
17 there -- it would have to be in association with their crime
18 scene investigations.

19 Q Okay. Okay. Do you have the ability to consent to
20 evidence being given away?

21 A Yes, sir.

22 Q Okay. So, did you consent to the solicitor giving away
23 the red iPhone to A.J. Bradley?

24 A I believe it, yes, sir.

25 Q And when this investigation started in August of 2018,

Charles Bonner - Cross-examination
By Mr. Butcher

1 who was your -- who was in charge of investigations?

2 A That would be Lieutenant Monahan was my direct
3 supervisor and then you had Captain Robert Burnish---

4 Q Okay.

5 A ---was over him.

6 Q And he's sitting right there next to the solicitor?

7 A Correct.

8 MR. BUTCHER: Okay. All right. I don't have anything
9 further, Your Honor.

10 Is it possible for a, a brief break?

11 THE COURT: You have some redirect, Mr. Finney?

12 SOLICITOR FINNEY: Yes, Your Honor.

13 THE COURT: Y'all need a few minutes before we go into
14 redirect?

15 SOLICITOR FINNEY: Yes, ma'am.

16 THE COURT: Okay. Ladies and gentlemen, we're gonna
17 take about a 10 minute break. Let y'all stretch your legs.
18 Please don't begin discussing the case.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Can we talk about timing for just a minute
22 before we take a break?

23 I'm debating whether we need to bring in lunch for the
24 jury. I'm becoming concerned that we're not gonna get done
25 with this trial by the end of the week.

1 So tell me -- this is your last witness?

2 SOLICITOR FINNEY: Yes, ma'am.

3 THE COURT: Other than we read in the stipulation and
4 then I'm assuming we need to hear some motions. So that
5 would put us starting your case this afternoon after lunch
6 break I'm -- is what I would think.

7 Since we're gonna do motions, I'll, I'll go ahead and
8 release the jury for lunch and just let them go on their own
9 rather than bringing it in since we'll need some time to
10 take up motions.

11 SOLICITOR FINNEY: Yes, ma'am.

12 THE COURT: And then we'll be ready -- the, the defense
13 will be ready to start their case this afternoon.

14 MRS. BUTCHER: Yes, Your Honor, and depending on the
15 motions, we may finish. We aren't gonna call all of our
16 witnesses. They obviously called the majority of them. So
17 --.

18 THE COURT: Okay. Well then we'll, we'll -- let's go
19 ahead and take a break and I will -- we'll dismiss the jury
20 after the State rests and I'll take up motions.

21 MR. BUTCHER: And, and for plannings purposes, it's
22 just going to be Joe, the drug guy, drug analysis---

23 SOLICITOR FINNEY: Joe Powell.

24 THE COURT: Joseph Powell.

25 MR. BUTCHER: There we go and our -- I'm sorry. Our

1 client and then Bennie Haynesworth.

2 MRS. BUTCHER: And---

3 THE COURT: Okay.

4 MR. BUTCHER: Maybe not in that -- I don't know if in
5 that order.

6 MRS. BUTCHER: And, Your Honor, I still haven't
7 released everyone else just in case --.

8 THE COURT: Got you.

9 MRS. BUTCHER: Make that clear.

10 THE COURT: Okay. Let's be at recess for about 10
11 minutes.

12 (WHEREUPON, a short recess was taken at this time.)

13 SOLICITOR FINNEY: One thing, Your Honor. The document
14 that you were showing Mr. Butcher on your computer, is it in
15 as an exhibit?

16 The document that you were showing on your computer
17 that, that -- the, the instant messages, is it in?

18 MR. BUTCHER: Yes.

19 SOLICITOR FINNEY: I know it's in your computer but is
20 it on -- is it an exhibit?

21 MR. BUTCHER: That's Exhibit 40.

22 SOLICITOR FINNEY: Okay. Can I have Exhibit 40, the,
23 the -- is it digital?

24 THE COURT: It was your -- your witness had the digital
25 version and, on cross, the Butchers introduced the hard

1 copies.

2 SOLICITOR FINNEY: All right. And it's 40.

3 Okay. I have 40.

4 All right. Very good. I'm ready for the jury.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 MR. BUTCHER: Your Honor, may we approach?

8 THE COURT: Sure.

9 (WHEREUPON, a bench conference was held out of the
10 hearing of the jury at this time.)

11 SOLICITOR FINNEY: Please -- a moment, Your Honor.

12 (Pause.)

13 SOLICITOR FINNEY: Thank you, Your Honor.

14 REDIRECT EXAMINATION

15 BY SOLICITOR FINNEY:

16 Q Mr. Bonner, Investigator Bonner, let me go back a
17 little bit cause we got a few things to cover.

18 You were asked on direct examination about whether or
19 not you took GSR samples from the three people at the crime
20 scene.

21 A That's correct.

22 Q And you -- I believe you said no?

23 A That's correct.

24 Q Can you elaborate a little bit further as to why you
25 didn't?

Charles Bonner - Redirect examination
By Solicitor Finney

1 A Why I particularly didn't?

2 Q Well, yes.

3 A Yeah. So, like I said before, whenever I got there to
4 the initial scene, I was -- I talked with Mr. McCain and his
5 daughter for a brief moment and determined that it was
6 better to have them go to the Sheriff's Office where it
7 wasn't outside, it wasn't on this incident location, and it
8 was more controlled area where it's, like I said, indoors.
9 It was August. So I believe it was warm.

10 So I stayed on scene whenever the other officers and
11 investigators had Mr. McCain and his daughter as well as the
12 other individual at the Sheriff's Office in interviewing
13 them. So that's why I stayed back behind on the scene
14 because other investigators were interviewing them so I
15 could help out with the crime scene to see if there's any
16 more evidence that comes in and just survey the incident
17 location.

18 Q All right. If you had information that led you to
19 believe that one of those three individuals had handled or
20 fired a handgun or if they had told you yes, I picked up a
21 gun and put it in a box, would that have given you a
22 different approach to the investigation?

23 A Oh absolutely.

24 Q All right. We're talking about Mr. McCain.

25 Is he the man that called 9-1-1?

Charles Bonner - Redirect examination
By Solicitor Finney

1 A Yes, sir.

2 Q Is he the man that talked to the officers on the body
3 cam video?

4 A That is correct.

5 Q And he was down at your office, at the Sheriff's
6 office, given a written statement later that afternoon?

7 A That's correct.

8 Q And his daughter, did you speak with her or meet her?

9 A I spoke with her and met, met with her just for a brief
10 moment---

11 Q All right.

12 A ---over at the shop, at the body shop.

13 Q All right. And Mr. Mayfield Johnson, did you speak
14 with him and determine from him whether he had any
15 indication that he had been close to a firearm or touched a
16 firearm?

17 A He did not.

18 Q All right. When you talked to Mr. A.J. -- Bradley is
19 his last name?

20 A Yes.

21 Q Mr. Dwyer and Mr. Rouse, what were you doing to talk to
22 these people?

23 Why were you talking to these people?

24 A To gather information. So they were the other parts
25 that were possibly the other people inside the vehicle.

Charles Bonner - Redirect examination
By Solicitor Finney

1 obviously the information came from Mr. Bradley cause his ID
2 was in the car. The other ones, there was fingerprints left
3 on the scene on the victim's car and that's what drew me to
4 the other, the other subject.

5 Q So, you got information by basically looking at the
6 forensic evidence at, at the car --

7 A Correct.

8 Q -- that led you to talk to these other people?

9 A That's correct.

10 Q And when you made a statement like you're not in any
11 trouble, why did you say that?

12 A Yeah. So, if, if you saw the, the incident or the
13 location where I met them, Mr. Bradley was in a carwash
14 parking lot. It was not at the Sheriff's Office. Mr. Rouse
15 was at Probation Pardon & Parole. Not at the Sheriff's
16 Office as well as Mr. -- the other one.

17 Is that Dwyer?

18 Q Dwyer.

19 A Dwyer was at his residence where I spoke to him and his
20 girlfriend or his wife. They were kind of nervous on
21 talking to me to begin with cause I'm law enforcement. So,
22 talking to them outside of law enforcement or outside of the
23 building itself put them a little bit more ease to actually
24 talk with me.

25 So that's why I, I kind of started the information hey,

Charles Bonner - Redirect examination
By Solicitor Finney

1 they're giving me information. They're helping solve this
2 or help find leads to this murder. So, any kind of
3 information I can just try to set the tone a little bit
4 nicer.

5 Q And you, you say that there may of been fingerprint
6 evidence to show that those, those three guys, one or two or
7 three of those guys was, was in the car?

8 A That's correct.

9 Q Did, did you come to learn that they all three knew
10 Lonnie?

11 A That's correct.

12 Q Okay. All right. But you never developed any
13 information that they were involved in the shooting of
14 Lonnie?

15 A Not involved in the shooting other than Anfernee
16 Bradley --

17 Q Uh-huh. (Affirmative).

18 A -- A.J., that he was at the location but the other two
19 weren't.

20 Q All right. Now, there's been some talk about drug
21 distribution.

22 Did you find any evidence of any kind of weapon in
23 Lonnie's car?

24 A No, sir.

25 Q Did you find any bullets or guns or anything like that?

Charles Bonner - Redirect examination
By Solicitor Finney

1 A No, sir.

2 Q All right. You said that when you went to the El
3 Cheapo video and you looked at it, there was a -- can you
4 describe for the jury, cause they may not remember, can you
5 describe what happened at the El Cheapo in relation to
6 Lonnie's car?

7 A Yeah. So, you see the victim's car pull up at the gas
8 pump. He's to the right of the gas pump. Then you will see
9 an individual, looks like a young man, come up to the
10 passenger rear door, enter the rear door. It doesn't appear
11 like it closes all the way. He's only there for a short
12 time. Then he exits the rear door and then walks away.

13 Q Are you -- were you able to get any kind of information
14 about that person, his name, or -- anything to -- that,
15 that -- so that you could go and talk to him?

16 A Absolutely not.

17 Q All right. And was there any evidence that there was
18 drug distribution going on with Lonnie Pack that day in
19 August?

20 A That day, no, sir.

21 Q All right. Did you have any information -- did you
22 check with other people in the law enforcement agency to see
23 if Lonnie Pack was being investigated---

24 MR. BUTCHER: Objection. Hear---

25 Q ---for drug distribution?

Charles Bonner - Redirect examination
By Solicitor Finney

1 MR. BUTCHER: Objection. Hearsay.

2 THE COURT: That's sus---

3 SOLICITOR FINNEY: Let me rephrase the question.

4 THE COURT: Sustained.

5 Q As the chief investigator, did any information ever
6 come to you from a credible source that Lonnie Pack was
7 distributing drugs in the Sumter community?

8 A No, sir.

9 MR. BUTCHER: Objection. Back-door hearsay.

10 THE COURT: Yeah. I mean I, I, I think it's part of
11 his investigation but I'm gonna sustain the hearsay
12 objection.

13 SOLICITOR FINNEY: All right, Your Honor.

14 Investigator, could you go to Exhibit 40?

15 I think you have the paper copy.

16 A Yes, sir.

17 Q And Mr. Butcher went over several instant messages that
18 were collected on the report. I'm looking at Page 49 on the
19 report.

20 A All right.

21 Q And these were messages that were found in Lonnie
22 Pack's phone.

23 Is that correct?

24 A That's correct.

25 Q And they were listed as instant messages, a good bit of

Charles Bonner - Redirect examination
By Solicitor Finney

1 them. Some of them are listed as I guess phonecalls.

2 On Page 49 at Line 783, do you see an instant message?

3 A Yes, sir.

4 Q Does it say incoming or outgoing?

5 A It says outgoing.

6 Q And what's the date?

7 A It's 8/11/2018.

8 Q All right. And what's the time?

9 A 4:02PM.

10 Q All right. So now let me just stop you there and ask
11 you to go back to your timeline.

12 What time did Steve McCain make the 9-1-1 call to say
13 that Lonnie Pack was shot?

14 A To 9-1-1, 3:47.

15 Q All right. At 3:47 the 9-1-1 call was made.

16 What time -- is it on this instant message?

17 A 4:02PM.

18 Q All right. Do you believe that at 4:02PM Lonnie Pack
19 was alive to make an outgoing call on his phone?

20 A I do not.

21 Q All right. Let's look at the next one.

22 784, those next few ones, 784, 785, 786 are all instant
23 messages or calls coming into Lonnie's phone?

24 A Correct.

25 Q All right. At 788, is there an outgoing call from

Charles Bonner - Redirect examination
By Solicitor Finney

- 1 Lonnie's phone?
- 2 A It's an outgoing, yes, sir, message.
- 3 Q On what date?
- 4 A On August 11th, 2018.
- 5 Q And what time?
- 6 A 4:10PM.
- 7 Q At 4:10PM do you believe Lonnie Pack was alive to make
- 8 an outgoing call?
- 9 A No, sir.
- 10 Q What was the, what was the message sent at 4:10PM?
- 11 A Call me.
- 12 Q It says call me and supposedly that's from Lonnie
- 13 asking somebody at that number to call him?
- 14 A Correct.
- 15 Q All right. Let's go down to 790.
- 16 790, is, is that an instant message?
- 17 A Yes, sir.
- 18 Q Is it incoming to Lonnie's phone or outgoing?
- 19 A It's outgoing.
- 20 Q And what does it -- what's the time on that one?
- 21 A 4:11PM.
- 22 Q All right. Let's look for a minute here now. Look at
- 23 788. The number that it's sent to ends in 1683.
- 24 A Yes, sir.
- 25 Q And what is the message there?

Charles Bonner - Redirect examination
By Solicitor Finney

- 1 A At 788 it says call me.
- 2 Q All right. Go down to 790.
- 3 Is that the same number?
- 4 A Yes, sir.
- 5 Q So it's called again one minute later.
- 6 Is that correct?
- 7 A That's correct.
- 8 Q And what is the message there?
- 9 A I swear on my grandma and, and my unborn baby I ain't,
- 10 I ain't been up there.
- 11 Q Say it again slower please.
- 12 A I swear on my grandma and my unborn baby I ain't been
- 13 up there.
- 14 Q I want you to look at 792.
- 15 what's the date?
- 16 A August 11th, 2018.
- 17 Q What's the -- what's the time?
- 18 A 4:11PM.
- 19 Q And---
- 20 A Forty-five seconds.
- 21 Q And is it to the same number ending in 1683?
- 22 A Yes, sir.
- 23 Q And what's the message?
- 24 A Call me.
- 25 Q All right. Can you look over on the next page, Page

Charles Bonner - Redirect examination
By Solicitor Finney

1 50, and see if there are outgoing messages from Lonnie
2 Pack's phone on August the 11th after four o'clock --
3 after 4:13 in the afternoon?

4 Look at 798 and 790 or excuse me. 798 is outgoing.

5 A Correct.

6 Q And I believe 801 is outgoing and I believe 804 is
7 outgoing.

8 MR. BUTCHER: Objection to leading.

9 THE COURT: That's sustained.

10 Q Are all those calls made from Lonnie Pack's phone after
11 he's been shot and after the 9-1-1 call was made and after
12 the police took the phone out of his pocket on video?

13 A Correct.

14 Q Do you have a report in your file or do you have
15 recollection of when he was pronounced dead?

16 A No, sir, not on me.

17 Q He was taken from the scene on Pike to the hospital?

18 A Correct.

19 Q And---

20 MR. BUTCHER: Objection. Leading.

21 SOLICITOR FINNEY: I'm sorry. I'm, I'm leading. I'm
22 sorry.

23 Q He was -- where was he taken after he left Pike?

24 A It's now known as Prisma Toumey Health.

25 Q And how was he taken there?

Charles Bonner - Redirect examination
By Solicitor Finney

1 A By ambulance.

2 Q And have you seen video of his phone being removed from
3 his pocket and given to Officer Kellahan?

4 A I have.

5 SOLICITOR FINNEY: One second, Your Honor.

6 (Pause.)

7 Q Answer any questions the defense has.

8 RECROSS EXAMINATION

9 BY MR. BUTCHER:

10 Q You heard the 9-1-1 call, correct?

11 A Yes, sir.

12 Q And you heard Mr. Steve McCain yelling come back, come
13 back, come back here, correct?

14 A That's correct.

15 Q And he was yelling at, at Mayfield to come back,
16 correct?

17 A Yes, sir.

18 Q And you could have conducted GSR tests on the three
19 folks who you knew were present after the -- at the, at the
20 shop, correct?

21 A Correct.

22 Q You only talked to A.J. once, A.J. Bradley?

23 A I believe I talked to him over the phone to try to meet
24 up---

25 Q Okay.

Charles Bonner - Recross examination
By Mr. Butcher

- 1 A ---for us to meet up but---
- 2 Q So twice?
- 3 A I believe so, yes, sir.
- 4 Q So you never followed up with him after that?
- 5 A After speaking with him face to face?
- 6 Q Yes, sir, on August 15th, 2018.
- 7 A I would have to look at my notes but I don't believe
- 8 so.
- 9 Q Okay. And with Mr. Dwyer and Mr. Rouse, you only spoke
- 10 with them about the case once. You may of communicated with
- 11 them beforehand.
- 12 A Correct.
- 13 Q Correct?
- 14 A Yes, sir.
- 15 Q Okay. Now, if someone gets pulled over with this much
- 16 marijuana and pills and law enforcement knows about it,
- 17 would they be charged with distribution --
- 18 A Yes, sir, depending---
- 19 Q -- of marijuana?
- 20 A Depending on the weight, yes, sir.
- 21 Q And with the bag of baggies and the scale in their
- 22 possession, would that be seized as evidence of drug
- 23 distribution?
- 24 A As drug paraphernalia, yes, sir.
- 25 Q If you try to -- if someone tries to force a man out of

Charles Bonner - Recross examination
By Mr. Butcher

1 his car against his will, is that a crime?

2 A Against his will, yes, sir.

3 Q So, if you're in the parking lot today and I walk up to
4 your car door, I try and open it, and I try to pull you out
5 of your car, that's a crime?

6 A Yes, sir.

7 Q Kidnapping?

8 A If you're holding somebody against their will from
9 leaving somewhere, yes, sir.

10 Q Okay. Or if you're trying to take them somewhere,
11 right?

12 A Yes, sir.

13 Q Okay. All right. And at no time you considered -- did
14 you consider charging Mr. Bradley or D.V. with kidnapping,
15 did you?

16 A No, sir.

17 Q Even though he said Lonnie was trying to pull him out
18 of the car, correct?

19 SOLICITOR FINNEY: Objection.

20 THE COURT: I'm gonna allow the question.

21 A No, sir, I didn't.

22 Q All right. And the hand of one is the hand of all,
23 correct?

24 A In the State of South Carolina, yes, sir.

25 MR. BUTCHER: Nothing further, Your Honor.

1 SOLICITOR FINNEY: Nothing further, Your Honor.

2 THE COURT: Okay. Thank you, sir. You can step down.
3 Any other witnesses from the State?

4 SOLICITOR FINNEY: No, Your Honor. No other witnesses.

5 THE COURT: Ladies and gentlemen, I do have a
6 stipulation to read into the record for you, that the State
7 of South Carolina, through the solicitor's Office and the
8 defendant, through his attorneys, stipulate to the
9 following:

10 That the defendant, excuse me, Demetrius Brown, was
11 legally prohibited from possessing a firearm on
12 August 11th, 2018, and was aware of the same, that the
13 defendant, Demetrius, Demetrius Brown, signed a statement
14 acknowledging the status on April 12th, 2018.

15 SOLICITOR FINNEY: Your Honor, at this time the State
16 of South Carolina would rest.

17 THE COURT: Okay. Ladies and gentlemen, there -- we
18 have a little bit of work to do during the lunch break. I'm
19 gonna go ahead and dismiss you for lunch.

20 I'm gonna ask if you'll be back at two o'clock. We
21 have another -- I have a number of matters we're gonna take
22 up and then I need to let the parties take a break as well.
23 We will resume at two o'clock. Please don't begin
24 discussing the case during the break.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: Okay. Mr. Butcher. Mrs. Butcher.

3 MR. BUTCHER: Yes, ma'am, we do have a motion for
4 directed verdict.

5 So, Your Honor, we have a motion for directed verdict.
6 We -- our motion is based on the fact that the State has
7 failed to provide any evidence or -- and that there is no
8 existence of evidence of murder, of -- or, or the two gun
9 charges. We respectfully also assert that the evidence
10 demonstrates that the -- Mr. Pack had attempted to put a hit
11 on our client and that we demonstrated that he, he did, that
12 he, he did not murder Mr. Pack.

13 Okay. Yeah, that's -- okay. So, from that
14 prospective, we, we, we, we ask the Court that it should
15 dismiss this matter on directed verdict.

16 THE COURT: Mr. Finney.

17 SOLICITOR FINNEY: Please the Court, Your Honor.

18 The State believes that, through the witnesses and the
19 evidence that's been presented, that a clear charge of
20 murder should lie along with the possession of a weapon
21 during a violent crime and the possession of an unlawful
22 weapon should, should lie -- proceed based on the statements
23 that Mr. Pack, Mr. Pack was present and trying to have a
24 conversation with Mr. Brown. Mr. Brown pulled out a handgun
25 described by one of the witnesses as a small black handgun

1 and fired multiple times, at least two or three times, at,
2 at Mr., Mr. Pack.

3 Mr. McCain's testimony supports that. There was no
4 testimony of any kind of threat or intimidation or force
5 used by Mr., Mr. Pack at all that day by the two witnesses
6 who were there. They testified there was no evidence that
7 Mr. Pack had a weapon or that Mr. Pack had any kind of
8 problem that he was trying to address with Mr. Brown. Yes,
9 with Mr. Brown.

10 Based on that evidence going to the jury, there is
11 evidence in the record of that and we believe that the case
12 should go forward.

13 THE COURT: Okay. I'm gonna respectfully deny the
14 motion for directed verdict. I do think that there's both
15 direct and circumstantial evidence certainly in the form of
16 the testimony of Steve McCain and Anfernee Bradley to make
17 this a jury question on all three charges. I think that
18 there is certainly a jury question as to self-defense as
19 well but that that's a, a issue of fact for the jury to
20 determine.

21 So, I'm gonna respectfully deny the motion for directed
22 verdict.

23 MR. BUTCHER: Thank you, Your Honor.

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

25 SOLICITOR FINNEY: I would only ask that, in order to

1 kind of be prepared, I have an idea of how many witnesses
2 are gonna be called and if you can give me the order they're
3 gonna be called in I'd like to know that.

4 MRS. BUTCHER: I'm, I'm assuming Joe Powell will be
5 first. I don't know after that, Your Honor.

6 THE COURT: Here's what I'd like to---

7 MRS. BUTCHER: And that---

8 THE COURT: We'll get through as much testimony as we
9 can today. I would like -- we need a little bit of time at
10 the end of the day to address, as far as we can, the jury
11 charges. I will be prepared to hear from y'all and to give
12 you a draft of my charges just depending on what testimony
13 comes in this afternoon.

14 MRS. BUTCHER: Your Honor, one additional thing.

15 We subpoenaed Bennie Haynesworth. When he arrived at
16 the courthouse today, he was directed to go to the
17 Solicitor's Office. He has remained in the Solicitor's
18 Office yesterday until he was brought in here.

19 I would just respectfully ask that the Solicitor's
20 Office not maintain control over Mr. Haynesworth and, and
21 it---

22 THE COURT: Well, I mean I'm gonna have to give him a
23 little bit of leeway cause they got him here. So, you know,
24 if it wasn't for them intervening---

25 MRS. BUTCHER: Okay.

1 THE COURT: ---I don't know that we'd have him here at
2 all.

3 Mr. Finney, you want to address that, sir?

4 MRS. BUTCHER: I -- and --.

5 THE COURT: Y'all aren't---

6 MRS. BUTCHER: I mean I'm just---

7 THE COURT: ---preventing him from having---

8 MRS. BUTCHER: ---talking about appearance---

9 THE COURT: ---any---

10 MRS. BUTCHER: Yes.

11 THE COURT: ---contact with anyone?

12 SOLICITOR FINNEY: No, I, I have no -- he just came to
13 the office because he's -- I'm just telling you what he told
14 me. He says the lady lawyer called me, told me I didn't
15 have to come today but the judge told me to be here. So I'm
16 here. So he was checking with me to see what he should do.
17 I told him let's go see the judge.

18 MRS. BUTCHER: And it's just the appearance --.

19 THE COURT: where do y'all want him to report when he
20 comes back this afternoon?

21 MRS. BUTCHER: Well, Your Honor, I would have him sit
22 outside in the hall.

23 MR. BUTCHER: How about just an instruction not to talk
24 to him about the case?

25 MRS. BUTCHER: Yeah, that's, that's fine. It's, it's

1 the appearance that my client sees.

2 THE COURT: Why don't we have him -- we'll have him
3 come up here just like all the other witnesses when, when he
4 reports this afternoon.

5 SOLICITOR FINNEY: That'd be fine, Your Honor.

6 MRS. BUTCHER: Thank you, Your Honor.

7 THE COURT: Okay. We'll be at recess.

8 MR. BUTCHER: Your Honor, I'm forwarding my proposed
9 charges. The only thing I don't have is, is a spoliation
10 charge, which I can -- unless you have a standard one,
11 I'm -- I can find one at the office tonight.

12 THE COURT: I do have a standard one.

13 MR. BUTCHER: Okay.

14 MRS. BUTCHER: Would you email that -- which one?

15 THE COURT: Yeah, I'm gonna email y'all --.

16 MR. BUTCHER: Oh no.

17 MRS. BUTCHER: Not you.

18 THE COURT: If you tell me where you want -- I mean I'm
19 gonna give you a hard copy of what -- a, a draft at least
20 for y'all to be looking at.

21 MRS. BUTCHER: All right. Okay.

22 THE COURT: And if you also want me to email it as well
23 I'm happy to.

24 MRS. BUTCHER: That, that would be good.

25 MR. BUTCHER: And actually my charges are still on the

1 computer at the office. I didn't bring them with me. So
2 I'll, I'll send them as soon as I get back tonight.

3 THE COURT: All right. We're at recess.

4 SOLICITOR FINNEY: Thank you, Your Honor.

5 Two o'clock?

6 THE COURT: Yes, sir. I've got a couple things at 1:30
7 and then --.

8 (WHEREUPON, Court was in recess for the lunch hour.)

9 MR. BUTCHER: Brief -- while Debbie's outside looking
10 for Mr. Joe Powell, and a brief housekeeping, from 45 --
11 from Exhibit 46, we wanted to ask if we could go ahead and
12 remove Pages 62 and 87 and I'll let the solicitor address as
13 to whether or not he'll consent to that.

14 THE COURT: Okay. I'm sorry.

15 From Defendant's No. 40 --?

16 MR. BUTCHER: Six, Your Honor. Pages 62 and 87.

17 THE COURT: Those were the offending two pages that you
18 brought to our attention, Mr. Finney?

19 SOLICITOR FINNEY: Yes. Yes, Your Honor, and I mean
20 my -- now that I have the correct number, I object to this
21 exhibit coming in on, on the issue of relevancy to the
22 charges that are pending, and based on the fact that I can
23 not be assured, and I don't think this Court can be assured,
24 that these items are -- have anything to do necessarily with
25 Mr. Brown.

1 I can't testify -- and maybe after he testifies I'd
2 have a better idea of -- but most of -- as far as state of
3 mind, most of this happened either way before or way after
4 August the 11th.

5 As far as relevancy to the charge, I don't think any of
6 it is relevant to the charge and certainly I can't make that
7 any more clear until or unless Mr. Brown says something
8 different. But you have I think 88 pages of text messages.

9 We don't, we don't think Mr. Brown created the
10 messages. We don't know if Mr. Brown sent the messages. We
11 don't know who Mr. Brown received the messages from or what
12 their relation to this case or the controversy in this case
13 is.

14 So, I would object to the whole exhibit coming in at
15 this point.

16 MR. BUTCHER: And, and we're not asking for it to come
17 in yet. All we want to do was have permission to alter what
18 has been marked for identification as 46.

19 And so that's the only thing was to remove those two
20 pages and, of course, you know, obviously we have to meet
21 certain standards before we introduce it and we plan on
22 introducing it or get, get it -- asking for it to be
23 introduced later.

24 THE COURT: I am fine for us to remove Pages 62 and 87.
25 So if y'all want to do that now.

1 (Pause.)

2 THE COURT: Okay. We ready for the jury?

3 MRS. BUTCHER: One moment.

4 (Pause.)

5 THE COURT: Okay. We're ready for the jury.

6 THE BAILIFF: Yes, Your Honor.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE BAILIFF: The jurors are all seated.

10 THE COURT: Mr. Butcher.

11 MRS. BUTCHER: Your -- Your Honor, may we proceed?

12 THE COURT: Uh-huh. (Affirmative).

13 MRS. BUTCHER: Thank you, Your Honor.

14 I would call Joe Powell.

15 THE BAILIFF: Sir, raise your right-hand. State your
16 name.

17 THE WITNESS: Joseph Powell.

18 JOSEPH POWELL, being first duly
19 sworn, testified as follows:

20 THE BAILIFF: Thank you, sir. Come around. Watch your
21 step. State your name for the record and spell your last
22 name please.

23 THE WITNESS: Yes, sir, my name is Joseph Powell.

24 P-O-W-E-L-L.

25 DIRECT EXAMINATION

Joseph Powell - Direct examination
By Mrs. Butcher

1 BY MRS. BUTCHER:

2 Q Thank you, Mr. Powell.

3 How are you doing today?

4 A Just fine. Thank you.

5 Q I want to ask you a few questions.

6 Are you retired now?

7 A Yes, ma'am, I am enjoying life as a retiree and having
8 a great time at it.

9 Q I'm glad to hear that.

10 Was there a time that you worked for the Sumter County
11 Police Department?

12 A Yes, ma'am, I did.

13 Q Can you tell me when that was?

14 A That was approximately -- what was it?

15 It was 12 years ago when I started. I worked there for
16 10 years.

17 Q Okay. What did you do prior to that?

18 A Prior to that I actually worked at the South Carolina
19 Law Enforcement Division in -- starting out in the area of
20 drug analysis and then, after working there for
21 approximately eight years, I moved into what's called trace
22 evidence where I was involved with analysis of gunshot
23 residue, gun primer residue, explosives, powder, glass,
24 things such -- and of that nature.

25 Q Okay. And when you were with the Sumter County Police

Joseph Powell - Direct examination
By Mrs. Butcher

1 Department, what were your responsibilities?

2 A I was primarily responsible for the drug analysis
3 for -- that was being brought in by four different counties.
4 When they brought it to me, I would analyze it, issue a
5 report, and then come to Court to testify to my results.

6 Q Okay. And can you give us a little bit of background
7 about your education that allowed you to do that?

8 A Yes, ma'am, I originally received by bachelor of
9 sciences degree from the University of Southern Mississippi.
10 After completing my degree I came to South Carolina to work
11 towards my advanced degree but stopped about midways.

12 After leaving South Carolina, I actually became
13 employed by SLED, went through an extensive in-house
14 training program in the area of drug analysis and that's
15 where I begin my career. I continue that until they had the
16 chance to branch out and make a new section called trace
17 evidence where I moved into that, and, within two years, I
18 became supervisor of that super -- of that section.

19 After working there for 27 years, I decided it was time
20 to go ahead and retire out. I did. My wife thought it was
21 a good idea for me to go back to work. So, I wound up
22 getting a job at Sumter County Sheriff's Office. I worked
23 there for 10 years until my wife's health required me to
24 stop to take care of her.

25 Q Thank you.

Joseph Powell - Direct examination
By Mrs. Butcher

1 And you've testified as an expert in the past, haven't
2 you?

3 A Yes, ma'am, I have.

4 Q In the area of drug analysis?

5 A Yes, I have testified in the area of drug analysis
6 approximately 600 times.

7 Q Okay. And as a matter of fact, have you testified as
8 an expert in the area of drug analysis for the Sheriff's
9 Department here in Sumter?

10 A Yes, ma'am, I have.

11 Q And on behalf of the solicitor's department --

12 A Yes, I have been---

13 Q -- office?

14 A I've been qualified in Court both in -- federally,
15 state, both municipality, and magistrate level.

16 Q Thank you.

17 Your Honor, at this time I'd like to submit Mr. Joe
18 Powell as an expert in the area of drug analysis.

19 SOLICITOR FINNEY: No objection, Your Honor.

20 THE COURT: Okay. Ladies and gentlemen, once again,
21 this witness is qualified by virtue of his expertise to give
22 you opinion testimony in the area of drug analysis. You can
23 give it whatever weight you feel it's entitled to.

24 Q Mr. Powell, did you -- do you recall receiving some
25 items to be tested as drugs for an incident that occurred

Joseph Powell - Direct examination
By Mrs. Butcher

1 back in 2018 concerning Lonnie Pack?

2 A I have my records which indicate a case was submitted
3 to me for analysis. The victim's name was -- I have
4 Sharmine Pack and suspect is Demetrius Alexander Brown.

5 Q Okay. And -- okay. And when were those items
6 submitted to you?

7 A They were submitted to me on August the 27th by
8 Sergeant Mike McCauley.

9 Q Okay. So that's who brought them to you?

10 A Yes, ma'am. He had -- he brought them to me to
11 analyze. I took my samples and then he took it back into
12 his custody and went on back to his business.

13 Q Okay. Now I'm gonna show you -- it's on -- and was
14 it -- did it consist of a green leafy substance and some
15 pills?

16 A Well, yes, ma'am. There was actually three items that
17 were submitted to me for examination. Two plastic bags with
18 green plant material in them and a plastic container with
19 one white tablet that had an imprint on it of ZC01.

20 Q Okay. And is that typical that one tablet is submitted
21 to you regardless of how many pills---

22 A Yes, ma'am, it's---

23 Q ---they may have?

24 A It's -- in the area of drug analysis, we receive
25 everything from a trace amount all the way up to and I've

Joseph Powell - Direct examination
By Mrs. Butcher

1 had one case where I had almost a ton of certain types of
2 pills.

3 Q And do you recognize this?

4 You want me to get you some gloves?

5 A No, ma'am.

6 Q Okay.

7 A What you've just passed me is a heat seal pouch which
8 bears the date at which I sealed it back up, my initials,
9 and contained within are gonna be the three items that I
10 just mentioned.

11 Q And all three items that you tested were in there?

12 A Yes, ma'am, there's a -- this is still sealed as --
13 when I left it so that it would be in the same condition it
14 was when I sealed it up.

15 Q Okay. And you issued a report --

16 A Yes, ma'am, I did.

17 Q -- concerning those?

18 And I'm gonna back up just a little bit.

19 Do you recognize --

20 A This is---

21 Q -- that first document?

22 A Yes, ma'am, this is a -- what is called a chain of
23 custody.

24 Q Okay. Before you speak about it---

25 A Okay.

Joseph Powell - Direct examination
By Mrs. Butcher

1 Q ---let me just make sure they're no objections.

2 SOLICITOR FINNEY: No objection, Your Honor.

3 what's the exhibit number?

4 MRS. BUTCHER: It's---

5 MR. BUTCHER: 20.

6 Q So can you look through that -- the entire document?

7 See if you recognize it.

8 A Well, it's listed as Defendant Exhibit No. 20. It's
9 gonna be -- the first sheet is a chain of custody which is
10 showing that Mike McCauley had received the evidence, what
11 time he received it, and what we did with it after that
12 point.

13 Then the next page is going to be my cover page where I
14 identified the items which was brought in and the person who
15 brought the information or brought the items to me.

16 Q And what were those items?

17 A The items that was brought to me, again, was going to
18 be a -- two plastic bags of green plant material and one
19 container with a -- just a pill.

20 And then next page is going to be my report where I
21 list these items again and what my, what my results was.
22 And then the final page is going to be listing all of my
23 credentials as far as I -- where I've testified and
24 education I've had and things like that.

25 Q Okay. And going back to the next to the last page, can

Joseph Powell - Direct examination
By Mrs. Butcher

1 you please tell me what you found?

2 A Item Number 1, which was the plastic bag of green
3 mat -- green plant material, I found marijuana found which
4 was 37.2 grams worth. It's a scheduled 1 drug.

5 One of the tests that we run is we try to make sure to
6 distinguish between marijuana and hemp. It is legal to
7 possess hemp in this state. So we have to make sure that it
8 has a sufficient amount of THC in it to be classified as
9 marijuana. In this case it did.

10 Item Number 2 was a plastic bag also containing green
11 plant materials. I analyzed that. It was 0.2 grams of
12 marijuana. And then the third item, which was that one
13 white tablet imprinted with ZC01, it is Promethazine and it
14 is listed as concentration 1.25 milligrams and it is a
15 prescription drug.

16 MRS. BUTCHER: Okay. Thank you, Your Honor. I'd like
17 to now enter this into evidence. I think it was marked as
18 identification prior to that.

19 SOLICITOR FINNEY: No objection.

20 THE COURT: Defense No. 20 is admitted.

21 (WHEREUPON, Defendant's Exhibit No. 20 was received
22 into evidence at this time.)

23 MRS. BUTCHER: Court's indulgence.

24 (Pause.)

25 MRS. BUTCHER: No further questions, Mr. Powell. If

Robert Burnish - Direct examination
By Mr. Butcher

1 you'll answer anything from Mr. Finney and thank you again
2 for taking time.

3 THE WITNESS: Yes, ma'am.

4 SOLICITOR FINNEY: No questions of the witness.

5 THE COURT: Thank you, sir. You can step down.

6 THE WITNESS: Thank you.

7 MRS. BUTCHER: Defendant calls Mr. Robert Burnish or
8 Investigator Robert Burnish.

9 THE BAILIFF: Raise your right-hand. State your name.

10 THE WITNESS: Robert Burnish.

11 ROBERT BURNISH, being first duly
12 sworn, testified as follows:

13 THE BAILIFF: Thank you. Watch your step.

14 DIRECT EXAMINATION

15 BY MR. BUTCHER:

16 Q Investigator Burnish, would -- oh, I'm sorry.

17 THE BAILIFF: State your name for the record and spell
18 your last name please.

19 THE WITNESS: Robert Burnish. B-U-R-N-I-S-H.

20 Q Investigator Burnish, what, what -- what is your
21 current job?

22 A My current job is the investigator for the Solicitor's
23 Office --

24 Q All right.

25 A -- for the Third Circuit.

Robert Burnish - Direct examination
By Mr. Butcher

1 Q And how long have you been there, sir?

2 A I'm going on two years.

3 Q All right. And prior to, to that, what was your
4 position?

5 A I was -- when I -- my prior position was captain for
6 the investigations division of the Sumter County Sheriff's
7 office.

8 Q All right. And did -- and I apologize. I'm trying to
9 find something.

10 (Pause.)

11 Q All right. It's here.

12 All right, sir. And so you, you were captain of
13 investigations at the Sheriff's Office, sir?

14 A Yes, sir.

15 Q Okay. All right. And I'm gonna hand you Exhibits No.
16 4 and 27 and see if you recognize those.

17 A Yes, I do.

18 Q All right. And what, what do those -- what are, what
19 are, what -- what are those documents?

20 what do they relate to?

21 A This first document is a property release form to show
22 that I received from Investigator or Sergeant Michael
23 McCauley on Tuesday, March the 30th of 2021, the red Apple
24 iPhone belonging to Mr. Bradley.

25 Q Okay.

Robert Burnish - Direct examination
By Mr. Butcher

1 A The second form is a authorized property release for
2 the -- with the Solicitor's Office letterhead. At this time
3 I was working for the Solicitor's Office where I returned
4 the red Apple iPhone over to Mr. Bradley.

5 Q All right. Did, did anybody instruct you to return the
6 phone to Mr. Bradley?

7 A No, sir.

8 Q You did it on your own?

9 A I did.

10 Q And so there was no conversation with you and Mr.
11 Finney?

12 A There was a brief conversation. I, I let him --
13 advised him what I was gonna do.

14 Q Okay. And he said it was okay?

15 A Yes, sir.

16 Q All right. Did -- was there any discussion in
17 attempting to contact defense counsel regarding disposing of
18 the evidence?

19 A Not by me, no, sir.

20 Q And are you -- and you also -- you also met with
21 Mr. Bradley to prepare him for trial, correct?

22 A Yes, sir.

23 Q And trial was scheduled for the week of April 26th,
24 correct, more or less?

25 A I think it was. I can't remember the date right off in

Robert Burnish - Direct examination
By Mr. Butcher

1 the top of my head.

2 Q All right. Normally, before trial, do you meet people
3 a few weeks beforehand?

4 A Yes, people. Yes.

5 Q Okay. So somewhere in April, maybe even May?

6 A Probably so. I don't---

7 Q Okay.

8 A I don't remember when.

9 Q All right. Okay. I have no further questions.

10 A Thank you, sir.

11 CROSS-EXAMINATION

12 BY SOLICITOR FINNEY:

13 Q Investigator Burnish, did you find anything in -- did
14 you have any information that you were acting on?

15 First of all, let me ask you this.

16 Did you have -- receive -- ever receive any
17 communication from Mr. A.J. Bradley regarding his phone?

18 A Yes, I did.

19 Q Tell the jury what that communication was.

20 A It was a phone conversation. I made contact with
21 Mr. Bradley to ask him to come to the Solicitor's Office so
22 we can meet in regards to this case. And the phone was
23 requested and I made arrangements to have the---

24 Q By who?

25 who requested the phone?

Robert Burnish - Cross-examination
By Solicitor Finney

- 1 A Mr. Bradley.
- 2 Q Okay. So you didn't call Mr. Bradley up and say come
3 get your phone?
- 4 A No, sir.
- 5 Q He made a request for the phone?
- 6 A He did.
- 7 Q Did he make more than one request from the time of the
8 shooting till the time he got the phone back?
- 9 A The, the -- yes, from my understanding. But one by --
10 to me --
- 11 Q Okay.
- 12 A -- which one I made initial contact with him.
- 13 Q All right. At the time that you and I discussed the
14 phone, did I ask you to check to see if there was anything
15 of evidentiary value regarding the phone?
- 16 A Yes, you did.
- 17 Q All right. And did we determine that there was
18 anything of evidentiary value, value on the phone?
- 19 A We determined that this -- the -- regards to the phone,
20 it contained no evidentiary value.
- 21 Q All right. And when we returned it to him, he came and
22 signed for it?
- 23 A Yes, he did.
- 24 Q All right. Thank you.
- 25 A Yes, sir.

Robert Burnish - Redirect examination
By Mr. Butcher

1 REDIRECT EXAMINATION

2 BY MR. BUTCHER:

3 Q The, the evidentiary value of evidence has or there are
4 different views on what is it -- has an evidentiary value,
5 correct?

6 I think it---

7 A I suppose there is, yes, sir.

8 Q Depending on what side you are---

9 A I---

10 Q ---on?

11 A I guess that you could say that, yes, sir.

12 Q Okay. And you, you know, through your prior
13 experience, that at, at -- as a, as a police officer and law
14 enforcement officer that you're not to dispose of
15 exculpatory evidence, correct?

16 A That's correct.

17 Q All right. And there was no notification to the
18 defendants that you were -- that -- to Mr. Brown that you
19 were going to dispose of the evidence, correct?

20 A That's correct.

21 Q Okay.

22 All right. I have, I have nothing further, Your Honor.

23 SOLICITOR FINNEY: Nothing further, Your Honor.

24 THE COURT: Thank you, sir. You can step down.

25 THE WITNESS: Thank you, Your Honor.

1 MRS. BUTCHER: Your Honor, may we approach?

2 (WHEREUPON, a bench conference was held out of the
3 hearing of the jury at this time.)

4 THE COURT: Okay. Ladies and gentlemen, I'm going to
5 dismiss you back to the jury room for a few minutes. We
6 should be with you before too terribly long. Again, please
7 don't begin discussing the case.

8 (WHEREUPON, the following takes place outside the
9 presence of the jury.)

10 THE DIGITAL REPORTER: Are we off the record, Your
11 Honor?

12 THE COURT: Yes, we're off the record.

13 (Pause.)

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE BAILIFF: All the jurors are seated, Your Honor.

17 THE COURT: Okay. Mr. Butcher. Mrs. Butcher.

18 MRS. BUTCHER: Thank you, Your Honor.

19 We would call Mr. Bennie Haynesworth to the stand.

20 THE BAILIFF: Raise your right-hand. State your full
21 name, sir.

22 THE WITNESS: Bennie Haynesworth.

23 BENNIE HAYNESWORTH, being first
24 duly sworn, testified as follows:

25 THE BAILIFF: Step around, sir. Speak into the mic.

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 State your full name and spell your last name for the record
2 please, sir.

3 THE WITNESS: Bennie T. Haynesworth. Haynesworth,
4 H-A-Y-N-E-S-W-O-R-T-H.

5 DIRECT EXAMINATION

6 BY MRS. BUTCHER:

7 Q Hi, Mr. Haynesworth. Thank you for being here today.

8 You know who A.J. Bradley is, correct?

9 A I know of him.

10 THE COURT: Can I get you to go ahead and take your
11 mask off while you're testifying if you don't mind?

12 A I know of him.

13 Q You've, you've talked to him in the past?

14 A Yeah, I been around him.

15 Q And you've spoken to him in the past?

16 A Yes, I've been around it. I have, yes.

17 Q Yes.

18 Okay. Isn't it true -- all right. And you recall the
19 incident where Lonnie Pack was shot in August, 2018?

20 A I remember it.

21 Q Okay. And you recall speaking to Mr. Bradley after
22 that incident?

23 A I saw him a couple times.

24 Q Okay. Do you recall him telling you that Lonnie---

25 SOLICITOR FINNEY: Objection, Your Honor.

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 Q ---tried---

2 SOLICITOR FINNEY: It's hearsay.

3 MRS. BUTCHER: Your Honor, the foundation was laid with
4 Mr. Bradley. This is reply to Mr. Bradley's --.

5 THE COURT: Okay. I'm not aware that being an, an
6 exception to the hearsay.

7 Is there some exception to the hearsay rule that you're
8 --?

9 MRS. BUTCHER: Yes, Your Honor. It is -- hang on.
10 I'll get you the number.

11 (Pause.)

12 MRS. BUTCHER: It's, it's for impeachment purposes,
13 Your Honor, and it would be -- Your Honor, under Rule 613,
14 prior statements of a witness. It'd be under (b), Your
15 Honor, extrinsic, extrinsic evidence of prior inconsist --
16 inconsistent statements.

17 THE COURT: Let's take a look.

18 Let me get y'all to approach.

19 (WHEREUPON, a bench conference was held out of the
20 hearing of the jury at this time.)

21 THE COURT: Okay. Ladies and gentlemen, I'm gonna ask
22 if you will please step out while we address a matter of
23 law. Again, please don't begin discussing the case.

24 (WHEREUPON, the following takes place outside the
25 presence of the jury.)

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 THE COURT: Okay. Let's go ahead and get the testimony
2 on the record and let me make a ruling.

3 MRS. BUTCHER: Thank you, Your Honor.

4 Mr. Haynesworth, isn't it true that Anfernee Bradley --
5 his nickname is A.J., correct?

6 A I don't know him as Anthony. All, all I know is A.J.
7 I don't, I don't even know the last name.

8 Q Okay. Isn't it true that A.J. told you that Lonnie had
9 a gun when he got out of the car that day at the auto shop?

10 A He did told me that they ran. No. No, ma'am.

11 Q Okay. You don't recall him saying that he said that to
12 you?

13 A No, ma'am, actually don't. For one -- actually I've
14 had several head injuries since then. I actually -- I'm
15 healing from one now I had two weeks ago. I don't know. I
16 don't.

17 Q Do you recall A.J. -- you -- your statement to law
18 enforcement that A.J. said Lonnie tried to get D. into his
19 car?

20 A I really don't recall.

21 Q Okay. Do you recall your statement to law enforcement
22 that A.J. told you that Lonnie had a gun on him?

23 A No, ma'am, he never told me that. He --.

24 Q Do you recall telling law enforcement that Lonnie
25 carries a gun at times when he wants something to get done?

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 A I don't know about the part where he wants something to
2 get done or anything. But then that's, that's average with,
3 with, with a lot of people.

4 Q What---

5 A That---

6 Q ---carrying, carrying a gun?

7 A Yes, ma'am.

8 Q Okay. So Lonnie does carry a gun?

9 A I can't say that. I don't -- at that -- at, at that
10 time, I don't know what was going on. I did not see him
11 that day.

12 Q Okay. Do you recall telling law enforcement that A.J.
13 said Lonnie had a gun and I -- these are different
14 statements. I know they're the exact same thing. So,
15 there's really --.

16 A No. Actually, no, ma'am, cause they, they were -- they
17 were asking me questions.

18 Q Okay. And this -- these questions -- these -- the
19 things I've asked you about, this was when -- do you recall
20 going to the police station and speaking with Investigator
21 Bonner?

22 A I don't even know the -- I don't know the name.

23 Q Okay. Well, let me ask you this.

24 Okay. The, the man right here -- the, the -- I'm
25 glad -- I'm sure he'll pull his mask down.

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 Do you recognize him?

2 A No.

3 Q You don't.

4 Okay. And this was September the 19th, 2018.

5 Do you not recall because of your head injuries?

6 A It could of be that but I definitely, I definitely
7 don't -- like I say, I'm actually recovering from one I had
8 about two weeks ago.

9 Q Okay. Do you recall A.J. telling you that it didn't
10 feel right, so he left?

11 A The only thing I -- on -- from the -- from that, that
12 particular point, I remember A.J. or A.J. telling me that
13 they ran, they ran.

14 Q Okay. And we're gonna -- Your Honor, ask permission to
15 play the clips --

16 MR. BUTCHER: Your Honor, mark this.

17 MRS. BUTCHER: -- to refresh his memory?

18 MR. BUTCHER: Your Honor, mark this for identification
19 as --?

20 THE DIGITAL REPORTER: Fifty-two.

21 MR. BUTCHER: Fifty-two. 5-2.

22 MRS. BUTCHER: Okay.

23 MR. BUTCHER: My---

24 (WHEREUPON, the thumb drive was marked as Defendant's
25 Exhibit No. 52 for identification purposes only at this

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 time.)

2 MRS. BUTCHER: And that would be clip one---

3 MR. BUTCHER: Are we on?

4 MRS. BUTCHER: ---four and five?

5 THE COURT: I'm sorry. Say that again.

6 MRS. BUTCHER: It's, it's -- I was actually telling
7 Robert. It will still be all I think on one disk. But it's
8 clips 1, 4, and 5 of what we have extracted from.

9 THE COURT: And this is Defendant's Exhibit 52 for ID?

10 MR. BUTCHER: Yes, ma'am.

11 MRS. BUTCHER: Yes, Your Honor.

12 (WHEREUPON, some audio clips were played at this time.)

13 THE WITNESS: Excuse me.

14 May I speak for -- I state something for the record
15 also please?

16 THE COURT: Sure. We're, we're outside the presence of
17 the jury.

18 THE WITNESS: Okay. During that, during that
19 particular time, okay, I had an incident at the -- well, at,
20 at the, at the house also and possibly having, having an
21 incident at the house that was gon -- that was a portion of
22 my folk. I really felt something against, against the
23 family at the -- at that particular time given that
24 statement also. So, it really -- and really, and really I
25 don't really remember exactly giving a, giving a statement.

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 MR. BUTCHER: Okay.

2 MRS. BUTCHER: Okay.

3 THE WITNESS: Cause I just got released from the
4 hospital like -- well, like a week before that.

5 MRS. BUTCHER: Okay. I want to play Clip 4.

6 (WHEREUPON, an audio clip was played at this time.)

7 MRS. BUTCHER: Clip 5.

8 (WHEREUPON, an audio clip was played at this time.)

9 MRS. BUTCHER: Those are the clips, Your Honor.

10 THE COURT: Okay. I, I -- I've still got a basic
11 problem with this is not the introduction of a prior
12 inconsistent statement made by A.J. Bradley. This is a
13 prior statement -- what he is saying A.J. told him.

14 So, I mean it -- it's, it's hearsay. I don't see where
15 it's falling into any of the exceptions and I don't think
16 it's admissible. I think it's still got to, to meet the
17 requirements of admissibility before it goes in front of
18 this jury. This is not a prior inconsistent statement.
19 This is a hearsay statement from---

20 MRS. BUTCHER: It --.

21 THE COURT: This is -- Bennie Haynesworth hearsay
22 statement, hearsay statement as to what A.J. Bradley
23 allegedly told him. And so I don't think it's admissible as
24 an -- a prior inconsistent statement without it otherwise
25 coming in to some exception for admissibility.

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 MRS. BUTCHER: And, Your Honor, that's where I say,
2 under Rule 613, is that exception of a prior inconsistent
3 statement. Yes, it, it is A.J.'s statement that he made in
4 Court. This is the prior statement he made that's
5 inconsistent---

6 THE COURT: Well, if it was---

7 MRS. BUTCHER: ---with that statement.

8 THE COURT: I would agree with you if it was, if it was
9 A.J. Bradley's statement. This is not A.J. Bradley's
10 statement.

11 MRS. BUTCHER: But---

12 THE COURT: This is Bennie Haynesworth's statement as
13 to what A.J.---

14 MRS. BUTCHER: And, and that's the extrinsic---

15 THE COURT: ---told him.

16 MRS. BUTCHER: ---evidence, Your Honor, that I believe
17 State versus Blalock, Blalock, I can't pronounce that, is
18 talking about and it states that it -- there was -- the
19 Trial Courts have been granted wide latitude to allow
20 extrinsic evidence proving the statement. And basically the
21 only way to prove someone's up -- prior inconsistent
22 statement is gonna be a hearsay. I mean---

23 THE COURT: Well, there's any number of ways.

24 MRS. BUTCHER: ---other than that is---

25 THE COURT: They've given us a statement to law

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 enforcement. You've got them making the statement on --
2 they've given the statement to law enforcements. You've got
3 him on camera making the statement somewhere. But this is,
4 this is hearsay of what somebody allegedly --

5 MRS. BUTCHER: Your Honor, it is only---

6 THE COURT: -- told him.

7 MRS. BUTCHER: Can -- if we redact it farther and only
8 for the purpose that A.J. said Lonnie had a gun that day.

9 THE COURT: Well, first of all, I didn't hear that on
10 there and I know you listened to it a lot more than I did.
11 I heard him say that he has carried a gun.

12 MRS. BUTCHER: We can play those exact parts, Your
13 Honor. It's on there very clearly. Law enforcement
14 actually repeated that back. Bonner is there. He is the
15 one off camera.

16 THE COURT: I don't think that's --

17 MRS. BUTCHER: Officer Bonner's the one off camera.
18 They're two officers---

19 THE COURT: Okay.

20 MRS. BUTCHER: ---there. And, Your Honor, this also
21 goes towards a written statement that one of the -- those
22 officers took that can't be found now to be turned over.
23 But, Your Honor, we can play those parts again and point
24 them out as they come through. We'll be glad to redact
25 everything except for when Mr. Haynesworth says that A.J.

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 said Lonnie had a gun that day.

2 THE COURT: Do you want to be heard, Mr. Finney?

3 SOLICITOR FINNEY: Your Honor, obviously I've just got
4 a, a problem with Mr. Haynesworth telling the jury what he
5 remembers that someone else may have told him because that's
6 clearly hearsay, and unless it fits into an exception, I
7 don't think the Court should allow it in.

8 Now we've got the issue of Mr. Haynesworth telling the
9 Court today that he had a -- he had suffered some type of
10 bad blood with the parties that are involved and that he had
11 some reason not to be completely truthful with the officers
12 on, on the taped interview and he doesn't remember, because
13 of other organic issues going on with his health, he doesn't
14 remember all of this at all.

15 Most of the videotape, I think, Your Honor, was him
16 trying to help the officer. As you heard in that last clip,
17 the officer said you keep saying I, I believe he would have
18 said or I believe he told me. It wasn't a statement of
19 fact. It, it seemed to me it wasn't a statement of fact.
20 And so -- and I know maybe that's -- I mean I just think,
21 from the standpoint of the Court feeling that this
22 information is reliable before it gets to the jury, that
23 needs to be addressed as well.

24 MRS. BUTCHER: And, Your Honor, that was when the
25 officer made clear with Mr. Haynesworth that A.J. actually

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 said those words and it wasn't someone telling Mr.
2 Haynesworth that A.J. said that. Mr. Haynesworth made it
3 very clear two or three times in this that those words came
4 from A.J. himself. And, Your Honor, I believe this is the
5 exception to the rule of prior statements of a witness that
6 are inconsistent. And, like I say, the Blalock case clearly
7 states that there's to been wide latitude---

8 THE COURT: I'm looking at the Blalock case, and, in
9 that case, the -- Mrs. Blalock took the stand. She
10 equivocated and the State was able to introduce her
11 statement that she had given to law enforcement. Not
12 somebody else where she had told somebody else.

13 So, I don't think it's admissible under the rules and
14 that's my ruling. You are protected for the record in that
15 we have proffered that testimony and his, his oral testimony
16 and the video.

17 MR. BUTCHER: Okay. And, Your Honor, can we review
18 Number 4 where Mr. Haynesworth said that Lonnie carries a
19 gun and we can -- from, from that prospective?

20 That's his testimony.

21 THE COURT: You want to ask this witness whether he
22 knows whether Lonnie carries a gun?

23 MRS. BUTCHER: Yes, Your Honor.

24 THE COURT: And what would be the relevance?

25 MRS. BUTCHER: The, the State has brought Mr. Pack's

Bennie Haynesworth - Direct examination
By Mrs. Butcher

1 character into this and said -- yeah, and asked that of
2 several witnesses.

3 THE COURT: Asked several witnesses what?

4 MRS. BUTCHER: Whether or not Mr. Pack carries a gun.
5 They also said he was a good guy with their opening.

6 THE COURT: I don't recall anybody being asked whether
7 he carries a gun. He was asked whether, on that particular
8 day at the time of the shooting, Lonnie Pack had a gun. So,
9 unless this witness can proffer some testimony that Lonnie
10 Pack was carrying a gun that day, I don't know how that
11 would be admissible.

12 THE WITNESS: Excuse me, Your Honor?

13 THE COURT: No, sir.

14 MRS. BUTCHER: Yeah, I, I --.

15 (Pause.)

16 MRS. BUTCHER: Okay. We'll excuse this witness, Your
17 Honor.

18 THE COURT: You can step down, sir.

19 MRS. BUTCHER: And, Your Honor, he's released from his
20 subpoena, and from what I gather, he doesn't have any bench
21 warrants or anything out on him actually. So, I'll turn him
22 over to Mr. Finney.

23 MR. BUTCHER: Your, Your Honor, when Mr. Brown
24 testifies, I'd like to ask that he be able to walk from this
25 stand over to the witness stand.

1 THE COURT: Before the jury comes in?

2 MR. BUTCHER: Well, can he do it -- once, once the jury
3 is seated, can he walk from here to the witness stand
4 please?

5 He's behaved himself. Yeah -- okay. Never mind.
6 He'll just sit in the -- be in the chair.

7 THE COURT: Yeah, I certainly wouldn't want us to give
8 any, any impressions to the jury about what he's got on
9 under his clothing. So, if you want to---

10 MR. BUTCHER: Yes.

11 THE COURT: Okay. Mr. Brown, let me just -- one last
12 time.

13 We've talked several times about your right to testify.
14 Once again, I just have to give you the, the recitation of
15 your rights. That you've got the right to remain silent.
16 Again, if you choose not to testify, I will instruct the
17 jury that that is your constitutional right and they can not
18 hold it against you or even discuss it in the jury room.
19 It's the State that bears the burden of proof in this case.
20 You do not bear any burden of proving yourself innocent and
21 I know we've discussed that twice now.

22 But just wanted to go over that and ask you, sir, if
23 you want to testify?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. If you'll come on up and we'll get