

RECEIVED

Dec 12 2025

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Berkeley County

Honorable Kristi F. Curtis, Circuit Court Judge

JERALD JERMAINE HOWARD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001319

APPENDIX

MOLLY M. KEEGAN
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

DANIELLE DIXON
Assistant Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3737

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

VOLUME I OF II

PAGES 1-500

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JULY 15-18, 2019.....	1
APPLICATION FOR POST-CONVICTION RELIEF	655
RETURN AND MOTION FOR A MORE DEFINITE STATEMENT	662
AMENDED APPLICATION FOR PCR.....	673
MOTION TO ADD ADDITIONAL GROUNDS FOR POST-CONVICTION RELIEF	681
AMENDED RETURN.....	687
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 26, 2023	702
ORDER OF DISMISSAL.....	779
INDICTMENTS	797
MOTION TO DISMISS AND DROP AFFIDAVIT.....	801
ORDER DISMISSING DIRECT APPEAL.....	803
DIRECT APPEAL REMITTITUR.....	804

1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
 2 COUNTY OF BERKELEY) CASE NO. 2019-GS-08-01040
 2019-GS-08-00623

3
 4 STATE OF SOUTH)
 CAROLINA,)
 5 Plaintiff,) Transcript of Record
 6 vs.)
 7 JERALD HOWARD,) Date: July 15, 2019 -
 July 18, 2019
 8 Defendants.)

9 * * * * *

10

11 B E F O R E:

12 The R. Markley Dennis

13

14

15

16

17

18

19

20 * * * * *

21

22 Denise J. Lauder, RPR

23 Ninth Judicial Circuit

24

25

1 A P P E A R A N C E S

2

3 REPRESENTING THE STATE OF SOUTH CAROLINA:

4 BRYAN ALFARO, DEPUTY SOLICITOR

5 BART STEGALL, ASSISTANT SOLICITOR

6 Ninth Circuit Solicitor's Office

7 300B California Avenue

8 Moncks Corner, SC 29461

9

10 REPRESENTING THE DEFENDANT:

11 JAMES W. SMILEY, IV, ESQUIRE

12 58 Broad Street

13 Charleston, SC 29401

14

15 LAREE A. HENSLEY, ESQUIRE

16 1495 Remount Road

17 North Charleston, SC 29406

18

19

20

21

22

23

24

25

1	I N D E X	
2		Page
3	VOIR DIRE	11
4	JURY SELECTION	78
5	<u>THE JURY-SWORN</u>	121
6	COURT'S OPENING	121
7	SOLICITOR'S OPENING STATEMENT	131
8	DEFENSE OPENING STATEMENT	137
9	<u>DANIEL GOODLETT</u>	
10	DIRECT EXAMINATION BY MR. STEGALL	141
11	CROSS-EXAMINATION BY MR. SMILEY	148
12	<u>JAMES GOODLETT</u>	
13	DIRECT EXAMINATION BY MR. STEGALL	151
14	CROSS-EXAMINATION BY MR. SMILEY	158
15	<u>BOZENA GOODLETT</u>	
16	DIRECT EXAMINATION BY MR. STEGALL	168
17	CROSS-EXAMINATION BY MR. SMILEY	175
18	<u>STEPHEN HORTON</u>	
19	DIRECT EXAMINATION BY MR. STEGALL	182
20	<u>TRACY MOSS</u>	
21	DIRECT EXAMINATION BY MR. STEGALL	187
22	CROSS-EXAMINATION BY MR. SMILEY	198
23	<u>DAVID HOGSED</u>	
24	DIRECT EXAMINATION BY MR. ALFARO	201
25	CROSS-EXAMINATION BY MR. SMILEY	221

1	<u>THOMAS CLARK</u>	
2	DIRECT EXAMINATION BY MR. STEGALL	239
3	CROSS-EXAMINATION BY MR. SMILEY	243
4	<u>JOSEPH GUFFEY</u>	
5	DIRECT EXAMINATION BY MR. ALFARO	245
6	CROSS-EXAMINATION BY MR. SMILEY	248
7	REDIRECT EXAMINATION BY MR. ALFARO	251
8	<u>WILLIAM BALLEW</u>	
9	DIRECT EXAMINATION BY MR. ALFARO	251
10	CROSS-EXAMINATION BY MR. SMILEY	255
11	<u>TRAVIS MARTIN</u>	
12	DIRECT EXAMINATION BY MR. STEGALL	258
13	CROSS-EXAMINATION BY MR. SMILEY	264
14	REDIRECT EXAMINATION BY MR. STEGALL	274
15	RECROSS-EXAMINATION BY MR. SMILEY	275
16	<u>JERALD HOWARD, SENIOR</u>	
17	DIRECT EXAMINATION BY MR. STEGALL	277
18	CROSS-EXAMINATION BY MR. SMILEY	284
19	<u>WILLIAM GARY</u>	
20	DIRECT EXAMINATION BY MR. STEGALL	291
21	CROSS-EXAMINATION BY MR. SMILEY	331
22	<u>MICHAEL SHAWN NIX</u>	
23	DIRECT EXAMINATION BY MR. ALFARO	349
24	CROSS-EXAMINATION BY MR. SMILEY	357
25	<u>LINDSEY MCGRAW</u>	

1	DIRECT EXAMINATION BY MR. STEGALL	360
2	CROSS-EXAMINATION BY MR. SMILEY	364
3	<u>AMANDA HINOJOS</u>	
4	DIRECT EXAMINATION BY MR. STEGALL	380
5	<u>DEANNA BURGESS</u>	
6	DIRECT EXAMINATION BY MR. ALFARO	386
7	<u>ROBERT CLAY SIMMONDS</u>	
8	DIRECT EXAMINATION BY MR. STEGALL	395
9	CROSS-EXAMINATION BY MR. SMILEY	419
10	<u>DASHAWN JOSEPH</u>	
11	DIRECT EXAMINATION BY MR. ALFARO	428
12	CROSS-EXAMINATION BY MR. SMILEY	434
13	<u>SCOTT BELL</u>	
14	DIRECT EXAMINATION BY MR. ALFARO	441
15	CROSS-EXAMINATION BY MR. SMILEY	444
16	<u>BOBBY RAY SHULER</u>	
17	DIRECT EXAMINATION BY MR. ALFARO	446
18	CROSS-EXAMINATION BY MR. SMILEY	469
19	<u>JACK GRAY VALLENTINE</u>	
20	DIRECT EXAMINATION BY MR. STEGALL	476
21	<u>WILLIAM B. SALISBURY</u>	
22	DIRECT EXAMINATION BY MR. ALFARO	480
23	CROSS-EXAMINATION BY MR. SMILEY	482
24	REDIRECT EXAMINATION BY MR. ALFARO	485
25	<u>DEAN KOKINDA</u>	

1	DIRECT EXAMINATION BY MR. ALFARO	488
2	<u>PAUL MEEH</u>	
3	DIRECT EXAMINATION BY MR. ALFARO	491
4	CROSS-EXAMINATION BY MR. SMILEY	508
5	<u>WILLIAM STEVENS</u>	
6	DIRECT EXAMINATION BY MR. STEGALL	520
7	CROSS-EXAMINATION BY MR. SMILEY	539
8	REDIRECT EXAMINATION BY MR. STEGALL	548
9	SOLICITOR'S CLOSING ARGUMENT	571
10	DEFENSE CLOSING ARGUMENT	598
11	JURY CHARGE	614
12	VERDICT	640
13	SENTENCING	653
14	CERTIFICATE OF REPORTER	654
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	E X H I B I T S	
2		Page
3	STATE EXH. 2, Swab	206
4	STATE EXH. 3, Swab	206
5	STATE EXH. 5, Cutting from carpet	209
6	STATE EXH. 4, Cutting from carpet	209
7	STATE EXH. 9, Swab container	217
8	STATE EXH. 11, Cell Phone	218
9	STATE EXH. 74, Phone extraction data	320
10	STATE EXH. 75, Lineup	377
11	STATE EXH. 76, Affidavit	377
12	COURT EXH. 1, Jury Note	633
13	COURT EXH. 2, Jury Note	633
14	STATE EXH. 15 - 18, Photographs, in	211
15	evidence	
16	STATE EXH. 29 in evidence	293
17	STATE EXH. 30 in evidence	293
18	STATE EXH. 28 in evidence	313
19	STATE EXH. 31 - 37 in evidence	322
20	STATE EXH. 19 - 25 in evidence	355
21	STATE EXH. 27 in evidence	355
22	STATE EXH. 12 in evidence	357
23	STATE EXH. 13 in evidence	357
24	STATE EXH. 75 in evidence	393
25	STATE EXH. 76 in evidence	393

1	STATE EXH. 38 in evidence	408
2	STATE EXH. 39 - 44 in evidence	451
3	STATE EXH. 72 in evidence	460
4	STATE EXH. 45 - 71 in evidence	465
5	STATE EXH. 1 - 10 in evidence	503
6	STATE EXH. 78 - 81 in evidence	526
7	STATE EXH. 77 in evidence	533
8	STATE EXH. 82 - 90 in evidence	533
9	STATE EXH. 11 in evidence	518
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 (The following proceedings were had
2 July 15, 2019, Berkeley County General Sessions,
3 State v. Howard, 10:20 a.m.)

4 THE COURT: Thank you, ladies and
5 gentlemen. Good morning. My name is Markley
6 Dennis. I'm one of the circuit court judges for
7 the Ninth Judicial Circuit. I've been assigned
8 this week to conduct a term of general sessions
9 criminal court, and you've been selected to help us
10 resolve that case.

11 I know all of you were excited and just
12 called Ms. Dupree and said, thank you so much for
13 selecting me for this jury, it's really what I
14 wanted to do. Did this make any of your top ten
15 list of things you wanted to do this week? If so,
16 raise your hand.

17 And we'll talk more about that after we
18 go through the roll call, but that's really
19 significant about the jury service, truly. You can
20 only be required to serve once every three years in
21 this state in the court of -- circuit court, either
22 general sessions or common pleas. It doesn't
23 matter.

24 And I will tell you this: If you stand
25 subject to being called, all of you that remain, we

1 only use -- this is probably one of the best weeks
2 you could have picked, because the case we are
3 going to have is probably going to take the whole
4 week to try.

5 We will finish it this week, but we
6 will not have but one time that you'll come for
7 most of you. Fourteen of you, we'll select a jury.
8 Fourteen of you will remain.

9 And you won't start until tomorrow, so
10 you'll get to go home a little early and get some
11 things done. And then we will tell you what time
12 you need to come back.

13 The rest of you, if you'll stand,
14 you'll earn your exemption for three years. And I
15 don't know if you think that's good or bad, but
16 that's a pretty valuable little tool that -- if you
17 want to use it, you can play that card if you have
18 to be selected.

19 So this is a really good time because
20 sometimes it is not uncommon to have -- in
21 Charleston, we do double terms. And here we have
22 done it a couple of times. I don't think we are
23 doing it as much because of space problems, but
24 it's certainly not uncommon to have the jury come
25 back at least once or twice, or maybe three times

VOIR DIRE

1 during the week to pick a jury.

2 So this is a good time to do it, and I
3 will look forward to talking with you more about
4 that after we call the roll and we get certain
5 information from you. But thank you very much for
6 being here, and I'll just look forward to talking
7 to you in a minute.

8 Ms. Dupree, I'll turn this over to you
9 all to get your roll call. Thank you.

10 (Roll call was had.)

11 THE COURT: It's interesting, I
12 qualified a jury in Charleston last week, and I
13 called it the teacher term. And that's what we
14 have here. I assume some of you either had a -- if
15 all the teachers were drawn at random and you all
16 happened to be here and not transferred, then I
17 would like to go out with you folks.

18 I'm not advocating gambling, but let's
19 go buy some lottery tickets because you all are the
20 luckiest people in the world. So I assume this is
21 your term that you picked, and I thank you for
22 that.

23 I heard some students from USC and
24 others. That reminds me -- I shared this story in
25 Charleston with the teacher's term. Years ago

VOIR DIRE

1 before my son went on to get married and have
2 children, and now I take care of my grandchildren,
3 but he was going to school and he was picked and
4 decided he would transfer to a term in the summer,
5 just like you were doing.

6 And he came -- and what I'm about to
7 do, I have done pretty much my entire career. I
8 just enjoy talking with you all. And you would
9 probably say I talk too much, and Denise, I know,
10 would tell me I talk entirely too much.

11 But we were going home and he said, do
12 you always do that?

13 And I said, what do you mean? He said,
14 talk to the jury. And I said, I do. He said,
15 you're boring. I said, gee, thanks, I appreciate
16 that. So if I bore any of you, forgive me, I'm
17 sorry. But it's such a pleasure for me to have an
18 opportunity to work with you. It's really a
19 service.

20 In fact, back when I was practicing law
21 and noticed something else -- we were chatting
22 about that before you came in. When I first
23 started practicing law and I had the privilege and
24 pleasure of practicing, my office was here right
25 down the street.

VOIR DIRE

1 And I was in this courtroom more than
2 any other courtroom, I'll put it that way. I
3 practiced in some of the other counties in the
4 state, but this was my home county.

5 And I can remember when qualifying
6 juries the first question -- I'm going to tell you
7 about exemptions. I used to think, boy, 65 is old.
8 Well, guess what? But, again, this is the second
9 time that I've qualified a jury and I'm the oldest
10 one in the room.

11 And so I thought that was old until I
12 joined the 65 club years ago, and now I will be
13 pushed out of office in December because I turn 72.
14 And I use this term lightly because I had -- I did
15 -- I handled a case in Charleston. And the clerk
16 told me he got a call from this person who said he
17 wanted to get another consideration because the
18 judge said he was senile.

19 And I said, once I reached 72,
20 according to the law, I can't be an active judge.
21 I can be a retired judge. And I'm not sure I
22 understand that one, but anyway, be that as it may,
23 I said I will be statutorily senile. So you all
24 are probably saying you probably have reached that
25 point.

VOIR DIRE

1 But, anyway, there are a number of
2 exemptions that you are given. There was one I
3 noticed on the list that Ms. Dupree was gracious
4 enough to prepare -- and it's very helpful. Thank
5 you very much for that -- that chose to exercise
6 the exemption.

7 And if you fall in any of these
8 categories, it doesn't prevent you from serving.
9 It just gives you the option of saying I'd like to
10 be excused. I didn't notice any, but are there any
11 members of the jury who have reached their 65th
12 birthday -- I saw one I think that was close, but
13 not there yet -- and wish to claim the exemption?
14 Thank you. I didn't notice any.

15 I didn't hear any of these. If you are
16 an employee with the Department of Corrections, you
17 have an exemption. Does that apply to anyone?

18 Thank you. There appear to be none.

19 There may be some of these. If you are
20 the care -- have the sole care and custody of a
21 child or children under the age of seven, and you
22 either do not work outside of the home or your
23 working arrangements are such that you alternate
24 with the other caregiver so that one of you is
25 present at all times and you need to claim that

VOIR DIRE

1 exemption, please stand.

2 Yes, sir?

3 PROSPECTIVE JUROR: I have two children
4 at home, a two-year-old and a five-year-old. And I
5 have full custody the three days I'm off -- I work
6 swing shift -- so they are in my custody.

7 THE COURT: Okay. You wish to take an
8 exemption?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Your name and number,
11 please?

12 PROSPECTIVE JUROR: Dustin Johnson, 86.

13 THE COURT: Thank you, Mr. Johnson.
14 Thank you for taking care of your children. You
15 are free to leave, sir. Thank you.

16 Any others? Yes, ma'am.

17 PROSPECTIVE JUROR: (Inaudible)

18 THE COURT REPORTER: Judge, I can't
19 hear her.

20 THE COURT: Okay. You need to speak
21 up. That's not a problem -- I'm getting deaf. My
22 wife is soft-spoken, and she says, you need a
23 hearing aid. But if you will speak loudly for me,
24 please.

25 PROSPECTIVE JUROR: I'm the sole

VOIR DIRE

1 caregiver of my son Jordan, he's five. And I
2 rotate care with my mom when I'm working.

3 THE COURT: That's -- that qualifies
4 you if you want to claim an exemption. And your
5 number is?

6 PROSPECTIVE JUROR: Number 46.

7 THE COURT: Number 46 is excused. You
8 are free to leave. Thank you.

9 Anyone else? Thank you. There appear
10 to be none.

11 Are there any members of the jury panel
12 that have the care of a person over the age of 65
13 and you need to claim the exemption?

14 If you will stand and give your name
15 and number, please.

16 PROSPECTIVE JUROR: Colbi Crane, 39.

17 THE COURT: You have the care --

18 PROSPECTIVE JUROR: I am an at-home
19 caregiver for --

20 THE COURT: Well, I understand that.
21 That's not what I'm talking about. You get paid to
22 do that. I'm talking about somebody who takes care
23 of a family member or a person and they're just
24 doing that.

25 Yes, ma'am.

VOIR DIRE

1 PROSPECTIVE JUROR: I'm 37. I take
2 care of my father; he's 72.

3 THE COURT: All right. And you are
4 there with him?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: And your number, please?

7 PROSPECTIVE JUROR: 37.

8 THE COURT: Number 37 is excused.

9 Thank you.

10 Yes, ma'am.

11 PROSPECTIVE JUROR: Ravanel Lowery. I
12 take care of my 67-year-old sister.

13 THE COURT: Okay. That would fall into
14 that. Your number, please?

15 PROSPECTIVE JUROR: 99.

16 THE COURT: Number 99 will be excused.

17 Thank you, ma'am.

18 Are there others?

19 Thank you. There appear to be none.

20 Are there any members of the jury that
21 have the care of a person of any age with some
22 mental or physical condition that requires constant
23 care and you are that caregiver? If that applies
24 to you and you want to claim the exemption, please
25 stand.

VOIR DIRE

1 Yes, ma'am.

2 PROSPECTIVE JUROR: I am a foster
3 parent with a child that requires 24/7 care.

4 THE COURT: And you are the foster
5 parent of that child?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: And that child is now in
8 your custody. Okay. And your number, please?

9 PROSPECTIVE JUROR: 196.

10 THE COURT: 196 is excused. Thank you,
11 ma'am, and thank you for what you do.

12 Are there others?

13 Thank you. There appear to be none.

14 I heard a number of these and I hope
15 this is your term, but are there any members of the
16 jury panel who are students, teachers, or necessary
17 employees with an institution of higher learning,
18 including K through 12, including technical
19 colleges, and your duties and responsibilities as a
20 juror this week would conflict with your duties and
21 responsibilities of any of those capacities and you
22 need to claim this exemption? Please stand. Okay.

23 Yes, ma'am.

24 PROSPECTIVE JUROR: I am Linda Russell.
25 I'm a teacher, a kindergarten teacher. I'm the

VOIR DIRE

1 only certified person at my school to do the
2 kindergarten readiness testing. I start Wednesday
3 testing 120 students.

4 THE COURT: And bless you and thank you
5 for that. And that will qualify because we will go
6 past Wednesday. Your number, please?

7 PROSPECTIVE JUROR: 148.

8 THE COURT: Number 48 --

9 PROSPECTIVE JUROR: 148.

10 THE COURT: Number 148 is excused.
11 Thank you.

12 Yes, ma'am.

13 PROSPECTIVE JUROR: I am a student and
14 I take summer classes.

15 THE COURT: Don't you want a reason to
16 cut class? I went every summer so I understand
17 your situation. Your number, please?

18 PROSPECTIVE JUROR: Number 133.

19 THE COURT: Good luck with your
20 education. You are excused.

21 Any there any others? Yes, ma'am.

22 PROSPECTIVE JUROR: Number 91. I'm a
23 nursing student at Trident Technical College.

24 THE COURT: And you need to continue.
25 Thank you for that as well. And your number,

VOIR DIRE

1 please?

2 PROSPECTIVE JUROR: 91.

3 THE COURT: 91 is excused.

4 Any others? Thank you. Appreciate
5 those of you who do fall into that, and I
6 appreciate your willingness to continue.

7 The next one, are there any members of
8 the jury panel that have previously served in the
9 circuit court in the last three years, and you want
10 to claim the exemption that all of you that remain
11 today will earn? If that applies to anyone now,
12 please stand. Thank you.

13 Is there anybody on the jury panel that
14 served on the grand jury in the last five years? I
15 will be qualifying the grand jury on Wednesday and
16 those persons that are selected earn an exemption
17 from circuit court for five years. So that's --
18 does that apply to anyone?

19 Thank you. There appear to be none.

20 The next one, I heard a couple of these
21 that might fall into this. If you are your boss
22 and your employee, in other words, if you're out,
23 the office has to be closed, you're it, and you
24 need to claim that exemption being the sole
25 proprietor and employee, please stand.

VOIR DIRE

1 Yes, ma'am.

2 PROSPECTIVE JUROR: I work for myself,
3 but I also work for Summerville Signs, but I have a
4 job waiting on me that I can't do if I serve on the
5 jury.

6 THE COURT: Do you work -- but you
7 work --

8 PROSPECTIVE JUROR: I work for myself.

9 THE COURT: I understand, but you work
10 with a job outside of working for yourself? Do you
11 work outside of your home?

12 PROSPECTIVE JUROR: I do, but --

13 THE COURT: So that wouldn't apply
14 because, obviously, you're not there when you're
15 working your job. Okay. The statute says -- I'll
16 tell you why I make that call. It really
17 originated during the time that we were an
18 agricultural state, and the farmers -- obviously,
19 if the farmer is not there, they're not -- there is
20 no work being done. And that's how it evolved.

21 And there are people that they are it.
22 For instance, if you didn't have an outside job,
23 that would qualify.

24 PROSPECTIVE JUROR: I understand.

25 THE COURT: Okay. Anyone else?

VOIR DIRE

1 Thank you. There appear to be none.

2 Those are all of the exemptions, folks.

3 The next question is going to do with your
4 qualification to serve. So if any of these apply
5 to you, it's important to share your response with
6 the court. I didn't notice any of these, but is
7 there any member of the jury panel that's not --
8 and I noticed it because I had your birthdays, not
9 because of how you appear. Anybody who has not
10 reached their 18th birthday? If so, please stand.

11 Thank you. There appear to be none.

12 Some of you look close to 18. Like me.

13 I will share this with you. I was
14 holding court here a couple of years ago and a guy
15 came before me and he looked familiar -- his name
16 looked familiar and his face looked familiar. And
17 he looked at me and I was looking at him and he
18 knew what I was thinking.

19 He said, I know what you're thinking.
20 I was before you about five years ago. And I said,
21 I thought you looked familiar. He said, yeah, you
22 look the same except your hair is grayer. So I
23 said, thanks, I appreciate that.

24 Is there any member of the jury panel a
25 clerk of court, deputy clerk of court, constable,

VOIR DIRE

1 sheriff, probate judge, county officer, county
2 official or any person employed within the walls of
3 any courthouse? If so, please stand.

4 Thank you. There it appear to be none.

5 Is there any member of the jury panel
6 who holds a law enforcement position, that could be
7 with or without pay; in other words, you are
8 empowered to arrest someone? If that applies to
9 you, please stand.

10 Thank you. There appear to be none.

11 Is there any member of the jury panel
12 not a resident or citizen of Berkeley County? If
13 so, please stand.

14 Thank you. There are none.

15 Is there any member of the jury panel
16 not a citizen of the United States? If so, please
17 stand.

18 Thank you. There are none.

19 The next group of questions, ladies and
20 gentlemen, it's important that you share your
21 response. And I will give you an opportunity to
22 come forward and share it with me and the court
23 reporter, but it is imperative you share your
24 response.

25 The first one is, is there any member

VOIR DIRE

1 of the jury panel that has ever been convicted of a
2 crime, either state or federal crime, that carries
3 a potential sentence of more than one year, and you
4 haven't had your civil rights restored by pardon or
5 amnesty? It will prevent you from serving.

6 It's something that some states have
7 taken action -- I am an advocate for it; I think it
8 ought to be done. It doesn't matter how long ago.
9 It could have been 30 or 40 years ago, but it's
10 going to prevent you from serving, which I think is
11 totally wrong, but it is the law of this state and
12 I have to apply that.

13 So if this applies to you, you need to
14 share that response with me.

15 If there are any members of the jury
16 panel who are unable to read, write, speak, or
17 understand the English language, I need to talk
18 with you about that.

19 Is there any member of the panel that
20 has some physical or mental infirmity that they
21 believe would affect their ability to serve as a
22 juror? I will need to discuss that with you.

23 And if there are any members of the
24 panel that do not have the equivalent of a sixth
25 grade education, I need to discuss that.

VOIR DIRE

1 Now, is there any member of the jury
2 panel who needs to talk to me about postponing your
3 jury service, and you haven't already been
4 transferred, and there's an emergent situation? I
5 will be happy to talk with you about it, but if you
6 have, then this is your term.

7 But if there is some, I would be happy
8 to discuss that with you; but I will again
9 reiterate, this is a good time. There are only 14
10 of you who will be involved in being picked, so you
11 may want to think about that before doing it.

12 So for most of you, you will walk out
13 the door and walk out with a three-year exemption
14 and your wonderful clerk will mail you a check.
15 Don't hold that against her, the amount, or against
16 me, that's provided by law.

17 But, anyway, if there are members now
18 that need to discuss matters with the Court, if you
19 will form a line right here, I will take you one at
20 a time.

21 (The following proceedings were had
22 between the Court and the court reporter.)

23 BAILIFF: Juror No. 14.

24 THE COURT: All right.

25 PROSPECTIVE JUROR: Right. I would

VOIR DIRE

1 like to postpone because it's my children's summer
2 vacation. I am worried that they would hurt each
3 other.

4 THE COURT: All right. So you would
5 like to do it in the fall?

6 PROSPECTIVE JUROR: Yes, when school
7 starts.

8 THE COURT: All right. Do you have a
9 term that you want to give her, or you just want to
10 tell -- mail it to her another time?

11 THE CLERK: How about September 30th?

12 PROSPECTIVE JUROR: That's fine.

13 THE COURT: Okay. They will send you
14 another notice.

15 And No. 14 will be transferred to a
16 term in September. Have a good summer.

17 Anyone else?

18 BAILIFF: Juror No. 156.

19 THE COURT: Good morning.

20 PROSPECTIVE JUROR: Morning. I have a
21 procedure that I have to get done that I have
22 scheduled. I had a brain aneurysm and it's time
23 for me to go back.

24 THE COURT: Any possibility of
25 postponing it, if you got picked? If you don't get

1 picked, you don't have to worry about it.

2 PROSPECTIVE JUROR: Okay.

3 THE COURT: I think we may -- it may go
4 into Thursday.

5 PROSPECTIVE JUROR: It may go into
6 Thursday.

7 THE COURT: It may go into Thursday.
8 But if you could reschedule it, you could get rid
9 of this thing now. Unless you want to postpone it.
10 But if you postpone it, you may have to be here
11 every day.

12 PROSPECTIVE JUROR: Okay.

13 THE COURT: You may want to take a
14 chance.

15 PROSPECTIVE JUROR: I'll take a chance.

16 THE COURT: Juror No. 156 will remain.

17 BAILIFF: Juror No. 112.

18 THE COURT: Yes, sir?

19 PROSPECTIVE JUROR: Yes, sir. I think
20 back in the '80s I was charged with resisting
21 arrest. I don't know if it --

22 THE COURT: Was it a simple resisting
23 arrest?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: That would not -- that will

VOIR DIRE

1 not disqualify you.

2 PROSPECTIVE JUROR: Okay.

3 THE COURT: Thank you, sir. And your
4 number?

5 PROSPECTIVE JUROR: 112.

6 THE COURT: 112 will remain.

7 BAILIFF: Juror No. 13.

8 THE COURT: Yes, sir.

9 PROSPECTIVE JUROR: I have a quick
10 question. I'm going on vacation on Friday.

11 THE COURT: What time are you leaving?

12 PROSPECTIVE JUROR: I leave Thursday
13 night. I have plane tickets.

14 THE COURT: I know.

15 THE CLERK: Transferred twice.

16 PROSPECTIVE JUROR: Transferred as a
17 student.

18 THE COURT: There is a chance that we
19 will be into it Thursday. I just don't know how
20 long deliberations will last. You made your
21 reservations when you knew you had a jury week?

22 PROSPECTIVE JUROR: No. I had
23 transferred because I was a student.

24 THE COURT: I understand, but then you
25 scheduled a vacation on the week you were

VOIR DIRE

1 transferred?

2 PROSPECTIVE JUROR: It was because of a
3 wedding that popped up, so...

4 THE COURT: And you are in the wedding?

5 PROSPECTIVE JUROR: I am not in the
6 wedding.

7 THE COURT: Well, this is your time.

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: Thank you, sir. We will do
10 our best to get finished. Won't promise you that.

11 PROSPECTIVE JUROR: All right, sir.
12 Appreciate it.

13 BAILIFF: Juror No. 147.

14 THE COURT: Yes, sir.

15 PROSPECTIVE JUROR: I was supposed to
16 see my doctor Wednesday for surgery. I don't
17 know --

18 THE COURT: Well, you could reschedule
19 that.

20 PROSPECTIVE JUROR: I don't know if --

21 THE COURT: Well, you may want to -- I
22 will -- have you been transferred previously?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: If you want to transfer --
25 but if you don't get picked, you will be done. If

VOIR DIRE

1 you get picked, then you just reschedule your
2 appointment.

3 PROSPECTIVE JUROR: I see what you
4 mean.

5 THE COURT: Because this is a time to
6 do it. I don't know whether you will get picked or
7 not, but if you get transferred you're going to
8 have to be here and you may have to come every day.

9 PROSPECTIVE JUROR: I may not get
10 picked.

11 THE COURT: Well, the trouble is, if
12 you get picked, there's no more waiting.

13 PROSPECTIVE JUROR: Okay. Yes, sir.

14 THE COURT: That's fine. So you will
15 reschedule if you get picked?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Okay. That's good. It's
18 147?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: 147 will remain.

21 (Open court)

22 THE COURT: Any others? Going once,
23 twice, sold. Thank you.

24 Ladies and gentlemen, thank you very
25 much for agreeing to work with me this week and

1 help resolve this case. I mean that sincerely
2 because that's what you have done; and you have
3 already spoken volumes about yourself.

4 You may say, well, what does he mean by
5 that? What stopped you from standing and saying, I
6 have the care of a person over 65, or I have small
7 children? I didn't ask for any evidence of that.
8 I just asked -- they took the same oath that you
9 did. But what stopped you was, it wasn't true.

10 And we go back to what I asked you
11 first of all. How many people if this made their
12 top ten list, and nobody raised their hand. It's
13 not something that you really want to do, but it's
14 something that you have said, I'm a citizen, it's
15 my responsibility, and I will accept that duty.

16 And I've heard -- people used to say
17 that next to serving in the military it's the
18 greatest service that you can render. And I
19 thought, wait a minute. But, you know what? It
20 really is. Because it's something that you don't
21 really choose to do.

22 It's something that nobody really likes
23 to do, but it's something that you do because it's
24 part of our duty. And I hope, because you feel
25 like I do, that we have a system in this country of

VOIR DIRE

1 resolving disputes that really and truly marks a
2 lot of things about this country that people will
3 acknowledge that are really good.

4 And some countries talk about how bad
5 it is here, but this is one that other countries
6 really admire. And you know why I can say that?
7 Years ago I went to a seminar and one of the
8 speakers happen to be the president of the American
9 Heart Association. He was the mayor of Richmond,
10 Virginia.

11 And he said I spent my -- almost my
12 entire year travelling abroad. And it happened to
13 be in a time -- or right about the time or shortly
14 after the Soviet Union dissolved, and all of these
15 countries were being formed.

16 And he spent time talking about one
17 thing, our system of jurisprudence, but, most
18 importantly, our jury system. He said, we like to
19 involve the people in making decisions about you.

20 I'm told -- I have never practiced law
21 in England, I have never really studied it, but I
22 was told that in Great Britain they have a jury
23 system but they are really professional jurors.
24 That's what they do.

25 And frankly, folks, if I had a choice

1 of being a professional juror on this side and you
2 on this side, I would take you all day long. Do
3 you know why? Because there is nobody in the world
4 that is more qualified than you are to perform the
5 task that you are willing to take. And I can say
6 that without knowing most you.

7 And the reason I say that is simply
8 this: All that you are going to do is do something
9 that you do every single day of your life. Be it
10 work, be it just in general conversation, we all
11 listen to something or we read something, and we
12 decide whether we believe it or not.

13 And if we do, we may have read it and
14 said, you know, I don't believe that. And you may
15 say, well, I do, and let me tell you why. Or they
16 can say the same thing.

17 Well, that's exactly what you're going
18 to do as a juror. You are going to at the
19 appropriate time analyze evidence. And evidence,
20 folks, consists of two sources; one, something that
21 you hear, somebody is testifying, and something
22 that was introduced through their testimony that
23 you will have an opportunity to see. And you are
24 going to make a decision on what you find to be
25 credible and believable.

VOIR DIRE

1 Well, that's what we do every day of
2 our lives. And you are going to use those talents
3 that you bring to this courtroom, your common
4 sense, your sense of logic and reason, your life's
5 experiences to assist you.

6 Now, I will guarantee that -- one part,
7 especially, in criminal disputes, some states have
8 jurors that are involved in sentencing. And I will
9 state the only time that occurs is a capital murder
10 case. And we do not have a capital murder case.

11 We have a case where a person is
12 accused of the crime of murder, but it's not a
13 capital murder case. And I share that with you
14 because I'm the person that will impose the
15 sentence, not you.

16 You will decide whether or not what you
17 believe the facts are, you will take the law as I
18 give it to you, and apply that law fairly and
19 impartially to the facts. And when you do that, I
20 can promise you from having been doing this now for
21 over 25 years, being a judge -- I was a lawyer for
22 21.

23 And I can promise you both as a
24 lawyer -- my experience as a lawyer and as a judge,
25 probably somebody is not going to like your

1 decision.

2 But you know what? One thing I do
3 every time I put on this robe, I -- sometimes
4 consciously and sometimes subconsciously, but I
5 remind myself of the oath that I took. And that is
6 that I will try to be the fairest person that I
7 know how to be.

8 I will apply my sense of logic and
9 reason and knowledge fairly and impartially and
10 render the decision that I believe is fair in that
11 situation to the best that's humanly possible.

12 I'm not perfect, none of us are, but if
13 we at least make that commitment, if you make the
14 same commitment, then while people may not like the
15 decision that occurs, we can say, sorry, but that's
16 what the law -- because the decision has to be
17 consistent with the law and the facts.

18 You decide the facts. I don't have
19 anything to do with that; that's your job. And you
20 don't have anything to do with the law; that's my
21 job. And that's why when we function totally
22 separate, combine our efforts, and both of us are
23 doing what we take an oath to do, then the decision
24 is a fair and just decision. And there's no reason
25 for us to be ashamed of that.

VOIR DIRE

1 You may not like it. Sorry. But that
2 is what was proper in that situation. So I thank
3 you for that.

4 You know, we all have a part in this
5 process. There are a lot of people that have a
6 role. Some you don't even see. In fact,
7 Ms. Dupree was one of the ones that was drawing --
8 who else? Do you still draw it from the pool, or
9 does the computer do it now?

10 THE CLERK: The computer.

11 THE COURT: When I first started, used
12 to bring in a person, a child or a person who had
13 some visual impairment to draw out of -- they used
14 to spin a drum up there and draw one at a time.
15 Then we got really sophisticated and we stuffed
16 them into capsule. And then when we had to do
17 multiple draws, you had to restuff them so that
18 took time.

19 Well, we came up with computers, thank
20 God. And sometimes I think, oh, my Lord. But,
21 anyway, now we do it by random draw. So randomly
22 you were drawn when you were selected. So that's
23 the whole process. It's all designed to be totally
24 random to select people.

25 You heard it as I did, different ages,

VOIR DIRE

1 different walks of life, difference life
2 experiences. And you combine all of that.

3 Well, those people, you know, you don't
4 see some of those. There are people all around
5 this courtroom. Everybody in this courtroom
6 present has a job to do. We have bailiffs, we have
7 -- who I love working with. We have security
8 persons. Again, I thank them.

9 I wish I could tell them, you have
10 things you can do outside, but we know we live in a
11 real world. And I appreciate them being here for
12 our safety and for what they do every day.

13 You have a clerk. Ms. Dupree is a
14 wonderful clerk, and she will have a representative
15 from her office here at all times. I appreciate
16 that, and I appreciate what she does.

17 These persons sitting behind me are
18 attorneys. Just as I am. They have a very
19 important responsibility in this process.

20 Some of you talked with my court
21 reporter, Denise, and I know how good she is. I've
22 worked with her and had the privilege of working
23 with her, and she is wonderful. She has an
24 important job too. And if you want to watch this
25 system shut down real quick, let something happen

VOIR DIRE

1 to her. We can't function because we are a court
2 of record, and she has to take it.

3 Now, of all the jobs that we talked
4 about, I've done some of them, but I've never been
5 a juror. I'm hoping to be that one day when I get
6 qualified. Right now I'm disqualified because I
7 actively work in the courthouse. But one day I
8 hope to sit where you're sitting.

9 And I will close with a story about
10 this 81 year old person. And if I'm blessed and
11 fortunate to live that long, I would love to serve
12 on a jury. I'm sure the bailiffs would say, Judge,
13 you are not qualified to serve as a bailiff, but
14 anyway.

15 But the one job I don't want is
16 Denise's job. But I've been a member on her team a
17 number of times, and I am proud to serve on her
18 team. And I look at this whole process to be that
19 way.

20 When I went to business school, there
21 were levels and charts. In charting this, we are
22 all on the same level. Everybody also a job to do.
23 And it's equal -- everybody's job is important to
24 the end process.

25 And all of us are called upon to do our

VOIR DIRE

1 best. I know that they'll -- I know that all that
2 I have identified will do their best. And I make
3 the commitment to try to do the best I can, and I
4 ask you to make that same commitment.

5 I know one thing about age that it's
6 taught me. One time in my younger years, I thought
7 that I could control things, but I've gotten wiser
8 and I realize now you can't do that. You can only
9 control you, and you don't do a good job of you
10 sometimes.

11 So I can't control you. I just ask you
12 to please be that kind of person that I know that
13 you are and make a commitment to the Court and to
14 the parties and the attorneys that you will be the
15 fairest person you know how to be.

16 What's going to happen now is very
17 shortly we are going to draw a list of persons and
18 we will qualify you. There's a second
19 qualification. This qualification, unlike the
20 first, there really are no incorrect answers.
21 They're questions that are designed to help you
22 make a decision as to whether or not you can be a
23 fair judge with me in this case.

24 And if any of them give you concern
25 about your ability to be fair, let me give you an

VOIR DIRE

1 example. And it's a trite example I will confess
2 that.

3 If you happen to hear a name of a
4 person that you happen to be -- you and his family
5 have been just close friends all your life and you
6 have taken vacations together, you are not going to
7 be fair and impartial in that situation. And the
8 flip side of that is, if you hear somebody that you
9 have despised all your life, you just don't like
10 them, in fact, they live in your neighborhood and
11 when they come outside, you go inside, you are
12 probably not going to be able to be fair and
13 impartial in that situation either.

14 So that's what I'm talking about. If
15 there is something that has occurred in your life,
16 or a good friend whose had a similar experience
17 that really touched you, and if it's that type of
18 situation you may want to reconsider and say, I'm
19 not sure I can set that aside. And that's what
20 we're talking about.

21 And so the ultimate question will be --
22 the ultimate last question, I will tell you now,
23 will be: Is there anything about this case that
24 you have heard that would give you any concern
25 about your ability to take an oath and make a

VOIR DIRE

1 commitment to be a fair and impartial judge?

2 If it is, you need to share that. If
3 not, then you are eligible to serve with me. I
4 will give you about a 15-minute break and then let
5 you come back. When you come back, we will qualify
6 you for the case involved.

7 Thank you so much for your patience
8 with me, and I look forward to seeing you at 11:15.

9 (Jury panel out, 10:58 a.m.)

10 (A recess transpired.)

11 (Jury panel in, 11:10 a.m.)

12 THE COURT: All right. Ladies and
13 gentlemen, as I mentioned to you, I'm now going to
14 ask you some questions to qualify you for this
15 particular trial.

16 What I'm holding in my hand is what
17 brings us here. They are what they appear to be,
18 pieces of paper. They are called legally
19 indictments. And an indictment is just nothing
20 more than a term that says, this is what initiates
21 this action. It is what contains the accusation.

22 It is not evidence and they will not
23 accompany you to your jury room, but it sets forth
24 and alleges what the defendant in this case -- and
25 the defendant, when I use that term, it's a way of

VOIR DIRE

1 mentioning -- that's synonymous with Jerald
2 Jermaine Howard, who is the person accused.

3 But he's been accused of the crime of
4 murder and the crime of destruction, desecration,
5 and/or removal of human remains.

6 I will share with you more about that,
7 but let me introduce the parties and the attorneys
8 involved. First, let me introduce to you
9 Mr. Howard. He's seated at this table to my left.

10 Mr. Howard, would you please stand and
11 face the jury panel? He's the gentlemen on the
12 end.

13 THE DEFENDANT: (Standing)

14 THE COURT: Thank you. You may be
15 seated.

16 Are there any members of the jury panel
17 related by blood or marriage, have any business
18 dealings with, socially or casually acquainted with
19 Jerald Jermaine Howard? If so, please stand.

20 Yes.

21 PROSPECTIVE JUROR: My first cousin is
22 married --

23 THE COURT: Speak up, ma'am.

24 PROSPECTIVE JUROR: My first cousin is
25 married to his family. I know him.

VOIR DIRE

1 THE COURT: You know him. Your number
2 please? Your name and number?

3 PROSPECTIVE JUROR: Alicia Brown.

4 THE COURT: Ms. Brown, I am going to
5 excuse you from participation in this dispute. You
6 are free to leave.

7 PROSPECTIVE JUROR: I want to
8 double-check. Is he from Huger?

9 THE COURT: Yes, ma'am.

10 PROSPECTIVE JUROR: This is him.

11 THE COURT: You are free to leave,
12 ma'am. And you have earned your exemption for the
13 next three years. Have a nice day.

14 MR. STEGALL: Your Honor, I'm sorry, I
15 didn't catch her number.

16 THE COURT: Here number is -- Ms. Brown
17 is 25.

18 MR. STEGALL: Thank you.

19 THE COURT: Are there any others?

20 Thank you. There appear to be none.

21 Mr. Howard is represented in this
22 battle by Mr. Smiley. If you will identify
23 yourself and anyone who will be assisting you.

24 MR. SMILEY: Hi, my name is Jim Smiley.
25 I've been in private practice since 1993. My

VOIR DIRE

1 office is 58 Broad Street. I'm a sole practitioner
2 and I've been doing criminal defense since the
3 beginning of my career, about 26 -- going on 27
4 years.

5 This is Ms. Laree Hensley. Ms. Hensley
6 has been practicing 16 -- 17 --

7 MS. HENSLEY: 20.

8 MR. SMILEY: For 20 years. She is a
9 sole practitioner on Remount Road and has been
10 practicing criminal defense, family, and personal
11 injury for that time.

12 And we always try our cases as
13 co-counsel. If it was her case, I'd sit with her.
14 When it's my case, she sits with me so I'm not by
15 myself. Thank you.

16 THE COURT: Thank you, sir. Are there
17 any members of the jury panel related by blood or
18 marriage, have any business dealings with, socially
19 or casually acquainted with, ever been represented
20 by either by Ms. Hensley or Mr. Smiley? If so,
21 please stand.

22 Yes, sir.

23 PROSPECTIVE JUROR: Your Honor, I
24 believe --

25 MR. STEGALL: Your Honor, may we

VOIR DIRE

1 approach?

2 THE COURT: Come forward, please.

3 (Bench conference)

4 THE COURT: Number 110 will be excused
5 from participation in this dispute. He shared with
6 me that he does not believe he can be fair and
7 impartial in this case.

8 Exactly what I was telling you all
9 before. Don't hesitate if you have any concerns
10 about that.

11 Anyone else? Thank you.

12 Each circuit, and there are 16
13 circuits, judicial circuits in our state, and each
14 circuit has a circuit solicitor. The solicitor for
15 the Ninth Judicial Circuit is Scarlett Wilson.

16 Are there any members of the jury panel
17 related by blood or marriage, have any business
18 dealings with, socially or casually acquainted
19 with, ever been represented by Ms. Wilson? If so,
20 please stand.

21 Thank you. There appear to be none.

22 Ms. Wilson has offices in Charleston
23 and in Berkeley County. Are there any members of
24 the jury panel related by blood or marriage, have
25 any business dealings with, are socially or

VOIR DIRE

1 casually acquainted with anyone employed with her
2 and her offices either in Charleston or in Berkeley
3 County? If so, please stand.

4 Yes, sir.

5 PROSPECTIVE JUROR: We have several
6 people from the solicitor's office that work in our
7 emergency operations center in Charleston County.

8 THE COURT: Would that influence you
9 or affect you, sir?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Will you base your decision
12 on the evidence and the law, and will your decision
13 be fair to the State and fair to Mr. Howard?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: And your name and number,
16 please?

17 PROSPECTIVE JUROR: Shawn Jones, 88.

18 THE COURT: Thank you, Mr. Jones. You
19 may be seated.

20 Are there any others? Thank you.

21 There appear to be none.

22 Ms. Wilson has a number of assistants
23 and deputies that assist her in prosecuting cases
24 in the Ninth Circuit. We have two here.
25 Mr. Stegal, if you'll identify yourself and anyone

VOIR DIRE

1 who will be assisting you, please?

2 MR. STEGALL: Thank you, Your Honor.

3 My name is Bart Stegal, and I'm an assistant
4 solicitor. I work under Scarlett Wilson. Seated
5 to my right is Bryan Alfaro. He is the deputy
6 solicitor.

7 THE COURT: Thank you. Are there any
8 members of the jury panel related by blood or
9 marriage, have any business dealings with, socially
10 or casually acquainted with Mr. Stegal or
11 Mr. Alfaro? If so, please stand.

12 Ever been represented by either of
13 them? Please stand.

14 Thank you. There appear to be none.

15 I'm going to name -- identify a number
16 of persons, ladies and gentlemen. If you are
17 related by blood or marriage, have any business
18 dealings with, or are socially or casually
19 acquainted with any of these individuals, you need
20 to stand and share that information with us.

21 Deanna Burgess, Stephen Horton, Thomas
22 Clark, Tracy Moss, Joey Guffey, William -- is it
23 Ballew?

24 MR. STEGALL: Yes, sir, Your Honor.

25 THE COURT: William Ballew, David

VOIR DIRE

1 Hogsed, Angela Nelson, Sean Nix, Lindsey McGraw,
2 William Gary, Clay Simmonds, Scott Bell, Bobby
3 Shuler, Gray Valentine, Bill Salisbury, Dean
4 Kokinda, Chrystal Spence, Paul Meeh, Bill Stevens,
5 Daniel Goodlett, James Goodlett, Bozena Goodlett,
6 Travis Martin, Amanda Hinojos?

7 MR. STEGALL: Yes, sir.

8 THE COURT: H-I-N-O-J-O-S, Deshawn
9 Joseph, Gerald Howard, Brianna Smith Francis, John
10 Edwards. Any of those?

11 Thank you. There appear to be none.

12 Oh, yes, I'm sorry. Yes.

13 PROSPECTIVE JUROR: I used to volunteer
14 under Bill Salisbury at the rescue squad.

15 THE COURT: Okay. The fact that you
16 worked with Mr. Salisbury, would that influence or
17 affect you?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Will you base your decision
20 on the evidence and the law and be fair to both
21 sides?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: And your name and number?

24 PROSPECTIVE JUROR: Kara Owens, 123.

25 THE COURT: Thank you, ma'am. You may

VOIR DIRE

1 be seated.

2 Yes, ma'am.

3 PROSPECTIVE JUROR: I'm from the
4 Lebanon community which is where Jerald was brought
5 up in. I've known him and his parents all of my
6 life. Would that --

7 THE COURT: Would that affect you?

8 PROSPECTIVE JUROR: I don't think so.

9 THE COURT: Well, I appreciate your
10 candor and I appreciate your statement and
11 response, but I'm going to do something for you.
12 You know the family, you have grown up in the
13 community. I'm going to take -- your hesitation
14 has taught me a lot over the years.

15 I know, for me, if I had to hesitate,
16 there was some thought I had to give to that. So
17 your number, please?

18 PROSPECTIVE JUROR: 22.

19 THE COURT: Number 22 is excused. You
20 are free to leave. Have a great day. And you have
21 earned your exemption for three years. Thank you,
22 ma'am.

23 PROSPECTIVE JUROR: I worked with
24 Thomas Clark.

25 THE COURT: Thomas Clark. Is this

VOIR DIRE

1 person from local or --

2 MR. STEGALL: He's From Spartanburg,
3 Your Honor.

4 THE COURT: Is the person you worked
5 with from Spartanburg?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: That's fine. Okay.

8 Are there any others.

9 PROSPECTIVE JUROR: I also know Bill.

10 THE COURT: Would that affect you?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: And you would base your
13 decision, again, on the evidence and the law?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: And your number again?

16 PROSPECTIVE JUROR: 88.

17 THE COURT: Thank you so much. Any
18 others?

19 Thank you. There appear to be none.

20 I'm going to share with you, ladies and
21 gentlemen, what is alleged. Please remember and
22 understand that this is not evidence. I need to
23 share with you the allegations so I can ask you
24 some questions about it.

25 It's alleged in the indictment that

VOIR DIRE

1 accuses Mr. Howard of committing the offense of
2 murder, that on or between February 17, 2014, and
3 February 24, 2014, the defendant did with malice
4 aforethought kill Nicole Goodlett by means of an
5 instrumentality unknown, and that Nicole Goodlett
6 died as a proximate result of some material act or
7 offense that -- the requisite to its commission
8 having occurred in Berkeley County, in violation of
9 Section 163 of the code which prescribes the
10 conduct of murder.

11 It's also alleged that between that
12 same time and place in Berkeley County he did
13 willfully and knowingly, without proper legal
14 authority destroy, damage, and desecrate the
15 remains of Nicole Goodlett, in violation of Section
16 16-17-600, which prescribes that conduct -- that
17 conduct as well.

18 I share that with you to find out if
19 any member of the jury panel has heard anything,
20 read anything, if you have any prior knowledge of
21 this dispute. If so, please stand.

22 Thank you. Yes, ma'am. I am going to
23 ask you to come forward, please, and share that
24 response. The attorneys may approach as well.

25 BAILIFF: 180, Your Honor.

VOIR DIRE

1 THE COURT: Thank you, sir.

2 PROSPECTIVE JUROR: I heard it on
3 television and that kind of thing.

4 THE COURT: Would that affect you?

5 PROSPECTIVE JUROR: I don't think so.

6 THE COURT: Well, and I appreciate your
7 answer. And I will instruct you that you have to
8 decide this case based on what you hear in this
9 courtroom and only that. And you have to be
10 willing and promise to set aside anything that you
11 may have read or heard. Can you follow that
12 instruction?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: And will you honor that
15 instruction to the extent that you can make a
16 commitment to both the State and to the defendant,
17 that you will base your decision on the evidence
18 and the law in this case and would be fair to both
19 sides?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: And your number and name,
22 please?

23 PROSPECTIVE JUROR: Kathy Watkins, No.
24 180.

25 THE COURT: Thank you, Ms. Watkins.

VOIR DIRE

1 You may take your seat.

2 BAILIFF: Juror No. 67.

3 THE COURT: Thank you, sir.

4 PROSPECTIVE JUROR: Juror 67. I read
5 the article in the news this morning.

6 THE COURT: Okay. Would that affect
7 your service?

8 PROSPECTIVE JUROR: No.

9 THE COURT: I have instructed the last
10 juror that you will be instructed to decide this
11 case based on only what you hear in the courtroom.
12 Can you make a commitment that you would not be
13 influenced by that article in any fashion, and you
14 will be able to honor that oath and decide it on
15 the evidence of this case?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: And make that commitment to
18 the State and the defendant?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: And your decision will be
21 fair and based on the evidence and the law?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Okay. 67 will remain.

24 Thank you.

25 Any others? Thank you. There appear

VOIR DIRE

1 to be none.

2 Are there any members of the jury
3 panel, or members of your immediate family, that
4 presently or formerly served in law enforcement in
5 any capacity? If so, please stand.

6 Okay. Yes, ma'am.

7 PROSPECTIVE JUROR: No. 65. My sister
8 works in corrections at the Lieber Correctional
9 Center.

10 THE COURT: All right. Would that
11 affect or influence you in any way?

12 PROSPECTIVE JUROR: I don't think so --

13 THE COURT: Well, and I appreciate your
14 candor. My question is, can you set that aside and
15 not be affected by that relationship in deciding
16 this case so that you base your decision on the
17 evidence and the law and would be fair to both
18 sides?

19 PROSPECTIVE JUROR: I think I can.

20 THE COURT: Well, I appreciate that
21 statement too. The question is, can you make an
22 oath and say I can and will?

23 PROSPECTIVE JUROR: I can and I will.

24 THE COURT: Thank you, ma'am. And your
25 number again?

VOIR DIRE

1 PROSPECTIVE JUROR: 69.

2 THE COURT: 69.

3 PROSPECTIVE JUROR: 65.

4 THE COURT: 65. And please understand
5 something, I'm not being critical of your response.
6 I'd make the same thing and I just have to make
7 sure of that.

8 Yes, sir?

9 PROSPECTIVE JUROR: Yes, sir. Juror
10 13. My brother is a detective back home.

11 THE COURT: Would that affect you, sir?

12 PROSPECTIVE JUROR: No, sir.

13 THE COURT: Will you base your decision
14 on the evidence and the law, and will it be fair to
15 both sides, sir?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Thank you. You may be
18 seated.

19 Yes, ma'am.

20 PROSPECTIVE JUROR: My number is 77. I
21 know Michael Jelico (inaudible) is with the police
22 department, and Jerry Jelico just retired. Shawn
23 Jelico and Brandon Jelico I think is -- are over
24 here at Hil-Finklea working.

25 THE COURT: Would that affect you in

VOIR DIRE

1 any way?

2 PROSPECTIVE JUROR: No, sir.

3 THE COURT: I'm sorry?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: And you will base your
6 decision on the evidence and the law and wouldn't
7 be influenced -- that decision would not be
8 influenced by your relationships with those
9 persons?

10 PROSPECTIVE JUROR: Correct.

11 THE COURT: And you can make that
12 promise to both the State and to Mr. Howard?

13 PROSPECTIVE JUROR: I can.

14 THE COURT: And your number, please?

15 PROSPECTIVE JUROR: 77.

16 THE COURT: 77 will remain.

17 Yes, sir?

18 PROSPECTIVE JUROR: 128. My son-in-law
19 is on the deputy sheriff squad.

20 THE COURT: Okay. Would that affect
21 you, sir?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Will you base your decision
24 on the evidence and the law and will it be fair to
25 both sides?

VOIR DIRE

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Thank you, sir. You may be
3 seated.

4 Yes, ma'am.

5 PROSPECTIVE JUROR: I have a sister
6 back home in Massachusetts that has 20 years in the
7 police department.

8 THE COURT: Would that affect you,
9 ma'am?

10 PROSPECTIVE JUROR: No, sir.

11 THE COURT: And you would base your
12 decision on the evidence and the law and be fair to
13 both sides?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: And your number again?

16 PROSPECTIVE JUROR: 114.

17 THE COURT: 114. Thank you. You may
18 be seated.

19 Any others? Thank you. There appear
20 to be none.

21 Are there any members of the jury
22 panel, or a member of your immediate family, that
23 have ever been involved in a criminal dispute?
24 Either you or the person accused of the crime or
25 your family member was, you were a witness for

VOIR DIRE

1 either side, either the State, the accusing party,
2 or the person accused, you had some involvement, or
3 -- any involvement, maybe even just moral support.
4 If you have been involved in any in your lifetime,
5 please stand.

6 All right. I'm going to ask you to
7 come forward, please. The attorneys may approach.

8 BAILIFF: Juror No. 59.

9 THE COURT: Thank you ma'am.

10 PROSPECTIVE JUROR: So I was arrested
11 in December 2017, got dismissed, but it was -- I
12 was not very happy with the situation.

13 THE COURT: I'm sure of that. And
14 that's why we ask the question. Who was the agency
15 that made the charge?

16 PROSPECTIVE JUROR: Horry County.

17 THE COURT: Would that affect you?

18 PROSPECTIVE JUROR: I don't think so --
19 no.

20 THE COURT: I love that. You were not
21 a happy person --

22 PROSPECTIVE JUROR: No.

23 THE COURT: -- but you -- and you would
24 not be influenced by that at all; is that correct?
25 And you could make a commitment to both the State

VOIR DIRE

1 and the defendant and you wouldn't be influenced?

2 PROSPECTIVE JUROR: (No response)

3 THE COURT: Thank you for your
4 hesitation. And let me say something to you, first
5 of all, you are a credit to this whole process by
6 coming forward and being honest about that. That
7 doesn't mean that you have done anything bad,
8 wrong, or anything else. It just means you are
9 human, and I appreciate that.

10 No. 59 is excused from participation in
11 this dispute. Thank you. You have earned your
12 exemption for three years.

13 BAILIFF: And No. 154.

14 THE COURT: All right.

15 PROSPECTIVE JUROR: I did have two
16 nephews in prison.

17 THE COURT: Were you involved in their
18 cases in any fashion --

19 PROSPECTIVE JUROR: No.

20 THE COURT: -- other than just being
21 family?

22 PROSPECTIVE JUROR: Just being the
23 aunt.

24 THE COURT: And would that affect you
25 in any way?

VOIR DIRE

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: And you would base your
3 decision on the evidence and the law and be fair to
4 the State?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: And be fair to the
7 defendant?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Did you hear her? She has
10 two nephews that are incarcerated.

11 MR. SMILEY: Thank you.

12 THE COURT: But she was not involved in
13 any of the proceedings.

14 MR. SMILEY: Understood.

15 THE COURT: Thank you, ma'am. 154 will
16 remain.

17 BAILIFF: Juror No. 100.

18 PROSPECTIVE JUROR: My brother has been
19 in prison. It was years ago.

20 THE COURT: Were you involved in the
21 trial?

22 PROSPECTIVE JUROR: No, I was not. I
23 was little when he went to jail.

24 THE COURT: Would that affect you in
25 this case?

VOIR DIRE

1 PROSPECTIVE JUROR: No.

2 THE COURT: You would base your
3 decision on the evidence and the law and be fair to
4 the State?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: And be fair to the
7 defendant?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: And your number again?

10 PROSPECTIVE JUROR: 100.

11 THE COURT: No. 100 will remain. She
12 had a brother incarcerated; she was young when he
13 was committed.

14 BAILIFF: Juror No. 77.

15 THE COURT: Speak up just a bit and
16 turn this way so that they can hear you.

17 PROSPECTIVE JUROR: First can I ask a
18 point of clarification?

19 THE COURT: Sure.

20 PROSPECTIVE JUROR: Can you clarify
21 again? I didn't --

22 THE COURT: Yeah. If you had any
23 involvement, any family member or anything, either
24 -- either side, the State who was accusing the
25 person of a crime, or you were or have a family

VOIR DIRE

1 member that was accused of a crime, and you were
2 involved.

3 PROSPECTIVE JUROR: Oh, no, not
4 involved. That's what I wanted to make sure of.
5 My cousin's child was -- he was accused of -- he
6 poisoned the neighbor and it was on the television.
7 I don't know. I had nothing to do with any of it.

8 THE COURT: Well, I understand, but it
9 was somebody that you knew and --

10 PROSPECTIVE JUROR: Yeah. That's what
11 I wanted to be sure of.

12 THE COURT: That's correct. And would
13 that affect you in any way?

14 PROSPECTIVE JUROR: No.

15 THE COURT: And will you base your
16 decision in this case based on the evidence and the
17 law, and it would be fair to the State?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: And it would be fair to
20 Mr. Howard?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Thank you. And your number
23 again?

24 PROSPECTIVE JUROR: 77.

25 THE COURT: No. 77 will remain. Thank

VOIR DIRE

1 you.

2 BAILIFF: Juror No. 169.

3 THE COURT: Good morning.

4 PROSPECTIVE JUROR: I don't know if
5 this counts for a criminal dispute. My sister was
6 killed in 1997 by a drunk driver, and we had the
7 case here in this courtroom.

8 THE COURT: It was prosecuted by the
9 solicitor's office here or was it a civil case?

10 PROSPECTIVE JUROR: No. He was --

11 THE COURT: He went to jail.

12 PROSPECTIVE JUROR: Yeah. And we had
13 to come here and do the victim impact. And he did
14 a plea deal instead of --

15 THE COURT: Sure. I understand.

16 PROSPECTIVE JUROR: So I didn't know if
17 that counted or not.

18 THE COURT: Okay. Well, no. It's
19 exactly -- you are doing exactly what you should
20 do. Would that experience affect you in any way?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Okay. You hesitated, or
23 were you just giving thought to --

24 PROSPECTIVE JUROR: It's being in this
25 room.

VOIR DIRE

1 THE COURT: I know that. And the fact
2 that you are going to be in this room for a period
3 of time, do you think it would bring back bad
4 memories?

5 PROSPECTIVE JUROR: It will bring back
6 bad memories, but I think I can still --

7 THE COURT: I appreciate that. I'm
8 going to take you out of that problem. 169 will be
9 excused, and have a great day. You haven't done a
10 thing wrong, ma'am. Thank you so much.

11 BAILIFF: Juror No. 129.

12 PROSPECTIVE JUROR: So I'm not sure if
13 I can answer your question, but I wanted to double
14 check and make sure.

15 THE COURT: Sure.

16 PROSPECTIVE JUROR: So I was the victim
17 in a domestic violence case with my ex and, also,
18 malicious injury to property greater than \$10,000.

19 THE COURT: You were accused of that?

20 PROSPECTIVE JUROR: No, he was. And I
21 was the victim of that.

22 THE COURT: And you were a victim?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Was that prosecuted by this
25 office?

VOIR DIRE

1 PROSPECTIVE JUROR: Yes, sir. There's
2 a gentleman that -- he was here that day.

3 THE COURT: Mr. Stegal?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: Would that affect you?

6 PROSPECTIVE JUROR: I'm not really
7 sure.

8 THE COURT: Thank you, ma'am. And your
9 number -- 129 will be excused from participation in
10 this dispute.

11 Another? Yes, ma'am. Come on forward.

12 PROSPECTIVE JUROR: I don't know if
13 this really --

14 THE COURT: Well, I appreciate you
15 coming forward and sharing it.

16 PROSPECTIVE JUROR: My nephew just got
17 murdered a couple years ago in Charleston County,
18 and his trial is coming up soon. I don't know if
19 this would pertain to it, but sitting back there --
20 I started not to say anything. I'm --

21 THE COURT: Well, I'm glad you did say
22 something. Would that affect you?

23 PROSPECTIVE JUROR: Right now?

24 THE COURT: Yes, ma'am. I'm going take
25 you out of that dilemma. 65 will be excused.

VOIR DIRE

1 Thank you, ma'am.

2 PROSPECTIVE JUROR: Thank you.

3 THE COURT: Are there any others?

4 Ladies and gentlemen, I am going to
5 share something with you that is important because,
6 first of all, when you are excused, that doesn't
7 mean a thing. It just means that those persons had
8 some concern. And some of them even said, I'm not
9 sure whether this even affects it or not.

10 Let me use that as an example of why I
11 said what I said about why I believe so strongly in
12 this process, because jurors do exactly that. And
13 I appreciate that. And if you don't say anything,
14 you know what that says thus far? Nope, I'm
15 eligible. I can be a judge in this case with you.

16 So thank you very much. It's nothing
17 wrong and you're not to read anything into anybody
18 that was retained or was excused. Okay.

19 The next question I would ask you, has
20 anybody in the jury panel who has heard anything --
21 I think we've already had a couple and you don't
22 have to respond again if you've already responded
23 to this -- you've read anything in the newspapers
24 or watched any programs or Live 5 News or Count on
25 Two News or Channel Four? If you have, please

VOIR DIRE

1 stand.

2 PROSPECTIVE JUROR: It was on the news.

3 THE COURT: All right. I'll ask you
4 all to come forward, please. If you haven't
5 already. And those two have not.

6 BAILIFF: Juror No. 88.

7 THE COURT: What's your name?

8 PROSPECTIVE JUROR: Shawn Jones.

9 THE COURT: Mr. Jones, you've watched
10 some of it?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: And would that affect you?

13 PROSPECTIVE JUROR: I don't think so.

14 THE COURT: Well, I appreciate that.

15 The question is -- one of the things about watching
16 it, you are going to take an oath that you are
17 going to decide this case on what you hear in this
18 courtroom only. And that means you have to set
19 aside anything you have heard and not be influenced
20 by that.

21 Can you make a commitment to both sides
22 that you will not be influenced by that?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: And you would honor that
25 oath?

VOIR DIRE

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Very well. And you would
3 base your decision solely on what you hear in this
4 courtroom?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Thank you very much. No.
7 88 will remain.

8 BAILIFF: Juror No. 92.

9 THE COURT: Good morning.

10 PROSPECTIVE JUROR: Good morning.

11 THE COURT: Yes, ma'am?

12 PROSPECTIVE JUROR: I read a little
13 clip this morning online.

14 THE COURT: Would that influence you?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Will you base your decision
17 only on what you hear in this courtroom?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: And you can set aside what
20 you heard?

21 PROSPECTIVE JUROR: Oh, yes, sir,
22 definitely.

23 THE COURT: And not be influenced at
24 all by that?

25 PROSPECTIVE JUROR: Yes.

VOIR DIRE

1 THE COURT: No. 92 will remain.

2 She read it on the Internet, not the
3 paper.

4 Any others? Thank you. There appear
5 to be none.

6 Are there any members of the jury panel
7 that are -- or members of your family that are
8 members or participate in any victims rights or law
9 enforcement organizations such as Darkness to
10 Light, Citizens Against Violent Crime, known as
11 CAVE, Mothers Against Drunk Driving, known as MADD,
12 or any similar organizations? If so, please stand.

13 Thank you. Yes, ma'am?

14 PROSPECTIVE JUROR: My mom was
15 affiliated with MADD at one point in time.

16 THE COURT: Okay. Would that affect or
17 influence you?

18 PROSPECTIVE JUROR: No.

19 THE COURT: And will you base your
20 decision on the evidence and the law and be fair to
21 both sides?

22 PROSPECTIVE JUROR: Yes sir.

23 THE COURT: And your name and number.

24 PROSPECTIVE JUROR: Sarah Caponigro,

25 31.

VOIR DIRE

1 THE COURT: Thank you.

2 Anyone else? Yes, ma'am.

3 PROSPECTIVE JUROR: My mother-in-law
4 was involved in guardian ad litem.

5 THE COURT: Okay. Would that affect
6 you, ma'am?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: And will you base your
9 decision on the evidence and the law and be fair to
10 both sides?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: And your name and number?

13 PROSPECTIVE JUROR: Whitney Meade, 106.

14 THE COURT: Thank you, Ms. Meade.
15 Are there any others?

16 And tell Chris I said hello.

17 PROSPECTIVE JUROR: I will.

18 THE COURT: I happen to know her
19 husband and his family.

20 There are none. Okay.

21 One of the principles of law that apply
22 in criminal disputes in this state and every state
23 in the United States, and it's probably one of the
24 most significant aspects of our law because it's
25 not true in other countries, persons accused of

VOIR DIRE

1 criminal offenses in this state, in this country
2 are never required to prove or disprove anything at
3 all.

4 They are -- the law says they are to be
5 presumed innocent. And those aren't just words.
6 That's an active thought that each juror is
7 required to maintain.

8 And I will instruct you at the end of
9 the trial that that presumption of innocence can
10 only be set aside when you, as a juror, through the
11 deliberative process, that is your deliberations,
12 in analyzing the evidence in the case become firmly
13 convinced, that is convinced beyond a reasonable
14 doubt, that the State has established each element
15 of each crime to that requisite standard, and only
16 then may you set aside that presumption of
17 innocence.

18 Is there anything about that, your
19 experiences in your life, anything about your
20 strong philosophy, anything about your personal --
21 that you just believe that's not the good law,
22 anything that you can think of that would give you
23 any problem of you applying that law and all other
24 principles of law fairly and impartially to the
25 facts that you will determine?

VOIR DIRE

1 If you think there is, please stand.

2 Thank you. There are none.

3 Are there any members of the jury panel
4 that regularly use -- I don't know how you define
5 regularly use -- social media? I use it for one
6 purpose, to follow my grandchildren and find out
7 what is going on with that primarily.

8 But are there members of the panel that
9 primarily use Facebook or any other social media
10 for -- every day or so? If so, please stand.

11 Okay. I figured. Now, all of those
12 standing I will ask you this: One of the things
13 that you -- well, all of the things. You will not
14 be able to use that during this trial because of
15 the risks involved of seeing something that could
16 be there. And as you know, many of you do, posts
17 don't necessarily come from the person that is
18 supposed to be there. That's the danger of
19 Facebook and all those.

20 You will not be able to use it during
21 the trial; and I will instruct you that if you do,
22 you will violate your oath. Is there any member of
23 the jury panel that's now standing that will not be
24 able to do that, please take a seat.

25 Let the record reflect that each juror

VOIR DIRE

1 has remained standing indicating to me that you
2 will honor that instruction in every respect.

3 Thank you. You may be seated.

4 Any other requests concerning that?

5 MR. SMILEY: No, sir.

6 THE COURT: Thank you.

7 And, ladies and gentlemen, you know,
8 one of the things that I said about computers --
9 and I, again, apologize, Denise -- I'll share a
10 story with you that sort of sums it up in a
11 nutshell.

12 My father -- and he died after my
13 mother, and it was a very gradual death. I watched
14 him after she died, watched him just waste away,
15 and make a number of trips to Charleston. Any of
16 you who've been in that situation, it's not
17 uncommon things start breaking down.

18 And we were coming back, and he
19 generally was a pretty good talker most of the
20 time, although my mother talked more than all of
21 us, but, anyway -- but that was a great treat for
22 all of us. But I was trying to make conversation
23 with him, and it was about the time that PCs
24 started appearing.

25 And I said, dad, what do you think

VOIR DIRE

1 about the Internet and computers? He just -- he
2 didn't say much. He said, too much information.
3 And I thought, you know, I think I have lived long
4 enough to see that he didn't know anything about
5 it, but he might be right in some ways.

6 One of the things that you're going to
7 be instructed to do, and we all know because we
8 were all children at one time -- and I've been
9 blessed to raise three, or help raise three, and
10 now have six grands.

11 And we know one of the things when we
12 tell a child or our children not to do something --
13 maybe you all didn't, I confess my being a bad
14 boy -- sometimes that was the first thing I wanted
15 to do. When my parents said, don't do this, and I
16 thought hmm, okay, I think I'll do that.

17 One of the things I'm going to have to
18 ask you is -- and I know that doesn't apply to you,
19 I just confessed that malady about me. But you are
20 going to be instructed not to do any independent
21 research, not to look at anything until you have
22 finished with this case.

23 And let me tell you an example of why
24 it's important. As a judge, from time to time I
25 have had the opportunity to administer the oath of

1 office to persons that we have elected in this
2 county. And I got a call from an elected official
3 and asked, could you administer my oath in the
4 morning? I want to do it first thing so I don't --
5 before the office opens and can meet you.

6 And it was not going to be in his
7 courthouse. It was going to be someplace else.
8 And I thought, gosh, I don't have -- I have the
9 oath; I have it in a file because I've used it.
10 Because I just said, I will keep it just in case,
11 but I said -- well, then I thought, wait a minute,
12 I can Google it.

13 So I Googled it and I found the
14 statute. And sure enough, I looked at it and I was
15 reading it, and I thought, oh, my goodness. This
16 statute says I've got to say another -- something
17 else. And I thought, I've never included that in
18 the oath that I have administered. Whoops, I must
19 have made a mistake.

20 So I left early enough to run by my
21 office to get it. And as a result, I also pulled
22 the code section. And our code is supplemented as
23 things are changed. I looked in the supplement
24 and, lo and behold, that statute had been amended,
25 and that was no longer the law.

VOIR DIRE

1 That's why my oath was right the way I
2 had it, but if I would have relied on Google, I
3 would have administered an improper oath. And
4 that's why you have to take the law as I give it to
5 you.

6 If you want to do research after it, be
7 my guest. But right now you'll have to promise
8 also that you will not conduct any independent
9 research if you are on this jury. So if anybody
10 feels they would have difficulty following that
11 instruction, please stand.

12 Thank you. There appear to be none.

13 Any other specific questions, from the
14 State?

15 MR. STEGALL: None from the State, Your
16 Honor.

17 THE COURT: Any other from the
18 defendant?

19 MR. SMILEY: No, sir, Your Honor.

20 THE COURT: The last question I have,
21 and I mentioned to you I would -- and I told you I
22 was going to tell you a story because it really is
23 a part of what this -- it goes -- it ties in
24 nicely.

25 Years ago in Charleston, I was

1 privileged to try a case with a gentleman who was
2 81 years old. He chose to stay, and he got picked
3 on the jury. And when we were calling the names as
4 we did, we called his name, and nobody stood up.
5 We called his name again and he didn't stand up.
6 And, all of a sudden, I heard, come on, legs, work.
7 And bless his heart, he had problems with his legs
8 and it took him awhile to stand.

9 But he was picked on the jury that I
10 tried. And he couldn't sit in the jury box because
11 it caused -- his legs would have to be bent, and
12 that really was not comfortable for him. So I let
13 him sit outside the jury box, and as a result, he
14 would wait until all the -- because it took him
15 awhile to get in and out of the courtroom, and he
16 would be the last person to come in and wait until
17 everybody left.

18 So all the jurors had left and I -- at
19 the end he was sitting and about to get up, and I
20 said, Mr. Jones, thank you for serving on the jury.
21 And he didn't hesitate -- he didn't have to serve
22 number one -- he said, you don't need to thank me.
23 He said, there are men and women sacrificing for
24 the right to do what we do.

25 And I will tell you something, every

JURY SELECTION

1 time I share that -- right now I have chills
2 because it's really what this country is all about,
3 and it's really what your service is all about.

4 I'm going to ask you now, as important
5 as that duty is, anything you've heard about this
6 case that would give you any concern about your
7 ability to stand as a juror, raise your hand, and
8 make a commitment to the State, Mr. Howard, and the
9 attorneys representing them that you will be able
10 to at the appropriate time apply your common sense
11 and sense of logic and reason fairly and
12 impartially and analyze the evidence, and then once
13 deciding what you believe to be the true facts,
14 take the law as I give it to you and apply that law
15 fairly and impartially to the facts.

16 If you feel that you cannot do that
17 because of something that you heard, please now
18 stand.

19 Thank you so much. I appreciate it.
20 It's an honor to qualify you as a prospective judge
21 with me in this case.

22 What's going to happen now is your
23 names are going to be selected at random, in a
24 random order. You will be called one at a time,
25 and I will ask you to follow the clerk's

JURY SELECTION

1 instruction, which she will ask you to come forward
2 and stand and face your fellow jurors, face the
3 State, face Mr. Howard.

4 And each side can excuse a person. The
5 State can excuse five persons; Mr. Howard can
6 excuse ten. If somebody excuses you, don't be
7 offended by that. That's just the way the process
8 works. Don't go read anything into that any of
9 you.

10 If they say -- they may say, seat the
11 juror, swear the juror, or something similar. If
12 they do, then you will turn and go take a seat in
13 the jury box. If you're excused, just go back and
14 take your seat.

15 We will go through that until we have
16 picked our 12 jurors and 2 alternates. Thank you
17 very much. I will turn it over to my clerk and let
18 you -- give me the random list and we will call the
19 names.

20 THE CLERK: As you come to the front,
21 please stand and face the defendant and the State.
22 Bring all your personal effects with you when you
23 come to the front.

24 Juror No. 114, Jennifer Morris. What
25 says the State?

JURY SELECTION

1 MR. STEGALL: Please present this
2 juror.

3 THE CLERK: What says the defense?

4 MR. SMILEY: Please excuse this juror.

5 THE CLERK: Excuse the juror.

6 Juror No. 92, Sheila Lampkin. What
7 says the State?

8 MR. STEGALL: Please present this
9 juror.

10 THE CLERK: What says the defense?

11 MR. SMILEY: Please seat Ms. Lampkin.

12 THE CLERK: Thank you. Seat the juror.

13 Juror No. 31, Sarah Caponigro. What
14 says the State?

15 MR. STEGALL: Please present this
16 juror.

17 THE CLERK: What says the defense?

18 MR. SMILEY: I'm going to try -- please
19 seat Ms. Caponigro.

20 THE CLERK: Please seat the juror.

21 Juror No. 85, Philip Jenkins. What
22 says the State?

23 MR. STEGALL: Please excuse this juror.

24 THE CLERK: Juror excused.

25 Juror No. 49, Hester Dickerson. What

JURY SELECTION

1 says the State?

2 MR. STEGALL: I'm sorry, I missed that
3 number.

4 THE CLERK: 49.

5 MR. STEGALL: Please present this
6 juror.

7 THE CLERK: What says the defense?

8 MR. SMILEY: Please seat Ms. Dickerson.

9 THE CLERK: Thank you. Please seat the
10 juror.

11 Juror No. 29, Dylan Caddell. What says
12 the State?

13 MR. STEGALL: Please present this
14 juror.

15 THE CLERK: What says the defense?

16 MR. SMILEY: Please excuse Mr. Caddell.

17 THE CLERK: Please excuse the juror.

18 Juror No. 161, Shermaine Smith. What
19 says the State?

20 MR. STEGALL: Please present this
21 juror.

22 THE CLERK: What says the defendant?

23 MR. SMILEY: Please seat Ms. Smith.

24 THE CLERK: Please seat the juror.

25 Juror No. 154, Kathy Simmons. What

JURY SELECTION

1 says the State?

2 MR. STEGALL: Please present this
3 juror.

4 THE CLERK: What says the defendant?

5 MR. SMILEY: Please seat Ms. Simmons.

6 Thank you.

7 THE CLERK: Please seat the juror.

8 Juror No. 146, Lauryn Romine. What
9 says the State?

10 MR. STEGALL: Please present this
11 juror.

12 THE CLERK: What says the defendant?

13 MR. SMILEY: Please seat Ms. Romine.

14 THE CLERK: Thank you. Please seat the
15 juror.

16 Juror No. 30, Joshua Cannon. What says
17 the State?

18 MR. STEGALL: Please present this
19 juror.

20 THE CLERK: What says the defendant?

21 MR. SMILEY: Please seat Mr. Cannon.

22 THE CLERK: Please seat the juror.

23 Juror No. 106, Whitney Meade. What
24 says the state?

25 MR. STEGALL: Please present this

JURY SELECTION

1 juror.

2 THE CLERK: What says the defendant?

3 MR. SMILEY: Please excuse Ms. Meade.

4 THE CLERK: Juror excused.

5 Juror No. 56, Magda Ford. What says
6 the State?

7 MR. STEGALL: Please present this
8 juror.

9 THE CLERK: What says the defendant?

10 MR. SMILEY: Please seat Ms. Ford.

11 THE CLERK: Please seat the juror.

12 Juror No. 88, Shawn Jones. What says
13 the State?

14 MR. STEGALL: Please present this
15 juror.

16 THE CLERK: What says the defendant?

17 MR. SMILEY: Please excuse Mr. Jones.

18 THE CLERK: Please excuse the juror.

19 Juror No. 11, Robert Barrett. What
20 says the State?

21 MR. STEGALL: Please present this
22 juror.

23 THE CLERK: What says the defendant?

24 MR. SMILEY: Please seat Mr. Barrett.

25 THE CLERK: Please be seated.

JURY SELECTION

1 Juror No. 67, Jonathan Griffith. What
2 says the State?

3 MR. STEGALL: Please present this
4 juror.

5 THE CLERK: What says the defendant?

6 MR. SMILEY: Please excuse
7 Mr. Griffith.

8 THE CLERK: Please excuse the juror.

9 Juror No. 191, Courtney Wynn. What
10 says the State?

11 MR. STEGALL: Please excuse this juror.

12 THE CLERK: Please excuse the juror.

13 Juror No. 128, Teddy Phillips. What
14 says the State?

15 MR. STEGALL: Please present this
16 juror.

17 THE CLERK: What says the defendant?

18 MR. SMILEY: Please excuse
19 Mr. Phillips.

20 THE CLERK: Juror excused.

21 Juror No. 145, Ja'von Robinson. What
22 says the State?

23 MR. STEGALL: Please present this
24 juror.

25 THE CLERK: What says the defendant?

JURY SELECTION

1 MR. SMILEY: Please seat Mr. Robinson.

2 THE CLERK: Please seat the juror.

3 Juror No. 5, Woodrow Allison. What
4 says the State?

5 MR. STEGALL: Please present this
6 juror.

7 THE CLERK: What says the defendant?

8 MR. SMILEY: Please excuse Mr. Allison.

9 THE CLERK: Please excuse the juror.

10 Juror No. 147, Tommy Ross. What says
11 the State?

12 MR. STEGALL: Please excuse this juror.

13 THE CLERK: Please excuse the juror.

14 Juror number 192, Kathleen Young. What
15 says the State?

16 MR. STEGALL: Please present this
17 juror.

18 THE CLERK: What says the defendant?

19 MR. SMILEY: Please seat Ms. Young.

20 THE CLERK: Please seat the juror.

21 Juror No. 115, Wesley Morris. What
22 says the State?

23 MR. STEGALL: Please present this
24 juror.

25 THE CLERK: What says the defendant?

JURY SELECTION

1 MR. SMILEY: Please excuse Mr. Morris.

2 THE CLERK: Please excuse the juror.

3 Juror No. 194, Denise Chandler. What
4 says the State?

5 MR. STEGALL: Please present this
6 juror.

7 THE CLERK: What says the defendant?

8 MR. SMILEY: Beg the Court's
9 indulgence?

10 THE COURT: Absolutely.

11 MR. SMILEY: Please excuse
12 Ms. Chandler.

13 THE CLERK: Please excuse the juror.

14 MR. SMILEY: And, Madam Clerk, just to
15 make sure, I've used nine strikes?

16 THE CLERK: Correct, yes, sir.

17 MR. SMILEY: All right.

18 THE CLERK: Juror No. 2, David Adams.
19 What says the State?

20 MR. STEGALL: Please present this
21 juror.

22 THE CLERK: What says the defendant?

23 MR. SMILEY: Please seat Mr. Adams.

24 THE CLERK: Please seat the juror.

25 THE COURT: All right. We will draw

JURY SELECTION

1 two alternates; the strikes will be one and two.

2 THE CLERK: Juror No. 12, Cecil Baxley.
3 What says the State?

4 MR. STEGALL: Please present this
5 juror.

6 THE CLERK: What says the defendant?

7 MR. SMILEY: Please seat Mr. Baxley.

8 THE WITNESS: Please seat the juror.

9 Juror No. 100, Crystal Magazine. What
10 says the State?

11 MR. STEGALL: Please present this
12 juror.

13 THE CLERK: What says the defendant?

14 MR. SMILEY: Please seat Ms. Magazine.

15 THE CLERK: Please seat the juror.

16 THE COURT: Thank you. Any motions
17 from the State regarding the selection process?

18 MR. STEGALL: No, Your Honor.

19 THE COURT: Any motions from the
20 defendant?

21 MR. SMILEY: No, sir.

22 THE COURT: Ladies and gentlemen, those
23 of you that were not selected, again, thank you for
24 the privilege of working with you. You are now
25 free to leave and you have earned your exemption

1 for the next three years. Thank you so much.

2 And, ladies and gentlemen, those of you
3 who were selected, thank you so much as well. Let
4 me talk to you about the seating arrangements. The
5 last jurors, Mr. Baxley and Ms. Magazine, you have
6 two seats. Either one of those two end seats are
7 your seats as long as you are an alternate juror.

8 And an alternate juror doesn't mean a
9 lot. It means -- at this point, it just gives you
10 two seats at the end of the jury box. If we have
11 to excuse a juror during the trial, and sometimes
12 we have to do that, then one of you will be moved
13 into the jury panel.

14 At the end of the case if the first 12
15 that are selected are able to continue, then you
16 will not participate in the final deliberations,
17 but since you don't know the status nor do I of all
18 the jurors, please know that you are very much a
19 part of the jury. Those are your seats.

20 The only other assigned seat is
21 Mr. Adams is occupying, but he, as any of the first
22 12 of jurors who are selected are eligible to
23 serve, as I call them, presiding jurors. They are
24 called foreperson, foreman, forelady.

25 The statute allows me to appoint the

1 presiding juror or you to select the presiding
2 juror. I have over the years -- I think I started
3 first appointing them because that's what judges
4 always did. And then I learned, when I took this
5 job, that some judges didn't, and I kind of adopted
6 that and have used it for most of my career. I let
7 the jury pick their presiding juror.

8 It doesn't have to be done right away.
9 At some point, if you will, select that person.
10 Once that person has been selected by you, I would
11 ask that that individual occupy that first chair on
12 the first row. Until that's done, please feel free
13 to occupy any seats you want except the two end
14 seats. Those are reserved for our alternates.

15 The only persons not eligible to serve
16 as a presiding juror would be our alternates, if
17 you do it before we finish the trial. If during
18 the trial one of them moves on and you still
19 haven't selected it, which is fine, then that
20 person will become eligible as well.

21 The presiding juror is responsible for
22 basically receiving the exhibits, that being
23 evidence that has been introduced, and then when
24 the jury has completed its deliberations, returning
25 those exhibits to court. There may be occasions

1 that -- there may be some written communication
2 that needs to be made from the jury to the court,
3 and it would be your responsibility as the
4 presiding juror to write that on behalf of your
5 fellow jurors.

6 And there will be a verdict form for
7 each of these charges, and you will be responsible
8 for signing that verdict form on behalf of your
9 fellow jurors. Other than that, there are no
10 additional responsibilities or duties. As I
11 stated, any of you are eligible. It doesn't give
12 you any power that the other jurors don't have.

13 It's been my observation over the years
14 that one of the qualities, I think, or
15 characteristics of a presiding juror is they
16 facilitate the jury deliberations. And some
17 persons are better facilitators than others. And
18 that's why I let you pick your presiding juror to
19 serve in that capacity.

20 So after you've had a chance to talk
21 with one another, exchange some niceties that you
22 will do, because you're going to be cooped up in a
23 room from time to time, then you can pick your
24 presiding juror. And then once that person is
25 identified, they occupy that seat. But until then,

1 please occupy any seat that you want.

2 I would say this, that sometimes
3 jurors -- in fact, last week one of the jurors came
4 in and he occupied -- in Charleston, the alternates
5 sit at this end, not that end, but in that jury box
6 that alternate sat where one of our -- one of the
7 jurors sat where Mr. Baxley is seated. And he came
8 in every time first so he could get to that spot
9 before any of the jurors.

10 If you choose to want one of those end
11 seats near the alternate, please position yourself
12 so that you can come in first so the others jurors
13 don't have to step over you. There is not a lot of
14 room to maneuver up there. So just keep that in
15 mind.

16 Other than that, ladies and gentlemen,
17 again, sit where you want. We are going to excuse
18 you though for the balance of the day. There are
19 some matters of law that I need to take up out of
20 your presence, and so we wouldn't be able to start
21 until sometime later this afternoon. And rather
22 than have you come in and sit and wait until we
23 finish, the better thing to do is just start fresh
24 in the morning.

25 So when you leave, if you will leave

1 through that door, you need to -- the bailiffs will
2 get certain information from you. Once you have
3 given them that information, you are free to leave.

4 Please remember, and you will hear this
5 frequently, you are not at liberty to talk with
6 anyone about this case, or talk about the case, or
7 have anybody talk about it in your presence.

8 Do not read anything. There may be
9 coverage; I think there was this morning. Please,
10 if it's your practice to read the newspaper in the
11 morning, if you see a heading that talks about this
12 case, do not read that. You will have to make a
13 promise each time that you will not have any
14 outside contact with this, and probably we'll do it
15 every morning.

16 I've done that before with a case
17 that's covered because it's important that you not.
18 Because why? Not that it would influence you at
19 all, but because you promised that you would decide
20 this case based on what you hear only in this
21 courtroom.

22 So in order to make that commitment,
23 you can't. You can set it aside and when you
24 finish your jury service and, certainly, you would
25 be able to read it if you want to, that would be up

1 to you, but don't watch any news coverage about it.
2 If it comes on if you're watching the news, turn it
3 off or switch the station or walk out of the room.
4 That's what you need to do until we finish our
5 service.

6 Again, do not conduct any independent
7 research. You don't know any facts; you don't need
8 to start speculating about that. You have all
9 indicated to me and to the State and to the
10 defendant in this case that -- Mr. Howard, that you
11 will be able to at the appropriate time apply your
12 common sense, your sense of logic and reason, you
13 haven't formed any decision. So don't begin that
14 process until you are instructed to do that. Keep
15 that open mind.

16 So I ask you to please exit now, give
17 that information, and then have a good day, what's
18 left of it. See you tomorrow at 9:30, please.
19 Come back to your jury room at 9:30.

20 You all may remain seated. I don't
21 require you to stand. Thank you.

22 (Jury out, 12:11 p.m.)

23 THE COURT: Are there any exceptions or
24 additions from the State regarding the Court's
25 remarks thus far?

1 MR. STEGALL: No, Your Honor.

2 THE COURT: Any from the defendant?

3 MR. SMILEY: No, sir.

4 THE COURT: Thank you. Now, we have
5 some matters we need to take up this afternoon,
6 some matters of law, some issues?

7 MR. STEGALL: We do. Your Honor, we've
8 got -- Ms. Hinojos is coming in. We're probably
9 going to proffer her so Your Honor can hear her
10 testimony.

11 THE COURT: Okay.

12 MR. STEGALL: Based on your ruling with
13 her testimony, there may be a Bigger's hearing and,
14 also, a Jackson v Denno; although, the State is
15 going to contend that two of the three statements,
16 the defendant was not in custody so that we would
17 not only need a Jackson v Denno for one of the
18 statements.

19 THE COURT: Well, that may be. We may
20 want to address that just to cover any possibility,
21 but so what time do you want to reconvene?

22 MR. STEGALL: 2:00 o'clock.

23 THE COURT: That suits everybody?

24 MR. SMILEY: Absolutely.

25 THE COURT: All right. Thank you.

1 Then we will be in recess until 2:00 o'clock. The
2 matters that we need to take up now, there are some
3 people that were supposed be here. I know they've
4 probably left, probably. There was a list of
5 people, and I don't know whether they are still
6 around or not.

7 Anything from the defendant before we
8 recess?

9 MR. SMILEY: No, sir.

10 THE COURT: Thank you. We'll be at
11 ease until 2:00 o'clock.

12 (A luncheon recess transpired.)

13 THE COURT: Okay. Let's bring in the
14 defendant, please.

15 Let the record reflect that Mr. Howard
16 is present.

17 All right. We're ready to proceed.
18 Solicitor, whatever order you want to proceed.

19 MR. SMILEY: First, Your Honor, this is
20 my motion --

21 THE COURT: You have a motion.

22 MR. SMILEY: It's a motion in limine
23 over 404(b) evidence, prior bad acts. And I
24 believe Mr. Stegal would like to put up Ms.
25 Amanda -- and I won't try to pronounce her last

1 name -- Hinojos. I tried and I can't do it.

2 THE COURT: Well, I didn't do a very
3 good job either.

4 MR. SMILEY: He wants to call her. I
5 don't believe that it meets the requirements to be
6 admissible, and he would like to proffer her
7 testimony.

8 THE COURT: Well, I understand that.
9 Do you think it's necessary that I hear the
10 testimony before I rule on it?

11 MR. SMILEY: I don't, no, sir.

12 THE COURT: Well, let me hear from you.

13 MR. SMILEY: Okay. Your Honor, under
14 404(b) --

15 THE COURT: Right, Lyle evidence.

16 MR. SMILEY: Well, before we get to
17 Lyle, under 404(b), evidence of other crimes,
18 wrongs, or acts is not admissible to prove the
19 character of a person in order to show action in
20 conformity therein. It may however be admissible
21 to show motive, identity, the existence of a common
22 scheme or plan, absence a mistake or accident, or
23 intent.

24 THE COURT: I call that Lyle evidence.

25 MR. SMILEY: Yes, sir. Yes, sir.

1 Well, my understanding is, if it's going to be
2 offered for one of those five reasons, then we look
3 at Lyle to see if the prior bad act of an uncharged
4 event is clear and convincing; if it meets one of
5 those five exceptions, and then its probative value
6 outweighs the unduly prejudicial value of a prior
7 bad act.

8 And by reading Mr. Stegall's trial
9 brief, and I know that's not evidence, but reading
10 it, he agrees, I believe, that it does not fit one
11 of those exceptions, and it's not Lyle.

12 And if that's the case, that's -- a
13 404(b) Rule --

14 THE COURT: Excludes it.

15 MR. SMILEY: Right, exactly. So that's
16 where we are at this point.

17 THE COURT: All right. Well, let me
18 hear from Mr. Stegal why it would be a 404(b)
19 application. Mr. Stegal, if you believe that it's
20 not offered for one of those purposes.

21 MR. STEGALL: Well, actually, Your
22 Honor, I believe that it would be a little easier
23 if you heard her testimony first, but --

24 THE COURT: I appreciate that, and I'm
25 not trying to exclude hearing her testimony, but

1 you're an officer of the court. And one of the
2 things that we know is that you have to make a
3 representation and you have to say, Judge, I do
4 believe this testimony meets the requirements of
5 404(b) and, therefore, I would like you to hear it.

6 But I haven't heard that yet. You're
7 just saying I think you need to hear it so you can
8 tell me. That's not my job.

9 MR. STEGALL: Okay. Your Honor, I
10 would argue that her testimony falls under the res
11 gestae theory and that it furnishes part of the
12 context --

13 THE COURT: Res gestae doesn't have a
14 thing in the world to do with 404(b).

15 MR. STEGALL: Your Honor, this is a
16 subsequent bad act, and I think that's important,
17 an important distinction.

18 THE COURT: Subsequent to what, the
19 incident?

20 MR. STEGALL: Correct. Because she's
21 going to testify that her and Nicole's phone were
22 texting about a meeting to make money.

23 THE COURT: When was it that texting
24 took place?

25 MR. STEGALL: February 27th.

1 THE COURT: So it's after the date of
2 the alleged incident?

3 MR. STEGALL: Correct.

4 THE COURT: No, sir.

5 MR. STEGALL: The defendant is -- we
6 allege that he is using the victim's phone to
7 communicate with Amanda. He's also using her phone
8 to communicate with other friends and family so it
9 corroborates that, and they find the phone on him
10 at the jail. So he is --

11 THE COURT: Well, first of all, you
12 don't have any question about finding him on the
13 phone. So why does the probative value of that
14 outweigh the prejudice? How does the probative
15 value outweigh the prejudice?

16 MR. STEGALL: Your Honor, it's a murder
17 trial. I believe --

18 THE COURT: Mr. Stegal, please argue
19 specifics. I know what the trial is. I understand
20 that, sir. My question to you is, I have to make a
21 403 -- you'll understand what I have to do.

22 I'm asking you initially, how in the
23 world does a subsequent event which you, by the
24 way, will be able to get in without his testimony
25 because you're going to have testimony that her

1 phone was found, correct? Correct.

2 MR. STEGALL: We will, Your Honor.

3 THE COURT: And it was not only found,
4 but it was found and he was trying to hide it,
5 correct?

6 MR. STEGALL: Correct.

7 THE COURT: So what in the world does
8 this testimony -- how does this testimony help you
9 other than to go to a character situation?

10 MR. STEGALL: It shows --

11 THE COURT: Maybe that's what I need
12 for you to help me.

13 MR. STEGALL: It shows the defendant's
14 common scheme and plan of continuing this ruse that
15 Nicole was alive.

16 THE COURT: But that's not what he's
17 charged with. He's charged with terminating her
18 life and desecrating the body, which would have
19 been accomplished, all done at the time this
20 occurred. I'm going to protect you against
21 yourself, Mr. Solicitor.

22 I think this evidence will not be very
23 probative, and certainly if it is, the prejudice
24 outweighs the probative value.

25 MR. STEGALL: Your Honor, may I make

1 this point?

2 THE COURT: You can make any point you
3 want. I just -- I mean, you can call the witness.
4 I will tell you now that it's going to serve no
5 useful purpose for me to hear this testimony, okay?
6 Because, first of all, the testimony does not come
7 under 404(b) .

8 MR. STEGALL: The point that I would
9 like to make is during this time that we're talking
10 about, February 27th, this wasn't a murder case.
11 It was a missing person's case, so they were --

12 THE COURT: Solicitor, I appreciate
13 your argument, but you are not helping yourself,
14 because what did I do before we started to qualify
15 the jury? What did I do? I called you up and I
16 said, are you -- is this correct? I said, this is
17 the time limit in which you're talking about that
18 you, the State, says this act occurred between
19 February 17th and February 24th.

20 You could have alleged this occurred
21 sometime between February 17th and when they found
22 the body. That's -- to be honest with you, that's
23 what I thought the indictment was going to say when
24 you said it was going to be amended. I really did.
25 But I don't know anything about it, that's just my

1 conversation with you all.

2 So you put the time. And I said,
3 that's what you want? That's the frame, that's the
4 time frame? And you said yes. I didn't -- so, to
5 me, anything after that -- obviously, if he
6 testifies -- now, let me -- let's put it in a
7 context.

8 Obviously, if he chooses to testify,
9 which is his right to do, and you ask him whether
10 or not he was using the phone and he denies it,
11 aha, now this evidence does come in. It comes in
12 for impeachment purposes.

13 And now, whether -- I don't need to
14 hear the testimony because whatever she wants to
15 testify, obviously, at this point you've
16 established by the evidence -- your case in chief
17 has been presented, and you've gotten by a directed
18 verdict which says, this murder happened and in the
19 light most favorable to the State, Mr. Howard most
20 probably committed it -- or did commit it; therefore
21 it shifts now, if he wants to testify and wants to
22 present any evidence, he can.

23 And if he does and he testifies and he
24 denies it, then he's opened the door, that
25 proverbial Pandora's box, and you get to reply. So

1 your testimony may be fine. I don't need to hear
2 it.

3 And, frankly, I don't know why you want
4 to give them the benefit of having a deposition and
5 cross-examine him in advance.

6 MR. STEGALL: Thank you, Your Honor.

7 THE COURT: Okay. So I'm not ruling it
8 out. I'm ruling it out in your case in chief at
9 this point. So I agree with you; it doesn't meet
10 -- there is no need for me to do that because I
11 don't have to get to the issue of whether or not
12 it's -- it's -- obviously, no conviction for it so
13 -- because we've agreed we're not going to disclose
14 what did later -- what charges were filed against
15 him at a later date.

16 We are going to certainly disclose, I
17 think -- I will be happy to hear any objection, but
18 I anticipate the State will introduce evidence of
19 finding the phone on him when they arrested him, as
20 I understand it. So that certainly will come in.

21 But from the standpoint of -- so clear
22 and convincing is not necessary. That will be
23 testimony of whether the jury finds it to be
24 credible and believable; that, in fact, he says I
25 didn't, for instance -- and I don't know what he's

1 going to say, but if he does testify and he says, I
2 wasn't using the phone, it wasn't me, then that
3 testimony becomes certainly probative and certainly
4 relevant to that issue.

5 And that person's testimony -- then the
6 jury would assess the credibility and believability
7 of that witness. The Court doesn't have to make
8 that assessment because I don't think it's -- as I
9 said, it's not coming in under the case in chief.

10 Okay. So based on that ruling,
11 Solicitor, I haven't said that she cannot -- cannot
12 testify, but I will certainly as the case
13 progresses -- and let me also tell you something
14 else, too.

15 This is a ruling in limine, and as you
16 know, an in-limine ruling is not -- doesn't -- I
17 can't make determinations in the abstract when I
18 haven't heard anything in this case.

19 I don't know how this case is going
20 forward and, I guess, really having sat where
21 you're sitting, not as a prosecutor, but just as a
22 plaintiff having the burden of proof, we plan and
23 prepare witnesses, but we don't have a way to
24 anticipating how that testimony actually may be
25 made -- given.

1 So, obviously, we can revisit this if
2 it becomes necessary. So, please, understand
3 something, I am not telling you you can't present
4 this in your case in chief. I'm just telling you,
5 given what we have argued thus far, I would not
6 allow it in the case in chief, but I'm certainly
7 keeping the door open for you should situations
8 change or obviously in a reply situation. So,
9 okay.

10 MR. STEGALL: Thank you, Your Honor.

11 THE COURT: Yes, sir. All right. That
12 takes care of that. So now what do we have?

13 MR. SMILEY: There's a couple other
14 404(b) but I think those would be better taken up
15 as the trial progresses. Because they aren't --
16 the witness will be testifying regardless. It's
17 just part of it.

18 THE COURT: Okay. That's fine.

19 MR. SMILEY: Other than 404(b), Your
20 Honor, I would like, of course, the witnesses on
21 both sides to be sequestered.

22 THE COURT: Any objection to that,
23 Solicitor? Obviously, the family members have a
24 right to be present. The victim -- the family
25 members of the victim, they will not be

1 sequestered.

2 MR. ALFARO: Yes, Your Honor. The only
3 other exception is the case agent.

4 THE COURT: The case agent will -- can
5 remain at the table.

6 MR. SMILEY: Your Honor, just to be
7 clear, the Spartanburg guy is going to be the --

8 THE COURT: So the Spartanburg --

9 MR. ALFARO: Yes, sir.

10 THE COURT: -- law enforcement
11 official?

12 MR. ALFARO: Yes, sir.

13 THE COURT: Okay. That's fine. That
14 person certainly will be permitted to be present at
15 all times, in addition to the members of the
16 family.

17 MR. SMILEY: All right. There's
18 several interviews of my client that --

19 THE COURT REPORTER: Mr. Smiley, I
20 can't hear you.

21 MR. SMILEY: I apologize, I'm usually
22 loud enough. There's --

23 THE COURT: Use your outdoor voice.

24 MR. SMILEY: Yes, sir. I believe out
25 of an abundance of caution, because I was taught to

1 do it, the Jackson v Denno needs to be done before
2 the introduction of my client's statements.

3 I do not at this point have a specific
4 grounds that I believe they're not admissible,
5 but -- so we can take it up.

6 I'm not saying on the outset that it's
7 not voluntary, I guess, but I cannot if it --

8 THE COURT: Well, I believe you had
9 indicated, Solicitor, that there were -- you
10 believed that there were several statements that
11 were prior to anything that wouldn't trigger the
12 Miranda warnings, as I understand it, or
13 necessitate a Denno hearing.

14 MR. ALFARO: Yes, sir, that's correct.

15 THE COURT: Was there a statement that
16 you, at this point, intended to present after he
17 was arrested and placed in custody?

18 MR. ALFARO: There is a statement that
19 takes place in Spartanburg on the day he's
20 arrested.

21 Just to kind of give some background as
22 to the statements that we're talking about that
23 aren't in custody, when she -- the day she is
24 reported missing in Spartanburg, the defendant is
25 called by Detective Burgess, asked to come into the

1 station. He comes to the station.

2 They are meeting with someone else, so
3 he leaves and then comes back to the station and
4 speaks with Detective Burgess getting some
5 background information. And there are some things
6 that, when compared to other statements, we would
7 use because they're inconsistent.

8 And then, at that point, on that day
9 after he speaks with Detective Burgess, he then
10 goes upstairs -- or goes to another office to give
11 a written statement to Detective Moss on that same
12 day. I believe we are going to use part of that
13 statement. That's the voluntary statement.

14 He's not in custody at that time, so we
15 don't -- Miranda wasn't done and we don't believe
16 it was necessary.

17 And then later on, there is -- on
18 March 26th, I believe is when he arrested. The
19 26th he's arrested, they bring him back to the
20 station, and he's Mirandized at that point because
21 he's in custody.

22 So in terms of statements, where Denno
23 would be necessary -- or Miranda would be
24 necessary, that's the only statement that we would
25 say is necessary.

1 THE COURT: All right.

2 MR. ALFARO: And we have witnesses
3 available for that.

4 MR. SMILEY: And I agree that the first
5 two -- he left the police station, Your Honor, and
6 was not in custody.

7 THE COURT: As I understand from what
8 he just said, he came and they couldn't talk, he
9 left, and then returned.

10 MR. SMILEY: Right.

11 THE COURT: So I would consider that to
12 be a voluntary statement.

13 MR. SMILEY: Absolutely. And then
14 there is the one that was after that.

15 THE COURT: Well, that one -- at what
16 point do you intend to introduce that in your
17 trial?

18 MR. ALFARO: That would be --

19 THE COURT: Is it a video?

20 MR. STEGALL: Your Honor, the first
21 statement, March 13th --

22 MR. ALFARO: There is a video but we
23 don't intend -- because of the length of the video,
24 we don't intend to play the entire video. We were
25 going to have the officers testify as to the parts

1 of the statement that we were going to --

2 THE COURT: This is after the Miranda
3 warning?

4 MR. ALFARO: Yes, there is -- for the
5 voluntary statements, as well as after Miranda,
6 yes.

7 THE COURT: Voluntary statements,
8 whether you want to play them or not, that's up to
9 you, but we're not talking about a lengthy portion
10 that I would have to view for purposes -- assuming
11 that we need a Jackson v Denno.

12 MR. ALFARO: If you were to view the
13 statement in its entirety, the one post Miranda is
14 an hour.

15 THE COURT: Well, why don't you do
16 this: I have a better idea, the way I have done it
17 in the past. You have a video? You have a disk?

18 MR. STEGALL: Yes, I do, Your Honor.

19 THE COURT: Well, just give it to me,
20 and then I can view it beforehand. And then we
21 will make that a Court's Exhibit if it becomes
22 necessary.

23 You have a copy of it, Mr. Smiley?

24 MR. SMILEY: I'm sure I do.

25 THE COURT: And then I will just rule

1 based on my view of it and the testimony. We don't
2 have to view the video.

3 MR. STEGALL: It's an audio.

4 THE COURT: It's an audio.

5 MR. STEGALL: Yes, sir.

6 THE COURT: Okay. That's fine.

7 MR. ALFARO: Do you want us to mark it?

8 THE COURT: No. Well, I'll mark it
9 after I play it.

10 MR. STEGALL: Your Honor.

11 THE COURT: Sir?

12 MR. STEGALL: I do want to add is that
13 there is also a March 20th statement and a morning
14 of March 26th where he is not in custody.

15 THE COURT: That's fine.

16 MR. STEGALL: That's the only one
17 that --

18 THE COURT: The only statement that I'm
19 really concerned with at this juncture for a
20 Jackson v Denno is the statement after he's in
21 custody. And that's what I have in my hand that
22 says Number 2.

23 MR. ALFARO: Yes.

24 THE COURT: Okay. All right. Then I
25 will be happy to review that and then we can see

1 how it unfolds at the trial. And if we need to
2 excuse the jury, it won't take that long to argue
3 the positions because I would have heard everything
4 and the officer will have testified as to what
5 transpired leading up to the statement. Okay?

6 MR. ALFARO: Yes, sir.

7 THE COURT: Does that suit you,
8 Mr. Smiley?

9 MR. SMILEY: Yes, sir.

10 THE COURT: Well, we will go in that
11 fashion. That way we can at least expedite that
12 part of it. Okay.

13 What else do we have?

14 MR. SMILEY: That's the only pretrial
15 motions I have.

16 THE COURT: All right. Does the
17 Solicitor have any pretrial motions?

18 MR. ALFARO: No, sir. Not at this
19 time.

20 THE COURT: Well, I appreciate you all
21 assembling everybody. Looks like we were able to
22 expedite that as well. So I thank you.

23 We are ready to start at 9:30 then, is
24 that correct? With the opening statements?

25 MR. ALFARO: Yes, sir.

1 THE COURT: All right.

2 MR. SMILEY: And before we go, just to
3 make sure I have -- and I know I am, but I just --
4 at this point in time, the testimony of Amanda --
5 I'm going to call her Ms. Amanda because I can't
6 pronounce her last name.

7 THE COURT: That's the lady that
8 allegedly had the communication with the person she
9 thought was the deceased on the phone, the text
10 exchange, correct?

11 MR. SMILEY: That person, yes. It's my
12 understanding at this point in time in the motion
13 in limine, is that it won't be brought up until
14 it's revisited.

15 THE COURT: That's a fair statement.
16 First of all, I would say, both of you, given this
17 type of case, and I will be very -- normally, I
18 don't get involved in openings or closings, but one
19 of the things -- and we all know, I was a lawyer
20 for 21 years. Opening statements are important,
21 and we know how important they are.

22 And we also know as lawyers we make
23 them as argumentative as we can. And then the
24 Court came down with a rule that says opening
25 statements can't be argumentative. So I just

1 remind everybody of that and just caution you,
2 anything that may be suspect -- and, frankly, the
3 book I always used -- I'm dating myself -- they
4 said -- they considered it the Bible for opening
5 statements was Al Julian.

6 And Al Julian had one premise that sort
7 of was the basis of everything, at least for my
8 career; you don't ever say in opening statements
9 something that you can't prove. Because juries are
10 perceptive, they hear that. And the minute you
11 lose credibility, you've started losing your case.

12 I thought that was the best measure and
13 guard against going too far is to say something you
14 can't prove. So, obviously, if there's a question
15 about evidence coming in or not coming in, I don't
16 believe I would say that in my opening statement,
17 but I will let you all -- you all are
18 professionals, I respect each one of you.

19 And I'm certainly fortunate to have
20 excellent attorneys on both sides handling this
21 case, and I mean that sincerely. So I trust you
22 all.

23 Yes, sir, Mr. Smiley.

24 MR. SMILEY: In its trial brief, the
25 State had a motion as to third party guilt. Are

1 you still making a motion about --

2 THE COURT: No. I'm going to limit --
3 obviously, the rule -- the evidentiary rules
4 require it's got to be more than just suspect.
5 It's got to be -- and I will apply that.

6 MR. STEGALL: That's correct, Your
7 Honor, the standard.

8 THE COURT: The standard would apply,
9 and I couldn't agree with you more. So I know that
10 I will sustain any objection that doesn't meet the
11 requirements for third party guilt, Solicitor.

12 MR. STEGALL: Thank you.

13 THE COURT: You bet. And I think we
14 all know that. And you can't just say, well, it
15 had to be somebody else. Not necessarily. You
16 have to say, it had to be somebody else and, in
17 fact, I think this is the person who did it.

18 Okay. I don't know that it has to go
19 quite that far, but it has to be pretty close.

20 All right. Anything else?

21 MR. SMILEY: I don't believe so, Your
22 Honor.

23 THE COURT: Thank you very much. If
24 something comes up and you all have an
25 afterthought, just send me an e-mail and I will be

1 happy to respond to it if I can. And if not, I'll
2 deal with that.

3 We have the jury coming in at 9:30.
4 All right. Let's plan for us to get together
5 between 9 and 9:15.

6 MR. SMILEY: Yes, sir.

7 MR. STEGALL: Okay.

8 THE COURT: That way, if something
9 comes up, we can address that as well. All right.
10 Thank you all very much. Have a good evening.

11 Thank all the persons that are here,
12 and I'm sorry for the inconvenience of having to be
13 here but not going through the testimony. Thank
14 you.

15 (These proceedings were recessed at
16 2:34 p.m., to be continued 9:30 a.m., July 16,
17 2019.)

18

19

20

21

22

23

24

25

1 (The following proceedings were had
2 July 16, 2019, Berkeley County General Sessions
3 Court, State v. Howard, 9:35 a.m.)

4 THE COURT: Mr. Alfaro, you're present.
5 Do we want to go ahead and put the stipulations on
6 the record?

7 MR. ALFARO: Yes, sir, I can do that.

8 THE COURT: All right.

9 MR. ALFARO: May it please the Court?

10 THE COURT: Yes, sir.

11 MR. ALFARO: Your Honor, Mr. Smiley and
12 I have discussed some of the chain of custody
13 witnesses in this case. It is my understanding
14 that Mr. Smiley is willing to stipulate and not
15 challenge the fact that the following chain
16 witnesses from SLED will not be testifying, Amy
17 Stevens Black, Verona O'Herra, Doris Yarborough,
18 and Jackie Davis.

19 In addition, there is a Spartanburg
20 County evidence person, Angela Nelson, who will not
21 be testifying either. She is a chain witness. She
22 also took a buccal swab from James Antonio Mangle
23 -- well, I'm sorry she did not take that swab. She
24 transported that swab. She took the swab of the
25 young son, James Elijah Mangle.

1 So we've agreed that those witnesses
2 will not have to testify in order for the evidence
3 related to their chain to be submitted.

4 THE COURT: Mr. Smiley, is that still
5 correct?

6 MR. SMILEY: That is correct.

7 THE COURT: And that is consistent with
8 our pretrial status conference.

9 MR. SMILEY: Yes, sir. And there is
10 actually one more witness that I stipulated to
11 because I believe it was self-authenticating. The
12 Verizon records --

13 THE COURT: The phone records, it's not
14 going to be necessary to call a witness who will
15 say these are the records --

16 MR. SMILEY: Not -- stipulating that
17 those are, in fact, from Verizon and do not need a
18 custodian to authenticate them.

19 THE COURT: Thank you, sir. And let
20 the record reflect that Mr. Howard is present and
21 you've discussed that with him.

22 MR. SMILEY: I have.

23 THE COURT: Very good. Thank you very
24 much.

25 Are there any other matters before we

1 bring in the jury? From the State?

2 MR. STEGALL: No, Your Honor.

3 THE COURT: Anything else from the
4 defendant?

5 MR. SMILEY: No, sir.

6 THE COURT: Let's bring in our jury,
7 please.

8 (Jury in, 9:38 a.m.)

9 THE COURT: Good morning ladies and
10 gentlemen. I hope you had a good rest of the day
11 yesterday, and I appreciate you being punctual this
12 morning.

13 As I mentioned to you, one of the
14 things that I will be doing each morning is I will
15 be asking you, and I'm now asking you, do each of
16 you solemnly swear or affirm that you have complied
17 fully with the Court's instruction? You have not
18 read any newspaper accounts? You have not watched
19 any newspaper program? And you have done no social
20 media search as I requested?

21 If you have, please say I do. If you
22 haven't, then you need to stand. All of you have
23 done that.

24 A JUROR: I have not --

25 THE COURT: No. You don't have to --

1 do each of you agree that you have followed it, and
2 if you have, say I do.

3 THE JURY: I do.

4 THE COURT: Thank you. I thought, oh,
5 my gosh. This is the day we're going to celebrate
6 something that -- gosh, some of you probably didn't
7 see it, but -- you weren't around, but the landing
8 on the moon. And I remember those phrases.

9 In fact, they were talking -- maybe
10 some of you saw the program setting it up for the
11 coming, but Mr. Grant, who was the person in
12 charge, and they were talking. And it was
13 interesting and I started reading it, but in the
14 movie "Apollo 13" says, Houston, we have a problem.
15 The actual translation was, Houston, we had a
16 problem.

17 It's interesting. I wondered why they
18 changed it, but maybe you all can explain that to
19 me another time and place.

20 But, anyway, thank you for not doing --
21 for complying fully.

22 As I mentioned to you, one of the
23 acts -- the first act that will happen is in order
24 for you to become a judge with me, there needs to
25 be an oath administered. And I am going to ask the

COURT'S OPENING

1 clerk now to please administer the oath.

2 THE CLERK: Please stand and raise your
3 right hand to be sworn.

4 THE JURY

5 being first duly sworn, testified as follows:

6 THE CLERK: Please be seated.

7 THE COURT: Thank you, ladies and
8 gentlemen. Now, as I indicated to you when we were
9 qualifying you yesterday, you now have become a
10 judge with me. And you and I now will work
11 together to help us resolve this dispute.

12 Please remember something, you will be
13 the sole judges of the facts. Nothing that I say,
14 nothing that I do, I have nothing to do with the
15 factual determination. That's your sole job and
16 your sole prerogative.

17 Likewise, you have nothing to do with
18 the law and you will accept the law as I give it to
19 you and apply that law to those facts as you will
20 ultimately determine. I also mentioned to you
21 yesterday that there is no one in the world more
22 qualified than you are to perform the tasks that
23 you just accepted. And I reiterate that.

24 And I will tell you that you have
25 brought everything with you that you will need when

COURT'S OPENING

1 you walked into this courtroom. And you may say,
2 what do you mean? Well, as I told you, at the
3 appropriate time you will apply your common sense,
4 your sense of logic and reason fairly and
5 impartially in analyzing the evidence.

6 The evidence will consist of the
7 testimony of the witnesses and exhibits that might
8 be introduced through their testimony. And let me
9 say to you now concerning that. Sometimes the
10 attorneys may show that on the screen, they may
11 even hold it up, they may pass it around. Any
12 exhibit that is introduced into evidence will
13 accompany you to your jury room when you begin your
14 deliberations.

15 So you will have an opportunity to
16 review it and study it more at that time. So don't
17 be alarmed if you say, well, I can't read that. I
18 can't see that, because you will have it if it's
19 introduced. And it's that evidence that you will
20 ultimately analyze and apply those skills that you
21 have developed in your life, because we know we do
22 this every day.

23 This is not foreign to us. We read
24 something or we hear something and we decide
25 whether we believe it. And you will be expected to

COURT'S OPENING

1 use those skills that you have developed to get you
2 where you are in your life today when you are
3 instructed to begin your deliberations.

4 Now, I have said that at the
5 appropriate time, because something else is equally
6 important. You brought something that was not
7 stated specifically, but could be inferred from all
8 of your responses.

9 As I remind you of the last question,
10 was there anything about this case that would give
11 you any concern about making a commitment that you
12 just made? And nobody stood.

13 So you've stated in other words, Judge,
14 you told me about it, I don't have any knowledge
15 about it, I haven't made any decisions about it, I
16 have an open mind.

17 I will tell you that open mind is
18 probably one of the most essential ingredient or
19 aspect of a jury's deliberations. Why do I say
20 that? Because that open mind, you brought it and
21 you said I'm willing to listen, and I'm willing to
22 at the appropriate time apply my common sense.

23 Well, one of the things that you have
24 to understand is there are multiple parts. There
25 are four distinct stages of a trial. One -- well,

COURT'S OPENING

1 after I've had my remarks, the attorneys have their
2 first opportunity to speak to you. And they speak
3 to you in what we call opening statements.

4 And they'll tell you a little bit about
5 the dispute. They may discuss some of the evidence
6 that they expect that you will hear and discuss
7 some of the legal principles with you. I think you
8 will find those remarks helpful as we move into the
9 trial.

10 After you've heard the evidence, then
11 they speak to you again. And unlike the first, you
12 will have heard the evidence and now it's proper
13 for them to discuss that evidence with you and
14 suggest reasonable inferences that you may draw
15 from that.

16 I'm confident that you will find those
17 remarks very beneficial to you as we go through the
18 trial. As I mentioned to you, the attorneys are
19 officers of this court with a very important
20 responsibility, and you should give them your
21 attention. And I'm confident that you will do
22 that.

23 But while their remarks are helpful and
24 important, please remember something else. Just as
25 I said my remarks should not be considered

COURT'S OPENING

1 evidence, neither should you consider the
2 attorneys' remarks evidence, because the evidence
3 will come through the testimony of the witnesses
4 and you will hear those witnesses.

5 And the first party -- the only party
6 that has a burden of proof in a criminal dispute is
7 the party that makes the accusation or allegation,
8 and that would be the State of South Carolina.
9 Mr. Howard has absolutely nothing to prove,
10 disprove, explain; in fact, he has no
11 responsibility to present anything for your
12 consideration.

13 And you cannot consider that at all.
14 Why? Because the State is the only party that has
15 any burden of proof. And it will be their
16 responsibility to submit or present evidence to you
17 that when you are instructed to begin your
18 deliberations you will decide the very essential
19 issue and question.

20 I will define for you in my charge the
21 elements of each of the crimes that -- with which
22 Mr. Howard stands accused. You will ask yourself
23 as you analyze the evidence, am I convinced? Am I
24 firmly convinced? I will explain -- and I have
25 said to you reasonable doubt is a standard that you

COURT'S OPENING

1 will be instructed to apply.

2 I will tell you, and we will talk more
3 about it in my charge, but a reasonable doubt is a
4 doubt that would make an honest, sincere,
5 conscientious juror, who's searching for the truth
6 in the case, to hesitate to act or take some
7 action, and it's that standard that you will apply.

8 And you will go through it. And as to
9 each of those elements if your answer is,
10 individually and collectively, yes, I'm firmly
11 convinced the State has met that element, then you
12 go to the next one, and so on.

13 If at the end you are firmly convinced
14 as to each of those elements, you must return a
15 verdict of guilty. Why? Because the State has met
16 its burden of proof and established each element to
17 that requisite standard.

18 On the other hand if your answer is,
19 well, I'm not firmly convinced as to one or more,
20 one is sufficient, then you must return a verdict
21 of not guilty. Why? Because the State has failed
22 to meet its burden of proof.

23 And that's what a verdict means in a
24 criminal dispute. Not guilty means that jury, that
25 jury hearing the case were firmly convinced beyond

COURT'S OPENING

1 a reasonable doubt standard of each of the elements
2 of the crime.

3 Not guilty simply means that jury was
4 not firmly convinced of one or more elements and,
5 therefore, as instructed will return a verdict of
6 not guilty. So that's what you will do, and you
7 will do that when you are instructed to begin your
8 deliberations.

9 One of the things that you will have to
10 do, you have to take the law as I give it to you
11 and certainly you have to apply that law fairly and
12 impartially.

13 And in my instruction, the last
14 instruction that I will give to you before you
15 leave this courtroom and commence your
16 deliberations is when they may start.

17 So until that time comes, you have to
18 keep an open mind because that is what you promised
19 me. And that sometimes is more difficult for
20 others, some more than others.

21 I confess one of my faults that I'm
22 aware of, and I have to remind myself of it, I try
23 to catch myself before going too far, but I'm a
24 person that's -- I've been accused of being
25 impatient. My wife accuses me of that all the

COURT'S OPENING

1 time.

2 My wife, on the other hand, is a very
3 detailed person. I don't know which one you are.
4 But she wants to hear everything and then think
5 about it before she renders a decision. Me, I will
6 stop and say, I know where you're going with this,
7 and this is so and so. Don't be that. Because if
8 you do, you've violated your oath.

9 You can't make any decision. You can't
10 begin the process of deciding anything about this
11 case until you've been instructed to begin your
12 deliberations, if you're going to honor the oath
13 that you took.

14 It's important to the process. Why?
15 Because there are four distinct parts. And, also,
16 the State goes first.

17 And as I told you, Mr. Howard has
18 absolutely nothing to prove or disprove, doesn't
19 have to present anything for your consideration,
20 but if he chooses to, he has the right to do it
21 when it's his turn. And that will be after the
22 State's entire case.

23 So it's a very logical reason why you
24 as a jury shouldn't decide anything until you hear
25 all of the evidence.

COURT'S OPENING

1 Now, having said that, please remember
2 that one thing that you're going to be -- you're
3 going to be tasked with doing in this case is
4 deciding what you find to be credible and
5 believable. And that's again something that's not
6 foreign to you; we do it every day.

7 And you and I both know sometimes it's
8 not only what somebody says that causes us to say,
9 that doesn't sound right, that's not logic, but it
10 might be how they say it. It may be a body
11 language that you have noted and something they do
12 with their face, something they do with their body
13 that's sort of a cue to you that says, wait a
14 minute. I'm a little suspect about what is about
15 to come out.

16 If you notice something like that or
17 you feel that thought, wait a minute, that doesn't
18 make any sense, make a mental note that you've had
19 that reaction. Just don't go to the next step,
20 which is, I firmly believe that or I don't believe
21 that. Wait until you begin your deliberations.

22 And then when you begin your
23 deliberations, share that with your fellow jurors.
24 They may be able to allay your concerns. They may
25 be able to tell you, well, you know, I know what

COURT'S OPENING

1 you mean, but such and such.

2 And you may say, you're right, you're
3 right. I shouldn't disbelieve that or I shouldn't
4 believe that, whatever the case may be. But
5 don't -- just don't go to the ultimate until you
6 are instructed to begin that process. It's very
7 important.

8 And I confess, as human beings we all
9 have things that you can't do. For instance, one
10 of the things that I will instruct you, and I will
11 tell you now, and I probably should have been doing
12 that for a long time, as judges we promise to do
13 something. As a human, I have to remind myself of
14 this every time I put on this robe.

15 We have to set aside all human
16 emotions. We can't be influenced by anger; we
17 can't be influenced by sympathy; we can't be
18 influenced by anything. We have to be very
19 methodical about applying it, and it takes an
20 effort. I confess that. So be conscious of that.

21 Do not be led by any human emotion
22 whatsoever. We don't have friends to reward, nor
23 do we have enemies to punish. We are here to do
24 our task and to do it fairly and impartially, and
25 I'm confident that each one of you will do that.

OPENING STATEMENT BY MR. ALFARO

1 Now, at the last stage, when we get to
2 that point and you have heard all of the evidence,
3 I will give you the law and you will then be
4 instructed to deliberate and apply that law fairly
5 and impartially and reach a decision as to each of
6 these charges.

7 I'm confident that you -- first of all,
8 I'm very privileged and it's a true honor to serve
9 with each one of you as a judge in this case. And
10 I thank you for your commitment to that process.
11 And I ask you now to give that same attention to
12 the attorneys as they give their opening statements
13 on behalf of their clients.

14 Solicitor, you may proceed.

15 MR. ALFARO: Thank you.

16 THE COURT: Yes, sir.

17 MR. ALFARO: Nicole Goodlett was a 28
18 year old mother of two. She had a child, a son
19 named -- called Eli from a previous relationship.
20 And then she met Jerald Howard when they were
21 living in the Upstate. They began a relationship,
22 and in the course of that relationship Nicole
23 became pregnant with twins by Mr. Howard.

24 They moved in together, they lived
25 together. They were living together on Loblolly

OPENING STATEMENT BY MR. ALFARO

1 Drive in Spartanburg up until February 2014.

2 Around February 17th, Nicole went
3 missing. You will hear testimony from friends and
4 family who will tell you about things that they
5 received or messages that made them uneasy and made
6 them believe something was wrong. And they
7 reported her missing to the Spartanburg County
8 Sheriff's Office.

9 During the course of that missing
10 person investigation, which was what it was at that
11 time, you will hear testimony from the officer from
12 Spartanburg who investigated her disappearance.
13 You will hear testimony about how they in speaking
14 with the defendant multiple times, he gave them his
15 version of events, including whether or not he had
16 her cell phone.

17 You will also hear testimony from an
18 FBI agent who looked at what they call cell towers
19 or cell tower pings that can track where a person's
20 cell phone goes, and you will hear testimony how
21 Nicole's phone was pinging in the Charleston,
22 Berkeley area in 2014.

23 And you will hear testimony about how
24 on March 25th, during the course of their missing
25 persons investigation, after multiple times of

OPENING STATEMENT BY MR. ALFARO

1 saying he didn't know where the phone was, how the
2 defendant was caught hiding and concealing her
3 phone on his person. The same phone, you will hear
4 testimony, that was pinged on the way down here.

5 Now, at this point, the missing persons
6 investigation, you may be asking yourself now,
7 well, that's all well and good, why are we standing
8 in a Berkeley County courtroom talking about it?
9 Well, because it remained a missing persons case
10 until November of 2015, a year and a half later.

11 Because in November of 2015, you are
12 going to hear testimony from a hunter who was with
13 his friend in the woods behind Cainhoy Elementary
14 and Cainhoy Middle School, which is in Berkeley
15 County, out in Cainhoy, how they stumbled across a
16 skull in the woods.

17 And you're going to hear testimony as
18 to how that skull was recovered and how that skull
19 was subsequently identified as that of Nicole
20 Goodlett. And you are going to hear testimony
21 about how they went back out -- the Berkeley County
22 sheriff's detectives went back out and searched
23 again.

24 November 27th was the initial one when
25 they found the skull; December 1st, they didn't

OPENING STATEMENT BY MR. ALFARO

1 find anything. They went back April of 2016,
2 April 26, 2016, and they found more of her bones,
3 her skeletal remains.

4 And you will hear testimony from that
5 stand from someone who will tell you how they
6 identified those remains as Nicole's, and they will
7 tell you the condition of the skull and the bones,
8 burned.

9 And they will tell you that it is
10 bones, not organs, not skin, bones. That is what
11 was left in those woods in Cainhoy of Nicole
12 Goodlett, a skull and most of her skeleton not
13 there.

14 And you will hear testimony as well
15 from the officers, both in Spartanburg and Berkley,
16 that will tell you how close the defendant's
17 childhood home where his parents still live in
18 Cainhoy, how close that is to the location where
19 her body -- her bones were found.

20 And you're going to hear, also,
21 testimony related to a different phone that has
22 Internet searches and Google searches from the
23 defendant, the defendant's phone.

24 And you are going to hear searches that
25 you will determine for yourself exactly how on

OPENING STATEMENT BY MR. ALFARO

1 point and how close they are to what actually
2 happened to Nicole Goodlett in those woods in
3 Huger, in Cainhoy about burning bodies and things
4 like that. You will hear that testimony.

5 Now, ladies and gentlemen, one thing --
6 or some things -- you're going to hear that. The
7 things that you are not going to hear is you're not
8 going to hear someone get on that witness stand and
9 be able to tell you exactly on this day at this
10 time this is how Nicole Goodlett was killed by the
11 defendant.

12 You are not going to hear someone get
13 up there and tell you exactly where she was killed,
14 whether she was she was killed in Spartanburg and
15 brought here and dumped, or whether she was killed
16 here, brought down here and killed here. You are
17 not going to hear that.

18 You are going to hear testimony that
19 relates to why you are not going to know the manner
20 of death, the relationship to how the body was
21 recovered and the bones were recovered. But this
22 case is about what you are going to hear and what
23 you are going to be firmly convinced of.

24 And the things that I told you just now
25 that you can expect to hear, you can expect to hear

OPENING STATEMENT BY MR. ALFARO

1 those things.

2 And the judge has already told, and you
3 are going to hear it I would assume multiple times,
4 at least between now and the end of trial, about
5 reasonable doubt and the State's burden of proof.
6 And we have that burden and we take that burden on
7 without question, without hesitation.

8 What's important is the standard beyond
9 a reasonable doubt. It's not all doubt. It's not
10 any doubt. There's not many things that anybody is
11 going to convince you of beyond any and all doubt.

12 We have to do -- our burden is to make
13 you firmly convinced at the end of this trial that
14 Jerald Howard killed Nicole Goodlett, dumped her
15 body in the woods in Berkeley County near his home,
16 the same area where the phone was pinging, the same
17 area where his family lives, he grew up and he's
18 familiar with, and leave you firmly convinced that
19 the phone that was found in his possession during
20 their investigation is the phone that was pinging
21 and the phone that he denied having.

22 Now, ladies and gentlemen, we have to
23 prove to you the elements of murder, and we are
24 going to do that. And, again, this case is going
25 to be direct evidence, things that someone saw or

OPENING STATEMENT BY MR. SMILEY

1 heard, felt or touched; or indirect evidence or
2 circumstantial evidence, which is proving another
3 fact when combined with something else links up to
4 leave you convinced of a fact.

5 And that's what you're going to hear in
6 this case. And at the end of this case you will be
7 firmly convinced that Jerald Howard murdered and
8 burned the body of Nicole Goodlett.

9 THE COURT: Mr. Smiley.

10 MR. SMILEY: Now, I introduced myself
11 when we were doing jury qualifications. My name is
12 Jim Smiley. My co-counsel, Laree Hensley, and I
13 have the honor of representing Jerald Howard. This
14 case is not a murder mystery. This isn't a
15 Saturday night *Dateline* mystery or 20/20. This is
16 in a court of law.

17 And they've brought an indictment that
18 says that Jerald Howard murderer, intentionally --
19 murder is the intentional killing of another with
20 malice aforethought, without just cause or excuse.

21 That's what you're here to decide
22 beyond a reasonable doubt, if the State can meet
23 each of those elements, the intentional killing of
24 another, malice aforethought, without just cause,
25 or excuse.

OPENING STATEMENT BY MR. SMILEY

1 There's going to be things that you
2 hear in this case that is going to make you
3 suspicious and make you wonder. But does it help
4 you answer the question, the intentional killing of
5 another with malice aforethought?

6 In answering those elements, the State
7 has already brought it up in opening, and I'm going
8 to suggest to you some questions that you sort of
9 got to contemplate and answer. The first one is
10 the manner of death. Murder is an unjustified
11 homicide. The coroner issues a death certificate,
12 and you will hear evidence on that. What was the
13 manner of death?

14 The next thing that I would think you
15 would have to answer, and I believe the evidence in
16 this case is going to be put out there, what was
17 the cause of death? How did she die? So I ask you
18 to keep that one in mind.

19 The next one, simple question, where
20 was she killed? When was she killed? Those are
21 questions that you have to answer.

22 There's going to be a lot of things
23 thrown up in the air that they're going to say,
24 well, you can assume this or you can guess that.
25 This isn't about guessing or assuming.

OPENING STATEMENT BY MR. SMILEY

1 We start with this blank slate, and I
2 always try to picture it as an artist with a blank
3 canvas. And the State is going to attempt to paint
4 a picture of murder and that Mr. Howard
5 accomplished that. They need to paint that picture
6 so that you can look at it and know that each of
7 those elements have been met beyond a reasonable
8 doubt.

9 And I'm going to help try to paint that
10 picture. I'm going to try to help keep us on
11 course on what this case is about. This case is
12 about murder. Now, he was charged with desecration
13 of a grave, but we're really here for murder.

14 You're going to hear about Nicole, her
15 background. You are going to hear about Jerald and
16 his background. You're going to hear about things
17 that maybe appear a certain way, but they're going
18 to ask you to make huge jumps in logic. They are
19 going to ask you to guess.

20 So as you see the evidence that comes
21 from this stand -- and that's the only place that
22 evidence can come from, from that stand, through
23 the way of testimony or exhibits. But I want you
24 to hear what you hear and what you don't hear; what
25 people say and what they don't say.

OPENING STATEMENT BY MR. SMILEY

1 Bias, prejudice, I want you to hear
2 those things. And I want you to keep in mind as
3 the judge has stated and Mr. Alfaro has stated,
4 Jerald Howard is an innocent man. He sits there an
5 innocent man until, and if, the State can remove
6 that innocence by meeting the burden of proof as to
7 each element of the crime of murder.

8 So as you listen -- and the judge will
9 tell you the law, but I'm telling you, and I think
10 I'm correct, the intentional killing of another
11 with malice aforethought without just cause or
12 excuse. That's what you're here to answer.

13 If they cannot prove each of those
14 elements beyond a reasonable doubt, they have
15 failed and the cloak of innocence remains with my
16 client, as it should.

17 When we were doing jury qualifications,
18 the judge in talking to you talked about other than
19 fighting for your country, this is the second most
20 important rights, one of those, being a juror and
21 sitting on a jury to put into action what those
22 people fought for. And I know you will.

23 I am going to ask you to be courageous,
24 to not join the team. You're are the finders of
25 fact. To be a fair and impartial juror, keep an

GOODLETT, DANIEL - DIRECT EXAM BY MR. STEGALL

1 open mind and know that we live in a country where
2 you have to prove things. You can't just say, you
3 know, it's got to be, it should be. No. What did
4 you hear from the stand? What evidence did you
5 hear?

6 At the close of the evidence there's
7 only going to be one verdict, not guilty. And I
8 will appreciate you listening and being courageous
9 in your effort. Thank you.

10 THE COURT: Thank you, Mr. Smiley
11 Solicitor, you may call your first
12 witness.

13 MR. STEGALL: Thank you, Your Honor.
14 The State calls Daniel Goodlett to the stand.

15 DANIEL GOODLETT,
16 being first duly sworn, testified as follows:

17 THE CLERK: Please be seated. State
18 your full name, and spell your last name for the
19 record.

20 THE WITNESS: My name is Daniel
21 Goodlett, G-O-O-D-L-E-T-T.

22 DIRECT EXAMINATION

23 BY MR. STEGALL:

24 Q. Do you go by Daniel or Dan?

25 A. Either one.

GOODLETT, DANIEL - DIRECT EXAM BY MR. STEGALL

1 Q. Okay. Daniel, what do you do for a
2 living?

3 A. I'm an airline pilot for a major US
4 carrier. I fly the Airbus 320.

5 Q. Okay. How long have you been a pilot?

6 A. For the airlines? I've been in the
7 airlines for six years.

8 Q. Where do you currently live?

9 A. I currently live at (Deleted by order
10 of the Court and counsel) South Carolina.

11 Q. Okay. Where were you living in 2014?

12 A. I was living in an apartment off of
13 Phillips Boulevard in Greer, South Carolina.

14 Q. What is your relation to Nicole
15 Goodlett?

16 A. I am her older brother.

17 Q. Okay. Do you know the defendant?

18 A. I do.

19 Q. What's his name?

20 A. Jerald Howard.

21 Q. Okay. Is he in the courtroom today?

22 A. He is.

23 Q. Okay. Can you point him out and
24 describe what he's wearing for the court reporter?

25 A. He's sitting off to my left in a gray

1 suit with stripes and blue shirt.

2 Q. What was his relationship to Nicole
3 Goodlett?

4 A. He was Nicole's boyfriend.

5 Q. When was the last time you saw Nicole
6 Goodlett?

7 A. I saw her at my apartment in Greer
8 during the Christmas holidays for a family
9 get-together.

10 Q. What year was that?

11 A. 2014 -- 2000 -- so that would be
12 Christmas. So it would 2013.

13 Q. When was your last conversation with
14 Nicole Goodlett?

15 A. The last time I talked to her, heard
16 her voice, was a phone conversation in February of
17 2014. The 17th.

18 Q. Do you remember about how long that
19 conversation lasted?

20 A. It was a very long conversation.
21 Talking to her, during the conversation, about
22 midpoint of the conversation, I mentioned to her we
23 had been on the phone for at least three hours at
24 the time.

25 And we continued to talk probably for

GOODLETT, DANIEL - DIRECT EXAM BY MR. STEGALL

1 -- that was about the halfway point of that
2 conversation.

3 Q. What number did Nicole call you from,
4 if you remember?

5 A. 864 -- it's a long time --

6 Q. And if you don't, that's okay.

7 A. No, I can recall it. It's
8 (864) 909-5184.

9 Q. Would you communicate with Nicole in
10 other ways?

11 A. Yes.

12 Q. Okay. What other ways would you
13 communicate with her?

14 A. Text messaging through the phones and
15 the standard social media posts.

16 Q. Did you receive any texts from Nicole
17 Goodlett's phone around that time?

18 A. After the conversation or --

19 Q. Correct.

20 A. I received text messages from her phone
21 after that conversation.

22 Q. Did you receive a text on March 6th?

23 A. I did.

24 Q. And in that text were you certain it
25 was Nicole texting you?

1 A. No.

2 Q. Why not?

3 A. I had reached out to her per phone call
4 and text message on the 5th, a little concerned,
5 and no response. On the 6th, I received a response
6 from her phone. And the message was written
7 differently than the way that she would normally
8 text.

9 Q. Can you sort of explain that for the
10 jury?

11 A. Yes, absolutely. So when Nicole
12 texted, she would text the way she spoke. For
13 example, she didn't use proper grammar when she
14 texted. She would take her train of thought, text
15 it, and if she switched her train of thought in mid
16 text, she would add two to three dots after that
17 train of thought and then go on to her next train
18 of thought.

19 She didn't use correct sentence format
20 with the proper grammar and punctuation. So it was
21 train of thought, dot, dot, dot, train of thought,
22 dot, dot, dot, train of thought.

23 This text message on the 6th was
24 different. It was short, concise sentences with
25 proper grammar. And she -- she had never texted

GOODLETT, DANIEL - DIRECT EXAM BY MR. STEGALL

1 like that prior.

2 Q. Okay. And you testified earlier that
3 you had sent her a text on March 5th out of
4 concern, and this was the text response you got?

5 A. A day later, which was also out of
6 character.

7 Q. So you had concerns at that point?

8 A. Yes.

9 Q. All right. After you received that
10 text on March 6th, what did you do?

11 A. After I received that text on March 6th
12 is when I confronted my father about the situation
13 and began to show a concern about her relationship.

14 Q. Now, where was your father at the time?

15 A. Texas.

16 Q. So after you spoke to your father, what
17 did you do next?

18 A. This is when we decided that we were
19 going to check on Nicole and decided what we were
20 going to do after that, which led us to filing a
21 missing person.

22 Q. Okay. Where did you go to file a
23 missing person's report?

24 A. First we stopped at Spartanburg County
25 because of their address being in Spartanburg, and

1 they notified us that the last place I saw her was
2 in Greenville County, and I had to go to Greenville
3 County to file a missing person. So that's where
4 we proceeded to go.

5 Q. And did you provide a statement to
6 Greenville County?

7 A. I did.

8 Q. Was it verbal or written?

9 A. It was verbal.

10 Q. Did you provide any other statement to
11 law enforcement?

12 A. I did.

13 Q. Do you remember when?

14 A. I -- well, when the investigation began
15 to a missing person's investigation, Spartanburg
16 County asked me to come by and provide a statement
17 to them.

18 Q. And, Dan, I don't want to -- I don't
19 want you to give your entire telephone number, but
20 can you give me the last four digits of your phone
21 number?

22 A. Yes; 5395.

23 Q. And would that have been the last four
24 digits of your phone in 2014?

25 A. Yes.

GOODLETT, DANIEL - CROSS EXAM BY MR. SMILEY

1 MR. STEGALL: The Court's indulgence?

2 THE COURT: Certainly.

3 MR. STEGALL: Okay. No further
4 questions. Please answer anything that Mr. Smiley
5 has.

6 THE COURT: You may cross examine, Mr.
7 Smiley.

8 CROSS-EXAMINATION

9 BY MR. SMILEY:

10 Q. Mr. Goodlett, I'm Jim Smiley. So you
11 ended up at Greenville Police Department for the
12 missing report -- the missing person's report,
13 correct?

14 A. Yes.

15 Q. And you spoke with an officer there?

16 A. Yes.

17 Q. And you provided them the information
18 about your last contacts with Nicole?

19 A. Yes.

20 Q. Okay. And didn't you tell that officer
21 that you had spoken to her on March 6th?

22 A. No.

23 Q. Okay. And so if the officer did a
24 report to that fashion, he would be wrong?

25 A. He would be -- have misunderstood me.

1 Q. Okay. So if I understand correctly,
2 you got a text from her -- excuse me, you become
3 concerned about her on March the 5th, talked with
4 your family and made this missing person's report
5 after you received a text from her phone on the
6 6th, correct?

7 A. What are you saying -- what's the first
8 question you asked me? Are you asking that when I
9 become concerned with her -- concerned with the
10 situation?

11 Q. You reached out to her on the 5th,
12 correct?

13 A. I did reach out to her on the 5th.

14 Q. And she responded or her phone
15 responded, as you would say, someone texted you
16 back on the 6th, correct?

17 A. Yes.

18 Q. All right. Did you talk to Nicole on a
19 real regular basis?

20 A. Yes.

21 Q. Okay. So going a week or so without
22 talking to her was unusual?

23 A. No.

24 MR. SMILEY: Beg the Court's
25 indulgence?

GOODLETT, DANIEL - CROSS EXAM BY MR. SMILEY

1 THE COURT: Certainly.

2 BY MR. SMILEY:

3 Q. Did you speak to any of Nicole's
4 friends about where she was?

5 A. No.

6 Q. Did you know her best friend Travis
7 Martin?

8 A. Yes.

9 Q. Did you speak to him about where she
10 was?

11 A. No.

12 Q. All right. And Jay, Jerald, he had
13 told you that he was concerned that she had been
14 missing, correct?

15 A. No.

16 Q. He conveyed that to your father?

17 A. I don't know what he told my father.

18 Q. Okay. Did you and Jerald have a
19 relationship?

20 A. No.

21 MR. SMILEY: That's all I have, Your
22 Honor.

23 THE COURT: Redirect, Mr. Stegall?

24 MR. STEGALL: Nothing on redirect, Your
25 Honor.

GOODLETT, JAMES - DIRECT EXAM BY MR. STEGALL

1 THE COURT: Thank you. You may come
2 down.

3 Call your next witness please.

4 MR. STEGALL: The State calls James
5 Goodlett.

6 JAMES GOODLETT,
7 being first duly sworn, testified as follows:

8 THE CLERK: Please be seated. State
9 your full name, and spell your last name for the
10 record.

11 THE WITNESS: James William Goodlett,
12 G-O-O-D-L-E-T-T.

13 DIRECT EXAMINATION

14 BY MR. STEGALL:

15 Q. Mr. Goodlett, where do you currently
16 live? The town and state?

17 A. I currently live in Abilene, Texas.

18 Q. And how long have you lived in Texas?

19 A. I've lived in Texas about 18 years.

20 Q. Did you live anywhere prior to that?

21 A. We came from Germany; we lived in
22 Germany. I served in the US Air Force, so we were
23 stationed in Germany.

24 Q. And how long have you been in the Air
25 Force?

GOODLETT, JAMES - DIRECT EXAM BY MR. STEGALL

1 A. I served 22 years and six months.

2 Q. What is your -- what was your
3 relationship to Nicole Goodlett?

4 A. It was a beautiful father and daughter
5 relationship, I was proud of her, and she was
6 raising three grandchildren.

7 Q. Okay. Do you know the defendant?

8 A. Yes, I do.

9 Q. And what is his name?

10 A. Jerald Howard.

11 Q. Did he go by anything else to you?

12 A. Occasionally he would say Jay.

13 Q. When did you first become aware that
14 your daughter was missing?

15 A. We first received a strange message --
16 we were planning on coming to visit, and on the 8th
17 we received a message saying that Jerald Howard
18 would call us later.

19 Q. Where was that message -- where did you
20 receive that from?

21 A. That was off of the Messenger. Me and
22 my wife share a joint Facebook account, and it was
23 off of Messenger.

24 Q. Did you receive a call from Jerald
25 Howard on March 8th?

GOODLETT, JAMES - DIRECT EXAM BY MR. STEGALL

1 A. Yes, sir.

2 Q. Okay. I want you to describe for the
3 jury how that call went.

4 A. It was very strange. The first thing
5 that he asked me was do I know where Nicole is. I
6 replied back, what do you mean? You live with her.
7 I had no -- you know, it was strange to ask that
8 question.

9 Q. And you were in Texas at this time?

10 A. Yes, I was in Texas.

11 Q. So was that the first you heard that
12 Nicole may be missing?

13 A. Yes. He asked again, where -- do I
14 know where Nicole is.

15 Q. Did the defendant tell you how long
16 Nicole had been missing?

17 A. More than ten days.

18 Q. Did you ask the defendant what he
19 planned to do about that?

20 A. I again asked him what do you mean that
21 she was missing, because she lived there in the
22 same house with him. And it was strange that he
23 would ask us do we know where she was at. And he
24 also, you know, began to explain things to us and
25 say things to us that made no sense.

GOODLETT, JAMES - DIRECT EXAM BY MR. STEGALL

1 Q. Did he tell you that he had gone or
2 planned to go to the police?

3 A. No. He did not say -- did not state
4 that in the conversation.

5 Q. So after that conversation with the
6 defendant, did you try and reach out to your
7 daughter?

8 A. Yes, sir. We tried to reach out, to
9 contact her on her phone at that time.

10 Q. Did you have any luck?

11 A. No, sir.

12 Q. What did you do after that?

13 A. Well, in part of the message, another
14 message I sent, if you can't talk, then get a
15 different phone, I had asked her to do.

16 Q. At some point, did you contact law
17 enforcement?

18 A. Yes, sir.

19 Q. Do you remember when that was?

20 A. We had gotten into town on the 12th.

21 Q. Of which month?

22 A. Of March. And we had contacted
23 Mr. Howard to say we was in town and we wanted to
24 see the grandchildren. We were concerned about the
25 girls. We arranged a meeting to see if the girls

1 were okay, our twin daughters -- granddaughters.

2 Once we had seen the twin
3 granddaughters, then we made a decision that it was
4 time to go and contact the police. But if I can
5 mention, while we were in Texas we did call the
6 Spartanburg Sheriff's Department three times to
7 have -- see if they can go by the house to see if
8 there was anyone there in the house.

9 Q. Okay. So let's back up. So you are
10 still in Texas March 10th, you contact Spartanburg,
11 do they go by the house three times?

12 A. Yes, sir. They went by the house, I
13 believe, twice. The initial time that they went by
14 the report didn't get back to the desk sergeant I
15 believe. So we had called back again to ask if
16 they would go by the house to see if there was
17 anyone living there.

18 Q. And if you remember the address of that
19 house, can you tell the jury? If not, that's okay.

20 A. They lived on Loblolly. I don't
21 remember the exact number.

22 Q. Okay. So then to jump ahead, you come
23 to South Carolina?

24 A. Yes, sir.

25 Q. And then what happened?

GOODLETT, JAMES - DIRECT EXAM BY MR. STEGALL

1 A. Came to South Carolina. We asked --
2 told Mr. Howard, Jerald Howard, that we were in
3 town and we wanted to see the grandchildren,
4 because at that time we did not know where the
5 girls were. He had had the girls with him. He
6 brought the girls -- I asked him at that point
7 where did you live? And just for him to restate
8 that it was on Loblolly.

9 And he gave me the address so I put it
10 in the GPS, and we arranged to meet him at the
11 house.

12 Q. Did you meet him at the house?

13 A. Yes, sir. We had gotten there earlier,
14 about 15 minutes before the arrival time, and we
15 saw Jerald Howard pull up in his vehicle and unload
16 the kids and brought them into the house. And then
17 we went in -- knocked on the door and went in to
18 see the girls.

19 Q. Okay. Did that -- was that suspicious
20 to you?

21 MR. SMILEY: Objection, Your Honor.

22 THE COURT: Sustained. That's 602.

23 BY MR. STEGALL:

24 Q. After you met the twins, did you end up
25 making contact with law enforcement?

1 A. Yes, sir.

2 Q. Okay. And when did you meet with law
3 enforcement?

4 A. That same day. We took my wife back to
5 Daniel's home, and then we drove back to
6 Spartanburg to file a police report for a missing
7 person.

8 Q. Okay. And can you give me that date
9 one more time?

10 A. That would have been on the same date,
11 the 12th.

12 Q. Did the defendant contact you again?

13 A. Yes, sir. The defendant -- the next
14 day, on the 13th, we were contacted by the
15 defendant.

16 Q. Okay. For what purpose?

17 A. At that time, the missing person's was
18 filed. And then we had to go back to the police
19 department to give them more information, but the
20 missing person's had been filed. And then he
21 contacted us.

22 Q. Did he ask you anything?

23 A. He began to ask us, you know, what we
24 was going to do and started to get a conversation
25 to get information showing some -- as if he was

GOODLETT, JAMES - CROSS EXAM BY MR. SMILEY

1 concerned at that point.

2 We felt that the missing person's
3 report should have been filed earlier, but we just
4 continued to talk to Mr. Howard.

5 Q. Are you on social media?

6 A. Yes, sir. Me and my wife share a
7 Facebook account.

8 Q. Who is the main user?

9 A. My wife is the main user.

10 Q. Okay.

11 MR. STEGALL: The Court's indulgence?

12 THE COURT: Yes, sir.

13 MR. STEGALL: I don't have any more
14 questions, Mr. Goodlett.

15 THE COURT: Cross examine.

16 CROSS-EXAMINATION

17 BY MR. SMILEY:

18 Q. Mr. Goodlett, Jim Smiley. I represent
19 Mr. Howard. Good morning to you.

20 Your daughter Nicole was 28 in 2014?

21 A. Yes, sir.

22 Q. And she had had a child previously with
23 a gentleman named James Mangle; is that right?

24 A. Antonio, yes.

25 Q. Did you know Antonio?

1 A. Yes, sir.

2 Q. Now, they shared their child back and
3 forth?

4 A. At the time they were living together,
5 what arrangements they had later -- she eventually
6 left that relationship and, yes, Elijah used to go
7 back and visit with his father.

8 Q. Okay. Now, you spoke to Nicole often?

9 A. I spoke to her not as what you would
10 say often, but we did speak at least once a month.

11 Q. All right. The twins, they were born
12 in 2013, correct?

13 A. Yes, sir, August 19th.

14 Q. August 19th. And when they were born,
15 did you come for their birth?

16 A. Initially, I did not come for the
17 birth. My wife was already there and -- Caroline,
18 she had come in.

19 Q. All right. Now, when Nicole got
20 pregnant with Jerald's -- with Jerald, you were
21 aware that he was married?

22 A. No, sir.

23 Q. Not at that time?

24 A. I was not aware that he was ever
25 married.

GOODLETT, JAMES - CROSS EXAM BY MR. SMILEY

1 Q. Okay. So you're saying that never came
2 up?

3 A. No, sir. The only thing I knew was
4 that he had a daughter, I believe lived in North
5 Carolina, but the marriage was never mentioned.

6 Q. Okay. And when you found out that he
7 was married, that didn't make you happy, did it?

8 A. No, it did not make me happy. I found
9 out after my daughter was reported missing that
10 Jerald Howard was married.

11 Q. Okay. Well, let me ask you this:
12 Mr. Howard was present when his children were born,
13 correct?

14 A. Initially, no, he was not. He had
15 called me on the cell phone when the children were
16 born.

17 Q. Okay.

18 A. But he was not at the hospital
19 initially.

20 Q. That you're aware?

21 A. That I'm aware of, sir.

22 Q. All right. All right. Between when
23 the children were born and you came to South
24 Carolina, you spoke to Nicole several times on the
25 phone?

GOODLETT, JAMES - CROSS EXAM BY MR. SMILEY

1 A. Yes. I talked to Nicole probably once
2 or twice on the phone before I came to South
3 Carolina. I came to South Carolina the weekend of
4 Labor Day weekend.

5 Q. And that would have been in 2013?

6 A. Yes, sir.

7 Q. Okay. After you left in 2013, until
8 when you came in March, did you see Nicole again?

9 A. No, sir. I was not in Carolina.

10 Q. Okay. Did you speak to her on the
11 phone?

12 A. I talked to her on the phone.

13 Q. On a weekly basis?

14 A. No, sir. Probably about -- from that
15 time, probably about two or three times. I texted
16 back and forth with her as well.

17 Q. Okay. Fair to say between Labor Day
18 and March you talked to her on the phone two or
19 three times?

20 A. I know I talked to her probably about
21 -- I can't give you an exact number.

22 Q. I'm not asking you -- I'm just trying
23 to help the jury understand --

24 A. I did communicate with her.

25 Q. Okay. Now, if I understand correctly,

GOODLETT, JAMES - CROSS EXAM BY MR. SMILEY

1 Mr. Howard reached out to you in the first part of
2 March on, I believe, the 8th, right? March the
3 8th, asking you if you knew where Nicole was,
4 right?

5 A. Yes, sir.

6 Q. And you were aware that Nicole lived a
7 fairly risky lifestyle, right?

8 A. I was not aware of all the details of
9 Nicole's life.

10 Q. Okay. And so if you weren't aware of
11 that, then were you aware of whether she had gone
12 off for periods of time before?

13 A. I'm not aware of that. I never heard
14 of anything ever.

15 Q. It became apparent that Jerald didn't
16 know where Nicole was, correct?

17 A. The statement I had from Jerald Howard
18 was, do I know where Nicole is?

19 Q. What was -- Nicole was 28. What kind
20 of work was she doing; do you know?

21 A. I do not know what kind of work she was
22 doing.

23 Q. Okay. And I'm talking -- I know she
24 got pregnant with the twins and had those. You
25 don't know whether she was working before or after

1 that?

2 A. We visited Nicole and -- once we heard
3 that she was pregnant, we came during the spring
4 break to visit with her. And that was the first
5 time we actually met Jerald Howard. She was
6 pregnant, she was just at the home, and taking care
7 of the home.

8 Q. Okay.

9 A. Cooking the meals and taking care of
10 his laundry. I didn't have -- know of any record
11 of her working.

12 Q. Okay. Now, once you made the missing
13 person's report and got involved, you were trying
14 to find her anywhere you could, right?

15 A. Yes, sir.

16 Q. And one of the things -- you got a
17 phone call from a number that you didn't recognize
18 so you called it back, correct?

19 A. If you're referring to on the 9th of
20 March, I believe that was the date, we received a
21 phone call while we were in church. I didn't have
22 my phone on me.

23 Between services when I went out to
24 check my phone, I saw there was a message, a phone
25 call from a phone that I did not recognize.

GOODLETT, JAMES - CROSS EXAM BY MR. SMILEY

1 Q. And you returned that call?

2 A. Yes, sir.

3 Q. And that person conveyed to you that a
4 girl had used the phone at the bus stop to call and
5 he was -- the person was in Charleston, right?

6 A. As I called the phone many times, I got
7 no answer. And I also texted that number to the
8 phone call. On that Monday, the following day, I
9 received a message from some person saying that,
10 please do not call this number again.

11 I allowed a girl to use this phone in
12 Charleston, South Carolina, and I don't know who
13 she was, whatever, but please do not call this
14 number again.

15 Q. Okay. So the person responded. Did
16 you talk to them on the phone?

17 A. No, sir, no voice --

18 Q. Through a text, letting you know -- and
19 this number was a strange number, right?

20 A. Yes, sir.

21 Q. And that person said that the day
22 before -- let's make sure we get that date. That
23 would have been March 9th?

24 A. Actually, I don't believe the person
25 identified a date, but we put it in that timeline.

GOODLETT, JAMES - CROSS EXAM BY MR. SMILEY

1 Q. But the call came while you were in
2 church --

3 A. Yes.

4 Q. -- on the 8th? 9th?

5 A. It was on the 9th.

6 Q. 9th of March?

7 A. On the 8th, I asked her to get a cell
8 phone, a burner phone if she could not talk. And
9 then on the 9th, we received that message.

10 Q. So on the 8th you texted and said, if
11 you can't talk get a burner phone?

12 A. On the number that she currently had--

13 Q. All right. And so --

14 A. -- she was using.

15 THE COURT: Let's not talk
16 simultaneously. Ask the question and then let him
17 finish answering the question please.

18 MR. SMILEY: Absolutely. Pardon me.

19 BY MR. SMILEY:

20 Q. Mr. Goodlett, so on the 9th, it's
21 through a text message from this number, like,
22 huh-uh, don't call me anymore, I lent the phone to
23 a young lady at a bus stop -- and I'm in
24 Charleston, that used the phone, I don't have -- I
25 don't know anything about it, correct?

GOODLETT, JAMES - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 MR. SMILEY: Beg the Court's
3 indulgence?

4 THE COURT: Certainly.

5 BY MR. SMILEY:

6 Q. You couldn't be at the birth -- you
7 weren't at the birth of her twins, right?

8 A. Right.

9 Q. And she went and had a C-section,
10 correct?

11 A. Yes, sir.

12 Q. And you later saw a video of that?

13 A. No, sir.

14 Q. Were you aware that there was a video
15 made of that?

16 A. Of the C-section?

17 Q. Yeah, of the delivery room and all of
18 that.

19 A. It could have been one, but if you're
20 referring to did I see that operation? No, I
21 didn't see that.

22 Q. Okay. But you were aware that Jerald
23 had made a video of the delivery that day?

24 A. Not of the delivery. I think he sent a
25 video after he had got to the hospital or something

1 like that, but not of the delivery.

2 MR. SMILEY: All right. That's all I
3 have.

4 THE COURT: Redirect, Mr. Stegall?

5 MR. STEGALL: Nothing on redirect, Your
6 Honor.

7 THE COURT: Thank you. You may come
8 down, Mr. Goodlett. Thank you.

9 All right. Ladies and gentlemen, at
10 this point we will take a recess. Do not begin
11 your deliberations. I'll let go to your jury room
12 for about 10 to 15 minutes. Thank you.

13 (Jury out, 10:41 a.m.)

14 THE COURT: Anything from the State
15 before we recess?

16 MR. STEGALL: No, Your Honor.

17 THE COURT: Anything from the defense?

18 MR. SMILEY: No, sir.

19 THE COURT: We'll be at ease about 10
20 to 15 minutes.

21 (A recess transpired.)

22 THE COURT: Is the State ready?

23 MR. STEGALL: The State is ready, Your
24 Honor.

25 THE COURT: Very well. Let the record

GOODLETT, BOZENA - DIRECT EXAM BY MR. STEGALL

1 reflect the defendant is present. And is the
2 defendant ready for the jury to return?

3 MR. SMILEY: Yes, sir.

4 THE COURT: Please ask the jury to
5 return. Thank you.

6 (Jury in, 10:58 a.m.)

7 THE COURT: Thank you very much, ladies
8 and gentlemen. We are ready to continue.

9 Solicitor, you may call your next
10 witness.

11 MR. STEGALL: Thank you, Your Honor.
12 The State calls Bozena Goodlett.

13 BOZENA GOODLETT,
14 being first duly sworn, testified as follows:

15 THE CLERK: Please have a seat. State
16 your full name, and spell your last name for the
17 record.

18 THE COURT: My names is Bozena
19 Goodlett. Goodlett is G-O-O-D-L-E-T-T. My first
20 name -- B-O-Z, like in zebra, E-N-A.

21 DIRECT EXAMINATION

22 BY MR. STEGALL:

23 Q. Ms. Goodlett, what you do for a living?

24 A. I'm a housewife.

25 Q. And who is your husband?

GOODLETT, BOZENA - DIRECT EXAM BY MR. STEGALL

1 A. My husband is James Goodlett.

2 Q. And where do you currently live?

3 A. I live in Abilene, Texas, (Deleted by
4 order of the Court and counsel.)

5 Q. How long have you lived there?

6 A. Under this address, we live there for
7 about five years, but in Texas around 18. Since
8 2002.

9 Q. Where are you originally from?

10 A. I was born in Poland. We immigrated to
11 West Germany when I was 13. I lived in Germany
12 until I was 25 and immigrated to the United States.

13 Q. Is that where you met your husband?

14 A. I met my husband in Germany.

15 Q. In Germany. And did you and your
16 family ever live in Germany?

17 A. Me and my -- yes.

18 Q. Do you speak any other language other
19 than English?

20 A. Polish and German.

21 Q. Are you fluent?

22 A. German fluent, very fluent. And
23 English.

24 Q. Okay. So Nicole was your daughter?

25 A. Yes, sir.

GOODLETT, BOZENA - DIRECT EXAM BY MR. STEGALL

1 Q. Were you -- do you remember when she
2 had the twins?

3 A. Yes, sir.

4 Q. Okay.

5 A. She had an emergency C-section. She
6 went to the hospital for regular check-up on a
7 Monday and her water broke. The babies were not
8 scheduled to be delivered yet, because you can
9 schedule your C-section.

10 And when I received the call, I got on
11 a plane as soon as possible and I was there
12 Wednesday. We were delayed, so I couldn't get the
13 plane until Wednesday after the babies were born.

14 Q. Okay. And how long did you stay?

15 A. I stayed with her from that time until
16 the 7th of September. I had to help my son because
17 he had a baby also coming September 10th. So I
18 stayed with Nicole and the babies and Eli and
19 Mr. Howard.

20 Q. Did Nicole speak any other languages?

21 A. She spoke German. Not as fluent as I
22 did.

23 Q. Okay. How would you describe her
24 ability to speak German?

25 A. She was able to communicate. Since my

1 mom doesn't speak any English, that's the way they
2 talk, my mother. So she spoke German with her
3 grandmother.

4 Q. So would Nicole speak exclusively
5 German to your mother?

6 A. Yes. She doesn't speak a little of
7 English.

8 Q. How would you -- what language would
9 you and Nicole communicate with?

10 A. English.

11 Q. Would you ever communicate in German?

12 A. No.

13 Q. Do you know the defendant?

14 A. Yes.

15 Q. Okay. When did you realize that Nicole
16 was missing?

17 A. When we received a call that she --
18 from Jerald Howard. That's when it was obvious.

19 Q. All right. When you became suspicious,
20 did you attempt to reach out to Nicole?

21 A. Yes.

22 Q. Okay. How did you attempt to reach out
23 to Nicole?

24 A. On Facebook.

25 Q. When date did you first attempt to

GOODLETT, BOZENA - DIRECT EXAM BY MR. STEGALL

1 reach out to Nicole?

2 A. Well, we were together with my husband
3 -- can you be more specific with your question?

4 Q. When was your first message to Nicole
5 sent -- let's back up.

6 A. Yes, sir.

7 Q. What language did you send that message
8 in?

9 A. German.

10 Q. Why did you send that in German?

11 A. I received a message. I said, call me.
12 And the message said, I can't talk now. So I
13 started messaging her in German.

14 Q. And do you remember what day that
15 first --

16 A. It was February the 28th.

17 Q. Did you receive any messages back?

18 A. Yes.

19 Q. What language were they in?

20 A. German, but in a bad German.

21 Q. What do you mean bad German?

22 A. It didn't make much sense. I would
23 have to read them over and over again to make sense
24 out of it.

25 Q. When you say they didn't make sense,

1 was it the content that didn't make sense or was it
2 the structure?

3 A. The structure, plus the choice of
4 words. Nicole would have known to use certain
5 words. There were -- the structure was totally
6 off; the noun was on the end. And she knew the
7 basics how to build a sentence in German.

8 Q. So did that surprise you when you
9 received those responses back in German?

10 A. I don't know. At first, I didn't think
11 about it.

12 Q. Did you believe that that was your
13 daughter responding back to you after --

14 A. I start speaking to her in German
15 because I felt like she could -- somebody was
16 listening to her, talking or checking her messages.
17 That's what prompted me to do that. I couldn't --
18 I -- I don't know at that point.

19 Q. Would it be -- would it be like Nicole
20 to send messages that were --

21 A. No.

22 Q. -- that -- structured that way?

23 A. No. Nicole was -- with me especially,
24 she was very short. Like, how are you doing?
25 Fine. How was the weather? Good. So it was very

GOODLETT, BOZENA - DIRECT EXAM BY MR. STEGALL

1 unusual that she actually said long sentences that
2 didn't -- it just was very unusual.

3 Q. So after receiving those messages, what
4 did you do?

5 A. After I received those messages --
6 well, I said in those messages that I would like to
7 go and visit. And I asked her on March 2nd,
8 because I double-checked that, March 2nd. And then
9 March 7th, I say, I'm coming to see you and help
10 you with the children.

11 Q. Did you and your husband end up coming
12 to South Carolina?

13 A. Yes, sir.

14 Q. Okay. What did you do once you got
15 here?

16 A. The first thing we did is check on the
17 children, on the babies.

18 Q. Okay. And after that?

19 A. We -- we filed a missing person report.

20 Q. And did you provide a statement to law
21 enforcement?

22 A. Yes, sir.

23 Q. Okay.

24 MR. STEGALL: The Court's indulgence?

25 THE COURT: Yes, sir.

GOODLETT, BOZENA - CROSS EXAM BY MR. SMILEY

1 MR. STEGALL: Mrs. Goodlett, that's all
2 I have.

3 THE WITNESS: Okay. Thank you.

4 THE COURT: Cross examine.

5 CROSS-EXAMINATION

6 BY MR. SMILEY:

7 Q. Mrs. Goodlett, I'm Jim Smiley, and I
8 represent Jerald.

9 A. Yes, sir.

10 Q. I just have a few questions. You --
11 after the babies, the twins -- they were born
12 August 17th, I think it was?

13 A. No, August 19th.

14 Q. Okay. Close. 19th, so 2013. Shortly
15 thereafter, you made arrangements to come stay?

16 A. Yes, sir.

17 Q. And that would have been at the
18 Loblolly address?

19 A. Yes, sir.

20 Q. And when you were there, you helped
21 take care of the children?

22 A. Yes, I did.

23 Q. Jerald was there?

24 A. On and off.

25 Q. On and off? Okay.

GOODLETT, BOZENA - CROSS EXAM BY MR. SMILEY

1 A. Uh-huh.

2 Q. Were you concerned about Nicole at that
3 point in time?

4 A. I don't know.

5 Q. Okay. You didn't get here for the
6 C-section, right? Because you said you were
7 delayed in your travel?

8 A. No, because it was an emergency
9 C-section --

10 Q. Yes, ma'am.

11 A. -- the water broke. I was planning on
12 coming on time for the delivery.

13 Q. Yes, ma'am. But you got to see the
14 video?

15 A. I have not seen the video. I did not
16 know of any video.

17 Q. All right. Now, the Facebook message
18 that you sent in German was after she told you that
19 she couldn't talk?

20 A. I guess it was her. I don't think it
21 was -- yes.

22 Q. At that point in time, you got a
23 message?

24 A. I can't talk.

25 Q. I can't talk.

1 A. Uh-huh.

2 Q. So you replied a message in German.

3 Okay. Correct?

4 A. We started speaking in German around
5 the 27th of February.

6 Q. All right. So do you know -- you said
7 that the message didn't seem like Nicole?

8 A. No.

9 Q. Okay. Do you know what Nicole's
10 physical state at that point in time was? Was she
11 taking medications or anything?

12 A. What do you mean? Can you repeat the
13 question more clearly? What time frame you are
14 referring to?

15 Q. The 27th, when you received a message
16 back from Nicole in German that you didn't believe
17 --

18 A. The 27th of February?

19 Q. I think that's what you just
20 testified --

21 A. Yes, sir. No, she was still pregnant
22 -- no, wait. 27th of February, no, I don't
23 remember -- no, I don't think she was on
24 medication.

25 Q. Okay. All right. Do you know whether

1 she had been drinking when she sent you that
2 message? You don't know, do you?

3 A. That's right, I don't know.

4 Q. Okay. You got a message -- a response
5 to Nicole that you thought didn't make sense,
6 correct?

7 A. It didn't.

8 Q. At any point in time, did you ask
9 Jerald if Nicole was safe?

10 A. Any point of time?

11 Q. Did you ever have a conversation with
12 Mr. Howard when you asked --

13 A. No. I didn't talk to Mr. Howard.

14 Q. At all?

15 A. I didn't have his phone number. I
16 communicated --

17 Q. When you were here?

18 A. Oh, when I was here while I was
19 watching the twins?

20 Q. Yeah.

21 A. Oh, okay. So can you repeat the
22 question?

23 Q. Yes, ma'am.

24 A. Because the time frame got thrown off
25 with talking about February 27th, and now you are

1 going back to August 2013. So --

2 Q. I apologize you didn't understand my
3 question. My question was -- and let me be
4 specific. When you were staying at Loblolly with
5 Nicole and the twins and Eli, did you have a
6 conversation with Jerald where you asked him about
7 Nicole being safe?

8 A. No. Why would I ask him?

9 Q. I'm just asking if you had it. No,
10 ma'am?

11 A. Not -- I don't know.

12 Q. You were -- what kind of work did
13 Nicole do?

14 A. She was a stay-at-home mom.

15 Q. Before that?

16 A. I don't know.

17 Q. You don't know?

18 A. Huh-uh.

19 Q. Were you aware that she was living a
20 risky lifestyle?

21 A. No.

22 Q. You weren't aware that she was working
23 in a strip club?

24 A. A long time ago she was.

25 Q. Were you aware that she was on back

1 pages?

2 A. I don't know what you mean back pages.

3 Q. Escort service.

4 A. No.

5 Q. How often did you speak with Nicole?

6 A. We communicated with -- on Facebook

7 mostly.

8 Q. How often?

9 A. It depended how -- I would send gifts
10 to the grandchildren. And I usually -- it was not
11 a lot.

12 Q. Okay. Between the middle of February
13 and when Jerald contacted your husband to ask if
14 they knew where Nicole was, did you have any reason
15 to be concerned that she wasn't where she lived?

16 A. I don't understand your question.

17 Q. Did you have any reason to believe that
18 she would go off anywhere on her own?

19 A. No.

20 Q. You were unaware of her other trips?

21 A. No.

22 Q. Okay. You met the babies -- and I'm
23 skipping around. So I'll make sure --

24 A. Yes. Yes, the time frame.

25 Q. Yes, ma'am. Yes, ma'am.

GOODLETT, BOZENA - CROSS EXAM BY MR. SMILEY

1 A. Thank you.

2 Q. When you came with your husband
3 March 10th or 12th, in that area, when you came to
4 Spartanburg --

5 A. Yes, sir.

6 Q. -- and you met with Mr. Howard and saw
7 the babies, correct? You all met in Loblolly,
8 right?

9 A. Yes, sir.

10 Q. And you all were in the house, correct?

11 A. Yes, sir.

12 Q. You said that when Nicole and you would
13 correspond on Facebook, that most of the time her
14 answers were extremely short?

15 A. Uh-huh.

16 Q. You would ask her a question and she
17 would just answer it; she didn't go into detail?

18 A. That's right.

19 Q. So you -- you didn't know a whole lot
20 of what was going on in her life, did you?

21 A. I wouldn't say that. I was a parent
22 who let her child live.

23 Q. Okay.

24 A. She was an adult at that point. We
25 just communicated, you know, with the children.

HORTON, STEPHEN - DIRECT EXAM BY MR. STEGALL

1 And I loved my daughter.

2 Q. I know you did, and I'm sorry for your
3 loss of course.

4 A. Yes.

5 MR. SMILEY: Beg the Court's
6 indulgence?

7 THE COURT: Certainly.

8 MR. SMILEY: Nothing further.

9 THE COURT: Redirect?

10 MR. STEGALL: No. No, Your Honor.

11 THE COURT: Thank you. You may step
12 down.

13 THE WITNESS: Thank you, sir.

14 THE COURT: Call your next witness,
15 please.

16 MR. STEGALL: The State would call
17 Stephen Horton.

18 STEPHEN HORTON,
19 being first duly sworn, testified as follows:

20 THE CLERK: Please have a seat. State
21 your full name for the Court, and spell your last
22 name.

23 THE WITNESS: Stephen Horton. The last
24 name is H-O-R-T-O-N.

25 DIRECT EXAMINATION

HORTON, STEPHEN - DIRECT EXAM BY MR. STEGALL

1 BY MR. STEGALL:

2 Q. And is it Deputy Horton?

3 A. Investigator now. Now I work for the
4 coroner's office.

5 Q. Okay. Investigator Horton -- I guess
6 you answered my question -- where are you currently
7 employed?

8 A. The Spartanburg County Coroner's
9 Office.

10 Q. Where were you employed in 2014?

11 A. The Spartanburg County Sheriff's
12 Office.

13 Q. Okay. And what were your job duties at
14 that time?

15 A. At that time, I worked in the crime
16 scene unit.

17 Q. Okay. And what did you do in the crime
18 scene unit?

19 A. Our main job was to document the crime
20 scenes through photographs, sketches, collect any
21 evidence that was pertinent to the case, preserve
22 that evidence by packaging it and submitting it
23 into our evidence room.

24 Q. Okay. Would part of your
25 responsibilities with the crime scene division

HORTON, STEPHEN - DIRECT EXAM BY MR. STEGALL

1 involve taking what's called buccal swabs?

2 A. Yes, sir.

3 Q. Okay. And what is a buccal swab?

4 A. Basically, it's just Q-tip on a long
5 stick and it's used for collecting DNA.

6 Q. Okay. So how do you perform a buccal
7 swab?

8 A. In the particular case here, to collect
9 a DNA sample from someone, you just swab the inside
10 of their mouth along their tongue. And then there
11 is a box that you put it in to preserve it from
12 getting contaminated.

13 Q. Is it an invasive procedure?

14 A. Um --

15 Q. Or is it -- is it fairly simple?

16 A. Yes. Yes.

17 Q. Do you wear gloves when you perform it?

18 A. Yes. We do have the latex gloves.

19 Q. Do you ask for consent?

20 A. Usually when -- if it gets to a point
21 where I do it, there is a search warrant involved.

22 Q. Okay. Once you have collected the
23 swabs, what do you do with the sample?

24 A. Once they are collected and packaged in
25 the box, they then go into an envelope. All of the

HORTON, STEPHEN - DIRECT EXAM BY MR. STEGALL

1 information is filled out on the envelope, and then
2 it's submitted to evidence.

3 Q. Okay. Did you perform -- or did you
4 take buccal swabs on anybody in this case we're
5 here for today?

6 A. I believe it was the parents --

7 Q. Okay.

8 A. -- of the decedent.

9 Q. Did they provide consent?

10 A. Yes, they did.

11 Q. Okay. Once you took their swabs, what
12 did you do with it in this case?

13 A. In this case it was, I believe, placed
14 in the storage room with other evidence from the
15 case and then submitted to evidence.

16 Q. Let me back up. Were the swabs
17 packaged together or individually?

18 A. No. They're packaged individually.

19 Q. Okay. Did you seal the bag?

20 A. Yes.

21 Q. Did you ever open the bag?

22 A. No, I did not.

23 Q. All right. When you turned it into
24 evidence, was it still sealed?

25 A. Yes.

HORTON, STEPHEN - DIRECT EXAM BY MR. STEGALL

1 MR. STEGALL: The Court's indulgence?

2 THE COURT: Yes, sir.

3 BY MR. STEGALL:

4 Q. Okay. I'm going to show you what has
5 been premarked as State's 6 and 7.

6 MR. STEGALL: May I approach the
7 witness, Your Honor?

8 THE COURT: You may.

9 BY MR. STEGALL:

10 Q. See if you recognize that?

11 A. Yes.

12 Q. What are those items that I handed you?

13 A. These are the two buccal swabs that I
14 collected.

15 Q. Okay. Take them back for a moment.

16 MR. STEGALL: That's all I have.

17 THE COURT: All right. Cross examine?

18 MR. SMILEY: None, Your Honor.

19 THE COURT: Thank you. You may come
20 down.

21 THE WITNESS: Thank you.

22 THE COURT: Call your next witness,
23 please.

24 MR. STEGALL: The State calls Tracy
25 Moss.

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 TRACY MOSS,

2 being first duly sworn, testified as follows:

3 THE CLERK: Please have a seat. State
4 your full name, and spell your last name for the
5 record.

6 THE WITNESS: My name is Tracy Moss.
7 That's M-O-S-S.

8 COURT REPORTER: Spell your first name,
9 please.

10 THE WITNESS: T-R-A-C-Y.

11 DIRECT EXAMINATION

12 BY MR. STEGALL:

13 Q. And is it Sergeant Moss?

14 A. Yes, sir.

15 Q. Okay. Sergeant Moss, where are you
16 currently employed?

17 A. Spartanburg County Sheriff's Office.

18 Q. How long have you been with Spartanburg
19 County?

20 A. I've been with them going on 17 years.

21 Q. Okay. What is your job description in
22 Spartanburg County?

23 A. Currently, right now, I'm the sergeant
24 of the special victims unit.

25 Q. And what is that?

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 A. The special victims unit works with --
2 they actually investigate cases involving children
3 that are victims of a crime, child abuse, elderly
4 abuse.

5 Q. Okay. What department were you in in
6 2014?

7 A. I was an investigator at the time, in
8 2014, working under the division of the special
9 victims unit.

10 Q. Okay. Do you remember case that we're
11 here for today?

12 A. Yes, sir.

13 Q. Were you involved in that case?

14 A. Yes, sir.

15 Q. Okay. Initially, please tell the jury
16 what kind of case that was.

17 A. A missing person's investigation.

18 Q. Okay. Was that case referred to you by
19 anyone?

20 A. Yes, sir.

21 Q. Who was that?

22 A. Sergeant Deanna Burgess.

23 Q. And do you remember speaking with the
24 defendant in this case?

25 A. Yes, sir.

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 Q. What date was that?

2 A. The initial contact with him was
3 March 13th, 2014.

4 Q. And what was the reason that you made
5 contact with the defendant on March 13th?

6 A. To take a voluntary statement from him.

7 Q. How did he arrive to give that
8 statement?

9 A. He drove himself to the sheriff's
10 office.

11 Q. Was he in custody at that time?

12 A. He was not.

13 Q. Was he free to leave at any point?

14 A. He was.

15 Q. And if he wanted to stop his statement
16 and say I'm done, what would you have done?

17 A. I would have let him go.

18 Q. So he provided it voluntarily?

19 A. Yes, sir.

20 Q. All right. Was his statement also
21 reduced to writing?

22 A. Yes.

23 Q. Okay. What did he tell you in his
24 statement?

25 A. He -- he went over background history.

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 And he had told me that he met Nicole Goodlett in
2 August of 2012, and then he ended up getting her
3 pregnant in December of 2012, moved in together
4 January 2013. They ended up having children
5 together.

6 They had twin girls in August of 2013.
7 I believe the actual birth date of the girls is
8 August 19, 2013.

9 Q. Okay. Now, he came in March 13th. Did
10 he tell you what he was doing when Nicole went
11 missing?

12 A. He took the twins and went to a store
13 to get baby items, I believe.

14 Q. Okay. When he came back from the
15 store, what did he notice?

16 A. Nicole was not at the house.

17 Q. Did he give you a -- when did he tell
18 you the last time he saw Nicole was?

19 A. He gave the statement on March 13th,
20 and he stated that it was three weeks; he hadn't
21 seen her in three weeks. So it had been three
22 weeks prior to the statement given on March 13th.

23 Q. Okay. All right. While he was there,
24 did he also provide consent to search his
25 residence?

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 A. He did.

2 Q. And what was the address of that
3 residence?

4 A. 160 Loblolly Drive, and that's in
5 Spartanburg County which is in the jurisdiction of
6 Spartanburg County, South Carolina.

7 Q. Okay. Who all lived at that residence?

8 A. It was Jerald Howard and Nicole
9 Goodlett.

10 Q. Was the defendant free to leave after
11 that statement?

12 A. Yes, sir.

13 Q. Okay. Did he leave after that
14 statement?

15 A. He did.

16 Q. All right. I'm going to jump ahead on
17 you. Do you remember where you were on March 26th?

18 A. I was in North Charleston at a
19 training.

20 Q. Okay. Unrelated to this case?

21 A. Correct. It was a human trafficking
22 class.

23 Q. Did you receive a call about this case
24 while you were in town for training?

25 A. I did.

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 Q. Where did you respond once you received
2 the call?

3 A. I received -- when I received the call,
4 I initially responded to the Berkeley County
5 Sheriff's Office.

6 Q. Okay. Did you then go to a residence?

7 A. I did.

8 Q. Do you remember the address?

9 A. I believe it was 2024 Gray Drive in
10 Huger.

11 Q. Who lived at that address?

12 A. Jerald Howard's parents.

13 Q. Were you able to speak to the parents?

14 A. I did.

15 Q. Okay. Were you able to take a written
16 statement from either of them?

17 A. I did not.

18 Q. During the course of your
19 investigation, did the defendant eventually become
20 a person of interest?

21 A. He did.

22 Q. Okay. And once he became a person of
23 interest, what did you do to investigate him, as
24 well as the deceased?

25 A. Multiple search warrants. Multiple

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 search warrants for phone records, for bank
2 records.

3 Q. Why would you want bank records?

4 A. Bank records will show any transactions
5 that are taking place at a specific time period,
6 whether it's purchases or withdrawals. It shows
7 all the -- all the access to that account.

8 Q. Were you provided bank records as part
9 of your investigation?

10 A. Yes, sir.

11 Q. Did you review the bank records as part
12 of your investigation?

13 A. I did.

14 Q. Did anything that you viewed further
15 your investigation?

16 A. It did.

17 Q. Okay. Please tell me what those were.

18 A. The two bank records I got were, one
19 was from USAA, which was an account that belonged
20 to Nicole Goodlett, solely to Nicole Goodlett. And
21 there was a Wells Fargo account that belonged to
22 Jerald Howard, and it was solely Jerald Howard's
23 account.

24 Under the records of -- in the record
25 of Jerald Howard with Wells Fargo, there were some

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 transactions in there. One transaction was to a
2 Rosetta Stone. And that was -- I believe it was
3 February 25th to Rosetta Stone. There was also a
4 deposit that was made into his account. It was a
5 \$200 check that was written to Jerald Howard, but
6 it was from Nicole -- it was from -- Nicole
7 Goodlett's check. It was her check made out to
8 Jerald Howard in the amount of \$200.

9 Q. Do you remember the day that the check
10 was written?

11 A. The check was written on March 1st.

12 Q. And do you remember the date that that
13 check was deposited?

14 A. March 4th.

15 Q. Were there any other transactions that
16 stood out to you?

17 A. I know there was a withdrawal of \$500
18 from his account.

19 Q. Do you remember what day that was?

20 A. It was the same day as the deposit of
21 the \$200. On -- there were two transactions on
22 Nicole Goodlett. It was her ATM card -- or Visa
23 debit card where there were two transactions that
24 were made -- if I can look at my notes I can give
25 you the exact dates.

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 I know one was March 9th, and one was
2 in February where a purchase was made at a gas
3 station. And both of them -- and both -- both were
4 declined.

5 Q. Were there any purchases on the
6 defendant's account around that same time? And if
7 you need to --

8 A. Can I look at --

9 Q. -- refresh your memory --

10 A. Can I look at my notes?

11 THE COURT: Absolutely. If you need to
12 review that, just let me know, and I will be happy
13 for you to do that.

14 THE WITNESS: Thank you.

15 THE COURT: You may do that to refresh
16 your recollection.

17 THE WITNESS: Okay. Thank you. You
18 said on his account or --

19 BY MR. STEGALL:

20 Q. Were there any transactions close in
21 time to the transactions that you just testified
22 about?

23 MR. SMILEY: Your Honor, I thought she
24 was refreshing her memory.

25 THE COURT: She was answering the

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 question which account.

2 THE WITNESS: Yes, sir.

3 The one transaction, the March 4th
4 deposit -- I'm sorry, that was the deposit of the
5 \$200. I'm sorry.

6 BY MR. STEGALL:

7 Q. Take your time.

8 A. Again, on 2/25, was the Rosetta Stone.
9 There were Enterprise Rental car, I guess,
10 purchases or rentals on February 24th,
11 February 19th, February 18th.

12 Q. Okay. Did you take buccal swabs from
13 anyone related to this case?

14 A. I did.

15 Q. And who was that?

16 A. Antonio Mangle. James Antonio Mangle.

17 Q. And who is he?

18 A. He is the biological father of Elijah
19 Mangle, who is Nicole Goodlett's oldest child who
20 was four at the time in 2014.

21 Q. Did he voluntarily come in for this?

22 A. He actually met me at his job.

23 Q. Okay. And why would you want a buccal
24 swab from Antonio Mangle?

25 A. He was associated with Nicole; he had a

MOSS, TRACY - DIRECT EXAM BY MR. STEGALL

1 relationship at one point with Nicole; he's got a
2 child in common with Nicole. And anybody who was
3 associated with Nicole is the reason why we
4 obtained a buccal swab from him to get his DNA.

5 Q. So what did you do once you collected
6 the swab?

7 A. I returned it to the sheriff's office
8 and placed it into evidence.

9 Q. Was it sealed?

10 A. It was.

11 MR. STEGALL: May I approach the
12 witness, Your Honor?

13 THE COURT: You may.

14 BY MR. STEGALL:

15 Q. I'm going to show you what's been
16 premarked as State's Exhibit 10. If you can
17 identify that for me, please?

18 A. This is the envelope that contains the
19 buccal swab that was taken from Antonio.

20 Q. Thank you.

21 MR. STEGALL: No further questions.

22 THE COURT: Very well. Cross examine?

23 MR. SMILEY: Beg the Court's?
24 Indulgence.

25 THE COURT: Sure. Absolutely.

MOSS, TRACY - CROSS EXAM BY MR. SMILEY

1 CROSS-EXAMINATION

2 BY MR. SMILEY:

3 Q. Hey, I'm Jim Smiley.

4 A. How do you do?

5 Q. I represent Mr. Howard. Just a few
6 questions. You pulled Mr. Howard's bank records,
7 right?

8 A. Yes, sir.

9 Q. And I think you testified that he had
10 some regular activity going on in his account,
11 right?

12 A. Correct.

13 Q. And you brought up in the middle of
14 February -- or excuse me, a little later in
15 February, there was a purchase of the Rosetta
16 Stone, correct?

17 A. Yes, sir.

18 Q. And that he deposited a check of
19 Nicole's into his account, correct?

20 A. Correct.

21 Q. You don't know the purpose of that
22 check, you just know it was deposited, correct?

23 A. Correct.

24 Q. Okay. And that her card was used in
25 close proximity to his to try to get some gas,

MOSS, TRACY - CROSS EXAM BY MR. SMILEY

1 right? And it was declined?

2 A. Yes, sir.

3 Q. In regard to Mr. Mangle, that's the
4 baby daddy of Nicole's first child, right?

5 A. Correct. Elijah.

6 Q. Elijah. And you interviewed him and
7 spoke with him?

8 A. I did. When I took the buccal swab?

9 Q. Right.

10 A. I did.

11 Q. Right. Because you were looking at
12 anybody that possibly could be --

13 A. Right, anybody associated with Nicole.

14 Q. Okay. And were you aware that he grew
15 up in Saint Stevens?

16 A. In where?

17 Q. Saint Stevens, in Berkeley County, were
18 you aware of that?

19 A. I was not.

20 Q. Okay. And you met with Jerald's mother
21 and father; is that correct?

22 A. Not initially, I did not.

23 Q. March 26th, when you were down here for
24 training, you went out to Gray Court in Huger?

25 A. Correct, yes.

MOSS, TRACY - CROSS EXAM BY MR. SMILEY

1 Q. And at that point in time, you met both
2 the father and his mother?

3 A. Yes. Initially, it was the mother
4 first, and then the father had come home shortly
5 after.

6 Q. Okay. And that was March 26th, 2014?

7 A. Yes, sir.

8 Q. All right. And you are an investigator
9 for Spartanburg Sheriff's Office?

10 A. Spartanburg County Sheriff's Office,
11 yes, sir.

12 Q. Okay. Did you go to Loblolly?

13 A. I did.

14 Q. Were you involved in going through the
15 house?

16 A. On a couple of occasions, yes, sir.

17 MR. SMILEY: Beg the Court's
18 indulgence?

19 THE COURT: Yes, sir.

20 MR. SMILEY: No questions, Judge. No
21 further questions.

22 THE COURT: Redirect, Solicitor?

23 MR. STEGALL: No, Your Honor.

24 THE COURT: Thank you. You may come
25 down.

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 MR. STEGALL: Your Honor, we may need
2 to call her as a rebuttal witness.

3 THE COURT: Okay. You are not free to
4 leave. Just stay in touch with the Solicitor's
5 office.

6 THE WITNESS: Okay.

7 THE COURT: Thank you. You are free to
8 leave the courtroom if you want to, but stay in
9 touch with the Solicitor's office.

10 Call your next witness, please.

11 MR. ALFARO: The State called David
12 Hogsed.

13 MR. SMILEY: I would ask that the
14 sequestration order be -- remain in effect.

15 THE COURT: She can't be in the
16 courtroom.

17 DAVID HOGSED,
18 being first duly sworn, testified as follows:

19 THE CLERK: Please have a seat. State
20 your full name, and spell your last name for the
21 record.

22 THE WITNESS: David Hogsed,
23 H-O-G-S-E-D.

24 DIRECT EXAMINATION

25 BY MR. ALFARO:

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 Q. Tell the jury where you currently work.

2 A. Currently, I am an officer with the
3 Wofford College Campus Safety.

4 Q. How long have you been with Wofford?

5 A. It'll be three years in December.

6 Q. And what do you do there?

7 A. I'm a police officer.

8 Q. And prior to going to work in Wofford,
9 what other prior law enforcement experience did you
10 have?

11 A. I started my law enforcement career in
12 1989 with the Spartanburg City Police Department,
13 and in 2005 I went to work for the Spartanburg
14 County Sheriff's Office where I retired there in
15 December 2016.

16 Q. Okay. And in what capacity were you
17 working at the Spartanburg Sheriff's Office in
18 March of 2014?

19 A. I was a sergeant over the crime scene
20 unit.

21 Q. Okay. And can you tell us a little bit
22 about what your duties and responsibilities were in
23 that capacity?

24 A. The crime scene unit, basically, if an
25 officer went out on a call and deemed that there

1 was a crime that had been committed and there was a
2 crime scene, they would notify us and we would go
3 and process that crime scene, which could be a
4 multitude -- from taking photographs to
5 fingerprinting to collecting biological evidence,
6 pretty much anything that needed to be done.

7 Q. And did you have the opportunity on
8 March the 20th of 2014 to assist in a search
9 warrant execution at 160 Loblolly Drive in
10 Spartanburg?

11 A. I did.

12 Q. And could you tell us what your role
13 was in that search warrant?

14 A. I actually executed the search warrant.
15 And then one of the first things we do when we work
16 the crime scene is our initial thing, it's what we
17 refer to as a walk-through. You would walk through
18 so you could see the scene as is when you first get
19 there. And as you're doing your walk-through, you
20 would also be taking photographs.

21 And it gives you a mind of what you're
22 looking at, what you're going to be doing, what
23 equipment you would need and. You would back out
24 and go from there as far as processing.

25 Q. And did you, in conducting that

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 walk-through, what observations did you make of the
2 residence?

3 A. Can I refer to my notes?

4 Q. If it -- will it help you refresh your
5 recollection?

6 A. Absolutely. During the walk-through we
7 were taking the photographs. When you entered
8 through the door to the right of the residence, you
9 went into like a kitchen, then you walked into a
10 dining room, turned left in the living room area,
11 there was a hallway to the right.

12 We noticed a reddish colored substance
13 on a couple of the door frames. Going -- you go
14 down, and it's like an L-shape -- if I remember
15 correctly, like an L-shaped hallway into the master
16 bedroom. So we saw the red-colored substance on a
17 couple of the doorways, closet doorway in the
18 hallway.

19 And then you went into the master
20 bedroom at the foot of the bed on the carpet was a
21 red-colored substance. There was a red-colored
22 substance in the doorway to the master bathroom.
23 And then when we went into the master bathroom, we
24 saw a red-colored substance on the sink.

25 You had the sink, toilet, and shower to

1 the left. And when you shut the bathroom door, you
2 could see the red-colored spatter or the
3 red-colored substance on the back of the door.

4 We initially, after photographing all
5 that, we started testing the red-colored substance
6 for human blood, and it all came back positive for
7 human blood in certain areas.

8 Q. And what process did you use to test
9 for human blood?

10 A. The company -- I don't know -- the test
11 kit is called an OBTI. I don't know what that
12 stands for. I don't remember. But, basically, the
13 way it does it, it works off human hemoglobin, and
14 it is human specific. And we used that test kit.

15 Q. And did you make any other observations
16 -- or did you make any observations in the master
17 bathroom?

18 A. Yes. Other than the spatter that was
19 on the back of the door and on the sink, the way we
20 shut the door, there was plaster, like Sheetrock
21 plaster. And pieces of the -- where the painting,
22 the top covered Sheetrock came off was on the
23 floor, and then you could see a hole on the wall
24 itself where that had came from.

25 We noticed that, and it was behind the

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 door. You would see it when you closed the door.

2 Q. And in processing that residence, did
3 you collect swabs to be submitted to SLED for
4 testing?

5 A. I did.

6 Q. And I'm going to draw your attention
7 specifically to two swabs. I believe on your
8 report it is Sheriff's Office 10 and 17. Sheriff's
9 Office 10 is marked as State's 2. Show you what
10 was -- and then Spartanburg's 17 is State's 3.

11 (STATE EXH. 2, Swab, was marked for
12 identification.)

13 (STATE EXH. 3, Swab, was marked for
14 identification.)

15 BY MR. ALFARO:

16 Q. I'm going to show you what has been
17 marked for identification as State's Exhibit 2 and
18 State's Exhibit 3. If you can take a look at
19 those.

20 A. I recognize these.

21 Q. And what do you recognize those as?

22 A. These are the swab cartons that when we
23 would lift blood or biological evidence with a
24 sterile cotton swab, they would go into a carton.
25 We would fill out that carton with our case number,

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 where -- date, time, where we lifted said substance
2 from, put our name on it.

3 And then, of course, it would go into
4 an individual evidence bag and we would fill it
5 out. And that's my name and of course my initials.

6 Q. And on State's Exhibit 2, does it
7 specify on the packaging where the location was
8 that the swab was lifted from?

9 A. It does, sir.

10 Q. And could you tell the jury?

11 A. Left front corner of the master
12 bathroom sink.

13 Q. And on the packaging for State's
14 Exhibit 3, does it also indicate the location from
15 which that was secured?

16 A. Yes, sir.

17 Q. And tell the jury what that is.

18 A. Interior center area of the master
19 restroom door.

20 Q. And upon securing these items, what do
21 you do with those items -- or these items
22 specifically?

23 A. Once everything is placed into an
24 evidence bag, and we have to do what we call
25 bagging and tagging, or pretty much everything is

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 done, all the property sheets, we then submit it to
2 the evidence room in the Spartanburg County
3 Sheriff's Office.

4 Q. So after you secure the swabs, are they
5 tampered with or altered while in your possession?

6 A. No, sir.

7 Q. And what's the purpose of that?

8 A. I mean, it's an integrity issue. Once
9 that evidence tape is put over it and initialed, or
10 initialed where the evidence tape is put over it,
11 it should -- nobody at the Spartanburg County
12 Sheriff's Office should open it without permission
13 or some type of -- or anybody open it unless there
14 is a reason for an analysis to be done on it.

15 Q. And as part of your processing of that
16 Loblolly residence, did you also make any
17 observations regarding the carpeting in the master
18 bedroom?

19 A. We did. At the foot of the bed --
20 there was a red-colored substance on the carpet at
21 the foot of the bed. It was also tested with the
22 OBTI, and it came back positive for human blood.

23 Q. Okay. And did you make any cuttings or
24 secure any cuttings from the carpet when you were
25 processing the residence on that day?

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 A. I did.

2 Q. And I'm going to draw your attention
3 specifically to what is two cuttings, one is
4 Spartanburg Sheriff's Office Number 9 and
5 Spartanburg Number 19. And starting with what is
6 your number 9, which is State's 5.

7 (STATE EXH. 5, Cutting from carpet, was
8 marked for identification.)

9 BY MR. ALFARO:

10 Q. Starting with State's Exhibit 5, can
11 you look at that and tell us if you recognize that?

12 A. I do.

13 (STATE EXH. 4, Cutting from carpet, was
14 marked for identification.)

15 BY MR. ALFARO:

16 Q. I'm going to show you -- I'm going to
17 show you what's been premarked for identification
18 as State's Exhibit 4 as well. If you can take a
19 look at that. And here's a pair of scissors if you
20 need to open the packaging.

21 A. Okay.

22 Q. And can you tell us what is contained
23 in that package?

24 A. Spartanburg County Sheriff's Office
25 evidence, State's Exhibit 5, our evidence inventory

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 number 9, is a carpet cutting, an actual piece of
2 carpet that we cut out that had the red stain on it
3 from the master bedroom floor near the foot of the
4 bed.

5 These were not done by the Spartanburg
6 County Sheriff's Office. These were done at SLED.
7 So when you send down the carpet for analysis, they
8 then take that carpet and remove sample fibers. I
9 don't know; it feels like swabs. I'm not sure.

10 Q. Okay.

11 A. So that they can be tested.

12 Q. Okay. And I believe you testified that
13 you had taken photographs during your walk-through
14 of the residence?

15 A. Yes, sir.

16 Q. Let me show you what have been
17 premarked for identification as State's Exhibits
18 15, 16, 17, and 18. I'll ask you to take a look at
19 those and then I'll ask you some questions. And do
20 you recognize what is depicted in those
21 photographs?

22 A. I do.

23 Q. And do they fairly and accurately
24 depict what you observed at the Loblolly address on
25 the date of March 20th, 2014?

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 A. Yes.

2 MR. ALFARO: Your Honor, at this time
3 we would ask that State's Exhibit 15 through 18 be
4 admitted.

5 THE COURT: Any objection?

6 MR. SMILEY: No, Your Honor.

7 THE COURT: Without objection, 15
8 through 18, inclusive, are admitted, being
9 photographs.

10 (STATE EXH. 15 - 18, Photographs, in
11 evidence.)

12 BY MR. ALFARO:

13 Q. If you'll look on the -- you will have
14 to turn that way. I'm going to start off with
15 State's 15. Can you tell us what's depicted in
16 that picture?

17 A. This is the master bathroom sink that I
18 was talking about earlier, front left corner. If
19 you're facing it, it would be the front left
20 corner. The evidence placard was put there by me.
21 It shows that when I do the swabbing that would be
22 our evidence item number ten.

23 And you can see the red -- the
24 red-colored substance, right here. (Indicating)
25 This is the actual OBTI kit that we use when we do

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 the testing for the human blood. And, basically,
2 what you do is take the sterile swab, moisten it
3 with distilled water, get a little bit of the
4 substance, put it in this buffered solution, let it
5 sit for about five minutes and then put it on here.

6 And if you get two lines, then you have
7 human blood. If it's one line, it's just telling
8 you that the buffered solution is working the way
9 it should be working.

10 Q. And is that the area of where the
11 placard is where you swabbed and --

12 A. Yes, right there.

13 Q. Okay. And State's Exhibit 16?

14 A. This is a picture of me standing inside
15 of the actual bathroom door with the door closed.
16 So this is basically a tape. And you can add how
17 high up it would be, every 12 inches supposed be a
18 foot. This is scale tape, and then this is another
19 marker showing that there is a red substance in
20 here. Mostly in here because that's where the
21 scale tape would be. We would put it to do
22 close-up shots.

23 Q. And that area is the area you testified
24 that you swabbed and collected?

25 A. Yes. Swabbed -- the substance would

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 have been swabbed for collection in that area, yes.

2 Q. And State's Exhibit 17.

3 A. Bed in the master bedroom, our evidence
4 sign number 9 with a placard put beside the red
5 stain on the carpet. And, of course, that would be
6 the OBTI that showed where we tested it.

7 Q. And is the cutting taken -- did you
8 take a cutting from that area as well?

9 A. Yes. We cut out that section right
10 there. (Indicating)

11 Q. And that's one of the cuttings you just
12 testified about?

13 A. Yes, sir.

14 Q. And State's Exhibit 18.

15 A. The same area -- well, actually number
16 9 would be over here. Did I do that? Sorry,
17 number 9 would be back over here, and this is going
18 back into the master bedroom. See how these
19 placards have a scale here? If at all possible, we
20 would sit this scale down to show the evidence,
21 that it would be in this area.

22 Q. And was a cutting also made by you of
23 that area as well?

24 A. Yes, sir.

25 Q. To be submitted for further testing?

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And that's one of the cuttings that you
3 just testified about?

4 A. Yes, sir.

5 Q. And did you also go back to the same
6 address the next day, March 21st, 2014, for
7 additional processing?

8 A. We did.

9 Q. And what was the purpose of going back
10 an extra day?

11 A. We initially did the search warrant on
12 the 20th. And crime scene processing can be slow
13 and methodical. It took us into the late hour
14 evening of the night. We decided with what we had
15 found -- the red stains testing positive for human
16 blood, we decided to go back.

17 We needed to get some chemicals called
18 BLUESTAR. We didn't have any at the time so we
19 needed to get -- with us at the time, so we needed
20 the chemicals. So, basically, what we ended up
21 doing was waiting until the next day until it got
22 dark so that we could go into the residence and
23 spray the house with BLUESTAR which is a -- it's a
24 -- it shows cleaned-up blood.

25 It's a blood reagent that will

1 fluoresce if blood had been there or cleaned up.

2 So we went back in to spray the house with the
3 BLUESTAR reagent.

4 Q. And did you observe any areas that had
5 a reaction?

6 A. We did.

7 Q. And what was done at those locations?

8 A. It was on the carpet leading from down
9 the hallway, from -- we started in the bedroom and
10 came back to the living room. And each area that
11 fluoresced, basically a cutting -- we cut the
12 carpet out in each area.

13 Q. And on that same date, March 21st,
14 2014, did you also execute a search warrant on a
15 2013 silver Kia at the Spartanburg Sheriff's
16 Office?

17 A. Was that on the 21st?

18 Q. Yes.

19 A. Yes, I did.

20 Q. And did you collect any evidence from
21 that vehicle?

22 A. No, we did not. We did not take
23 anything from that search.

24 Q. Did you perform any type of search or
25 processing of the trunk of that vehicle?

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 A. We did. We sprayed it with BLUESTAR as
2 well. There was one area of the rubber seal around
3 the trunk that was fluoresced and it was tested --
4 we swabbed it and tested it for human blood with a
5 negative reaction. So we did not actually remove
6 and take that rubber seal.

7 Q. And did you also have the opportunity
8 to come into contact with Jerald Howard on
9 March 26, 2014, at approximately 11:12 a.m.?

10 A. I did.

11 Q. And what was the purpose of your
12 meeting with Mr. Howard?

13 A. I met with Mr. Howard on the 26th. I
14 was called to come to the sheriff's office to meet
15 with the detectives. And my only interaction with
16 him was to get a DNA standard, or a buccal swab
17 from him for a DNA standard.

18 Q. And can you describe for us the process
19 through which you went to obtain that buccal swab?

20 A. A buccal swab is -- we used the same
21 cartons, the swab cartons, but you take a sterile
22 cotton swab and swab the inside cheeks of the
23 mouth.

24 Q. And is that the process you used to
25 collect the buccal swab from the defendant?

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And after collecting that swab, what
3 did you do you with the swab?

4 A. It would have been secured the same way
5 as -- put in the box. The box would have been
6 sealed and shut. We had filled out -- placed in
7 the evidence bag and filled out and submitted into
8 evidence for -- so it could be sent to SLED for
9 further testing.

10 Q. Okay.

11 MR. ALFARO: The Court's indulgence.

12 THE COURT: Yes, sir.

13 BY MR. ALFARO:

14 Q. I'm going to show you what is going to
15 be -- I'm going to have this marked as State's
16 Exhibit 9 for identification.

17 (STATE EXH. 9, Swab container, was
18 marked for identification.)

19 BY MR. ALFARO:

20 Q. I show you what was marked as State's
21 Exhibit 9. Do you still have the scissors up
22 there?

23 A. Yes, sir.

24 Q. Do you recognize what's contained in
25 State's Exhibit 9?

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 A. This is the swab carton box where I
2 would have taken Mr. Howard's DNA standard and put
3 it in the swab carton and sealed it shut, and then
4 placed it into our evidence envelope and sealed it
5 shut.

6 Q. After taking the swab from the
7 defendant, did you tamper with it in any way?

8 A. No.

9 Q. And also on March 26, 2014, that same
10 day, did you have the opportunity to come into
11 possession of a white iPhone that had been
12 recovered from the defendant by Deputy Ballew?

13 A. Yes. I received a phone call that I
14 needed to go to the Spartanburg County Detention
15 Center and recover a cell phone that Deputy Ballew
16 had recovered off the person of Mr. Howard.

17 Q. And what was done with that phone?

18 A. It would have been placed into an
19 evidence envelope, secured, and submitted into
20 evidence at the Spartanburg County Sheriff's
21 Office.

22 Q. I'm going to show you what is going to
23 be premarked as State's Exhibit Number 11 for
24 identification.

25 (STATE EXH. 11, Cell Phone, was marked

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 for identification.)

2 BY MR. ALFARO:

3 Q. Ask you if you can take a look at the
4 packaging and the contents.

5 A. This is the cell phone that I
6 recovered.

7 Q. Okay. And based off of the packaging,
8 does it indicate who initially recovered that cell
9 phone?

10 A. Well, I have it on here that it is an
11 Apple iPhone 5, recovered on the 26th, recovered at
12 950 California Avenue, Spartanburg, which is our
13 detention center, and that I recovered it from a
14 Deputy Ballew.

15 Q. Okay. And upon securing this from
16 Deputy Ballew, was it placed into evidence?

17 A. It is -- I mean, it would have been
18 placed into evidence, yes.

19 Q. Okay.

20 A. All the writing on the bottom, I don't
21 have any idea where that came from.

22 Q. Okay. And did you also have the
23 opportunity on March the 26th of 2014 to assist
24 Investigator Nix with a search warrant at 103
25 Graymouth Court in Spartanburg?

HOGSED, DAVID - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir, I did.

2 Q. And as part of that, what was your role
3 during that?

4 A. Investigator Nix executed the search
5 warrant on that residence. I assisted him by
6 taking the visual photographs through the
7 walk-through, and then the items that was recovered
8 from that residence. And there was a vehicle, a
9 Toyota Corolla, with a South Carolina tag KAS 516
10 in the driveway, and I searched it.

11 Q. Okay. And did you personally collect
12 any evidence at that location?

13 A. No. I just did the visual photograph
14 and did the search on the vehicle. And if there
15 was any items to be collected from the vehicle,
16 basically since Investigator Nix executed the
17 search warrant, he would have been notified and he
18 would have actually taken possession of those
19 items.

20 MR. ALFARO: Thank you. Please answer
21 any questions that the defense may have.

22 THE COURT: Cross examine?

23 THE WITNESS: Do you want this, sir?

24 MR. ALFARO: Oh, yes, sir.

25 CROSS-EXAMINATION

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 BY MR. SMILEY:

2 Q. Investigator Hogsed?

3 A. Hogsed.

4 Q. Hogsed. All right. I wanted to make
5 sure I got it right.

6 A. Call me David.

7 Q. I'll do that. David, Jim Smiley. I
8 represent Mr. Howard. You are the crime scene guy.
9 So you are the guy that we see on TV that goes and
10 takes picture of everything. You are the
11 collector.

12 A. I was, yes.

13 Q. In this case, you were the collector?

14 A. Yes, sir.

15 Q. So you are directed where to go by an
16 investigating detective. Like, go to --

17 A. Yes.

18 Q. -- Loblolly?

19 A. Yes, sir.

20 Q. Okay. And I think you said the first
21 thing you do is you take pictures?

22 A. As we do a walk-through, yes.

23 Q. Okay. And I think it's all -- you took
24 a bunch of pictures, right?

25 A. Yes.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. Yeah --

2 A. Pictures are -- I'm sorry.

3 Q. Go ahead.

4 A. Pictures are taken in stages. I need
5 to explain that.

6 Q. Go ahead, explain it to them. I want
7 to --

8 A. So when we do a walk-through -- these
9 numbered placards that you saw on our photographs,
10 when we do our initial walk-through, you will not
11 see those. They're boom, boom, boom, taken as we
12 see it through the naked eye.

13 Those photographs with the numbered
14 placards are -- once we start deeming what area of
15 evidence is going to be collected, then we start
16 placing placards out.

17 Q. All right. Because if you called
18 Loblolly a crime scene, it was somewhere you were
19 directed to go collect evidence, correct?

20 A. Yes.

21 Q. Because you can't say whether a crime
22 was committed there or not, can you?

23 A. At this moment, no.

24 Q. All right.

25 A. Crime scene is -- I'm used to calling

1 everything a crime scene.

2 Q. I'm not faulting you for that. I'm
3 trying to explain --

4 A. Yes, I understand.

5 Q. -- to the jury that you were sent to
6 Loblolly to collect evidence?

7 A. Yes, collect evidence.

8 Q. And when you call it a crime scene,
9 it's the place where you were told, we need to
10 collect evidence?

11 A. That's correct.

12 Q. Okay. You don't know if, in fact, a
13 crime was committed in Loblolly or not; that's not
14 your job, correct?

15 A. To determine if a crime had been
16 committed?

17 Q. Right. You're there to collect
18 evidence.

19 A. To collect evidence and to assist in
20 determining if a crime had been committed.

21 Q. Okay. That's fair. And so the first
22 thing you do is you take pictures of the residence
23 as you found it, right?

24 A. Right, correct.

25 Q. Okay. And you went to it, I think you

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 said, March 20th. Is that --

2 A. 3/20, yes, sir.

3 Q. Okay. And when you got there, it
4 looked like a house that somebody had been living
5 in?

6 A. It was -- yeah. I mean, it was --
7 yeah, it was somebody's residence.

8 Q. Okay. And so you took pictures of
9 anything that could potentially be helpful to the
10 State, correct?

11 A. Correct.

12 Q. And as you walked through the house
13 taking your pictures, you then come back from what
14 you have seen and try to put your placard down on
15 specific things that you want to collect, correct?

16 A. Excuse me, yes, that's correct.

17 Q. Okay. So you pick -- you take
18 pictures, a lot of pictures, four of which we saw,
19 and then placard down the things you want to
20 collect, right?

21 A. Correct.

22 Q. And take the photographs of the
23 placards, and then you actually collect the items?

24 A. Correct.

25 Q. All right. In your execution of

1 collecting evidence at Loblolly, you collected a
2 lot of things, didn't you?

3 A. Yeah, we did. Somewhere around 40 plus
4 items.

5 Q. Yeah. I mean, you all but took the
6 kitchen sink. And you actually took the drains,
7 didn't you?

8 A. Out of the restroom, yeah. We took the
9 traps, yes.

10 Q. And the reason you would do that is
11 because it's possible that blood could be in there
12 or other evidence?

13 A. That's correct.

14 Q. All right. So you collected the
15 drains, the dishwashing sponge -- it could contain
16 DNA on it, right?

17 A. Yes.

18 Q. It could have been used to clean
19 something up or might not have been, right?

20 A. That's correct.

21 Q. You collected the vacuum cleaner,
22 right?

23 A. Yes.

24 Q. A couple of hammers, right?

25 A. Yes.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. It's -- and this picture, number 10,
2 that has your placard number 10, State's 15?

3 A. Yes.

4 Q. That shows a substance on the corner of
5 --

6 A. The left front corner of the master
7 bathroom sink.

8 Q. And, now, this house had been lived in,
9 right? It wasn't like sparkling clean, was it?

10 A. No. It was a lived-in residence.

11 Q. All right. And you -- when you see
12 something on a bathroom sink, you don't know how it
13 got there. You just know it's there.

14 A. That's correct.

15 Q. You don't know the circumstances it was
16 put there. You just know it's there, correct?

17 A. From a crime scene aspect, yes.

18 Q. Okay. And because this substance with
19 your O-P -- I'm going to get it right -- OBTI?

20 A. There you go.

21 Q. All right. That's a reactor, so you
22 put it on that substance to see if it --

23 A. No. We don't put it on the substance.

24 Q. Okay. Well, then I'm wrong. You use
25 an application of OBTI to collect the substance?

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 A. You use distilled water and a -- you
2 use distilled water and a sterile cotton swab. You
3 moisten the sterile cotton swab, you lift what
4 substance you want tested.

5 You take the tip of the cotton swab and
6 put it inside the buffer solution of the OBTI, let
7 it sit, and then place it on the region.

8 Q. Okay. So that red stain is -- you
9 collected it?

10 A. Yes.

11 Q. And in the bathroom you collected -- I
12 think you showed your 17, State's 16. And this is
13 when you said there was splatter on the back of the
14 door. This was what you were talking about, right?

15 A. Yes. Blood splatter, yes.

16 Q. Okay. All right. And that's what it
17 looked like to you when you took the picture and
18 then collected it?

19 A. Yeah. There would probably be about 10
20 photos of that item right there alone.

21 Q. You took a bunch of photos?

22 A. Exactly.

23 Q. Right. Because you want to be able to
24 show the jury what Loblolly looked like, right?

25 A. Right.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. And to show where you collected
2 possible evidence, if it was evidence, correct?

3 A. Correct.

4 Q. So everything you collect doesn't turn
5 out to have value, does it?

6 A. That's true.

7 Q. For instance, you saw some red stains
8 on the carpet and you thought that could be blood,
9 correct?

10 A. In the master bedroom, yes.

11 Q. Yeah. And so you want to collect it,
12 correct?

13 A. Correct.

14 Q. It doesn't tell you -- you don't know
15 whose blood it is, do you?

16 A. No. It has to be sent off for
17 analysis, DNA analysis.

18 Q. All right. Because you don't know if
19 it is blood, when it was put there?

20 A. That's correct.

21 Q. And you don't know the circumstances
22 that it was put there?

23 A. That's correct.

24 Q. You're just the collector, correct?

25 A. Yes.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. All right. Now, you also testified, I
2 believe, that you took pictures behind that door of
3 the wall, correct?

4 A. Are you talking about the master
5 bathroom?

6 Q. Yes.

7 A. Yes.

8 Q. And that was because there appeared to
9 be some chipped or damaged -- I'll just leave it at
10 damaged -- Sheetrock?

11 A. That's correct.

12 Q. All right. You don't know how that
13 happened?

14 A. I do not know.

15 Q. You don't know when it happened?

16 A. I do not.

17 Q. Or the circumstances of how it
18 happened?

19 A. I do not.

20 Q. All you do is see something and say
21 that's possible and take pictures, correct?

22 A. From a crime scene aspect, yes.

23 Q. So there are pictures of that behind
24 the door?

25 A. Yes.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. You take those and put them through
2 your chain of custody so that the Solicitor -- the
3 prosecutor can bring it into the courtroom and show
4 this jury pictures, right?

5 A. There are pictures made available, yes.

6 Q. All right. And you collected some
7 carpet cuttings. And that's because this was a red
8 substance that you thought might be of value,
9 correct?

10 A. Out of the bathroom, yes -- or, I'm
11 sorry --

12 Q. The bedroom?

13 A. Master bedroom.

14 Q. And you collected a bunch of clippings,
15 right? Not one or two, but a bunch?

16 A. Yes. We went back the second day with
17 the BLUESTAR reagent used --

18 Q. Okay. And that BLUESTAR agent, that
19 reacts -- when it reacts, it may or may not be
20 blood, correct?

21 A. It can give a false positive, yes, sir.

22 Q. Well, you actually got a false positive
23 from the --

24 A. It can give a false positive.

25 Q. All right.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 A. The only way to know is to collect it
2 and send it for analysis.

3 Q. Sure. Right. So you use your
4 BLUESTAR. And you see this area, and you go, that
5 could be helpful so we want to photograph it,
6 right?

7 A. Correct.

8 Q. And collect the carpet so we can have
9 it tested, right?

10 A. Yes, sir.

11 Q. Because if, in fact, it's blood, you
12 want to be able to identify whose blood it is if
13 you can.

14 A. Correct.

15 Q. From the bathroom you didn't just take
16 the swab of blood, you collected the tooth brushes,
17 right?

18 A. Yes.

19 Q. Some deodorant?

20 A. Correct.

21 Q. You collected anything that could
22 possibly be helpful?

23 A. The toothbrushes, deodorants, and
24 things like that are good sources to get a DNA
25 profile.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. Okay.

2 A. This was a missing person's case. At
3 the time, we did not have the young lady that was
4 missing her DNA standard. So obtaining those
5 toothbrushes is one of the ways that we would have
6 obtained her DNA profile.

7 Q. All right. So once you collect these
8 items and you take them, you seal them up and you
9 take them to an evidence locker, right?

10 A. Either --

11 Q. Or a lab?

12 A. Yeah. Well, we submitted them to our
13 Spartanburg County Sheriff's Office. It would be
14 submitted to the evidence room there, and then
15 paperwork would be done if there would be any type
16 of analysis that the detectives or the crime scene
17 investigator wanted done.

18 And that paperwork would be done and
19 turned into the evidence room as well, and then
20 from there it would go to SLED.

21 Q. Okay. So once -- you take pictures of
22 it, you collect it, and you go take it and turn it
23 in, and that's where you're done?

24 A. Yeah. That's -- I'm done with it at
25 that point.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. Because you're the collector. Let's
2 talk about the Kia Optima, the silver car that you
3 were directed to collect evidence from. You had
4 testified about that, I just wanted to make sure
5 we're on the same page.

6 A. Is that the one on Graymouth?

7 Q. Let me make sure. Wait a minute.

8 A. That was a Toyota. I did three cars.

9 Q. Yes, sir. Make sure we get the right
10 one.

11 A. Is that the white one that was sitting
12 on Loblolly?

13 Q. No. This was the rental car that they
14 had you look at, the Kia Optima. The one that you
15 used BLUESTAR on?

16 A. Yes.

17 Q. And it was not blood?

18 A. Right. Correct.

19 Q. Right. That's the one I'm talking
20 about.

21 A. Okay.

22 Q. The rental car. When you were sent to
23 look at the Optima, you opened the trunk, correct?

24 A. Uh-huh.

25 THE COURT: Is that a yes?

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 THE WITNESS: Yes, sir, I'm sorry.

2 BY MR. SMILEY:

3 Q. You attempted to collect evidence out
4 of the trunk, correct?

5 A. I don't think we collected any evidence
6 out of it.

7 Q. Did you vacuum it for DNA?

8 A. I did not.

9 Q. All right. Did you lift up the carpet
10 to see if any evidence had fallen under it?

11 A. If that's where the tire and all that
12 would be, yes, we would have lifted it up.

13 Q. Okay. Did you take pictures of it?

14 A. I'm sure there were pictures taken.

15 Q. Of everything that you did there?

16 A. Yes. A crime scene investigator really
17 and truly doesn't do anything without documenting
18 it with photographs or --

19 Q. Right, I understand. And one of the
20 things you did there is you used that BLUESTAR on
21 the trunk area to see if you could find any blood,
22 right?

23 A. Correct.

24 Q. And it did fluoresce so --

25 A. Around the rubber seal.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. At the back of the trunk?

2 A. Correct.

3 Q. And so that -- you did some further
4 collection to determine if it was blood, correct?

5 A. We swabbed that area that fluoresced,
6 tested it with the OBTI, with a negative result for
7 human blood.

8 Q. So it wasn't blood?

9 A. It wasn't human blood.

10 Q. All right. Fair enough. Fair enough.
11 But whatever it is, you can't tell me how it got
12 there?

13 A. No.

14 Q. You can't tell me when it got there?

15 A. No, sir.

16 Q. Or -- leave it at those two questions.
17 You went through the rest of the car?

18 A. We did.

19 Q. And you were looking for evidence
20 related to this missing person's case?

21 A. Correct.

22 Q. And in that you look for DNA,
23 fingerprints?

24 A. I don't think we fingerprinted the car
25 because we knew who was driving it.

HOGSED, DAVID - CROSS EXAM BY MR. SMILEY

1 Q. Okay. And you knew who had been in it?

2 A. Correct-- well, as far as I know, yes.

3 Because I don't recall us fingerprinting -- if I
4 had fingerprinted it, I would have documented it in
5 my report.

6 Q. Yes, sir. Yes, sir. You did not
7 collect any evidence, though, from it other than
8 the photographs?

9 A. Correct.

10 MR. SMILEY: Beg the Court's
11 indulgence?

12 THE COURT: Yes, sir.

13 MR. SMILEY: That's all I have.

14 THE COURT: Very well. Redirect?

15 MR. ALFARO: No, Your Honor.

16 THE COURT: You may come down, sir.
17 Do you wish this witness to be excused?

18 MR. ALFARO: Yes, sir.

19 THE COURT: Any objection?

20 MR. SMILEY: No objection.

21 THE COURT: You are free to leave, sir.

22 THE WITNESS: Thank you.

23 THE COURT: All right. Ladies and
24 gentlemen, at this point, we will take our recess
25 for lunch. Please remember you are not at liberty

1 to discuss this case among yourselves or permit
2 anyone to talk to you about it while you are out.

3 I'd ask you to be back in your jury
4 room by 2:00 o'clock. We will resume the trial at
5 that time. Thank you.

6 (Jury out, 12:30 p.m.)

7 THE COURT: Anything from the State
8 before we recess?

9 MR. ALFARO: No, Your Honor.

10 THE COURT: Anything from the
11 defendant?

12 MR. SMILEY: No, sir.

13 THE COURT: We'll be at ease until
14 2:00 o'clock. Thank you.

15 (A luncheon recess transpired.)

16 THE COURT: Is the State ready?

17 MR. STEGALL: The State is ready, Your
18 Honor.

19 THE COURT: And let the record reflect
20 that the defendant is present.

21 Is the defendant is ready to proceed?

22 MR. SMILEY: Yes, sir.

23 THE COURT: Bring in the jury, please.

24 (Jury in, 2:14 p.m.)

25 THE COURT: I hope you had a good

1 lunch. We are ready to continue. Thank you for
2 your patience. We were talking about some planning
3 for this afternoon with respect to the witnesses.

4 You may get to break a little bit early
5 today, but it wouldn't -- and please understand
6 it's not going to mean if you had stayed that you
7 wouldn't have to come back tomorrow because you
8 would.

9 And tomorrow you're going to have a
10 little bit later arrival because I have to qualify
11 the grand jury, because you were qualified on
12 Monday, and get them working. And so that will be
13 done.

14 So you won't have to be here until
15 11:00 o'clock tomorrow. So you will get a
16 leisurely morning that you can get up and relax a
17 little bit before you come back.

18 Thank you so much for your patience
19 with us this afternoon. We were 15 minutes late
20 getting you out here. I'm sorry for that.

21 All right. Solicitor, you may call
22 your next witness please.

23 MR. STEGALL: The State calls Thomas
24 Clark.

25 THOMAS CLARK,

CLARK, THOMAS - DIRECT EXAM BY MR. STEGALL

1 being first duly sworn, testified as follows:

2 THE CLERK: Please have a seat. State
3 your full name, and spell your last name for the
4 record.

5 THE WITNESS: My name is Thomas Loren
6 Clark. My last name is spelled C-L-A-R-K.

7 DIRECT EXAMINATION

8 BY MR. STEGALL:

9 Q. Mr. Clark, what do you do for a living?

10 A. Currently, I'm retired from the
11 Spartanburg County Sheriff's Office.

12 Q. Okay.

13 A. But I work part-time at the Spartanburg
14 Regional Medical Center.

15 Q. Okay. When were you employed with the
16 Spartanburg County Sheriff's Office?

17 A. From September 15th of 1997 until
18 December 9th of 2017.

19 Q. What was your position with the
20 sheriff's office?

21 A. My last position for the last 15 years
22 was I was an investigator.

23 Q. Okay. What sort of duties and
24 responsibilities did you have as an investigator?

25 A. Follow up on investigations assigned to

CLARK, THOMAS - DIRECT EXAM BY MR. STEGALL

1 me and assist with any other investigations that
2 needed my help.

3 Q. Okay. Do you remember the case that we
4 are here for today?

5 A. Yes, sir.

6 Q. What was your involvement with this
7 case?

8 A. I believe I -- if memory serves
9 correct, I believe I transported some evidence from
10 the sheriff's office to SLED.

11 Q. Okay. Was that evidence packaged?

12 A. Yes, sir.

13 Q. Did you open any of the evidence before
14 taking it to SLED?

15 A. No, sir.

16 Q. Was it sealed when you dropped it off?

17 A. Yes, sir.

18 Q. Okay.

19 MR. STEGALL: The Court's indulgence?

20 THE COURT: Yes, sir.

21 BY MR. STEGALL:

22 Q. The tedious way to do this is to hand
23 you everything at once and then go through it one
24 by one.

25 A. Yes, sir.

CLARK, THOMAS - DIRECT EXAM BY MR. STEGALL

1 MR. STEGALL: May I approach the
2 witness, Your Honor?

3 THE COURT: Yes, you may.

4 BY MR. STEGALL:

5 Q. Okay. Will you take a look at item
6 marked State's Exhibit Number 2?

7 A. Where is that going to be labeled?
8 There is some writing, but I cannot read it.

9 Q. It's in the bag. Do you recognize item
10 Number 2?

11 A. I do not recognize these envelopes, so
12 I would have to see the evidence sheet because they
13 would have been sealed -- they would have been
14 packaged with other items.

15 MR. STEGALL: Okay. Your Honor, may I
16 show him the evidence sheet to refresh his memory?

17 THE COURT: You may.

18 THE WITNESS: Yes.

19 BY MR. STEGALL:

20 Q. Okay. Did you take that item to SLED?

21 A. Yes, I did.

22 Q. Okay. And State's Exhibit Number 3?

23 A. Which one is that, sir?

24 Q. (Indicating)

25 A. Yes, sir, I did.

CLARK, THOMAS - DIRECT EXAM BY MR. STEGALL

1 Q. Okay. And what is State's Exhibits
2 Number 2 and Number 3?

3 A. Number 2 on the -- Number 2 is
4 inventory number 10, is a blood swab. It says left
5 front corner of master bedroom, master room,
6 restroom sink counter.

7 Q. I will take those two from you. Okay.
8 Will you take a look at what has been premarked as
9 State's Exhibit 4 and see if you recognize that.

10 A. There's multiple items in here. Are
11 they all labeled the same?

12 THE COURT: Approach, please.

13 (BENCH CONFERENCE)

14 BY MR. STEGALL:

15 Q. Mr. Clark --

16 A. Yes, sir.

17 Q. -- in your capacity with the
18 Spartanburg County Sheriff's Office, did you
19 transport evidence related to this case up to SLED?

20 A. Yes, sir, I did.

21 MR. STEGALL: And nothing further, Your
22 Honor.

23 THE COURT: Cross examine?

24 MR. SMILEY: May I ask a couple of
25 questions?

CLARK, THOMAS - CROSS EXAM BY MR. SMILEY

1 THE COURT: Sure.

2 CROSS-EXAMINATION

3 BY MR. SMILEY:

4 Q. Just so -- just a couple of questions.
5 I'm Jim Smiley and I represent Mr. Howard. It's
6 good to see you.

7 When you were working for the
8 Spartanburg Police Department connected to this
9 case, you were -- I called the guy that collects
10 the evidence the collector. You are the driver
11 that drives it from point A to point B, correct?

12 A. I was in this instance.

13 Q. In this case?

14 A. Yes, sir.

15 Q. All I'm asking about. And you didn't
16 decide which evidence went to SLED. You took what
17 you were directed to take?

18 A. Correct.

19 Q. And so -- and you've got that big list
20 and I've got this big list.

21 A. Correct.

22 Q. There are all kinds of things on here.

23 A. Yes.

24 Q. But what we're talking about are the
25 four or five pieces that you were directed to take

CLARK, THOMAS - CROSS EXAM BY MR. SMILEY

1 to SLED?

2 A. Correct.

3 Q. You didn't decide what was going to be
4 tested, you just followed directions, correct?

5 A. Correct.

6 MR. SMILEY: That's all I've got.

7 THE COURT: Redirect?

8 MR. STEGALL: Nothing on redirect.

9 THE COURT: Thank you, Mr. Clark. You
10 may step down.

11 Do you wish this witness to be excused?

12 MR. STEGALL: Yes, Your Honor.

13 THE COURT: Any objection?

14 MR. SMILEY: No objection, Your Honor.

15 THE COURT: You're also free to leave,
16 Mr. Clark.

17 Call your next witness.

18 MR. STEGALL: The State calls Joseph
19 Guffey.

20 JOSEPH GUFFEY,

21 being first duly sworn, testified as follows:

22 THE CLERK: Please have a seat. State
23 your full name, and spell your last name for the
24 record.

25 THE COURT: Joseph Guffey. Last name

GUFFEY, JOSEPH - DIRECT EXAM BY MR. ALFARO

1 is G-U-F-F-E-Y.

2 DIRECT EXAMINATION

3 BY MR. ALFARO:

4 Q. Would you tell the jury where you work?

5 A. I work for the Spartanburg County
6 Sheriff's Office.

7 Q. And how long have you been with the
8 sheriff's office?

9 A. Since late 2009, early 2010.

10 Q. Did you have any prior law enforcement
11 before that?

12 A. Yes, sir. I worked ten years at the
13 Duncan Police Department.

14 Q. And what is your current rank and duty
15 assignment?

16 A. I'm the first sergeant over the violent
17 crimes unit which is over homicide, suicides and
18 such.

19 Q. And in what capacity were you working
20 at the sheriff's office on March 26th of 2014?

21 A. I was a property crimes investigator
22 and, also, I was on call with the violent crimes
23 investigators.

24 Q. And did you have the opportunity on
25 March 26, 2014, at approximately 2:00 o'clock, to

GUFFEY, JOSEPH - DIRECT EXAM BY MR. ALFARO

1 assist with the execution of a search warrant at
2 103 Graymouth Drive in Spartanburg?

3 A. Yes, sir.

4 Q. And could you tell us what your role
5 was supposed to be at that location?

6 A. Officially, I was called to go kind of
7 wait at the house until other investigators and the
8 persons who owned the home were coming there, and
9 there was going to be a search warrant served. I
10 was just basically waiting kind of in front of the
11 house.

12 Q. Are you referring to the defendant,
13 Jerald Howard?

14 A. I am.

15 Q. And so he wasn't at the scene when you
16 arrived?

17 A. No, sir.

18 Q. And how did he come to be at the scene?

19 A. He was driving a vehicle coming up the
20 road, you know. Imagine like a neighborhood, you
21 know, houses on both sides kind of deal. He's
22 coming up the road, some investigators behind him,
23 and just pulled in really.

24 Q. So he wasn't riding with the police; he
25 was driving his own car.

GUFFEY, JOSEPH - DIRECT EXAM BY MR. ALFARO

1 A. Right.

2 Q. And where were you when he pulled into
3 the driveway?

4 A. I was sitting in my vehicle, just right
5 there, basically in front of the house. Maybe just
6 to the right of it if you're facing it.

7 Q. And were you able to see what he did
8 when he arrived at the scene?

9 A. Yes, sir.

10 Q. And can you tell the jury what happened
11 when he got there?

12 A. Yeah. As he was pulling into the
13 driveway, the garage door started to come up and it
14 didn't come up very far. He got out of the
15 driver's seat of the car, rolled under the door and
16 shut it behind him.

17 Q. Kind of like Indiana Jones, just
18 rolled --

19 A. Yeah. He just got -- you know, got
20 down maybe, you know, hands first like a push-up
21 position and just kind of rolled under the door.

22 Q. And what happened after he rolled under
23 the door?

24 A. We immediately went to the front door.
25 Somebody was, you know, kind of banging on it hard.

GUFFEY, JOSEPH - CROSS EXAM BY MR. SMILEY

1 A minute, a little less, he came to the door and
2 opened it.

3 Q. So was anyone inside the house other
4 than the defendant at that time?

5 A. No, sir.

6 Q. And did he eventually come outside of
7 the house?

8 A. He did.

9 Q. And what happened? Was he detained at
10 the time?

11 A. He was.

12 Q. And did you assist -- after he was
13 detained, did you assist in the search of that
14 residence that day?

15 A. I did.

16 Q. And did you observe anything of any
17 evidentiary value collected at the scene?

18 A. I don't think personally I did.

19 MR. ALFARO: Okay. Thank you. Please
20 answer any questions that the defense may have.

21 THE WITNESS: Yes, sir.

22 THE COURT: Cross examine.

23 CROSS-EXAMINATION

24 BY MR. SMILEY:

25 Q. Very briefly. Were you aware where

GUFFEY, JOSEPH - CROSS EXAM BY MR. SMILEY

1 Mr. Howard was before he came to Graymouth where
2 the search warrant was being executed?

3 A. No, sir. I don't recall if they called
4 him to meet or if he was at the sheriff's office.
5 I don't recall which.

6 Q. He pulled in the driveway and slid
7 under the garage door and the door goes down?

8 A. Yes, sir.

9 Q. And you all told him to stop I'm sure,
10 correct?

11 A. I don't think anybody had any time. It
12 was --

13 Q. Just -- (indicating)

14 A. Basically, the door opened and he
15 rolled under it.

16 Q. Okay. And before you can get to the
17 front door to kick it in or anything, he's already
18 opening the door, correct?

19 A. I wouldn't say before. He was probably
20 in the home 45 seconds to a minute.

21 Q. Okay.

22 A. You know, we had started hitting the
23 door. I don't remember if anybody kicked it or
24 not, but that was fixing to happen.

25 Q. I got you. Did you later go back and

GUFFEY, JOSEPH - CROSS EXAM BY MR. SMILEY

1 lift the garage door? Were you present when the
2 garage door --

3 A. I saw that the door was lifted at some
4 point, but I didn't see it.

5 Q. Did you see if it went all the way up?

6 A. It was all the way up when I saw it.

7 Q. Okay. All right.

8 MR. SMILEY: Beg the Court's
9 indulgence?

10 THE COURT: Yes, sir.

11 BY MR. SMILEY:

12 Q. Investigator, how many officers were
13 there when you were there?

14 A. (No response)

15 Q. Bad question. Let me ask another
16 question. When Mr. Howard pulled into the
17 driveway --

18 A. Yes.

19 Q. -- approximately, how many officers
20 were on the scene?

21 A. That I can recall, another detective
22 that used to work there and I was sitting there. I
23 know one was behind him, maybe two were behind him
24 and a uniform patrol guy. So that's five-ish.

25 Q. All right. Five-ish. Okay.

GUFFEY, JOSEPH - REDIRECT EXAM BY MR. ALFARO

1 A. And that's just what I remember. I
2 couldn't --

3 Q. Certainly. I'm not trying to trick
4 you. I'm just trying to get an idea of how things
5 were happening there.

6 A. Yes, sir.

7 Q. You didn't take any evidence in there
8 at the house that day?

9 A. Not that I recall.

10 Q. Okay. And that was Graymouth, right?
11 Graymouth, I probably mispronounced it.

12 A. I believe so.

13 Q. I'm not asking --

14 A. I don't have the address with me.

15 MR. SMILEY: That's all. Thank you.

16 THE COURT: Redirect?

17 MR. ALFARO: Briefly, Your Honor.

18 THE COURT: Okay.

19 REDIRECT EXAMINATION

20 BY MR. ALFARO:

21 Q. Investigator Guffey, was it you or one
22 of the other, I guess, four officers that
23 transported the defendant from that location to the
24 Spartanburg Detention Center?

25 A. It was not me.

GUFFEY, JOSEPH - REDIRECT EXAM BY MR. ALFARO

1 Q. Do you know who it was by chance?

2 A. No, sir, I don't recall.

3 MR. ALFARO: Okay. Thank you.

4 THE COURT: Recross, Mr. Smiley?

5 MR. SMILEY: No, sir.

6 THE COURT: You may step down. Thank
7 you, sir.

8 You may call your next witness.

9 MR. ALFARO: The State calls William
10 Ballew.

11 Your Honor, can we request that this
12 witness be excused?

13 THE COURT: Any objection?

14 MR. SMILEY: No, Your Honor.

15 THE COURT: You are also free to leave.
16 Thank you.

17 WILLIAM BALLEW,

18 being first duly sworn, testified as follows:

19 THE CLERK: Please have a seat. State
20 your full name, and spell your last name for the
21 record.

22 THE WITNESS: My name is William Curtis
23 Ballew. My last name is spelled B-A-L-L-E-W.

24 DIRECT EXAMINATION

25 BY MR. ALFARO:

BALLEW, WILLIAM - DIRECT EXAM BY MR. ALFARO

1 Q. Tell the jury where you work.

2 A. At the Spartanburg County Detention
3 Facility.

4 Q. And how long have you been there?

5 A. A little over ten years.

6 Q. And were you working in -- or what are
7 your current duties and responsibilities there?

8 A. At this time, I'm a corporal on shift.
9 My responsibilities are to the shift itself, to
10 schedule people to work, make sure the officers are
11 actually taken care of and they're doing their job.

12 THE COURT: Excuse me. Could you --
13 that's fine. Thank you, sir. Appreciate it.

14 BY MR. ALFARO:

15 Q. And were you working in that capacity
16 on March 26, 2014?

17 A. I was working, yes.

18 Q. And as part of your job there, is it
19 also common for you to conduct searches of
20 individuals that come into the facility?

21 A. Yes, sir.

22 Q. And did you have the opportunity to
23 perform a -- such a search on the defendant Jerald
24 Howard that day?

25 A. Yes, sir.

BALLEW, WILLIAM - DIRECT EXAM BY MR. ALFARO

1 Q. And can you tell us a little bit about
2 how the search was conducted and what, if anything,
3 was recovered from his possession?

4 A. Yes, sir. I was requested by the
5 officer that brought him in to do -- to conduct a
6 strip search. I took him back to the shower area
7 where we conduct them. And in the process of
8 searching him, I asked for his pants.

9 And I was going through his pants, but
10 I was keeping a periphery on him at the time being.
11 He turned his back to me, you could see him
12 reaching for something. So I was still watching
13 him and he placed the cell phone inside of his
14 boot.

15 So I asked him to hand me the cell
16 phone, and he acted like he didn't know what I was
17 talking about at first. Finally, he handed it over
18 to me. And once I took possession of it, finished
19 my search, once I got done and took it to -- gave
20 it to the arresting officers that brought him in.

21 Q. And so you secured the phone?

22 A. Yes, sir.

23 Q. And was that phone eventually secured
24 into evidence?

25 A. Yes, sir, it was.

BALLEW, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Q. I show you what's been marked for
2 identification as State's Exhibit 11. And ask you
3 if you can take a look at the packaging and the
4 phone inside, and then I will ask you a question.

5 A. You said look at the phone?

6 Q. Yes, sir. If you'll look at the
7 packaging and then look inside the envelope.

8 A. Yes, sir. There was a Delta case on it
9 at the time.

10 Q. Okay. So after reviewing State's 11,
11 is that the phone that you took from the
12 defendant --

13 A. Yes, sir.

14 Q. -- that day?

15 A. Yes, sir.

16 MR. ALFARO: Thank you. Please answer
17 any questions that the defense may have for you.

18 THE WITNESS: Yes, sir.

19 THE COURT: Cross examine?

20 MR. SMILEY: Beg the Court's
21 indulgence?

22 CROSS-EXAMINATION

23 BY MR. SMILEY:

24 Q. I'm Jim Smiley, and I represent
25 Mr. Howard.

BALLEW, WILLIAM - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 Q. Good to see you. So in -- before you
3 had Mr. Howard strip, how was he dressed? Do you
4 remember? You said he had pants. Were they short
5 pants or long pants?

6 A. I think they were long pants. It was
7 taking a little while.

8 Q. Okay. Did he have boxers underwear on?
9 Did he have shorts with -- underneath his pants?

10 A. They were boxers from what I recall.

11 Q. Okay. You saw him place this phone in
12 his boot?

13 A. Yes, sir.

14 Q. His boot was already off --

15 A. Yes, sir, it was.

16 Q. -- I would assume since he had his
17 pants off?

18 A. It was in the shower area so he was
19 wanting to use it to place his feet on to keep his
20 feet from hitting the wet floor.

21 Q. Okay. And at that point in time, you
22 can't take a phone into the jail --

23 A. No, sir.

24 Q. -- so you took it into evidence,
25 correct?

BALLEW, WILLIAM - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 Q. And that's your sum total of this case?

3 A. Yes, sir.

4 MR. SMILEY: Thank you so much.

5 THE COURT: Redirect?

6 MR. ALFARO: No, Your Honor.

7 THE COURT: Thank you, sir. You may
8 come down.

9 Do you wish this witness to be excused?

10 MR. ALFARO: Yes, Your Honor.

11 THE COURT: Any objection?

12 MR. SMILEY: No objection.

13 THE COURT: You are also free to leave,
14 sir.

15 Call your next witness.

16 MR. STEGALL: The State calls Travis
17 Martin.

18 TRAVIS MARTIN,

19 being first duly sworn, testified as follows:

20 THE CLERK: Please have a seat. State
21 your full name, and spell your last name for the
22 record.

23 THE WITNESS: Travis Martin,
24 M-A-R-T-I-N.

25 DIRECT EXAMINATION

MARTIN, TRAVIS - DIRECT EXAM BY MR. STEGALL

1 BY MR. STEGALL:

2 Q. Mr. Martin, how old are you?

3 A. I just turned 30.

4 Q. Did you know Nicole Goodlett?

5 A. Yes, sir.

6 Q. How did you know Nicole Goodlett?

7 A. We met through a friend in like late
8 2009, early 2010.

9 Q. How close were you two?

10 A. We were really close. We spent -- I
11 mean, it was rare that we went two or three days
12 without talking to each other or seeing each other.

13 Q. Did you ever live with her?

14 A. I did a couple of times.

15 Q. Do you remember when that was?

16 A. The first time was 2010, late 2010, and
17 then the second time was 2014 -- or 2013, November
18 of 2013, October 2013.

19 Q. Who was -- was she living with anyone
20 prior to February 2014?

21 A. Yeah. She was living with Jerald
22 Howard.

23 Q. And did you know Jerald Howard as well?

24 A. Yes, sir. I met her -- or him through
25 Nicole.

MARTIN, TRAVIS - DIRECT EXAM BY MR. STEGALL

1 Q. Were you ever at the house when they
2 were there together?

3 A. Several times, yes, sir.

4 Q. Would you spend a lot of time at that
5 house while they were there together?

6 A. Yes, sir.

7 Q. Did you ever see them argue?

8 MR. SMILEY: Objection, Your Honor.
9 May we approach?

10 THE COURT: What's the basis of the
11 objection?

12 MR. SMILEY: 404(b).

13 THE COURT: Come forward.

14 (BENCH CONFERENCE)

15 THE COURT: I overrule the objection
16 based on the side bar that we've had.

17 And, ladies and gentlemen, let me tell
18 you what that is. From time to time you have seen
19 us talk. There's two ways -- these are matters of
20 law that I need to take up, and that's typically
21 done out of your presence.

22 Many times we do it before you come in
23 the courtroom and sometimes we may have to excuse
24 you to argue matters of law on the record, but
25 there are occasions we try to minimize the time

MARTIN, TRAVIS - DIRECT EXAM BY MR. STEGALL

1 that you have to get up and down and go out of the
2 courtroom so we have what is called a side bar.

3 He's made the objection which is very
4 proper to raise issues of law, and I have discussed
5 it with them. I've ruled as a matter of law. I've
6 overruled the objection and I'm going to allow the
7 testimony.

8 But that's perfectly normal. Nobody
9 has done anything they shouldn't do and you are not
10 to read anything into it. Thank you.

11 Solicitor, you may continue.

12 MR. STEGALL: Thank you, Your Honor.

13 BY MR. STEGALL:

14 Q. I want to -- so did you ever see them
15 argue?

16 A. Yes, sir.

17 Q. About how many times?

18 A. One, two, maybe three times.

19 Q. Okay. Without saying what was said,
20 can you recall what the subject of those arguments
21 were typically?

22 A. Him following through with what he had
23 told he would do about getting the divorce -- his
24 divorce finalized or get the process actually
25 started and finalized and everything.

MARTIN, TRAVIS - DIRECT EXAM BY MR. STEGALL

1 Q. Okay. When was the last time that you
2 saw Nicole?

3 A. February 20th of 2014.

4 Q. What were you two doing?

5 A. She had -- I had drove her car home the
6 night before. I was at her house late so she just
7 told me to drive her car home. So the next day I
8 had to take her car back to her so she had to bring
9 me back to my apartment in Greenville.

10 Q. Okay. Let me back up. Did Nicole have
11 kids?

12 A. Yes, sir, she has three.

13 Q. Okay. Were you familiar with her
14 twins?

15 A. Yes, sir. I was there -- I mean, I
16 wasn't there the day they were born, but I picked
17 them up from the hospital.

18 Q. You picked them up from the hospital?

19 A. Yes, sir.

20 Q. Was the defendant there?

21 A. He was at the house, but I drove --
22 actually, I drove his car to the hospital to pick
23 them up.

24 Q. Let's get back to February 20th. So
25 she dropped you off?

MARTIN, TRAVIS - DIRECT EXAM BY MR. STEGALL

1 A. Yes, sir.

2 Q. Did you receive a phone call from her
3 after she dropped you off?

4 A. It wasn't until after like the 22nd or
5 23rd that I received an actual phone call from her,
6 but after the 20th it was text messages.

7 Q. Okay. That phone call that you are
8 talking about, when you answered the phone what
9 happened?

10 A. It was -- nobody was on the other line.
11 It was like a -- what we call a butt dial.

12 Q. Do you know about -- estimating, about
13 how many of those you got from her phone?

14 A. I got, I want to say, two, but I'm sure
15 of at least one that was about a minute long.

16 Q. And, again, what was on the other end
17 of that phone call?

18 A. Just nothing.

19 Q. Did you try to call her back?

20 A. Yes, sir. I called her back several
21 times, yes, sir.

22 Q. Do you have an estimate of about how
23 many times you tried to call her back?

24 A. Several times. Like several times.

25 Q. Did you ever get an answer?

MARTIN, TRAVIS - DIRECT EXAM BY MR. STEGALL

1 A. No, sir. It went to voice mail every
2 time.

3 Q. Did you ever have any voice mails from
4 Nicole after February 20th?

5 A. I received a voice mail on Yahoo
6 Messenger from her Yahoo Messenger account, and it
7 was just a -- it just had background noise in it.
8 It sounded like the TV.

9 Q. When was that?

10 A. The 23rd or the 24th. I'm not exactly
11 sure like the exact date, but it was around that
12 time.

13 Q. Were her calls coming to your current
14 number or a number that you used to use?

15 A. A number I used to have.

16 Q. And since it's no longer in service,
17 can you tell the jury what that number was?

18 A. It was (864) 567-0512, if I remember
19 correctly.

20 Q. Okay. Now, Travis, do you have a prior
21 drug conviction on your record?

22 A. Yes, sir, I do.

23 Q. When was that?

24 A. March of 2016.

25 Q. And what was that for?

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 A. It was for trafficking methamphetamine,
2 ten grams, but I pled down to a distribution
3 charge.

4 Q. Okay. Anything else on the record?

5 A. It was that. It was a -- but the other
6 two charges got dropped, or I pled to just the
7 manufacturing charge.

8 Q. Are there any other convictions on your
9 record?

10 A. No, sir. Nothing but a speeding
11 ticket.

12 MR. STEGALL: No further questions.
13 Please answer anything that Mr. Smiley may have for
14 you.

15 THE COURT: You may cross examine.

16 CROSS-EXAMINATION

17 BY MR. SMILEY:

18 Q. Hey, Travis. My name is Jim Smiley. I
19 represent Mr. Howard.

20 A. Hey. How are you?

21 Q. I'm all right. You live in Greenville
22 now?

23 A. Yes, sir.

24 Q. And back in 2013 -- I'm backing us up.

25 A. Okay.

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 Q. Before Nicole and Jay started a
2 relationship you all were --

3 A. They had a relationship in 2013.

4 Q. Exactly. They met in August of 2013,
5 correct?

6 A. Somewhere. It was like mid -- or
7 midsummer, something like that.

8 Q. Okay. You were friends with
9 Ms. Goodlett before she met Jay, right?

10 A. Yes. Yes, sir.

11 Q. And you all were close friends?

12 A. Yes, sir.

13 Q. You all went out together?

14 A. We never really went out to the clubs
15 or anything like that. We always hung out at
16 either my apartment or her apartment.

17 Q. Okay. Did you go -- you never went to
18 the clubs when she worked?

19 A. No.

20 Q. Okay. So when she would go to strip,
21 you didn't go with her?

22 A. I didn't even know her whenever she was
23 stripping.

24 Q. Okay. All right. When she was working
25 Backpage did you know her?

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 A. I don't know of her ever working on
2 Backpage.

3 Q. Okay. Did you ever take trips with her
4 anywhere?

5 A. I have.

6 Q. All right. Were some of those for
7 work?

8 A. You could call it that, I guess.

9 Q. She got paid?

10 A. Yeah.

11 Q. And she got paid to go meet with people
12 for --

13 A. Not people. It was one person.

14 Q. One person. Okay.

15 A. But it wasn't anything sexual.

16 Q. All right.

17 A. I mean, you could call it sexual, but
18 it wasn't.

19 Q. She was a dominatrix, right?

20 A. Yes, sir.

21 Q. Okay.

22 A. That's what you would call it, yeah.

23 Q. Yeah. And you went with her to meet
24 this fellow?

25 A. Yes, sir.

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 Q. Now, you were around the Loblolly
2 residence?

3 A. Yes, sir.

4 Q. Okay. And you helped with the twins, I
5 would take it?

6 A. Yes, sir.

7 Q. She had her hands full, didn't she?

8 A. Yes, sir.

9 Q. And Jay would come by?

10 A. Jay lived there.

11 Q. Okay. That's what I was going to ask
12 you. Did he come by or did he stay there? He had
13 moved in with Nicole, right?

14 A. They lived in a doublewide prior to
15 that in Travelers Rest. And they moved into the
16 house on Loblolly Lane, or drive, or whatever it
17 was because he went to work from Enterprise to
18 Clayton Homes.

19 Q. Okay. And so they moved to Loblolly?

20 A. Yes, sir.

21 Q. All right. And you would go to
22 Loblolly?

23 A. Yes, sir.

24 Q. And you said you spoke with Nicole not
25 every day, every of couple days, right?

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 A. Yeah. We normally spoke about every
2 day, but, I mean, it was rare that we went more
3 than two or three days without even talking or
4 seeing each other.

5 Q. And you testified the last time you saw
6 her was when?

7 A. February 20th.

8 Q. The 20th. All right. And was that at
9 Loblolly?

10 A. No. That was whenever she dropped me
11 off at my apartment in Greenville.

12 Q. Okay. She took you home?

13 A. Yes, sir.

14 Q. And then by the -- I think you
15 testified it was the 23rd or the 24th that you were
16 getting the butt dials or whatever?

17 A. Yeah.

18 Q. And you got some texts after that?

19 A. I got about two weeks worth of text
20 messages that came from her phone.

21 Q. Okay. Did Nicole have a bunch of other
22 friends, or were you primarily --

23 A. I was primarily the person that she
24 hung out with.

25 Q. Okay. She confided in you and that

1 kind of thing?

2 A. Yeah.

3 Q. Okay. Had you met her parents before?

4 A. No, not until she had the babies.

5 Q. Okay. Now, did Jay reach out to you
6 about where's Nicole?

7 A. Yeah, he did.

8 Q. And that would have been about the end
9 of February, somewhere in that time?

10 A. Yeah, I believe so.

11 Q. Okay. After not hearing from her for a
12 few days and Jay not knowing where she was, did you
13 become concerned?

14 A. Like I said, I got like two weeks'
15 worth of text messages after the 20th, like, after
16 we suspected she went missing.

17 Q. The 20th of?

18 A. The 20th of February.

19 Q. Okay.

20 A. From then, until like the beginning of
21 March, I was still receiving text messages that
22 were coming from her cell phone.

23 Q. Okay. At what point did you call the
24 police to let them know that she was missing?

25 A. I never called the police.

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 Q. Oh, okay. Now --

2 MR. SMILEY: Beg the Court's
3 indulgence?

4 THE COURT: Certainly.

5 BY MR. SMILEY:

6 Q. You and Nicole -- just a couple of more
7 questions about that.

8 A. Okay.

9 Q. You said Yahoo Messenger, you used that
10 to communicate?

11 A. We didn't really use that like --
12 actually, we never used -- we used Yahoo like in
13 2011 and 2012 -- like '10, but we hadn't used it
14 since then. And it was like a random voice mail
15 that I got through the messenger system, or
16 whatever.

17 I mean, I didn't even see it when it
18 came through because I don't have Yahoo Messenger
19 on my phone. I saw it in an e-mail.

20 Q. Okay. Because I was going to ask you,
21 because you said that phone was an old phone.

22 A. Well, Yahoo Messenger is an instant
23 messenger service through your internet like with
24 Yahoo. So it does -- it's not tied to my cell
25 phone number.

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 Q. I understand, Travis. I'm an old guy,
2 I don't --

3 A. Yeah, I --

4 Q. -- I'm not very good with technology.
5 And Yahoo Messenger is like an app, right?

6 A. Yeah.

7 Q. And it's not contingent on a phone
8 number?

9 A. Correct.

10 Q. But you --

11 A. You can still voice call or leave a
12 message.

13 Q. Voice call the old phone because it
14 rolls over into the internet, for lack of a better
15 way to --

16 A. Right. Do you know what AOL Instant
17 Messenger was?

18 Q. Oh, yeah.

19 A. It's the same thing --

20 Q. All right.

21 A. -- it's just --

22 Q. And you-all would communicate --

23 THE COURT: For the Court Reporter's
24 benefit, you all stop talking simultaneously. It's
25 a nightmare. Wait until one finishes and then the

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 other speaks. Thank you.

2 BY MR. SMILEY:

3 Q. It's my fault. I should know better
4 than that. So let me ask you again. You all
5 communicated by Facebook?

6 A. We did.

7 Q. Okay. By telephone?

8 A. We did.

9 Q. By, at some point, Yahoo Messenger?

10 A. We did.

11 Q. Okay. Did you use any other forms of
12 communication that you can think of?

13 A. We used iMessage with our iPhones or
14 FaceTime.

15 Q. Text?

16 A. Yeah -- yes, sir.

17 Q. What I would know as text messages?

18 A. Yes, sir. But only for iPhone to
19 iPhone.

20 Q. Okay. I understand. And you all would
21 use the FaceTime apps?

22 A. Yes, sir.

23 Q. Okay. All right. The last time you
24 saw her face, in other words, you all were present
25 together, was February 20th?

MARTIN, TRAVIS - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 Q. All right. And you say you received a
3 voicemail through Yahoo Messenger at some point
4 later, correct?

5 A. Yes, sir.

6 Q. And you got texts from her phone?

7 A. Yes, sir. Like actual text messages.

8 Q. Right. Like what I --

9 A. Yeah.

10 Q. -- with the little bit of technology
11 that -- so texts from her after that and texts from
12 her phone. I don't want to put words in your
13 mouth --

14 A. Like actual from her 824 --

15 Q. Right.

16 A. -- 929-5184 telephone number.

17 Q. From that telephone number --

18 A. Yes, sir.

19 Q. And you were concerned that you hadn't
20 seen her for awhile, correct?

21 A. Yes, sir. Except for the text messages
22 that I was getting from her that didn't sound like
23 her -- it didn't sound like she was the one sending
24 the text messages.

25 Q. But you didn't know?

MARTIN, TRAVIS - REDIRECT EXAM BY MR. STEGALL

1 A. Yeah, I didn't know.

2 MR. SMILEY: That's all I've got.

3 Thank you.

4 THE COURT: Redirect?

5 MR. STEGALL: Briefly, Your Honor.

6 THE COURT: Sure.

7 REDIRECT EXAMINATION

8 BY MR. STEGALL:

9 Q. Just so we're clear, that voicemail
10 that you're talking about, that wasn't -- when you
11 say background noise, was Nicole's voice actually
12 on that voicemail?

13 A. I don't believe so. To me -- I tried
14 to enhance it as much as I could with my computer,
15 and from what I heard, it sounded like it was the
16 TV with cartoons or something on the TV.

17 But it was like a 30 to 40 second long
18 message or a little bit of longer. I can't
19 remember the exact time frame.

20 Q. But you couldn't make out, hey, this is
21 Nicole --

22 A. No, sir.

23 Q. -- I'm calling you back?

24 A. No, sir. It was what I guess I would
25 call another butt dial.

1 Q. And the phone calls that we are talking
2 about after February 20th through March, did you
3 ever speak to Nicole during any of those phone
4 conversations?

5 A. No, sir. I never heard her voice. I
6 never heard anybody's voice on those phone calls.

7 Q. What was the extent of the phone calls
8 each time?

9 A. Just like I said, like somebody had
10 butt dialed or whatever. Like they didn't mean to
11 dial my phone number, and I would pick up; hello,
12 hello, hello. And nobody would be on -- or nobody
13 would respond on the other line, and then they
14 would hang up.

15 MR. STEGALL: Okay. No further
16 questions, Your Honor.

17 THE COURT: Recross?

18 RECROSS-EXAMINATION

19 BY MR. SMILEY:

20 Q. That Yahoo message voicemail that you
21 got --

22 A. Yes, sir.

23 Q. -- that you tried to enhance, did you
24 give it to the police?

25 A. Yes, sir, I did.

MARTIN, TRAVIS - REDIRECT EXAM STEGALL/RECROSS EXAM SMILEY

1 MR. SMILEY: Okay. That's all I got.

2 Thank you.

3 THE COURT: All right. Sir, you may
4 come down.

5 Do you wish the witness to be excused?

6 MR. STEGALL: Yes, sir.

7 THE COURT: Any objection to his being
8 excused?

9 MR. SMILEY: No.

10 THE COURT: And you are also free to
11 leave. Thank you.

12 Call your next witness.

13 MR. SMILEY: Could I go to the
14 restroom, Your Honor?

15 MR. STEGALL: This will be the last
16 witness.

17 MR. SMILEY: I mean, if it's a short
18 witness I can hold it.

19 THE COURT: Okay.

20 MR. SMILEY: I can hold it, Your Honor.

21 THE COURT: All right. Thank you.

22 MR. STEGALL: The State calls Jerald
23 Howard, Senior.

24 JERALD HOWARD, SENIOR,

25 being first duly sworn, testified as follows:

HOWARD, SR., JERALD - DIRECT EXAM BY MR. STEGALL

1 THE CLERK: Please have a seat. State
2 your full name, and spell your last name.

3 THE WITNESS: Jerald Howard.

4 THE COURT: Mr. Howard, if that seat is
5 not comfortable, we can accommodate you by letting
6 you sit down if you need to stretch your leg out.

7 THE WITNESS: I'll be okay.

8 THE COURT: Are you sure?

9 THE WITNESS: Yes, sir.

10 THE COURT: Okay. You may continue.

11 MR. STEGALL: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. STEGALL:

14 Q. Mr. Howard, where do you currently
15 live?

16 A. 1012 Gray Drive, Huger, South Carolina.

17 Q. And where is that?

18 A. Huger.

19 Q. Okay. How long have you lived there?

20 A. Pretty much about 30 -- 30 years now.

21 Q. Okay. And how is Jerald Howard, Junior
22 related to you?

23 A. He's my son, first born.

24 Q. Has Jerald Howard, Junior ever lived at
25 1012 Gray Drive?

HOWARD, SR., JERALD - DIRECT EXAM BY MR. STEGALL

1 A. Yes, sir, right, until he went off to
2 college.

3 Q. Where did he go to elementary school?

4 A. It would have been Cainhoy Elementary,
5 in Huger also.

6 Q. And where is that at?

7 A. That's in Huger, South Carolina also.

8 Q. Okay. Do you know about how far that
9 is from your house?

10 A. I would say between two, two and a half
11 miles.

12 Q. Okay. Where did he go to middle
13 school?

14 A. That would have been Cainhoy also.

15 Q. Okay. Mr. Howard, where was your son
16 living in 2014?

17 A. It would have been Spartanburg, I would
18 think. Yeah, Spartanburg. He hadn't moved --
19 hadn't moved back to Huger at that time. Or
20 Charleston really.

21 Q. Did your son make any trips to Huger in
22 the early part of 2014?

23 A. Right, he did.

24 Q. Okay. Tell me about those, please.

25 A. Initially, like I stated, it's hard to

1 remember the exact dates or details, but I do
2 remember him -- recall him coming down. On the
3 first trip he came down, it actually wouldn't have
4 been 2013. It should have been -- it should have
5 been 2013, because at that time the -- he came down
6 with the -- Nicole and her three kids.

7 Q. How old were --

8 A. At the time the kids were only, well,
9 between two to three months old, I would say. So
10 that's why I say that would have to have been 2013,
11 because they were born in August of 2013. So
12 between September and October of -- October and
13 November of 2013 was the first trip.

14 Q. Okay.

15 A. Okay. And the second trip that they
16 came down I was sort of mixed up on the dates, but
17 I'm still not sure of the month. But it would have
18 been the first part of the year because I recall
19 him -- he came down one night.

20 He spent the night and he went back the
21 following day. He came down by himself with the
22 two kids that time. And the third and last time
23 that he came down would have been probably about a
24 week before Spartanburg County, Charleston,
25 Berkeley County came to the house to pick the kids

HOWARD, SR., JERALD - DIRECT EXAM BY MR. STEGALL

1 up.

2 So whatever date that they came to pick
3 the kids up from us, he came down probably about
4 three or four days before. Because we only had the
5 kids -- well, we had the kids less than a week. I
6 recall putting them in daycare, and I paid the
7 daycare sitter and I told her -- I just paid her
8 for the full week because she had done us a favor
9 by taking the kids at the last minute without any
10 notice.

11 So they were -- he would have come down
12 the third time within a couple of days before they
13 picked the kids up, whichever month or day that
14 was. I'm not sure what the date was. It would
15 have been in March though.

16 Q. Okay. In March?

17 A. Yeah, of 2014.

18 Q. So the trip before March, what month
19 would that have been in, do you think?

20 A. That would have been possibly -- I'm
21 thinking probably it would have been March also,
22 but it was about the first part of March. I'm not
23 100 percent certain of that at all. I'm just
24 thinking that it had been a couple of weeks before.

25 Q. And you said he spent the night that

1 trip?

2 A. He stayed the night on that particular
3 time I'm pretty sure, yeah.

4 Q. Okay. So let's talk about -- you said
5 Spartanburg County came to your house. Do you
6 remember them coming to your house on March 26,
7 2014?

8 A. I remember them coming there in March.
9 I'm not exactly certain of the date, but I know
10 near the end of March.

11 Q. Do you remember speaking to a Detective
12 Tracy Moss with the Spartanburg County Sheriff's
13 Office on March 26 around 8:30 that night, 8:45?

14 A. I'm not sure who I spoke to. I spoke
15 to probably -- like I said, there was about 15 to
16 20 officers there, and there was at least six or
17 seven in the house. They were from Charleston
18 County, Spartanburg, as well as Berkeley County
19 together supposedly. I spoke to a couple of them.
20 I'm not sure what anyone's name was.

21 Q. Do you --

22 A. But I did speak to a female officer
23 there, I can recall. There were two that I can
24 think of.

25 Q. Okay. And do you remember talking to

HOWARD, SR., JERALD - DIRECT EXAM BY MR. STEGALL

1 Detective Moss about your son's prior trips to
2 Huger?

3 A. They questioned me about his prior
4 trips. And I told them that he had been there, but
5 I couldn't specify -- be specific on the exact
6 date. That was it. So like I said, I still
7 couldn't give them the exact date.

8 Q. You didn't tell Detective Moss that
9 your son came to your house one time in February
10 and dropped the twins off, left, but came back a
11 short time later, got the twins, and went back
12 home?

13 A. No.

14 Q. You didn't?

15 A. I never told any officer that, no.

16 Q. Okay.

17 A. Because he never did really. Of that,
18 I'm sure. He never left the -- the one night that
19 he spent with the kids there, he stayed the night,
20 but he left the next day. He didn't drop them off
21 or anything. He came in late.

22 Q. He never left the twins there?

23 A. The only time he left the kids at the
24 house would have been the last visit when he
25 brought them down the same week that they were

HOWARD, SR., JERALD - DIRECT EXAM BY MR. STEGALL

1 picked up.

2 They were there for about maybe four to
3 five days, and then they were picked up by three
4 police department. That's the only time they were
5 left there alone. The previous two trips they came
6 -- he came and he stayed with the kids. He never
7 left them with us.

8 Q. Okay.

9 MR. STEGALL: The Court's indulgence?

10 THE COURT: Okay.

11 BY MR. STEGALL:

12 Q. The trip that he came and spent the
13 night, before the March trip you talked about, what
14 time of day or night did he come?

15 A. The second trip that he came, it was
16 pretty late. I'm saying -- I'm thinking it had to
17 have been at least 10:00 o'clock, between 10:00 and
18 11:00 o'clock at night. Because my wife had
19 already been in bed for work the next day. I was
20 still up, but she was in bed.

21 Q. And who all was with him on that trip?

22 A. The second trip he came alone with the
23 kids.

24 Q. Alone with the twins?

25 A. With the twins, right.

HOWARD, SR., JERALD - CROSS EXAM BY MR. SMILEY

1 Q. Oh, the twins, okay.

2 A. Right, uh-huh.

3 MR. STEGALL: No further questions,
4 Your Honor.

5 THE COURT: Cross examine?

6 CROSS-EXAMINATION

7 BY MR. SMILEY:

8 Q. Mr. Howard, I'm not going to introduce
9 myself. I hope you know I represent your son.

10 A. Okay.

11 Q. I have a habit of introducing myself to
12 everybody, but you and I have met, correct?

13 A. Right.

14 Q. How old are you, sir?

15 A. I'm 62.

16 Q. And I noticed that you were having a
17 hard time getting in that seat. Did you have some
18 surgery recently?

19 A. I had a hip replacement about
20 three weeks ago.

21 Q. Yes, sir. And you've got another one
22 coming, right?

23 A. Right.

24 Q. Jerald is your oldest son?

25 A. Right.

1 Q. And he went to the Cainhoy school a
2 couple of miles from you, and then he went to high
3 school in Hanahan?

4 A. Exactly.

5 Q. In Hanahan he played football?

6 A. Right.

7 Q. And as a result of that, did he get an
8 opportunity for a scholarship to go on to Clemson?

9 A. Exactly.

10 Q. And he played a sport for them, right?

11 A. Right. He played four -- five years up
12 there really with the red shirt a year, so four
13 years I guess.

14 Q. So he played five years for Clemson
15 back when Tommy Bowden was the coach?

16 A. Right, exactly.

17 Q. All right. How many other children do
18 you have?

19 A. I have two others. I have another son,
20 Marcus is 34, and a daughter, Jerico, is 27.

21 Q. All right. And they both went to
22 Hanahan also, right?

23 A. Exactly.

24 Q. Okay. And Marcus followed in his
25 brother's footsteps to a certain degree. He didn't

1 go to Clemson?

2 A. No. He attended the University of
3 Georgia.

4 Q. He went to Georgia?

5 A. Right.

6 Q. All right. We all have faults. And
7 then after Jerald got out of school, he settled in
8 the Upstate?

9 A. Right. He settled down in the
10 Spartanburg area.

11 Q. But before that and he was living up
12 there, he would come home from time to time?

13 A. Yeah. They would always make a
14 periodic trip, unexpected, but they would come
15 home.

16 Q. So he had a key to the house?

17 A. They still have a key to the house.
18 They all do.

19 Q. And so they would come -- all of your
20 children would come and go. It was not necessary
21 for them to call and ask permission to come to the
22 house, correct?

23 A. Right.

24 Q. Now, was -- and I'm going to call him
25 Jay so I don't get your name and his name -- or

1 Jermaine. Okay. Was he a hunter?

2 A. No.

3 Q. Okay. So he wasn't one of those that
4 were out in the woods hunting deer all the time?

5 A. No.

6 Q. When he brought the kids, did you help
7 him get the kids out of the car?

8 A. Yeah, I did. I grabbed one of the car
9 seats.

10 Q. So you were out in the yard, right?

11 A. Right.

12 Q. You came out to the yard and helped
13 them come into the house, right?

14 A. Exactly.

15 Q. Okay. You didn't see into the trunk,
16 though, did you?

17 A. No. I didn't go to the -- the trunk
18 was open, but I didn't go to the back.

19 Q. You didn't walk to the back?

20 A. Yeah.

21 Q. Okay. All right. When Jerald was
22 living on Loblolly, did he tell you about having to
23 go to the hospital to get his hand stitched up?

24 A. No, he didn't. I found out from his --
25 from his wife, Madonna Alisia.

HOWARD, SR., JERALD - CROSS EXAM BY MR. SMILEY

1 Q. From Lisa?

2 A. Right.

3 Q. His wife. That he had had -- cut his
4 hand and got -- had to go to the hospital?

5 A. Right, went to the emergency room.

6 Q. All right.

7 MR. SMILEY: Beg the Court's
8 indulgence?

9 THE COURT: Yes, sir.

10 BY MR. SMILEY:

11 Q. The last trip, Jerald had asked you to
12 keep the twins at that point, right?

13 A. Right.

14 Q. And you and your wife had agreed to
15 keep the twins because Jerald had a wife that he
16 was trying to reconcile with, correct?

17 A. Exactly.

18 Q. And that's Lisa, right?

19 A. Right.

20 Q. And then he had twins with Nicole. And
21 with her being missing, at that point he asked
22 could you help him out and watch the children,
23 right?

24 A. Right.

25 Q. But you and your wife were glad to do

1 it?

2 A. Didn't mind, no.

3 MR. SMILEY: That's all I have. Thank
4 you.

5 THE COURT: Redirect?

6 MR. STEGALL: Nothing on redirect, Your
7 Honor.

8 THE COURT: Thank you. You may step
9 down, Mr. Howard. Take your time, sir.

10 MR. SMILEY: Your Honor, Mr. Howard has
11 had to be sequestered. At this point, can he
12 remain in the courtroom?

13 MR. STEGALL: No objection.

14 THE COURT: He will.

15 MR. SMILEY: You can stay.

16 THE COURT: All right. Do you have
17 another witness?

18 MR. STEGALL: May we approach?

19 (BENCH CONFERENCE)

20 THE COURT: Ladies and gentlemen, I am
21 going to let you go to your jury room and take a
22 break. Do not begin your deliberations. We will
23 be with you as quickly as we can.

24 (Jury out, 3:18 p.m.)

25 THE COURT: Let's take about ten

1 minutes.

2 (A recess transpired.)

3 THE COURT: Ms. Simmons has been
4 selected as the presiding juror.

5 MR. STEGALL: The State is ready.

6 THE COURT: Let the record reflect that
7 the defendant is present. The defendant is ready
8 to return -- the jury to return.

9 MR. SMILEY: Yes, sir.

10 THE COURT: Let's bring them back in.

11 Thank you very much, ladies and
12 gentlemen. And, Ms. Simmons, as I understand, the
13 jury selected you as the presiding juror; is that
14 correct?

15 JUROR: Yes, sir.

16 THE COURT: Thank you very much. And
17 thank you, ladies and gentlemen, I appreciate you
18 taking care of that. And, of course, that will be
19 your seat for the balance of the trial. Thank you.

20 All right. Solicitor, you may call
21 your next witness.

22 MR. STEGALL: Thank you, Your Honor.
23 The State calls William Gary.

24 WILLIAM GARY

25 being first duly sworn, testified as follows:

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 THE CLERK: Please have a seat. State
2 your full name, and spell your last name.

3 THE WITNESS: Williams Robert G. Gary,
4 G-A-R-Y.

5 DIRECT EXAMINATION

6 BY MR. STEGALL:

7 Q. Detective Gary, where are you currently
8 employed?

9 A. The Spartanburg County Sheriff's
10 Office.

11 Q. And how long have you been with
12 Spartanburg County?

13 A. Just shy of 24 and a half years.

14 Q. What is your rank and job description?

15 A. I'm the first lieutenant over the
16 criminal investigations division.

17 Q. Okay. I will call you lieutenant.
18 Lieutenant Gary, what was your job title in March
19 of 2014?

20 A. I was a senior investigator.

21 Q. Do you remember the case that we are
22 here for today?

23 A. I do.

24 Q. Were you involved in that case?

25 A. I was.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Q. What was your role?

2 A. My initial role was to look at some
3 cell phone records that had been obtained. And I
4 was off for some reason, I don't remember why.
5 They brought my computer to my house with the
6 records for me to look at on there to establish a
7 location based on the cell records.

8 Q. Okay. And I'm going to hand you what's
9 been premarked as State's Exhibits 29 and 30 and
10 see if you recognize those.

11 A. Yes, sir, I do.

12 Q. Okay. And what are those?

13 A. These are disks that contain the cell
14 phone records that were obtained throughout this
15 investigation. And my initials are on both disks
16 where I've reviewed them.

17 Q. So you've had a chance to review them?

18 A. Yes.

19 Q. And they fairly and accurately
20 represent the cell phone records of Jerald Howard
21 and Nicole Goodlett?

22 A. Yes, they do.

23 MR. STEGALL: Your Honor, at this time
24 the State moves to enter Exhibit 29 and 30 into
25 evidence.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 THE COURT: Any objection?

2 MR. SMILEY: No objection, Your Honor.

3 THE COURT: Very well. Without
4 objection they are admitted, 29 and
5 30.

6 (STATE EXH. 29 in evidence.)

7 (STATE EXH. 30 in evidence.)

8 MR. STEGALL: Thank you, Your Honor.

9 BY MR. STEGALL:

10 Q. Okay. So initially you reviewed the
11 phone records?

12 A. Right. Then as the investigation
13 progressed, Sergeant Moss and I took the lead -- a
14 co-lead investigator role on this where some tasks
15 I was working on and other things she was working
16 on and having other people work with us on it.

17 Q. Okay. During the course of your
18 investigation, did you get a chance to speak with
19 the defendant?

20 A. Yes, on three different occasions.

21 Q. Okay. What were those three occasions?

22 A. March 20th and twice on March 26th.

23 Q. Okay. Did he provide statements during
24 those dates?

25 A. He provided -- they were recorded, yes.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Q. The statements were reduced to -- they
2 were recorded, audio recorded?

3 A. Yes.

4 Q. Okay. Who all was present during the
5 March 20th statement?

6 A. March 20th was Mr. Howard, myself, and
7 Sergeant Moss.

8 Q. How did he arrive to give his statement
9 on March 20th?

10 A. He drove himself to the sheriff's
11 office.

12 Q. Okay. Did you Mirandize him?

13 A. I did not.

14 Q. Okay. Why not?

15 A. He was not in custody. He was free to
16 go whenever he wanted to. So without it being a
17 custodial interrogation, he wasn't given Miranda.

18 Q. Okay. But at any point during the
19 statement if he asked to leave, what would you have
20 done?

21 A. I would have walked him to the front
22 door.

23 Q. Okay. At any point during that
24 March 20th statement, did you tell him that he was
25 in custody?

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 A. No, not at all.

2 Q. Okay. Was his statement to you on
3 March 20th voluntary?

4 A. Oh, absolutely.

5 Q. Even though you made it clear that he
6 was not in custody, did he comment on himself being
7 a suspect?

8 A. He did. He said that he knew he was a
9 suspect in her disappearance.

10 Q. Did he continue to speak to you even
11 after that comment voluntarily?

12 A. He did.

13 Q. Did he request an attorney at any point
14 during that interview?

15 A. No, he did not.

16 Q. Did he discuss Nicole Goodlett being
17 missing during that interview?

18 A. He did.

19 Q. Okay. When did he tell you the last
20 time he saw Nicole was?

21 A. At that point, it was sometime the
22 weekend of the -- and these dates all run together
23 a lot of times -- I want to say the 21st or 22nd,
24 whatever that Friday and Saturday was of 2014 in
25 February. And it might be the 22nd and 23rd.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Let's -- the 18th was Tuesday, the 21st
2 was Friday, so sometime that weekend. The weekend
3 of the 21st, 22nd, 23rd is what he said during that
4 statement.

5 Q. What was he doing the last time he saw
6 Nicole?

7 A. He told us that he took the twins and
8 went to the store to get some formula and was gone
9 and came back, and she was gone.

10 Q. Did he say if Nicole took anything with
11 her when she left?

12 A. Said her wallet, ID, and some like
13 personal items appeared to be gone, things like
14 that.

15 Q. Did he provide anything to you at that
16 time that helped you further your investigation?

17 A. He did. He gave us his cell phone at
18 that point. He told us it was one of her old
19 phones, and we confirmed that with Travis Martin.

20 Q. So did he indicate whether or not she
21 had a new cell phone?

22 A. Yes.

23 Q. Was the phone that he gave you a phone
24 that Nicole currently was using at the time?

25 A. No, it was not.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Q. Did you ask him about her new phone?

2 A. Yes.

3 Q. Did he tell you when she would have
4 gotten that new phone?

5 A. He said she would have gotten the
6 iPhone 5 in March of 2013.

7 Q. Did you ask him if he had that new
8 phone?

9 A. I did.

10 Q. And what was his response?

11 A. That he didn't have it.

12 Q. Okay. So you all continued talking.
13 When the statement was over, how did the defendant
14 leave?

15 A. He drove his car and went to Loblolly.

16 Q. Okay. And then about a week later, or
17 was it less than a week later? March 26th, does
18 the defendant come in that morning for another
19 statement?

20 A. He does. He got there approximately
21 11:00 a.m.

22 Q. Okay. Was he in custody during that
23 interview?

24 A. He was not.

25 Q. Did you tell him he was in custody

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 during that interview?

2 A. I did not. Once -- when he first got
3 there is when he signed the consent form for his
4 DNA, and Sergeant Hogsed collected that. So then
5 we went up into investigations into an interview
6 room, and the rooms are small.

7 And so I made -- pointed out to him
8 it's a small room, but you are not in custody; you
9 are not under arrest; you are free to leave any
10 time that you want to.

11 Q. Did he understand that he was free to
12 leave at that point?

13 A. Yes.

14 Q. At any point during that interview as
15 well?

16 A. With his comments he appeared to, yes,
17 sir.

18 Q. Okay. All right. Between the
19 March 20th interview and this interview, did the
20 defendant mention any messages that he may have
21 gotten?

22 A. When we got in the room, once I
23 explained that he was free to go, one of the first
24 things I asked him about is if he had heard from
25 Nicole or seen her or anything like that. So he

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 went into -- actually pulled his phone out and
2 showed me messages that he said were received from
3 Nicole's number to his phone and read those out to
4 me as I was reading along.

5 Q. Now, were those messages coming from
6 her new phone?

7 A. They were coming from the only number
8 we knew from her and all indications we had up to
9 that point is the iPhone 5 was still active and
10 using that number.

11 Q. Okay. Did he tell you whose name her
12 new cell phone was under?

13 A. When I asked him about the iPhone 5,
14 and he said that it was in his name, not in
15 Nicole's, on his account. And I went on to ask him
16 if it was still active, if he kept it active, and
17 he said that he did.

18 Q. He said, I'm sorry?

19 A. That he did keep it active.

20 Q. Okay. Did you ask him again at some
21 point when the last time he saw Nicole?

22 A. Yes. During that interview, trying to
23 still -- because we're not that far really still at
24 this point out from when she's missing. So we went
25 into that story again.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 And he told a similar story about, you
2 know, leaving with the kids to go to the store. At
3 this point in time, I knew about the Jeep that he
4 had purchased on the 18th of February. So using
5 that as a time reference and a day reference, he at
6 that point narrowed it down initially to that
7 Friday, Saturday, which would be the 21st and 22nd.

8 And then he goes on in that interview
9 to narrow it down even more to say it would have
10 been the 22nd on Saturday at about 5:30 that
11 evening.

12 Q. Did you ask him whether or not he had
13 seen Nicole's phone?

14 A. Yes. I asked him directly about that.
15 And during -- and he said he had not, that he
16 doesn't have it and doesn't know where it is. And
17 during that interview, I think it's somewhere in
18 the neighborhood of four or five times, it comes up
19 and -- either asked or volunteered -- voluntary as
20 a spontaneous statement, and he said that he
21 doesn't know where her phone is and doesn't have
22 it.

23 Q. Did you ask him about her wallet and
24 ID?

25 A. Yes, sir.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Q. What was his response?

2 A. That he doesn't have it, doesn't know
3 where it is.

4 Q. Did the defendant make any transactions
5 on or around February 21st?

6 A. Yes. He rented a car from Enterprise.

7 Q. And which Enterprise was that?

8 A. I think it was the one -- we have two.
9 I don't remember if was the one on --

10 THE COURT REPORTER: I'm sorry, I
11 didn't understand what you said.

12 THE WITNESS: I'm sorry. I don't
13 remember whether it was the one on Asheville
14 Highway or East Blackstock for that and it was --
15 because he's used both.

16 BY MR. STEGALL:

17 Q. Well, let me --

18 A. I think it was Asheville. I'm pretty
19 sure it was Asheville Highway.

20 Q. Was it an Enterprise in Spartanburg?

21 A. Yes. Actually, we have three because
22 there is one at the airport as well. So, yes, sir,
23 Spartanburg.

24 Q. Were you able to confirm what he told
25 you about renting a car on that date?

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 A. Yes. With the search warrant, we were
2 able to get the rental agreement for the vehicle.
3 And so we knew exactly what car and were able to
4 tell -- to get a copy of the agreement from them.

5 Q. Okay. Did it have a date range on when
6 it was rented?

7 A. The 21st through the 24th, I think,
8 that Monday.

9 Q. Okay. Did the rental agreement also
10 show how many miles were put on the car?

11 A. Yes, it did. It was a little bit over
12 500, 520 or 530. Somewhere in there.

13 Q. Did you ask the defendant about that
14 mileage?

15 A. I did. In both of the interviews on
16 the 20th and then -- before this on the 26th, he
17 had already said that he was in town that weekend,
18 and that's a lot of miles to put on a car. And
19 Spartanburg is not terribly small necessarily, but
20 it's not that big either.

21 And so I asked him about putting that
22 many miles on the vehicle. Then his statement
23 basically was that he didn't put that many miles on
24 it. So I talked to him about the agreement, what
25 the Enterprise employee put down when it was rented

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 and when it was returned.

2 And he said he used to work at
3 Enterprise; he knows they don't look at it;
4 basically that they lie to do it.

5 They will ask, okay, you were going
6 here, they'll estimate miles and put it down. So
7 we also went into distance from Spartanburg to
8 here, to basically have done a Map Quest from
9 Spartanburg to his parents house on Gray Drive.
10 And it was 200 and some odd miles one way for that.

11 Q. Did you ask him about Nicole's debit
12 card?

13 A. I did. I went on with him about that.
14 He's saying that he didn't have her debit card,
15 didn't know anything about it. So we already knew
16 there were transactions that were declined at a
17 SpinX in Greenville on February the -- this would
18 have been -- I think it was the 17th of February,
19 somewhere in that neighborhood. It might have been
20 a little bit earlier.

21 And then on March the 9th, there was a
22 decline at a SpinX in Spartanburg. But we had
23 viewed the videos from that, and the one on the 9th
24 is -- you know, you can see him at the pump, the
25 card is declined. And then right away, according

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 to the printout, his card is swiped to get the gas.

2 But he said he didn't have the debit
3 card. The last thing he said he knew that it was
4 at Loblolly where it was left. Well, this is the
5 26th. The 20th was when we executed the search
6 warrant on Loblolly and went back again on the
7 21st.

8 And we tore that place apart and even
9 found a small SD card on top of the kitchen
10 cabinet. So we looked everywhere. There was no
11 credit card or debit card there.

12 Q. Did you ask him about the check that
13 was written out of Nicole's account and cashed into
14 his account?

15 A. I did. The \$200 check that was
16 written, the date on the check was March 1st, 2014,
17 deposited the 3rd, I think -- is that the 3rd or
18 4th? I think it was the 4th.

19 When it was deposited, it actually got
20 returned. He admitted to writing the check and
21 signing Nicole's name to it. And I asked him when
22 would he have got -- when would she have been able
23 to give you permission to do that on the 1st if you
24 haven't been communicating with her and talking to
25 her?

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 And he said, oh, that we do that, she
2 would write mine or whatever. I asked him how many
3 times before that happened. And he said maybe one
4 other time. The bottom of the check said for
5 babies. And I'd asked him what was the money for.
6 And he said it was for the cell phone.

7 Q. Did you two discuss about Nicole's
8 phone, for lack of a better word, pinging down in
9 Charleston around --

10 A. Yes.

11 Q. What was his response?

12 A. So when I was first asked to look at
13 the records, when you're looking at something like
14 especially on a missing person, you start looking
15 for some last activity that for the record you have
16 the time. For a cell phone to ping, that's usually
17 a live track where you're pinging the actual
18 location of the phone.

19 Here, what you had was a connection to
20 a cell tower. And the majority of the cell towers
21 here are three sector towers. And I showed that on
22 -- I don't remember the exact time, but that
23 weekend, it was the 22nd, the weekend of the 22nd,
24 that her phone was off because there was some
25 activity going to it.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 And with Verizon records, when you get
2 a -- something coming into it, a call or something,
3 if the phone is off, it zeroes out the tower number
4 on it. Well, until it zeroes down, you look for a
5 number. And so there was a number in there for --
6 the same tower hit and then it tells you the sector
7 on it.

8 So it showed it connecting to a tower
9 near mile marker 212 on the 26th, and it actually
10 connected with two sectors of the same tower back
11 to back. And if I'm not mistaken, it was voice
12 messages that had been delivered to the phone.

13 So I talked to him about that. He said
14 he didn't know anything about it, about the phone
15 being down there. So I went into the March 9th
16 incident where the phone was showing on there as
17 well. That's the same day as the debit card
18 transaction -- the decline.

19 So we discussed his daughter in North
20 Carolina and said it was being returned to her
21 grandfather, and they were meeting at the
22 Blacksburg exit at the Flying J to do that. So
23 looking at the records for both phones, it showed
24 Mr. Howard's phone going up 85 North and then
25 coming back down 85 at some point.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 And during the time it's at the
2 location near -- I think it's exit 104 or 105 where
3 the Flying J is. While his phone is there,
4 Nicole's phone powers up and connects to a tower
5 and then goes back off.

6 Q. What did he say the reason for her
7 phone being in the same area of Blacksburg as his
8 phone?

9 A. He said that he didn't know anything
10 about her phone, didn't have -- that's another time
11 he said he didn't have her phone, didn't know
12 anything about it. He said that Nicole can be -- I
13 think he said can be sneaky, or something like
14 that, that she may have been following him while he
15 was doing this.

16 Q. And you said he was dropping off his
17 child to his grandfather. Was that Lisa's child?
18 He had Lisa's child?

19 A. No. That's another one that he had
20 with another female. I don't know her name, but I
21 know it's a daughter. I think at the time she was
22 in her teens. I don't know, maybe 14 or 15,
23 somewhere in that neighborhood, but she lives in
24 North Carolina.

25 Q. So during the course of this interview,

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 did he mention whether or not he had another phone?

2 A. No, he did not.

3 Q. Had he had -- did he mention an iPhone
4 4 to you during this interview?

5 A. Well, I asked him about an iPhone 4,
6 because when this was going on in February and
7 the first part of March, Mr. Howard was using an
8 iPhone 4 with his number based on the cell records.

9 So I asked him about his iPhone 4,
10 where was it. And he said he no longer had it. I
11 asked him what happened to it. He said, well, the
12 screen was cracked and it must be in the trash. I
13 don't have the phone.

14 Q. Okay. So once the morning interview
15 was complete, where did you go?

16 A. Prior to Mr. Howard getting there, I
17 had already obtained three search warrants; one for
18 the rental car that we knew he had at that point --
19 at times we knew he had rented another car --
20 another one for his Jeep Cherokee that he had
21 bought on February the 18th, then also for the
22 residence on Graymouth. And I had the search
23 warrants ready to go.

24 During the interview, I find out that
25 he actually drove his wife Lisa's car to the

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 sheriff's office for the interview. So during that
2 I sent at the time Sergeant Hutchins, one of my
3 supervisors, a message during the interview and
4 told him what he drove there and asked him to get a
5 search warrant prepared for that vehicle so we
6 could search it prior to him leaving the office.

7 So towards the end -- at the end of the
8 interview, I explained that to him and told him we
9 had all four of these search warrants ready to go.
10 And we started walking towards the front, and I
11 told him that, you know, you can't leave in this
12 car yet until we search it.

13 And we searched that car. Once that
14 was over, I explained to him about the other search
15 warrants and that the Jeep was already -- he said
16 Lisa was driving the rental car. And I told him we
17 already had towed the Jeep and where it was and had
18 it at our shop to execute the search warrant, and
19 that we had investigators at Graymouth there
20 waiting to execute that search warrant.

21 He said his son was in one of the
22 schools in Spartanburg, not too far from their
23 house, and that he needed to pick him up from
24 school. This started a little bit after 11:00. So
25 by this -- it's right at three hours long. So by

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 this point it was 2:30ish, something to 3:00.

2 And so I told him, look, we have three
3 options. You can give us the key and we can go in
4 the house; you can meet the investigators there and
5 wait until we get there, you know, to open the door
6 and let us in and you can go get your son; or we
7 can force entry into the house. And we don't have
8 to force entry, we don't want to. He said that he
9 would meet the investigator there and let them in.

10 So I had to go back upstairs to the
11 office, and one of the other sergeants was
12 following him to the residence and alerted the
13 other investigators that were at Graymouth that he
14 was on the way there.

15 Us being in investigations, we wear
16 plain clothes. So a lot of times when we do a
17 search warrant that we might be there a length of
18 time, we will have black and white there as well
19 just for visibility. So we had a black and white
20 unit there as well with the investigators. A
21 patrol deputy when I say a black and white, I'm
22 sorry.

23 Q. Okay. When you showed up at Graymouth,
24 did you detain the defendant?

25 A. Yes. Shortly after I got there, I put

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 handcuffs on him and told him he was under arrest.

2 Q. Did you conduct a pat-down?

3 A. I did.

4 Q. What did you find?

5 A. At that point I was patting him down
6 for weapons, and I knew he was going to be
7 transported and we would request a more thorough
8 search. He had a phone, a wallet; that's all I
9 found.

10 Q. Do you remember what kind of phone?

11 A. It was some type of android phone that
12 was like in his pocket or -- it might have actually
13 been in his hand at that point. I might have taken
14 it out of his hand. I don't remember.

15 Q. Did you conduct another interview on
16 that same day after the incident at Graymouth?

17 A. Yes. Later on that evening, once -- we
18 kind of had contact with Mr. Howard again. And he
19 started asking questions about this since we
20 brought him back over to the sheriff's office to
21 interview him again. And myself and at the time
22 Sergeant Bryant were in there to interview him.

23 Q. Was the defendant Mirandized during
24 that interview?

25 A. He was. At this point he had been

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 arrested. So he was in custody so Miranda attaches
2 here. So a pre-interrogation waiver form was
3 filled out and gone over with him before the
4 interview started.

5 Q. Did you get a sense that the defendant
6 understood the pre-interrogation waiver form?

7 A. Yes. As it was read to him, he seemed
8 to understand all of it. And on our form there's
9 two places for a suspect to sign, the person you're
10 interviewing to sign. One is that they first
11 understand their rights and then the waiver
12 portion, and that understanding those rights
13 they're willing to speak to us about what we would
14 like to talk with them about.

15 Q. Okay. And he did sign the form?

16 A. He did.

17 Q. Okay. I'm going to hand you a document
18 and see if you recognize that.

19 A. Yes. This is the pre-interrogation
20 waiver form that was gone over with Mr. Howard that
21 night, and I signed as the notary -- I witnessed
22 his signature and signed the notary portion.

23 Q. Fair and accurate sign -- form that he
24 signed?

25 A. It is.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 MR. STEGALL: Your Honor, at this time
2 the State moves to enter exhibit -- what has been
3 premarked as Exhibit 28 into evidence.

4 THE COURT: Any objection?

5 MR. SMILEY: No objection.

6 THE COURT: Without objection, State's
7 28 is admitted.

8 (STATE EXH. 28 in evidence.)

9 BY MR. STEGALL:

10 Q. Did the defendant give you a statement
11 at that time?

12 A. Yes. It was, again, another recorded
13 interview and there was a written statement.

14 Q. He also -- did he reduce his statement
15 to writing during that interview as well?

16 A. He did.

17 Q. Okay. Was the defendant's statement
18 voluntary during that interview?

19 A. Yes. Once he signed that waiver it
20 was -- you know, he never reinitiated for the
21 attorney, you know. We didn't beat him up, nothing
22 like that, try to force it out of him.

23 Q. So do you feel his statement was freely
24 and voluntarily given?

25 A. I do.

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Q. And that statement was also
2 audio-recorded?

3 A. It was.

4 Q. Was the defendant asked during that
5 statement why he had Nicole's phone on him?

6 A. Yes. When I asked him about -- when he
7 was asked about that, he said that when he received
8 the messages that he told me about earlier that
9 day, the content of those messages was basically
10 indicating according to the content that Nicole had
11 been to the house on Loblolly and done all this.

12 So he said when he saw those messages
13 that he had gone to Loblolly, and the phone was
14 there at Loblolly. So he said that when he came in
15 initially that morning to talk with me, he said he
16 had the phone with him and he was going to turn it
17 in, but he didn't.

18 Q. When did he say he got the phone from
19 Loblolly?

20 A. It was either that morning or the day
21 before. I don't remember the date. Sitting right
22 here, I don't remember the date of that, but he
23 said he got it from there once he saw those
24 messages -- I think the messages might have been
25 sent -- that was on a Wednesday the 26th.

1 So they might have been sent the 25th
2 and received -- you know, showed up on his phone
3 the next morning. He said his phone, the battery
4 had died or had cut off and that he didn't receive
5 the messages until the next morning.

6 So he says he went over there that
7 morning -- or when he received the messages went
8 over there, and that's when he found the phone.

9 Q. Was when he found the phone before he
10 came to your office to give the morning --

11 A. Yes.

12 Q. -- interview?

13 A. Yes. Because from the time he was
14 there that morning, 11:00 o'clock or so until -- he
15 was followed from the office by one of the
16 sergeants to Graymouth. And then he was taken into
17 custody at Graymouth and the phone was found at the
18 jail.

19 So he was really never -- from that
20 point there really never out of our sight, except
21 for the time that he went under the garage door and
22 came out with the phone.

23 Q. Okay. So he said he was going to turn
24 it over. Did he say why he didn't turn it over to
25 you?

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 A. He told me that -- or I don't know if
2 it was me or Sergeant Bryant had asked him the
3 question -- he didn't turn it over that morning
4 when he came in because he said that right away I
5 started accusing him of having something to do with
6 her disappearance, which isn't true. Because the
7 first thing I was asking him about any contact, and
8 he went through the whole thing about these
9 messages.

10 And it probably wasn't 45 minutes into
11 it, maybe a little bit longer, that I ever said
12 anything about how all this didn't look -- you
13 know, it keeps coming back to you with all of these
14 inconsistencies, that he had something or knowledge
15 -- something to do with it or knowledge of it.

16 Q. So his reason was that he thought he
17 was a suspect?

18 A. Right. He said he was being accused or
19 a suspect in it, and that's why he didn't turn the
20 phone over.

21 Q. Did he tell you where he was -- back
22 up. Let's switch gears.

23 Did you bring up the -- did you ask the
24 defendant why Nicole's phone showed up in the
25 Lowcountry on February 23rd again to him during

1 this interview?

2 A. Yes. So when -- during this interview,
3 bringing this up, at that point he says that he was
4 taking her to meet someone down there, or she was
5 going to meet somebody down there as far as he
6 knew. And he also changed it to where he didn't go
7 to the store and she was gone when he comes back.

8 At that point, it was she was having to
9 go try to work to pay off a debt. So now that
10 whole thing changed during this as well.

11 Q. Did you ask him again about the --
12 Nicole's phone showing up near Blacksburg on
13 March 9th?

14 A. Yes. It was the same thing; he said he
15 didn't have the phone, she must have been following
16 him or, you know, whatever. He never really had an
17 explanation for it.

18 Q. Okay. Was the iPhone 4 that he told
19 you was broken and in the trash, was that ever
20 located?

21 A. It was.

22 Q. Did you receive a report related to the
23 search of that iPhone?

24 A. Yes, I did.

25 Q. And who did you receive that report

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 from?

2 A. A senior investigator, Lindsey McGraw.

3 Q. Okay. What kind of report was it?

4 A. It was a cell phone extraction report
5 he uses. This one was probably Cellebrite, might
6 have been Cellebrite, but it was used to extract
7 the data off the phone.

8 Q. And when it's extracted, what does that
9 mean?

10 A. Basically, a lot of it varies depending
11 on the type of device it is, but the extraction
12 will pull everything the phone has on it, including
13 -- some phones, some ways of doing it, will
14 actually pull deleted things off of the phone as
15 well, like you can on a computer.

16 Q. Okay.

17 A. So what he does, he creates a report
18 and puts that on a disk.

19 MR. STEGALL: May we approach, Your
20 Honor?

21 THE COURT: Sure.

22 (BENCH CONFERENCE)

23 THE COURT: Thank you, ladies and
24 gentlemen. We're trying to expedite the process a
25 bit. And there's a witness that normally would

1 have been called before we get to this point, we've
2 had a discussion about how we are going to proceed
3 with that. And I think we've resolved a method to
4 continue the examination.

5 However, again, Mr. Smiley, I have
6 indicated to you that if we finish before
7 5:00 o'clock and you want to recess for the evening
8 and get a chance to review all of these documents,
9 then I would afford you that opportunity.

10 MR. SMILEY: Thank you, Your Honor.

11 THE COURT: You are very welcome, sir.
12 You certainly are entitled to it. Okay. You may
13 proceed.

14 MR. STEGALL: Thank you Your Honor.

15 BY MR. STEGALL:

16 Q. So you received a phone extraction
17 report from Lindsey McGraw?

18 A. Yes, a disk with the form.

19 Q. Okay. And did you have a chance to
20 review that report?

21 A. I did.

22 Q. I'll hand you something and see if you
23 recognize that.

24 A. Yes, sir. This is the web history that
25 was contained on the iPhone 4 --

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Q. Okay.

2 A. -- that was Mr. Howard's phone.

3 Q. Mr. Howard's phone.

4 A. Yeah.

5 Q. Okay. I'm going to hand you what's
6 been premarked as State's Exhibits 31 through 37.
7 And just take a look at those and then I'm going to
8 ask you some questions.

9 THE COURT: Hold on a second. 31
10 through 37 are certain copies of what you have just
11 shown him?

12 MR. STEGALL: They are pulled --

13 THE COURT: Portions of it?

14 MR. STEGALL: Yes, sir, and I --

15 THE COURT: Then we need to have what
16 you just showed him marked as a State's Exhibit for
17 ID only first --

18 MR. STEGALL: Okay.

19 THE COURT: -- so we have a record of
20 all of it.

21 (STATE EXH. 74, Phone extraction data,
22 was marked for identification.)

23 MR. STEGALL: State's 74 for ID
24 purposes.

25 THE COURT: State's 74 for ID. And let

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 me explain that to you, ladies and gentlemen. As I
2 mentioned to you when I did my opening, any
3 exhibits that are introduced into evidence will
4 accompany you to your jury room, and certainly you
5 will have a chance to review those exhibits in
6 depth and talk about them.

7 It is not uncommon from time to time
8 that we have just what's there, an item for
9 identification. There is going to be testimony
10 about that item, but the item itself, if it's for
11 ID only, will not come into the jury room. Only
12 that which is actually introduced will come in.

13 But you are certainly free to consider
14 the testimony, for instance, that the witness has
15 just given regarding that particular item. Okay.
16 Thank you.

17 MR. STEGALL: Thank you, Your Honor.

18 THE COURT: You bet.

19 BY MR. STEGALL:

20 Q. Exhibits 31 through 37, do you
21 recognize those --

22 A. I do.

23 Q. -- without saying what they are?

24 A. Yes, sir. These are excerpts from the
25 full web browser history --

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 Q. Okay.

2 A. -- from the iPhone from Mr. --

3 Q. Are those a fair and accurate
4 representation of portions of his web history
5 during that time?

6 A. Yes, sir.

7 Q. From your report?

8 A. Yes, sir.

9 MR. STEGALL: Your Honor, at this time
10 the State moves to introduce Exhibits 31 through 37
11 into evidence.

12 THE COURT: All right. Subject to
13 discussion we had at side bar, they are admitted.
14 We will put that on the record at the first
15 opportunity.

16 (STATE EXH. 31 - 37 in evidence.)

17 MR. STEGALL: Your Honor, permission to
18 publish to the jury?

19 THE COURT: You may.

20 BY MR. STEGALL:

21 Q. And I apologize -- there we go. You've
22 got a clicker with a laser pointer on it. Please,
23 explain what this is.

24 A. This is a portion of the browser
25 history that shows you the date and time. It's

1 done over here which these dates -- the times are
2 UTC, Uniform Time Code. Eastern United States,
3 when we are not in daylight savings time is UTC
4 minus five. In daylight savings time, we're UTC
5 minus four.

6 When this was being done, we're UTC
7 minus five, so we see 9:13 p.m. was actually five
8 hours less; it would be 4:13 p.m. And all of these
9 will be like that so I don't have to explain it on
10 every one of them.

11 So on this one here, the search that
12 was put into the phone is Cainhoy Elementary
13 Middle. So it shows you basically the lingo
14 according to the internet work on the phone and how
15 it puts it in there, and then the search here for
16 Huger, South Carolina.

17 And both of those are done back to back
18 pretty much within a minute of each other.

19 Q. Okay. On the 24th?

20 A. The 24th.

21 Q. State's Exhibit 32?

22 A. This is on the 26th, so two days later,
23 close to the same time. And, again, you have
24 "Huger News" in Huger, South Carolina, Breaking
25 News. This might -- this actually wasn't a Google

GARY, WILLIAM - DIRECT EXAM BY MR. STEGALL

1 search. It was just -- might have gone looking
2 somewhere and clicked on the local news for Huger.

3 This is a Google search on the phone on
4 the 26th at 10:00 a.m. Huger, South Carolina news.

5 Q. State's Exhibit 34?

6 A. These are searches on the 27th for
7 Berkeley County, South Carolina and Huger, South
8 Carolina news. Those are Google searches on the
9 phone.

10 Q. State's Exhibit 35?

11 A. Another Huger, South Carolina news on
12 March 1, 2014. This was done late at night.

13 Q. State's Exhibit 36?

14 A. Another Huger -- I'm sorry, Berkeley
15 County, Berkeley County news Google search on the
16 2nd of March 2014.

17 Q. And last, State's Exhibit 37?

18 A. These are searches that were done on
19 March 3rd consecutive. The first one being, can
20 you identify a burned body? And the next one, how
21 authorities identify a burned body? And then
22 third, burned body cases solvable challenge for
23 investigators.

24 And there's an article -- it's probably
25 from the search for CNN News and then the "Augusta

1 Chronicle" site he went to just to read the
2 article, but it was --

3 Q. What are the -- what is the date range
4 for that web history? And if you need to look at
5 it to refresh your memory, go ahead.

6 A. Okay. So the first one -- on here it
7 does it newest to oldest. So the first one is
8 February 10th at 10:05 UTC, 10:05 p.m. UTC or
9 5:05 in the afternoon to March 9, 2014, at
10 4:56 a.m.

11 Q. And you reviewed the entirety of that
12 history, correct?

13 A. Yes, sir.

14 Q. Were there any searches of Cainhoy
15 Elementary prior to February 24th on that history?

16 A. No, there was not.

17 Q. Were there any searches of Huger news
18 prior to February 24th on that history?

19 A. No, there's not.

20 Q. Were there any searches of Berkeley
21 County prior to February 24th on that history?

22 A. No, there is not.

23 Q. Throughout that web history, were there
24 any searches related to Spartanburg news?

25 A. No.

1 MR. STEGALL: No further questions,
2 Your Honor.

3 THE COURT: Do you wish to cross
4 examine or do you wish --

5 MR. SMILEY: I wish to --

6 THE COURT: -- recess? Very well.

7 Ladies and gentlemen, thank you very
8 much. There's obviously a matter of law that I
9 need to put on the record anyway after you leave,
10 so it's a good time to break so you won't have to
11 wait to come back out. This is a curtesy to you
12 also.

13 Please, remember that you are not at
14 liberty to talk about this case with anyone or
15 permit anyone to talk about it with you. Again,
16 you are not to conduct any independent research and
17 do not watch any news programs or read any news
18 accounts of this trial or any of the testimony.

19 I would ask you to be in your jury room
20 please by 11:00 o'clock tomorrow. I should be
21 finished before then, but just out of an abundance
22 of caution, rather than have you sitting in that
23 room waiting on me to finish with the grand jury --
24 I have to qualify them and pick them and then I
25 have to give them the general charge or

1 instruction.

2 So I'll probably be finished about
3 10:30 or so, I think, but if you will be there at
4 11:00, we will hopefully bring you at that time.
5 Thank you very much. You are free to leave. Have
6 a good evening.

7 (Jury out, 4:30 p.m.)

8 THE COURT: All right. Thank you. You
9 can step down. The exhibits that were introduced,
10 State's 31 through 37 -- there was a bench
11 conference -- that were taken from State's 74 for
12 ID only, and we had a sidebar.

13 It's my understanding that the
14 individual that performed the dump will be
15 testifying tomorrow and will basically testify to
16 what is State's Exhibit 74, that he prepared that
17 and sent it to Mr. Gary.

18 And I'm certainly summing it up and
19 shortening it. And as I indicated to Mr. Smiley, I
20 understand his right to cross-examine that and
21 challenge that. And if for some reason there is
22 created a doubt as to whether or not that -- the
23 Court will exercise his discretion and remove that
24 exhibit from the jury's consideration, and if
25 necessary, entertain a motion for a mistrial based

1 on the hearing of the testimony that we had today.

2 I think that sums up basically our
3 understanding, Mr. Smiley.

4 MR. SMILEY: It does, Your Honor.

5 THE COURT: Okay. And as I understand
6 it, the State was comfortable going forward with
7 that arrangement.

8 MR. ALFARO: That's correct, Your
9 Honor. We expect Deputy Lindsey McGraw to testify
10 to the method of the --

11 THE COURT: And I'm familiar -- the
12 reason I think -- this is probably certainly maybe
13 the fourth or fifth one that I've had. And it's an
14 interesting procedure and interesting how they do
15 that, but I anticipate that testimony will be
16 consistent with what I have heard before in
17 proceedings. And so that was the reason that I was
18 willing to go out on a limb as well.

19 But, again, to protect you, Mr. Smiley,
20 and to protect Mr. Howard, that was the
21 understanding. Okay.

22 MR. SMILEY: Thank you, Your Honor.

23 MR. STEGALL: Thank you, Your Honor.

24 THE COURT: All right. We will be at
25 ease until 11:00 o'clock.

1 (These proceedings were recessed at
2 4:35 p.m., to be continued 7/17/19 at 11:00 a.m.)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (The following proceedings were had
2 July 17, 2019, Berkeley County General Sessions,
3 State v. Howard, 11:00 a.m.)

4 THE COURT: Let the record reflect that
5 Mr. Howard is present. Are you ready for the jury
6 yet?

7 MR. SMILEY: Yes, sir. I'm trying to
8 get my head right here.

9 THE COURT: No rush. You just tell me
10 when you're ready.

11 MR. SMILEY: I'm ready.

12 THE COURT: All right. Let's invite
13 the jury to return please.

14 (Jury in, 11:00 a.m.)

15 THE COURT: Good morning, ladies and
16 gentlemen. Thank you very much and I hope you had
17 a good evening.

18 We're ready to continue, but as we did
19 yesterday -- you may remain seated -- do each of
20 you solemnly swear or affirm that you have at all
21 times since we took our recess honored the
22 instructions of the Court, and specifically in that
23 regard not viewed any television programs, not read
24 any news accounts, or not talked with anyone or
25 allowed anybody to talk with you about this case.

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 If you have, please say I do.

2 THE JURY: I do.

3 THE COURT: Any member of the panel
4 unable to make that commitment, raise your hand.

5 Let the record reflect that each juror
6 has made that commitment. And thank you very much.

7 When we took our recess, we had
8 finished with the direct examination of Mr. Gary.
9 Is the State ready for the defendant to cross
10 examine?

11 MR. STEGALL: The State's ready, Your
12 Honor.

13 THE COURT: All right. You may cross
14 examine.

15 Mr. Gary, if you will please resume
16 your seat. And I remind you, sir, that you are
17 still under oath.

18 THE WITNESS: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. SMILEY:

21 Q. Lieutenant Gary, I'm Jim Smiley and I
22 represent Jerald.

23 A. Yes, sir.

24 Q. I'm going to cover a few different
25 topics. The first, you are the case agent, right?

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 A. One of them.

2 Q. You and Investigator Moss?

3 A. Yes, sir.

4 Q. All right. And so you were directing
5 what was going on in the case, you and Investigator
6 Moss to a certain degree, correct?

7 A. Yes, sir.

8 Q. Okay. In this case, you were able to
9 track down a rental car that had been rented in
10 February 20th or 21st of --

11 A. February 21st.

12 Q. Thank you. Thank you. And that was a
13 Kia Optima?

14 A. Yes.

15 Q. And you all executed a search warrant
16 on it?

17 A. Yes, we did.

18 Q. Okay. So when you do that, you take
19 the car to an impound or a police place to look at
20 it; is that right?

21 A. Yes. In order to get that car -- we
22 got it from Enterprise; it was rented out to a
23 customer at the time. And it had been rented
24 several times since Mr. Howard rented it.

25 So they arranged to have that customer

1 bring the car back to their office and they give
2 them another car, and they allowed us to take it to
3 the sheriff's office to process it.

4 Q. Okay. And the purpose of that was to
5 look for evidence in the car, correct?

6 A. Yes.

7 Q. And I want to make sure I say his name
8 correctly, the collector, Hogsed?

9 A. Hogsed.

10 Q. Thank you. I didn't want to
11 mispronounce it.

12 A. I understand.

13 Q. He was involved in that?

14 A. Yes, he was.

15 Q. And when that collection takes place,
16 he knows the context of the case, and you either
17 direct him or he looks to see what he can find to
18 collect. Is that fair to say?

19 A. We let our crime scene investigators
20 know what we're looking for, and they know.
21 Sergeant Hogsed has done this for a number of
22 years, so he knows what to look for.

23 So we're all present, and we have kind
24 of an idea of what we want to look for and how
25 we're going to look for it and that sort of thing.

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Q. Okay. And in this case, of course, you
2 took pictures of the car?

3 A. We did.

4 Q. Inside and out?

5 A. Correct.

6 Q. You all were interested in the trunk?

7 A. We were.

8 Q. And you opened the trunk and had the
9 collector -- and I call him that -- I say that
10 nicely, I'm not meaning that in a derogatory sense.
11 You had the -- Hogsed -- I want to get his name
12 right -- take pictures of the trunk area, right?

13 A. Right.

14 Q. Did he vacuum out the car to see if
15 there was any trace evidence in it?

16 A. No, we did not.

17 Q. Did he look through -- did you all look
18 through the carpet to see if there was any kind of
19 fibers or materials that could be collected?

20 A. We looked for things fairly obvious.
21 We don't have an M-Vac, which is a vacuum that is
22 used to collect evidence and it goes into a sterile
23 bag and that bag can be examined. We don't have
24 one of those pieces of equipment.

25 THE COURT REPORTER: Can you pull that

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 microphone up or -- is it on? I need you to speak
2 up.

3 Thank you.

4 BY MR. SMILEY:

5 Q. So no trace or forensic evidence was
6 located in the trunk?

7 A. We did not see any, no.

8 Q. Okay. And you all used a TriStar
9 method to luminesce the trunk area to see there if
10 there was the presence of any human blood?

11 A. We used BLUESTAR.

12 Q. Excuse me, TriStar, BLUESTAR. And you
13 did get a little luminescence around the trunk
14 seal, correct?

15 A. One small spot, and there was another
16 spot, if I remember right, that we were able to
17 locate a penny.

18 Q. A penny?

19 A. Right.

20 Q. And so it turned out there -- you
21 looked for and did not find any blood or -- blood,
22 correct?

23 A. No, we didn't.

24 Q. All right. You didn't find any
25 evidence of Nicole Goodlett in the Kia Optima?

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 A. No, we did not.

2 Q. And if there -- I'm sure that -- I know
3 it's been rented several times, but if there had
4 been a place that you could have gotten some
5 latents, it certainly would have been lifted,
6 right?

7 A. Didn't have a reason to do latents
8 because we knew who had rented the vehicle, and as
9 well as knowing it has been rented several times
10 and in seeing and dealing with Enterprise, knowing
11 that they will vacuum the cars out when they come
12 back, they will wash them, things like that, we
13 didn't even have a reason to do latent fingerprints
14 on the car.

15 Q. Okay. Did you ask Enterprise for one
16 of your forensic people to download the GPS system
17 from it?

18 A. We did not. But I don't believe that
19 car had a GPS installed, a factory -- they don't
20 have trackers on the cars.

21 Q. And you inquired about that?

22 A. Yes, sir.

23 Q. There are traffic cameras between
24 Spartanburg and Huger, correct?

25 A. Yes, sir.

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Q. Did you attempt to download any footage
2 to determine where the car had gone?

3 A. As far as I know, the state traffic
4 cameras on the interstate are live feed only. And
5 from other cases we've worked, we were told they do
6 not record or maintain recordings from the cameras.

7 Q. Okay. So the answer is, no, you didn't
8 look for any?

9 A. No. But we did check the tag reader
10 systems, and we got nothing that hit on that tag
11 during the time frame.

12 Q. Okay. Now, I'm going to turn our
13 attention to the house on Loblolly.

14 A. Okay.

15 Q. You were present during the execution
16 of the search warrant there?

17 A. I was.

18 Q. Okay. And you all took a bunch of
19 stuff, right?

20 A. Took a lot of stuff.

21 Q. Okay. Everything from cutting out
22 pieces of carpet to pictures. Lots of pictures
23 were taken, right?

24 A. We always take a lot of pictures on a
25 case similar to this. With the age of digital

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 photography and storage, it's better to take a lot
2 of pictures you don't need. But back when I first
3 started, we did 35 millimeter, and a lot of times
4 you might be more selective of what you took
5 pictures of.

6 Q. Right. So there were lot of pictures
7 taken?

8 A. Lot of pictures.

9 Q. Okay. You even had the sink trap
10 recovered, right?

11 A. We did.

12 Q. Now, once you gathered that evidence or
13 possible evidence, I guess is the way to put it,
14 you want to send it off to be tested, right?

15 A. We send certain things off to be
16 tested. Obviously, we can't send everything off.
17 And on a case that we work, even if we know it's a
18 homicide we're working, the State Law Enforcement
19 Division limits us to five items of DNA evidence
20 that we send at one time, not counting the standard
21 set.

22 If we can articulate a reason why we
23 need to send other things, we can get approval. So
24 we don't send everything in every case that we
25 collect.

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Q. All right. You directed five things to
2 be sent up in this case?

3 A. Right now I don't recall the number.

4 Q. Well, let's talk about the suspected
5 blood that was blood that was on the back of the
6 door.

7 A. Sure. For the blood splatter?

8 Q. The drop of blood or blood splatter.
9 The picture.

10 A. I'm familiar with the picture. There
11 is a close-up that shows it also.

12 Q. Yes, sir. All right.

13 A. I'm familiar. About halfway up the
14 door?

15 Q. Yes, sir. You had that sent?

16 A. Yes, sir.

17 Q. And a -- some blood that might have
18 been on the edge of the sink? That was on there,
19 not might.

20 A. It was on the edge of the sink, vanity,
21 counter, whatever.

22 Q. All right. You had that sent. Those
23 were what you deemed to be your best possibilities,
24 right?

25 A. No, sir.

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Q. Okay.

2 A. You have the blood on the carpet at the
3 foot of the floor. That was one of the ones we
4 liked as well as the blood splatter. All three of
5 those were some of the ones that we really liked
6 the most.

7 Where it illuminated outside of the
8 bathroom door, we were kind of excited about that,
9 and that turned out I believe not to be blood.

10 Q. Not to be blood. Okay. So when we
11 talk about -- BLUESTAR?

12 A. Yes, sir.

13 Q. I was getting ready to say TriStar
14 again. The BLUESTAR when it was put through the
15 house on the carpet and what have you and it
16 luminesced, that didn't turn out to be blood?

17 A. I don't recall everything throughout
18 the house because it went up the hallway, and then
19 there was the ones on the doorjamb that was not --
20 you know, once the testing was done and looking at
21 it, it was obviously blood.

22 Then -- so we had a lot that we were
23 hoping for based on a possibility of what could
24 have happened there in the house.

25 Q. You weren't able to determine that

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Loblolly was where Nicole died?

2 A. We didn't have enough evidence at
3 Loblolly to say that it was obvious that someone
4 lost their life there. There was evidence of what
5 appears to be an assault and someone bleeding
6 there, but we didn't have anything that showed
7 someone definitely died here, no.

8 Q. Okay. Now, you, in this case,
9 interviewed Jerald on several occasions, right?

10 A. Three times.

11 Q. For about, roughly, seven to
12 eight hours, right?

13 A. Correct.

14 Q. And the last time you interviewed him
15 was on the 26th of March?

16 A. The evening of the 26th, yes, sir.

17 Q. Now, you have been a police officer in
18 investigations a pretty long time, right?
19 Twenty-four years?

20 A. Twenty-four and-a-half years total,
21 about 20 years in investigations.

22 Q. Okay. And as a police officer through
23 talking to people, collecting things that could be
24 evidence, you're looking for stuff -- things that
25 would lead you to get probable cause in a case,

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 right?

2 A. Probable cause is what it takes to get
3 an arrest warrant, so we do look for that, but also
4 we attempt to go beyond probable cause at the same
5 time.

6 Q. Okay. So -- but, first, to get the
7 arrest warrant you need probable cause?

8 A. Correct.

9 Q. Of course, when you come to the
10 courtroom and you testify, they are trying to prove
11 -- you are trying to prove the case beyond a
12 reasonable doubt, correct?

13 A. Correct.

14 Q. Now, you don't know where Nicole died?

15 A. I know where her body was recovered.

16 Q. Yes, but that's not my question. You
17 don't know where she died?

18 A. No. No, sir, not 100 percent.

19 Q. You don't know when she died?

20 A. Not exactly, no, sir.

21 Q. Okay. You don't know how she died?

22 A. No, sir.

23 Q. Now, you did your work through March,
24 but you continued to work this case, right?

25 A. Correct. We worked for quite some time

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 on this case.

2 Q. And after the March of 2014 -- the end
3 of March of 2014, nothing significant happened in
4 this case until November, the end of November 2015,
5 right?

6 A. Correct.

7 Q. And it's at that point in time that a
8 skull was located in the woods behind the middle
9 school, right?

10 A. Yes, sir. If I remember, it was
11 Thanksgiving day.

12 Q. Okay. Were you -- and you -- when they
13 went back out, you were involved in the search for
14 bones in April, were you not?

15 A. Yes, sir.

16 Q. And you were present for that?

17 A. Yes, I was.

18 Q. And you were back in your section of
19 the woods behind the school, right?

20 A. Yes, behind Cainhoy Elementary School.

21 Q. Okay. And her body -- her skull and,
22 later, the bones that were found were identified
23 conclusively as Nicole's, correct?

24 A. Yes, sir. The skull was identified
25 first using dental records, and then the remainder

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 was identified by the anthropologist later.

2 Q. And DNA?

3 A. Correct.

4 Q. And that was all -- that was completed
5 no later than 2016, correct?

6 A. If memory serves, I believe we
7 completed -- yes, sir, I think that's right.

8 Q. And once a skeleton was found in those
9 woods, Berkley County picked up that end of it,
10 correct?

11 A. Right. Well, actually, they started it
12 when the skull was found because it was found here.
13 And I got the call when the skull was found and
14 where it was, and that's what started us thinking
15 it could be Nicole because of the location.

16 Q. Okay. Now, you testified about going
17 through phones and devices and looking at
18 information that was both Nicole's and Jerald's,
19 correct?

20 A. Correct.

21 Q. And at the end of the day yesterday you
22 showed some searches, right?

23 A. Correct.

24 Q. And you located that information in
25 March of 2014?

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 A. I don't remember the exact date the
2 phone exam was completed, but that stuff was looked
3 at a number of different times and, you know, you
4 might miss something the first time and find
5 something another time. So that kind of went for
6 awhile, but it would have been somewhere March,
7 April of 2014.

8 Q. There was a lot of information?

9 A. Yes.

10 Q. And so you had that information. Did
11 you all go see if there were any cameras at the
12 elementary school?

13 A. We did not at that time; it was checked
14 later. And there was some reason why we knew that
15 it wouldn't have mattered if we had. I don't
16 remember what the reason was for that.

17 Q. Well, then you don't know when the body
18 was placed in the woods?

19 A. Not 100 percent, no, sir.

20 Q. Okay.

21 MR. SMILEY: Beg the Court's
22 indulgence?

23 THE COURT: Certainly.

24 BY MR. SMILEY:

25 Q. I forgot something. That's why I have

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Ms. Hensley, she helps keep me on track. There has
2 been some talk about a Jeep Cherokee?

3 A. Yes, sir.

4 Q. Do you remember what year that Cherokee
5 was?

6 A. No, sir.

7 Q. It wasn't a new one?

8 A. No, it was used, bought in an auto
9 auction.

10 Q. It was bought in an auction. It wasn't
11 an expensive Jeep?

12 A. I don't know what he paid for it.

13 Q. Okay. And he explained to you that
14 they had -- he had bought the Jeep because he and
15 Nicole were going to start flipping cars?

16 A. He said he bought it and had the
17 intention of flipping the car.

18 Q. And he told you that mechanically it
19 was having some problems?

20 A. He said there was something going on
21 with the transmission of the car.

22 Q. Nicole's car was there with the flat
23 tire; is that correct?

24 A. Yes, sir, it was there with a flat
25 tire. There were two or three jacks there, but

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 none of the jack handles were present, but an
2 indication she was attempting to change the tire.

3 Q. Or someone was attempting to change the
4 tire?

5 A. Correct.

6 Q. I mean, it seems like she would be
7 changing the tire, but we're assuming that, right?

8 A. Right. The tire actually appeared to
9 be cut.

10 Q. Okay. Now, just like the phone, we
11 make assumptions about who was using the phone, but
12 we don't actually know unless we were told that,
13 right?

14 A. I have no doubt who was using the
15 phone.

16 Q. We all make assumptions, but you don't
17 know, do you?

18 A. I know that Mr. Howard had the phone
19 when he was arrested and earlier in March.

20 Q. Okay. I'm not disagreeing with you;
21 that wasn't my question though.

22 A. Did I have him on video using the
23 phone -- just him, recording the phone in his hand,
24 yes, but him using the phone to communicate with
25 somebody, no, sir.

GARY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 Q. Okay. I got you. He actually told you
2 he got the phone after he received a Facebook
3 message from Nicole that indicated that she had
4 gone by the house, correct?

5 A. No. He told me he got the phone after
6 he received text messages from her number and
7 showed me the text messages in the first interview
8 on the 26th. And that's what prompted him to go to
9 the house when he received them the next morning,
10 because he said his phone was off and they were
11 delivered later.

12 And that's when he went to the house
13 and said he found the phone at that time before he
14 came in for the interview.

15 Q. All right. And there was a letter he
16 said that was with it?

17 A. Correct.

18 Q. Okay. Now, one last thing -- I'll be
19 right back. Detective Gary -- excuse me,
20 Lieutenant Gary.

21 A. It doesn't matter.

22 Q. When you talk to lay people like me, I
23 have the hardest times with rank.

24 A. Doesn't offend me at all.

25 Q. Just like, don't call me attorney. I'm

NIX, MICHAEL SHAWN - DIRECT EXAM BY MR. ALFARO

1 Jim Smiley, you know.

2 A. I got you.

3 Q. In this case, did you -- you never got
4 an arrest warrant for murder in Spartanburg County,
5 did you?

6 A. Unfortunately, no.

7 MR. SMILEY: That's all I have.

8 THE COURT: Redirect?

9 MR. STEGALL: Nothing on redirect, Your
10 Honor.

11 THE COURT: Thank you. Lieutenant, you
12 may come down. Thank you, sir.

13 Call your next witness, please.

14 MR. ALFARO: The State calls Deputy
15 Nix.

16 MICHAEL SHAWN NIX,
17 being first duly sworn, testified as follows:

18 THE CLERK: Please have a seat. State
19 your full name, and spell your last name for the
20 record.

21 THE WITNESS: Okay. Michael Shawn Nix,
22 N-I-X.

23 DIRECT EXAMINATION

24 BY MR. ALFARO:

25 Q. How are you this morning?

NIX, MICHAEL SHAWN - DIRECT EXAM BY MR. ALFARO

1 A. Doing good, sir.

2 Q. Could you tell the jury where you work?

3 A. I work at Spartanburg County Sheriff's
4 Office.

5 Q. And how long have you been with
6 Spartanburg?

7 A. Eighteen years.

8 Q. And what do you do for them now, and
9 what's your current rank?

10 A. Current rank is master deputy, and I
11 work the crime scene unit and have been for --
12 since 2006.

13 Q. Okay. So you were working in that
14 capacity in crime scene on March 13, 2014?

15 A. Yes, sir.

16 Q. And did you have the opportunity to
17 respond to 160 Loblolly Drive in Spartanburg in
18 regard to this case?

19 A. Yes, sir.

20 Q. And could you tell us what the purpose
21 was for you going to that residence?

22 A. To take overall photos of the
23 residence.

24 Q. And could you tell us what, if
25 anything, you observed when you arrived at the

1 house?

2 A. I observed when arriving at the house
3 that there was a -- I believe it was a white Kia
4 parked in the front, in the driveway, and it had a
5 flat tire.

6 Q. And did you enter into the home?

7 A. Yes, sir.

8 Q. And how did you get into the house?

9 A. I believe it was unlocked, if I recall
10 correctly.

11 Q. And as part of this, did you photograph
12 the residence?

13 A. Yes, sir.

14 Q. And did you observe anything that
15 seemed too out of order during your walk through of
16 the residence?

17 A. The house was not in like a great
18 amount of disarray, but one of the things I did
19 notice, there was like food items left out that had
20 started to mold. And I remember the house being
21 chilly, somewhere like in the 50s, as far as the
22 temperature goes.

23 Q. And did you actually collect anything
24 from the home?

25 A. Not at that time, no, sir.

NIX, MICHAEL SHAWN - DIRECT EXAM BY MR. ALFARO

1 Q. And as part of your role in this
2 investigation, did you also have the chance to
3 assist in a search warrant execution at 103
4 Graymouth Court in Spartanburg on March 26, 2014?

5 A. Yes, sir.

6 Q. And as part of that search warrant,
7 were items collected from the home?

8 A. Yes, sir.

9 Q. And did you -- or, specifically, did
10 you collect any cell phones during the course of
11 that?

12 A. Yes, sir.

13 Q. I'm going to show you what has been
14 marked as State's Exhibit 13. Ask you to take a
15 look at that packaging and the contents, and then
16 I'll ask you a question about that.

17 A. Do you want me to go ahead and open it,
18 sir?

19 Q. Yes, sir.

20 A. Okay.

21 Q. And do you recognize what is contained
22 in State's Exhibit 13 as something that was
23 recovered from the residence that day?

24 A. Yes, sir.

25 Q. And was that recovered by you?

NIX, MICHAEL SHAWN - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And do you recall what other evidence
3 you recovered or collected -- potential evidence
4 you collected from the scene that day?

5 A. I believe there was another cell phone
6 and there was also a bunch of electronic items,
7 things like tablets and laptops.

8 Q. And so those items would have been
9 secured as well for potential evidence?

10 A. Yes, sir.

11 Q. And after the execution of that search
12 warrant, did you also have the opportunity to
13 participate in another search warrant at -- I
14 believe what you-all called the County Shop at 290
15 Broadcast Drive in Spartanburg?

16 A. Yes, sir.

17 Q. And what type of vehicle -- or which
18 vehicle was that a search warrant for?

19 A. It was a search warrant for a blue in
20 color Jeep that had a West End Auto paper tag on
21 the back of it.

22 Q. And did you execute that search
23 warrant?

24 A. Yes, sir.

25 Q. And were any items collected or were

1 photographs taken of that vehicle?

2 A. Yes, sir.

3 Q. Do you recall what items, if any, were
4 recovered from the vehicle during that search?

5 A. There was a number of different type
6 items recovered from the search.

7 Q. Draw your attention, specifically, were
8 there any cell phones recovered during the search?

9 A. Yes, sir.

10 Q. Do you recall what phones were
11 recovered and where they were recovered from?

12 A. One was an iPhone in a black case
13 recovered from the center console area. The other
14 one was a -- I'm sorry, yeah, one was a black in
15 color iPhone 4 recovered from the center console,
16 and the other one was a white iPhone recovered from
17 a pillow case in the trunk.

18 Q. Okay. I'm going to show you what has
19 been premarked as State's Exhibit Number 12. Ask
20 you to try to open that one and take a look inside,
21 and I'll ask you some questions about it.

22 A. Okay.

23 Q. And do you recognize what is contained
24 in State's Exhibit 12?

25 A. Yes, sir.

NIX, MICHAEL SHAWN - DIRECT EXAM BY MR. ALFARO

1 Q. And is that the OtterBox -- iPhone with
2 the black OtterBox case that was secured by you
3 during the course of that search warrant?

4 A. Yes, sir.

5 Q. And you said photographs were taken
6 during the course of this search warrant as well,
7 right?

8 A. Yes, sir.

9 Q. And I'm going to show you some photos
10 -- I'm going to show you some photographs that have
11 been premarked for identification as State's
12 Exhibits 19, 20, 21, 22, 23, 24, 25, and 27. Ask
13 you to take a look at those, and I will ask you
14 some questions about them.

15 MR. ALFARO: Your Honor, at this time,
16 we would ask to admit State's Exhibits 19 through
17 25 and 27 into evidence.

18 MR. SMILEY: Without objection.

19 THE COURT: Without objection, State's
20 19 through 25 and Exhibit 27 are admitted, each
21 being a photograph.

22 (STATE EXH. 19 - 25 in evidence.)

23 (STATE EXH. 27 in evidence.)

24 BY MR. ALFARO:

25 Q. You can turn back around that way.

NIX, MICHAEL SHAWN - DIRECT EXAM BY MR. ALFARO

1 There's a laser pointer there. I'm going to put
2 some of these up and have you explain what is
3 contained in these photographs.

4 And starting with State's 19?

5 A. That would be the iPhone with the black
6 OtterBox case.

7 Q. The one you identified as State's
8 Exhibit 12?

9 A. Yes, sir.

10 Q. State's Exhibit 20?

11 A. Would be a checkbook with the name of
12 Nicole Goodlett on it.

13 Q. And State's Exhibit 22?

14 A. It's a photograph of a number of items;
15 the first being a Social Security card with the
16 name Nicole Goodlett on it; the second being a USAA
17 card with the name Nicole Goodlett on it; and the
18 third being an FTC, or financial transaction card,
19 with the name of Travis Martin on it.

20 Q. And State's Exhibit 27?

21 A. A vehicle title with the vehicle
22 registered -- a Kia registered to Nicole Goodlett.

23 Q. And was this -- the photographs that
24 are in that picture, were these all taken during
25 the execution of the search warrant on the blue

1 Jeep Cherokee?

2 A. Yes, sir.

3 MR. ALFARO: Your Honor, we would also
4 like to admit at this time State's Exhibits 12 and
5 13.

6 THE COURT: Any objection?

7 MR. SMILEY: No objection.

8 THE COURT: State's 12 and 13 are
9 envelopes containing phones, each envelope
10 containing a phone.

11 (STATE EXH. 12 in evidence.)

12 (STATE EXH. 13 in evidence.)

13 MR. ALFARO: Thank you. Please answer
14 any questions that the defense may have.

15 THE WITNESS: Yes, sir.

16 THE COURT: You may cross examine.

17 CROSS-EXAMINATION

18 BY MR. SMILEY:

19 Q. Just a couple. You had a very similar
20 job to Investigator -- and forgive me, Hogsed?

21 A. Hogsed. Yes, sir.

22 Q. I called him the collector, and I
23 caught some grief from that so I'm not going to
24 call you a collector.

25 A. It's fine.

NIX, MICHAEL SHAWN - CROSS EXAM BY MR. SMILEY

1 Q. An evidence person?

2 A. Yeah.

3 Q. And when you go to collect evidence,
4 whether it's a house, a car, or whatever, you take
5 lots of photographs before you touch anything,
6 right?

7 A. We try to, yes, sir.

8 Q. Well, you might open the doors, but
9 before you move things around, right?

10 A. Yes, sir. Yes, sir.

11 Q. Okay. And this -- this is the -- a
12 blue Jeep Cherokee that had dealer tags on the
13 back?

14 A. It had a dealer paper tag.

15 Q. Okay. You're right, I'm wrong. There
16 is a difference. It had a paper tag on the back,
17 and these items were found within the compartment
18 or in the back?

19 A. Some items found in, I guess, you would
20 say the compartment of the vehicles which would be
21 the seats and stuff. And some items were found in
22 what I call a trunk, but it was more like a hatch.

23 Q. Right. The back?

24 A. Yeah, the back.

25 Q. I just call it the back.

NIX, MICHAEL SHAWN - CROSS EXAM BY MR. SMILEY

1 A. Yeah.

2 Q. All right. And so the photographs we
3 saw, that's when you had put them all together and
4 took a picture of them?

5 A. Yes, sir.

6 MR. SMILEY: That's all I have.

7 THE COURT: Redirect?

8 MR. ALFARO: No, Your Honor.

9 THE COURT: You may come down.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Thank you, sir.

12 MR. ALFARO: We would ask that he be
13 excused.

14 THE COURT: Any objection?

15 MR. SMILEY: No objection, Your Honor.

16 THE COURT: You are free to leave, sir.
17 Thank you.

18 Call your next witness please.

19 MR. STEGALL: The State calls Lindsey
20 McGraw.

21 LINDSEY MCGRAW,

22 being first duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State
24 your full name for the court, and spell your last
25 name for the record.

MCGRAW, LINDSEY - DIRECT EXAM BY MR. STEGALL

1 THE WITNESS: My name is Lindsey
2 McGraw. Last name is M-C-G-R-A-W.

3 DIRECT EXAMINATION

4 BY MR. STEGALL:

5 Q. Mr. McGraw, where are you currently
6 employed?

7 A. I'm currently employed in Spartanburg.
8 I work for the QS1 Company. I do HIPAA compliance.

9 Q. Where were you employed in 2014?

10 A. I was the computer forensics
11 investigator for the Spartanburg County Sheriff's
12 Office.

13 Q. And describe that position. What were
14 your responsibilities?

15 A. My responsibilities were to process any
16 electronic equipment that was recovered as
17 evidence, perform any analysis on the content of
18 it, and draft a report or create a report for the
19 investigator who requested it.

20 Q. Would that analysis that you would
21 conduct also include phone extractions?

22 A. Yes, sir.

23 Q. Okay. Please explain to the jury what
24 a phone extraction is.

25 A. Okay. A phone extraction for what --

MCGRAW, LINDSEY - DIRECT EXAM BY MR. STEGALL

1 the way I did it at the sheriff's office, we used a
2 device manufactured by Cellebrite. It's called the
3 Universal Forensic Extraction Device. Basically,
4 it's a small computer with specialized software
5 that allows you to attach a cell phone or other
6 digital device to it, via either a USB cable or
7 Bluetooth connection, and it performs different
8 types of extractions.

9 It could perform a logical extraction,
10 which is basically what the user can see on the
11 device, a file system extraction, or a full
12 physical extraction, which is a bit per bit copy of
13 the content, the entire content of the device.

14 Q. Now, as part of your duties with the
15 Spartanburg County Sheriff's Office in 2014, did
16 you perform a phone extraction in the case we are
17 here for today?

18 A. Yes, sir, several.

19 Q. Okay. I'm going to hand you what's
20 been entered into evidence as State's Exhibit 12.
21 Take a look at it and then I'm going to ask you a
22 couple of questions.

23 A. The writing gets smaller every year.
24 Yes, sir. This is an iPhone 4S -- or, excuse me,
25 an iPhone 4, model A 1349. I did an extraction on

1 it for this case.

2 Q. Okay. Is it -- were you able to
3 determine through the phone extraction who the
4 registered user was?

5 A. Yes, sir. I was able to generate a
6 report that listed the information that would
7 identify the owner of the phone as it was entered
8 into the phone. I don't have a copy of that
9 report.

10 Q. Okay. If I show you a copy will it
11 refresh your memory?

12 A. Yes, sir. Yes, sir. This is the first
13 couple pages of the data extraction report that I
14 did on this phone.

15 Q. Was there a name or e-mail address or
16 some identifying information as to whose phone that
17 --

18 A. Yes, sir. The Apple ID associated with
19 this phone is Jeraldjhoward@yahoo.com.

20 Q. Is there a phone number associated with
21 that phone?

22 A. Yes, sir. It's (864) 680-8830.

23 Q. When you conducted your analysis on
24 that phone, what condition did the screen appear to
25 be in?

MCGRAW, LINDSEY - DIRECT EXAM BY MR. STEGALL

1 A. What do you mean? I don't understand.

2 Q. Was it damaged?

3 A. I don't recall. I don't remember if I
4 had documented any damage on it.

5 Q. Okay.

6 A. And there doesn't appear to be any
7 damage.

8 Q. I guess, was the phone present
9 condition be in the condition that you analyzed it
10 in 2014?

11 A. Yes, sir.

12 Q. Okay. And does there appear to be any
13 damage to the phone?

14 A. There does not.

15 Q. Okay. Did you generate a report based
16 on that extraction?

17 A. I did. This is -- in fact, this is the
18 first two pages of an HTML report I generated.

19 Q. Okay. What did you do with that
20 extraction report once you were finished?

21 A. I gave an electronic copy to the
22 investigator.

23 MR. STEGALL: That's all I have.
24 Answer anything Mr. Smiley may have.

25 THE WITNESS: Yes, sir.

MCGRAW, LINDSEY - CROSS EXAM BY MR. SMILEY

1 THE COURT: Cross examine.

2 CROSS-EXAMINATION

3 BY MR. SMILEY:

4 Q. I'm Jim Smiley, and I represent Jerald
5 Howard. Good morning.

6 A. Good morning.

7 Q. It's still morning by ten minutes I
8 guess. So in real laymen's terms, your job is to
9 use the program to suck the contents out of the
10 phone?

11 A. Part of it, yes. Part of it.

12 Q. And you can't just take the SIM card
13 out and put it somewhere else because there's other
14 things in the phone, right?

15 A. Well, a SIM card will contain a limited
16 amount of information.

17 Q. Right. I guess there is -- I don't
18 know the right word, so you can correct me if I'm
19 wrong. And I may be asking a question that is
20 wrong, so forgive me. But there is hard memory in
21 a phone for lack of a better word? RAM, I guess.

22 A. RAM is typically volatile. There is
23 persistent data contained within the phone.

24 Q. Okay.

25 A. There is persistent recoverable data.

1 Q. Okay. And so when you get a phone and
2 you extract things from it, you -- are you getting
3 100 percent of everything that was in that phone?

4 A. I'm getting a bit by bit copy of the
5 information that's available to the device at the
6 time.

7 Q. Okay. And as -- when did you complete
8 the extraction on that phone, date wise?

9 A. It was the same date.

10 Q. If you don't mind --

11 A. It would be March 27, 2014.

12 Q. All right. And you -- that was a
13 printout that -- that I think we -- you were shown
14 a first couple of pages, but it's a fairly
15 extensive document?

16 A. Yes, sir.

17 Q. Okay. And you gave -- March 27, 2014,
18 after you, for lack of a better word, sucked the
19 contents out is the way I look at it, you put it in
20 a report and you gave it to Investigator Gary and
21 Moss, correct?

22 A. Correct.

23 Q. When you say that there wasn't any
24 damage to the phone, that's just you visually
25 inspecting it?

MCGRAW, LINDSEY - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir.

2 Q. If one of the keys didn't work or
3 didn't swipe, you weren't doing that. You were
4 just taking the insides out, correct?

5 A. Well, an iPhone doesn't have keys per
6 se, but if the screen wasn't damaged, I could
7 manipulate the phone to get it into what's called
8 the DFU mode, which is device firmware upgrade,
9 which is what I had to get to do the extraction.

10 So I was able to successfully do that
11 with the screen, so...

12 Q. Okay. All right. And while you
13 identified the Apple ID in that phone --

14 A. Yes.

15 Q. -- it doesn't tell you who actually
16 used the phone. It tells you whose phone it is,
17 correct?

18 A. It tells me the data that is entered
19 into that phone as far as associating it with a
20 user. I couldn't -- I mean, if I gave you my phone
21 to use, for all intents and purposes you would be
22 me using my phone. So I can't identify from the
23 phone who is actually --

24 Q. Using it?

25 A. Right.

1 MR. SMILEY: Beg the Court's
2 indulgence?

3 THE COURT: Yes, sir.

4 MR. SMILEY: That's all I have, Your
5 Honor. Thank you.

6 THE COURT: Redirect?

7 MR. STEGALL: Nothing on redirect.

8 THE COURT: You may step down.

9 Do you wish this witness to be excused?

10 MR. STEGALL: Yes, sir.

11 THE COURT: Any objection?

12 MR. SMILEY: No, sir.

13 THE COURT: You are also free to leave,
14 sir.

15 THE WITNESS: Thank you, sir.

16 THE COURT: Call your next witness.

17 MR. STEGALL: Your Honor, may we
18 approach?

19 THE COURT: Sure.

20 (BENCH CONFERENCE)

21 THE COURT: I know you just got here,
22 ladies and gentlemen, but there is a matter of law
23 that I need to take up out of your presence. It's
24 12:00 o'clock, and I know -- I don't know whether
25 you all ate accordingly, but we haven't, and we

1 have been in here since about 9:15. And the court
2 personnel, I have to respect them as well.

3 So we are going to take a break, a
4 recess for lunch, and ask you to be back at 1:30.
5 We will do the matters of law that we have to do,
6 and then we will take our lunch break.

7 We will see you at 1:30. Do not
8 discuss the case of course among yourselves and do
9 not begin your deliberations in any fashion and
10 have a nice lunch. Thank you.

11 (Jury out, 12:06 p.m.)

12 THE COURT: All right. As I
13 understand, we had a side bar concerning the next
14 witness and we need to have a hearing concerning
15 the line up and the identification.

16 Any objection you want to put on the
17 record at this point, Mr. Smiley?

18 MR. SMILEY: Your Honor, as a pretrial
19 matter, I had filed a motion in limine about
20 404(b), prior bad acts. In this case, is the
21 testimony of Amanda Hinojos, and forgive me if I
22 mispronounce the last name. In my view of looking
23 at it, it's a prior subsequent bad act. Depending
24 on when the body -- but a bad act, Your Honor.

25 THE COURT: A bad act with respect to

1 what?

2 MR. SMILEY: As respect to him paying
3 her money to come to his house and have sex.

4 THE COURT: I understand that. What --
5 that's a bad act for -- I guess, solicitation of
6 prostitution could be the charge.

7 What's your position on that?

8 MR. ALFARO: Your Honor, we rely on our
9 previous argument, as well as the relevancy and the
10 purpose of the testimony.

11 It is related to the defendant's use of
12 the victim's cell phone continually after she goes
13 missing up until the point where he is -- after
14 making statements that were testified to by
15 Detective Gary that he didn't have the phone,
16 didn't have the phone, and then he is subsequently
17 found trying to conceal the phone, and he is taken
18 into custody after the actions at the residence
19 where he rolled under the garage door.

20 We believe that the testimony is both
21 probative and relevant to the proceedings and in
22 the overall case.

23 THE COURT: Okay. Do you wish to
24 respond?

25 MR. SMILEY: Yes, Your Honor. 404(b)

1 says prior bad acts are not admissible except for
2 one of those five exceptions.

3 THE COURT: But your argument of a
4 prior bad act, we're not talking about a prior bad
5 act.

6 MR. SMILEY: It doesn't have anything
7 to do with murder.

8 THE COURT: I understand that. That's
9 why we're not talking about a prior -- 404(b)
10 doesn't have anything to do with it. We're talking
11 about basically whether it's a character issue and
12 it deals with credibility.

13 And 608, I think, is the one where you
14 can have specific incidents dealing with
15 credibility of a witness. And that's one of the
16 issues that we have right now that -- that,
17 frankly, the denial of having the phone and using
18 the phone, this will be testimony that -- or if
19 there is, I think, we haven't heard it yet, but I
20 assume that -- well, let me ask you this,
21 Solicitor.

22 I haven't looked at your exhibit
23 whether or not the dump shows this message. Is
24 that -- is that verified?

25 MR. ALFARO: The phone dump that we

1 have is from the defendant's phone.

2 THE COURT: So you have no -- other
3 than her testimony that this phone -- do we have
4 anything that shows this phone -- her phone was
5 used to arrange this meeting?

6 MR. ALFARO: We have -- the victim will
7 testify that the number she had from Nicole, which
8 is the number of the phone that is in evidence,
9 that was the number that the witness was
10 communicating with in order to facilitate and set
11 up the meeting with who she knew at the time to be
12 Leo.

13 When she gets to the residence, she
14 meets with Leo as -- at the victim's and the
15 defendant's home. Subsequent to leaving that
16 night, she finds out that the victim is missing.

17 THE COURT: Well, the question though,
18 again, is -- I'm understanding now. I thought we
19 were going to have evidence that was introduced
20 that said he arranged to have a meeting -- that Leo
21 had a meeting and Leo turned out to be -- allegedly
22 turned out to be the defendant.

23 The purpose of the meeting then doesn't
24 have to be disclosed to anything.

25 MR. ALFARO: Well, she identifies him

1 in a photo lineup after that.

2 THE COURT: I understand. I'm just
3 simply stating that you can stop your testimony --
4 there was a meeting arranged, and if you wanted --
5 you may be at liberty to go further than that, but
6 all you need to do is -- they were contacted for
7 her to go meet Leo, and when she got there the
8 person arrived and she identified the person that
9 she went to.

10 That's all you need. There's no need
11 -- the State doesn't have any need to testify as to
12 the purpose of the meeting is my point. There was
13 a request for her to come, she came, the person
14 that she met was this person, according -- as I
15 understand it. That's as far as it needs to go.

16 MR. ALFARO: We would -- I understand
17 the part about not the purpose of the meeting being
18 gone into, but we will need to just for purposes of
19 the identification validity to go through the
20 length of time that she was there.

21 THE COURT: Listen, first of all --
22 first of all, that -- now we're getting into an
23 area where he can -- if he challenges it, now we --
24 for instance, how long did you observe? Bingo.
25 That door has been swung open.

1 So are you sure you want to have this
2 lineup here?

3 MR. SMILEY: It depends on this ruling.

4 THE COURT: Well, I'm telling you my
5 ruling is -- unless there's a challenge to her
6 identification --

7 MR. SMILEY: I'm not going to challenge
8 her identification.

9 THE COURT: Then we don't have to worry
10 about how long. Now, you can ask -- you can say
11 how long were you in his presence? She can say
12 however long it was.

13 MR. ALFARO: That's what I was --

14 THE COURT: I mean, I'm not talking
15 about --

16 MR. ALFARO: I'm not asking how long
17 were you doing X, Y, Z.

18 THE COURT: Well, you just say how long
19 did you have an opportunity to observe him, and she
20 can say that. Okay. And then you can challenge it
21 to that extent if you want to, but there's no
22 reason to testify as to the purpose of it.

23 But as I understand it, we don't need
24 -- we don't need a lineup issue.

25 MR. SMILEY: Under that ruling, no,

1 sir.

2 THE COURT: So they are not challenging
3 the lineup that was shown. They are saying it was
4 suggested, as I understand.

5 MR. ALFARO: Okay.

6 THE COURT: You're waiving any
7 challenge to the lineup being suggested of
8 Mr. Howard?

9 MR. SMILEY: That's correct.

10 THE COURT: Very good. Okay. Then
11 does that help you?

12 MR. ALFARO: Yes, sir. I mean, if we
13 don't need to do the hearing.

14 THE COURT: We don't need to do it.
15 Now, again, please understand something, Solicitor.
16 I'm restricting it because at this point under a
17 403 analysis, I understand the significance and it
18 goes -- it really doesn't even -- we don't even get
19 into a 608 situation I don't think here because
20 there is no suggestion of any bad act by just
21 meeting him.

22 Because you're right, she doesn't have
23 anything -- she doesn't know anything about her
24 being missing at this point. She learned --

25 MR. ALFARO: At the time of the

1 meeting, yes, sir.

2 THE COURT: -- it was subsequent to the
3 meeting.

4 MR. ALFARO: Yes, sir.

5 THE COURT: So, therefore, there would
6 be really no connection at this point, just simply
7 the meetings. Now if the questions are open so
8 that it begins to challenge something, then,
9 obviously, that would open for reply testimony --
10 for redirect testimony.

11 MR. ALFARO: Yes, sir. So just so
12 we're clear, we'll talk to her over the break, to
13 limit the testimony as --

14 THE COURT: Well, she can testify she
15 got a text message from somebody named Leo and go
16 through the process of how she -- if she texted him
17 back. All that is proper insofar as I'm concerned
18 because it doesn't imply anything.

19 Look, we've already had testimony about
20 the -- about the victim's, allegedly, some of her
21 activities. So that doesn't create a bias or
22 prejudice to me sufficient to a 403 excluding that.

23 If we talk about the part that -- it
24 really goes to the act itself of it could be a
25 crime. I would have to hear that testimony, if

1 you're going to do it before the jury, if it
2 becomes necessary.

3 For instance, if he opens the door, I'm
4 going to ask you to say, Judge, there's a matter we
5 need to take up out of the presence of the jury.

6 And then we can go through it, and I
7 can make a specific 403 analysis as to that
8 particular testimony, but at this point I don't see
9 the need to have that analysis.

10 I think it's relevant for the reasons
11 that I have articulated already and that is, there
12 are statements where he said he denies using the
13 phone and, certainly, that goes directly to impeach
14 that testimony and to discredit that testimony if
15 the jury finds that testimony to be credible.

16 So I think it's relevant for that and,
17 certainly, any prejudice outweighs -- outweighs any
18 -- the probative value outweighs any prejudice to
19 the defendant on that issue.

20 MR. SMILEY: I don't disagree.

21 THE COURT: Okay. That's fine.

22 MR. ALFARO: Yes, sir.

23 THE COURT: So does that -- is that
24 okay? Everybody okay with that?

25 MR. ALFARO: Yes, sir. The only thing

1 I do want to add just because in light of the
2 previous ruling --

3 THE COURT: Sure.

4 MR. ALFARO: -- her testimony is going
5 to include that after the meeting there is --
6 similar to the vein of what the family testified to
7 about text messages that seemed out of place.

8 THE COURT: Oh, sure. She can testify
9 she received some --

10 MR. ALFARO: I just want to make sure.

11 THE COURT: She received -- no question
12 about that.

13 MR. ALFARO: Yes, sir.

14 THE COURT: But she didn't have any
15 further contact with the person. Let's just say
16 for the sake of the argument the person that
17 texted, she later met that person being identified
18 as Leo, and she's going to identify that person so
19 that obviously there is a connection that he's the
20 person making --

21 MR. ALFARO: Yes.

22 THE COURT: But insofar as the
23 subsequent text message, she can just say it came
24 from that -- she's going to say it came from that
25 phone.

1 MR. ALFARO: Yes, sir.

2 THE COURT: Okay. That's fine. That's
3 good. All right.

4 MR. SMILEY: Thank you, Your Honor.

5 THE COURT: Okay. Sure. Let's come
6 back at 1:30 -- how about let's be back about 1:15
7 in case you all -- something comes up that we need
8 to take care of?

9 MR. SMILEY: Yes, sir.

10 (A luncheon recess transpired.)

11 (STATE EXH. 75, Lineup, was marked for
12 identification.)

13 (STATE EXH. 76, Affidavit, was marked
14 for identification.)

15 THE COURT: Is the State ready to
16 proceed?

17 MR. STEGALL: The State is ready, Your
18 Honor.

19 THE COURT: Very well. Let the record
20 reflect that Mr. Howard is present.

21 Is the defendant ready to proceed,
22 Mr. Smiley?

23 MR. SMILEY: Yes, sir, we're ready to
24 be done.

25 THE COURT: Yes, sir, I understand

1 that. I might share that a little bit with you,
2 given the day.

3 Mr. Morris, let's bring in our jury,
4 sir.

5 BAILIFF: Yes, sir.

6 (Jury in, 1:27 p.m.)

7 THE COURT: All right. Thank you very
8 much, ladies and gentlemen. Hope you had a good
9 lunch. It's nice and cool outside and I know you
10 all were glad to get outside. Although my law
11 clerk said she was glad to go outside because she
12 said it's cold in here.

13 If you all get too cold let us know and
14 we'll commiserate with you because there is not a
15 whole lot we can do sometimes with it.

16 In fact, years ago when I was in
17 Charleston before they finished the new courthouse,
18 I called one of the courtrooms the four seasons
19 because you would go through all four seasons. It
20 would be cold when you walked, then it would get
21 warmer, and then it was summertime, and then it
22 would get cold again.

23 All right. Please, give your attention
24 to the next witness.

25 Solicitor, you may call the next

HINOJOS, AMANDA - DIRECT EXAM BY MR. STEGALL

1 witness.

2 MR. STEGALL: The State calls Amanda
3 Hinojos.

4 AMANDA HINOJOS,
5 being first duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State
7 your full name, and spell your last name for the
8 record.

9 THE WITNESS: Amanda Hinojos,
10 H-I-N-O-J-O-S.

11 DIRECT EXAMINATION

12 BY MR. STEGALL:

13 Q. Ms. Hinojos, where do you live?

14 A. Charleston, South Carolina.

15 Q. And when did you move to Charleston?

16 A. Five years in March.

17 Q. What do you do for a living?

18 A. I work in a restaurant.

19 Q. Where did you live prior to living in
20 Charleston?

21 A. Greenville, South Carolina.

22 Q. Did you know Nicole Goodlett?

23 A. Yes, sir.

24 Q. How long had you known Nicole?

25 A. Twelve years.

HINOJOS, AMANDA - DIRECT EXAM BY MR. STEGALL

1 Q. When was the last time that you saw
2 Nicole Goodlett?

3 A. It was February 8th.

4 Q. Do you remember the year?

5 A. 2014.

6 Q. Did you exchange text messages with
7 Nicole's phone about a meeting with a gentleman
8 named Leo?

9 A. Yes, sir.

10 Q. What date were those text messages?

11 A. February 28th.

12 Q. Was there an arrangement made about
13 where to meet Leo?

14 A. Yes, sir.

15 Q. And where was that meeting?

16 A. Nicole's house.

17 Q. Was there a date and time established?

18 A. Yes, sir.

19 Q. What date was that suppose to happen?

20 A. March 4th at 6:00 o'clock.

21 Q. And did you go to Nicole's house on
22 March 4th to meet with Leo?

23 A. Yes, sir.

24 Q. Who all was there?

25 A. A guy that introduced himself as Leo.

HINOJOS, AMANDA - DIRECT EXAM BY MR. STEGALL

1 Q. How long were you there with Leo?

2 A. An hour and two minutes.

3 Q. After you left, did you receive any
4 more texts from Nicole Goodlett's phone?

5 A. Yes, sir.

6 Q. Did any of those texts following your
7 meeting seem unusual or suspicious to you?

8 A. Yes, sir.

9 Q. How so?

10 A. I had texted her that I was going to
11 contact a mutual friend. And she texted back, who
12 is that?

13 Q. And how did you respond to that text?

14 A. I changed the subject.

15 Q. When did you learn that Nicole had been
16 missing?

17 A. March 14th.

18 Q. Once you found out she was missing,
19 what did you do?

20 A. I immediately contacted the Spartanburg
21 Sheriff's Department.

22 Q. Did you go to the sheriff's department?

23 A. That night, yes, sir.

24 Q. Did you provide a statement?

25 A. Yes, sir.

HINOJOS, AMANDA - DIRECT EXAM BY MR. STEGALL

1 Q. Were you asked to view an array of
2 photographs?

3 A. Yes, sir.

4 Q. What was the purpose of viewing those
5 photographs?

6 A. To see if I could pick out Leo in the
7 lineup.

8 Q. Before presenting you with the
9 photographs, did the officer go over instructions
10 with you?

11 A. Yes, sir.

12 Q. And did you understand the
13 instructions?

14 A. Yes, sir.

15 Q. Did you acknowledge that you understood
16 the instructions?

17 A. Yes, sir.

18 Q. Once you acknowledged that, were you
19 presented with an array of photographs?

20 A. Yes, sir.

21 Q. Did the officer presenting those photos
22 tell you any information about the individuals?

23 A. No, sir.

24 Q. Did the officer tell you who to select?

25 A. No, sir.

HINOJOS, AMANDA - DIRECT EXAM BY MR. STEGALL

1 Q. Did you make a selection of the person
2 that you met who called himself Leo?

3 A. Yes, sir.

4 Q. How long did it take for you to make a
5 selection?

6 A. Seconds.

7 Q. And how sure were you of that
8 selection?

9 A. 100 percent.

10 Q. I'm going to show you what was
11 premarked as State's Exhibit 75 for identification.
12 And I want you to just take a look at that for me.
13 Do you recognize that?

14 A. Yes, sir.

15 Q. Okay. Is that the lineup that you were
16 presented with?

17 A. Yes, sir.

18 Q. Is that your marking and signature --

19 A. Yes, sir.

20 Q. -- of your selection? Okay. After you
21 made a selection, did you also have to sign a piece
22 of paper?

23 A. Yes, sir.

24 Q. Was that form an affidavit of sorts?

25 A. Yes, sir.

HINOJOS, AMANDA - DIRECT EXAM BY MR. STEGALL

1 Q. Okay. Now, is that affidavit that you
2 signed, was that acknowledging that you made a
3 selection as the person that you knew to be Leo?

4 A. Yes, sir.

5 Q. Okay. And I'm going to hand you what's
6 been premarked as State's Exhibit 76. Do you
7 recognize that?

8 A. Yes, sir.

9 Q. What is that?

10 A. That is the affidavit that I signed to
11 confirm that that was the lineup -- that I agreed
12 to the lineup and understood the rules.

13 MR. STEGALL: No further questions.
14 Please answer anything that Mr. Smiley has.

15 THE WITNESS: Yes, sir.

16 MR. SMILEY: No questions, Your Honor.

17 THE COURT: You may step down.

18 Call your next witness.

19 MR. STEGALL: Thank you, Your Honor.

20 The State calls Dean -- Deanna Burgess.

21 And we would ask that the previous
22 witness be excused.

23 MR. SMILEY: Certainly.

24 THE COURT: Well, approach please.

25 (BENCH CONFERENCE)

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Any objection to her being
2 excused?

3 MR. SMILEY: No, Your Honor.

4 THE COURT: She is free to leave,
5 Solicitor. Thank you very much.

6 MR. ALFARO: Thank you, Your Honor.

7 THE COURT: You may call your next
8 witness.

9 MR. ALFARO: Deanna Burgess.

10 DEANNA BURGESS,

11 being first duly sworn, testified as follows:

12 THE CLERK: Please have a seat. State
13 your full name, and spell your last name for the
14 record.

15 THE WITNESS: Deanna Burgess,
16 B-U-R-G-E-S-S.

17 DIRECT EXAMINATION

18 BY MR. ALFARO:

19 Q. Good afternoon. Could you tell the
20 jury where you work?

21 A. I work with the Spartanburg County
22 Sheriff's Department.

23 Q. And could you tell us how long you have
24 been working for Spartanburg?

25 A. Thirty-four years.

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 Q. And what is your current rank and duty
2 responsibility?

3 A. I'm the sergeant over the crime scene
4 unit.

5 Q. And were you working in that capacity
6 on March -- in March of 2014?

7 A. I was.

8 Q. And on March of 2014, did you have the
9 opportunity to become involved in a missing person
10 case involving the victim Nicole Goodlett?

11 A. I did.

12 Q. And how did you initially become
13 involved in this case?

14 A. Master Deputy Shawn Nix gave me a call
15 around 8:00 o'clock that morning stating that the
16 Goodletts had come in to file a missing person's
17 report.

18 They had been sent back and forth
19 between us and Greenville County to determine
20 jurisdiction, and he wanted to advise me that they
21 were coming in.

22 Q. Okay. And in preparation for that
23 meeting, did you check your system to see if you
24 had any reports or information related to the case?

25 A. I did; and there was an incident report

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 filed as a missing person's on Nicole Goodlett.

2 Q. And as a result of retrieving that
3 report, were you able to contain contact
4 information for the defendant Jerald Howard?

5 A. I did.

6 Q. And did you speak with him on that day?

7 A. I did.

8 Q. And did you initially do that by phone,
9 or was that in a meeting?

10 A. Yeah, I gave him a call.

11 Q. And did he -- or was he asked to come
12 to the sheriff's office?

13 A. He was.

14 Q. And did he come?

15 A. He did; around 10:30 in the morning.

16 Q. Okay. And when he arrived at around
17 10:30, did you meet with him at that time?

18 A. I did not. I was still in the meeting
19 with Mr. and Mrs. Goodlett at the time.

20 Q. And did he wait or leave?

21 A. Well, I got a call from him, and he
22 said that he needed to leave to take his kids to
23 the daycare, or his baby sitter I believe is what
24 he called her, and said that he needed to report to
25 work that afternoon.

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 And I said, well, you know, can you
2 stay a few more minutes? And he said, I'm already
3 gone.

4 Q. Did he eventually come back to speak
5 with you?

6 A. He did. I asked him to come back and
7 he said that he would. After a little bit he
8 returned the call and said he was on his way back
9 to the office.

10 Q. So at that point in time he's not in --
11 when he arrives back, he's not in custody?

12 A. No, he is not.

13 Q. And at that point when he returned, did
14 you speak with him about Nicole and about her
15 disappearance?

16 A. I did.

17 Q. And was he able to provide you any
18 information as to the last time he saw Nicole?

19 A. He said that he had saw her,
20 approximately, two or three weeks prior.

21 Q. And did he describe for you the
22 circumstances around the last time he saw her?

23 A. Well, we began the interview process as
24 far as talking to him about getting as much
25 information as I could. And he -- you know, he did

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 say that it had been two or three weeks, and that
2 she had wanted to leave and that he had gone to the
3 store -- he and the twins had gone to the store,
4 and when he came back she was gone.

5 Q. And as part of your role in this
6 investigation on March the 13th of 2014, did you
7 have the opportunity to speak with -- let me
8 backtrack for a second.

9 Did you at some point during your
10 investigation speak with Amanda Galway who is now
11 Amanda Hinojos?

12 A. I did.

13 Q. And did you initially speak with her by
14 phone or in person?

15 A. Well, the Goodletts had given me her
16 information as far as calling her, and said she
17 wanted to talk to me. So I called her initially,
18 and then she came into the office later.

19 Q. And was that on the 14th of March?

20 A. Yes.

21 Q. And when you met with her, as a result
22 of your conversation with her, did you prepare a
23 photo lineup that contained the defendant Jerald
24 Howard?

25 A. Yes.

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 Q. And can you describe for the jury what
2 that lineup sort of looks like?

3 A. Well, it's just a photo with five other
4 as close look-a-likes as you could possibly get in
5 a six-photo lineup.

6 Q. And so you meet -- when you met with
7 her and provided her that lineup, did you suggest
8 to her in any way who she should pick?

9 A. No.

10 Q. Did you in any way suggest to her who
11 she should not pick?

12 A. No.

13 Q. And in your presence, was she able to
14 make an identification of the person she believed
15 to -- or identified as Leo that she had met with
16 previously?

17 A. Yes, sir.

18 Q. And was there any hesitation in her
19 identification?

20 A. No, not at all.

21 Q. I'm going to show you State's Exhibit
22 75. Is that the lineup that was presented to
23 Amanda on the day and time we were just talking
24 about?

25 A. It is.

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 Q. And can you tell the jury which one she
2 picked?

3 A. Number five. This is the number five
4 spot.

5 Q. And how did she indicate that that is
6 the person that she picked?

7 A. She circled it and she put her name,
8 her initials down here.

9 Q. And is the individual that she
10 identified as Leo, in fact, the defendant Jerald
11 Howard?

12 A. It is.

13 Q. I'm going to show you State's Exhibit
14 76, and ask if you recognize what that is.

15 A. This is the affidavit for
16 identification of photograph when she did the
17 lineup.

18 Q. And is her signature present on that?

19 A. It is.

20 Q. And does that also indicate that she
21 picked the defendant Jerald Howard as Leo?

22 A. It does.

23 Q. Can you tell us on the -- specifically,
24 on this affidavit of identification what the
25 description says as to the part that she's filled

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 out there? Read that for us -- actually, before
2 you do that --

3 MR. ALFARO: Your Honor, at this time,
4 we would ask to admit State's Exhibit 75 and 76
5 into evidence.

6 THE COURT: Any objection?

7 MR. SMILEY: No objection.

8 THE COURT: Without objection, State's
9 75 and 76 are admitted.

10 (STATE EXH. 75 in evidence.)

11 (STATE EXH. 76 in evidence.)

12 BY MR. ALFARO:

13 Q. Okay.

14 A. She described it as this is the person
15 as I know as Leo.

16 Q. If you can start right there.

17 A. Okay. It says: I, Amanda, have
18 reviewed -- or have viewed a group of six photos --
19 photographs this 14th day of March 2014, from which
20 I have positively identified photo number 1583947
21 displayed to me by Sergeant Deanna Burgess of the
22 Spartanburg County Sheriff's Office as the person
23 who I know as -- as I know as Leo.

24 Q. Now, in addition to what you testified
25 about, did you also have the opportunity to meet

BURGESS, DEANNA - DIRECT EXAM BY MR. ALFARO

1 with James Elijah Mangle?

2 A. I did.

3 Q. And can you tell us who that is?

4 A. That is little Eli. I believe he was
5 four years old at the time. He's Nicole's son.

6 Q. And did you at the time of meeting with
7 him obtain a buccal swab, DNA buccal swab from him?

8 A. I did.

9 Q. And was that done on March 21st, 2014?

10 A. Yes.

11 Q. I'm going to show you State's Exhibit
12 8, and ask if you recognize the internal packaging
13 as the -- do you recognize that?

14 A. Yes.

15 Q. Okay. And is that, in fact, the DNA
16 buccal swab that you obtained from Elijah Mangle?

17 A. James E. Mangle, yes.

18 Q. After obtaining this buccal swab, was
19 it secured into evidence?

20 A. It was.

21 Q. After obtaining the swab, was it
22 tampered with in any way by you?

23 A. No, it was not.

24 MR. ALFARO: Thank you. Please answer
25 any questions that the defendant may have.

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 THE COURT: Any questions?

2 MR. SMILEY: No questions.

3 THE COURT: Very well. You may step
4 down. Thank you.

5 Do you wish this witness to be excused
6 also?

7 MR. STEGALL: Yes, Your Honor.

8 THE COURT: Any objection?

9 MR. SMILEY: No objection.

10 THE COURT: You are also free to leave.
11 Thank you.

12 MR. STEGALL: The State calls Clay
13 Simmonds.

14 ROBERT CLAY SIMMONDS,
15 being first duly sworn, testified as follows:

16 THE CLERK: Please have a seat. State
17 your full name, and spell your last name for the
18 record.

19 THE WITNESS: My name is Robert Clayton
20 Simmonds, S-I-M-M-O-N-D-S.

21 DIRECT EXAMINATION

22 BY MR. STEGALL:

23 Q. Agent Simmonds, where are you currently
24 employed?

25 A. I'm a supervisory special agent with

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 the FBI here in Charleston, South Carolina. I am a
2 supervisor over our cellular analysis survey team.
3 It's called CAST. I manage guys who analyze cell
4 phone records and -- analyze cell phone records and
5 then draw a visual depiction of where those records
6 were at any particular point in time.

7 Q. And how long have you been with the
8 FBI?

9 A. I've been with the FBI for 17 years. I
10 was initially assigned out in Oklahoma for ten
11 years where I worked violent crime, gangs, drug
12 cases, things of that nature. I took a supervisory
13 position at the FBI headquarters in 2012. I worked
14 for the assistant director of the criminal
15 investigative program. Basically, whatever he
16 needed I was his guy to go to, to go get whatever
17 information he needed.

18 And then the CAST unit, the unit I am a
19 part of now, was formed in 2013, and I became a
20 supervisor in that unit. I was in charge of
21 training. I helped with all the training for cell
22 phone analysis, selected individuals, provided
23 correspondence to upper management that needed
24 information about CAST.

25 Q. Okay. Please describe your educational

1 background.

2 A. I went to school here in South Carolina
3 at the College of Charleston; I majored in business
4 and accounting. After school, I joined the
5 Charleston Police Department from 1995 to 2000. I
6 did two years on patrol answering calls for
7 service, and then three years on the FBI violent
8 crime task force and then went to graduate school
9 for a year or so at Clemson.

10 911 took place and the FBI hired me at
11 that time and I continued on with my career. I
12 moved back here to Charleston in 2014, back to the
13 Charleston office where I continued to work violent
14 crime, gangs and drug cases, and things of that
15 nature. During that time, I have been certified to
16 analyze historical cell phone records.

17 Q. Okay. You mentioned CAST. Can you
18 explain what CAST is?

19 A. Sure. So with the advent of the
20 popularity of cell phones, people using it and it
21 becoming part of our lives every single day as a
22 way we communicate with our friends and family, we
23 had a group of agents that discovered that there
24 are records that are maintained by the service
25 providers that we could use to analyze and locate a

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 general location where these phones were at any
2 particular time.

3 We used these records to identify crime
4 scenes, locate fugitives, locate missing
5 individuals, such as children, things of that
6 nature. This unit was created -- officially became
7 a unit in 2013 of the FBI. And we basically just
8 take those records, draw a visual depiction of what
9 those records are, and then come into courtrooms
10 like this and testify as expert witnesses.

11 Q. What training have you received to
12 become a CAST agent?

13 A. So to become certified as a CAST agent
14 by the FBI, we go through 300 to 400 hours worth of
15 training. The initial phase of training is just
16 the understanding of what we call call detail
17 records.

18 Call detail records are just like old
19 phone bills and things of that nature. It gives
20 you the date, the time, the duration of your call,
21 what numbers you called, or what numbers called
22 you.

23 And then a little bit different is that
24 on call detail records they give us the tower and
25 the -- the switch, the tower, and the sector that

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 that phone utilized to make those transactions. So
2 the switch, or what's also called a LAC or location
3 area code, is kind of like a group of towers. It's
4 kind of like your zip code for your state.

5 The tower itself is kind of like your
6 street address, and then the sector or the side of
7 the tower that the phone used is kind of like the
8 numbers on your address.

9 So when we combine that information
10 with a tower list, we are able to put those two
11 together and kind of give you a visual depiction of
12 where that phone was at that particular time --
13 generally, where that phone was at that particular
14 time.

15 So once we go through the initial phase
16 of learning what call details records are, how to
17 get them, how to utilize them and show where phones
18 are, we go through what we call an advanced CAST
19 class where we have records that have some
20 anomalies in it.

21 They may have times that are in
22 Universal Time Code or Coordinated. Basically,
23 it's -- for anybody who was in the military, it's
24 kind of like your military time or GMT, Greenwich
25 Mean Time. You have to learn to subtract a certain

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 amount of hours to get it into the local time and
2 things of that nature. So that class is about a
3 week.

4 We then spend two weeks in Florida
5 tracking cell phones. We use cell-site simulators
6 and cell phone records and place phones throughout
7 locations in Florida and then use the simulator to
8 go find those phones.

9 We take a week long course of
10 instruction -- instructor development course,
11 because part of our requirements of being a CAST
12 member we have to teach our skills to other
13 individuals who would like to learn about it. So
14 we do that for a week.

15 We then go through two, two-week
16 certification classes. So our first two-week
17 certification class is learning about radio
18 frequency. Cell phones use radio frequency to talk
19 to the towers and the towers to talk to the cell
20 phones. So we learn about radio frequency and how
21 it's used in the cellular network.

22 The service providers then come in,
23 each one of the major providers. Sprint, Verizon,
24 AT&T, Sprint, T Mobile, and US Cellular come in
25 with their law enforcement personnel and their

1 engineers. They explain how their network is set
2 up; they explain what records are available to us,
3 how we go about obtaining those records, and how we
4 can use those records to help assist in our
5 investigation.

6 We then go on a tour of a switch, a
7 group of towers, and then we actually go see a
8 tower. We see how it's maintained, talk to the
9 personnel that runs the switch in the towers, make
10 sure those things stay operational.

11 And then once we are done with that
12 two-week session, we have another two-week session
13 where we learn how to become expert witnesses and
14 courtroom testimony. They give us a case and have
15 us analyze those records.

16 We use equipment to go dry test the
17 area to actually give us a actual footprint of the
18 tower, and then we make our presentation in a moot
19 court where we bring in attorneys from across the
20 country to play defense attorney, prosecutor, and
21 judge. And they just let us go and be in a similar
22 situation like this and provide moot court which we
23 get feedback from it.

24 For our certification process, at each
25 stage, we are tested and we must pass that test

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 before we are actually certified.

2 Q. I believe you touched on this earlier,
3 but what is historical cell phone analysis?

4 A. So, again, we had some individuals who
5 discovered that cell phone records can be used to
6 give us a general location of where a cell phone
7 was at any moment in time when the phone
8 communicates with the network.

9 So, again, historical call detail
10 records or call detail records are just like your
11 old phone bills that you may have gotten when cell
12 phones were charging you by the minute every time
13 you used the phone, but it gives you the date, the
14 time of the call, it gives you duration of the
15 call, who you called or who called you.

16 Back then, it probably gave you the
17 city and state, but with the call detail records,
18 again, they give you the switch, they give you the
19 tower and the sector that was utilized when that
20 call took place.

21 So whenever you press the green button
22 to make your phone send a text message or send a
23 voice call or make a voice call, things of that
24 nature, that's when those records are populated
25 into the call detail records. And it gives us what

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 tower and sector and the switch that was used to
2 make that call.

3 Q. Okay. And, approximately, how many
4 times have you performed historical cell site
5 analysis?

6 A. I mean, I do -- I look at cell phones
7 every day. Just before court I was looking at ten
8 cell phones in another case. So I've done
9 hundreds, if not thousands, of cell phone records.

10 Q. Have you testified as an expert in
11 court before?

12 A. Yes, sir, many times. At least over a
13 dozen times. I testified in Berkeley County prior
14 to, numerous times in Charleston County, Horry
15 County, Akin County, the superior court in
16 Washington, DC, the middle district -- in federal
17 court in the Middle District of Florida.

18 I've testified about cell phone records
19 in the Eastern District of Tennessee and also out
20 in Oklahoma.

21 MR. STEGALL: Your Honor, at this time,
22 the State offers Special Simmonds as an expert in
23 historical cellular telephone and data analysis.

24 THE COURT: Would you care to examine
25 him as to his qualifications?

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 MR. SMILEY: No, sir.

2 THE COURT: He will be permitted to
3 render opinions in that area.

4 BY MR. STEGALL:

5 Q. Special Agent Simmonds, directing your
6 attention to this case, were you asked to analyze
7 some call detail records?

8 A. Yes, sir. I was initially approached
9 by the sheriff's office -- Spartanburg County
10 Sheriff's Office to look at some call detail
11 records from two Verizon cellular phones. And then
12 as we got closer to trial, your office asked me to
13 take a look and create a PowerPoint presentation
14 for the two phones.

15 Q. Okay. I'm going to hand you what's
16 been entered as State's Exhibit 29 and 30. Do you
17 recognize those?

18 A. Yes, sir. These are two disks that
19 contain the call detail records of the two
20 phones -- two Verizon phones I was asked to analyze
21 for this particular case. I know that because my
22 initials are on it, and I dated it when I reviewed
23 those reports.

24 Q. Okay. Can you tell the Court which two
25 numbers you were asked to analyze?

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 A. Sure. The first one was 864, I think,
2 909-5184, and then 864 -- I can't remember the
3 first three, but the last four digits are 8830. I
4 think it's 609-8830, but I'm not positive.

5 Q. What type of information is included in
6 these records?

7 A. So with these particular records, it
8 was the call detail records that were in there, the
9 ones that I explained to you guys before just a few
10 minutes ago. There was also an additional set of
11 records called RTT, or what they call range to
12 tower.

13 It's, basically, optimization for the
14 engineers with Verizon to maintain their network
15 and make sure they are providing a good clean
16 constant signal for their customers. Basically,
17 the RTT basically tells us what tower and sector
18 was used and also what side, what tower and sector
19 was used and how far away they estimate that phone
20 was in this particular -- for these particular
21 devices at those particular times.

22 Q. So do you need the call detail records
23 to perform your telephone analysis?

24 A. Yes. I would need both my -- both the
25 call detail records and historical -- or the tower

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 list that is provided by the service providers in a
2 database that we have access to for the general
3 time range that is available.

4 And so what I do is I'm available to
5 take the latitude and longitude of the location
6 where the towers, find the towers that were
7 utilized in the call detail records, marry them up,
8 and then basically draw a visual depiction of where
9 that phone generally was when those calls or texts
10 were made.

11 Q. Okay. And after being provided the
12 call detail records in State's Exhibits 29 and 30,
13 what did you do next?

14 A. I then looked at what information I was
15 asked for me to analyze. I looked at the call
16 detail records to see if there were dates and times
17 that corresponded, that had tower information that
18 I could place on a map, and then I created a
19 PowerPoint presentation to visually display the
20 results.

21 Q. Okay. What was the relevant time
22 period you were looking at in this case?

23 A. It was February 21st through about the
24 24th of 2014, and March 9th of 2014. The records
25 covered anywhere from February, I think, 15th or

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 16th down to March 23rd, if I'm not mistaken.

2 Q. Were you able to identify specific
3 towers that were used by the target phones during
4 the relevant time and dates?

5 A. Yes, sir.

6 Q. Okay. How were you able to identify
7 these towers?

8 A. Again, in the call detail records they
9 provide us with the switch and the LAC that was
10 used, the tower and the sector that was used. And
11 then I'm able to take that information and look
12 into the tower lists for that particular phone
13 company, in this case Verizon, and find the
14 latitude and longitude for that tower and then
15 place that on the map.

16 Q. And you said you prepared a PowerPoint
17 presentation?

18 A. Yes, sir.

19 Q. Okay. I'm going to hand you what's
20 been marked as State's Exhibit 38. Do you
21 recognize that?

22 A. Yes, sir. It's the PowerPoint
23 presentation that I created for this case for
24 telephone numbers 864-909-5184 --

25 THE COURT REPORTER: I'm sorry, say

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 again.

2 THE WITNESS: I'm sorry, (864) 909-5184
3 and (864) 680-8830. And it's what I provided to
4 your office for this trial.

5 BY MR. STEGALL:

6 Q. Okay. Does reference to your
7 PowerPoint presentation contained on State's
8 Exhibit 38 assist you in explaining your analysis
9 to the jury?

10 A. Most definitely.

11 MR. STEGALL: Your Honor, at this time,
12 the State moves to enter State's Exhibit 38 into
13 evidence.

14 THE COURT: Any objection?

15 MR. SMILEY: No objection.

16 THE COURT: Without objection, State's
17 38 is admitted.

18 (STATE EXH. 38 in evidence.)

19 MR. STEGALL: Permission to publish,
20 Your Honor?

21 THE COURT: You may.

22 BY MR. STEGALL:

23 Q. Agent Simmonds, you've got a clicker
24 here --

25 A. Okay.

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 Q. -- that will allow you to --

2 THE WITNESS: Your Honor, may I stand
3 up?

4 THE COURT: Yes, sir. Just keep --
5 obviously, keep your voice elevated for the court
6 reporter.

7 THE WITNESS: That's usually not a
8 problem.

9 THE COURT: I understand. I agree with
10 you. We have been together before.

11 THE WITNESS: Yes, sir.

12 So this is the cover page for this
13 presentation. It's just to introduce myself, tell
14 you who I am and where I work and what organization
15 I work for, the two phones that I was asked to
16 analyze, and basically the date that I completed
17 the analysis.

18 The second page of the presentation is
19 just the background of the case, who asked me to
20 look at these records -- who asked me to look at
21 these records, the methodology which I explained
22 earlier, that I take the call detail records, the
23 cell tower list, combine them together to plot out
24 the locations of when these transactions took
25 place, that I used the tower list at the time of

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 the incident, or as close to it as possible, the
2 time of the incident, and that my conclusions will
3 be on the next page and not every single
4 transaction will be depicted.

5 This slide just shows you what a
6 general cell tower looks like. Most cell towers in
7 the state of South Carolina are three-sided;
8 divided into sector 1, sector 2, and sector 3. Or
9 some of the engineers call it alpha, beta, and
10 gamma.

11 They cover, approximately, 120 degrees
12 for each sector, having three sectors give us 360
13 degrees so we can cover the full circle.

14 This is generally what you would see
15 riding up and down on the highway or any streets as
16 you go to and from work, but, again, alpha, beta,
17 gamma, sector 1, sector 2, and sector 3. So within
18 the tower list, there is information in there to
19 identify what angle sector 1, sector 2 or sector 3
20 is on. It's called the azimuth.

21 And what we do is take that number in
22 the azimuth, and we look at it on the -- like on a
23 clock. And we say that every hour on the clock is
24 approximately 30 degrees. So if we have an azimuth
25 for sector one at approximately 30 degrees, we look

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 at it and say that's approximately 1:00 o'clock.

2 We go 60 degrees to the right of that,
3 60 degrees to the left of that to leave us at 11
4 and 3:00 o'clock to give us our 120-degree area of
5 coverage for that particular sector. And then we
6 continue doing that for every other sector
7 involved.

8 This is a map of the Verizon network in
9 the areas of interest up in Spartanburg, South
10 Carolina in February of 2014. The red dots -- the
11 red dots on here represent the Verizon tower. This
12 icon, orangish-gold icon here, is the Howard
13 residence at 109 Graymouth Court in Spartanburg,
14 and this blue one here is the Goodlett residence at
15 160 Loblolly Drive in Spartanburg.

16 So when I took a look at the records, I
17 saw a lot of activity from the first day that we
18 had records on the -- around February 15th to the
19 16th, all the way up to February 21st and 22nd.
20 And I was told that on February 21st or 22nd was
21 important to them. It was important to the case.

22 So I took those records and basically
23 drew a map out of where these records -- or where
24 these calls took place at these particular times.
25 So these two phones, both the Goodlett phone at

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 5184 and the Howard phone at 8830, utilized these
2 towers and these sectors at these relevant times.

3 So down here the 8830 Howard phone used
4 tower -- Verizon tower 407, sector 3 at 8:54, 9:13
5 and 2:32 p.m., and the other two were a.m., using
6 this side of the tower. Again, over here on
7 February 21st, both phones used tower 530, sector
8 1, and 530, sector 3, at these various times listed
9 on the call-out box on February 21st and 22nd, so
10 on and so forth.

11 Here, after -- afterwards, I started to
12 notice on the call detail records that the Goodlett
13 phone ending in 5184 call activity drastically
14 dropped of having no outgoing calls being made to
15 it. I saw a lot of incoming calls that were coming
16 to it and that were going to voicemail or just
17 being forwarded as not being answered, and I saw
18 very few transactions where it actually had tower
19 information that I could use to show where that
20 particular phone was.

21 But I did discover on February 22nd,
22 2014, that -- that the phone ending in -- Goodlett
23 phone ending in 5184 utilized tower 23, basically
24 sector 2, but in this particular instance, I didn't
25 care what side of the tower it was, which was up

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 here in the Columbia/Lexington area, and then it
2 wasn't utilized again until February 23rd, 2014, at
3 9:30 and 9:31 p.m. right down here in the area of
4 526 and I-26 in the Charleston/Berkeley County
5 area.

6 So, for me, that indicated that the
7 phone at one time, and on February 22nd at 9:41 was
8 in the Columbia area, had to travel down in this
9 general southeastern direction, and then utilized
10 resources of this tower right here in the 526, I-26
11 area.

12 Again, based on the information that
13 was provided to me and given throughout the --
14 developed throughout the investigation, I was -- it
15 was my understanding that March 9th was an
16 important date, an important date to them. And so
17 they wanted to see if the phones -- if both phones,
18 the 5184 and 8830 phone, the Goodlett and Howard
19 phone, utilized towers at the same time or in the
20 same area on March 9th.

21 And throughout the day, we found that
22 the 8830 phone, the Howard phone, utilized the
23 towers down here in this area of Spartanburg area
24 throughout the day, and then beginning around 8:30
25 started to travel up towards the Blacksburg area,

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 and then began using towers along this route,
2 coming up this way, and then eventually returning
3 back to the Spartanburg area in the same day.

4 I noticed between 8:54 and 9:30 that
5 both phones were utilizing this tower right here,
6 67-367-2, and this long number here which is our
7 4G, our LGT towers that are used, were using --
8 they both used this tower during that same
9 timeframe there, continued on heading towards the
10 Blacksburg area with both phones between 9:02 and
11 9:22, 9:05 and 9:22 utilizing this tower 49-3,
12 49-1.

13 And then as it came on back started
14 using this tower, 18 or 1018-1 here between 9:22
15 and 9:24, and for the 5148 phone, 9:22 and 9:26.

16 And then after this 9:26, I don't have
17 any other activity for the 5184 phone, but this
18 phone, 8830, comes back to the Spartanburg area and
19 began using towers as late as 10:27 that night.

20 BY MR. STEGALL:

21 Q. Okay. Now, Agent Simmonds, in looking
22 at the call detail records, were there any -- any
23 calls between the Goodlett phone, 909-5184, and a
24 number ending in 5395?

25 A. Yes, sir. So when I looked at the

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 records, I run the numbers to see how many times
2 they were in communication with each other.

3 I then take those and use a public
4 database to see if I can develop a subscriber to
5 provide information to investigators to help their
6 case, you know, one way or the other.

7 And I noticed that the Goodlett 5184
8 phone and 5395 had at least 12 calls between each
9 other over the duration of records that I was
10 provided.

11 Q. When was the last significant call to
12 that number?

13 A. Well, there was one extremely long call
14 on February 17th, right around 9:00 o'clock. I
15 think the record said it was 9:02 p.m. It was
16 about a five- to six-hour phone call. And then it
17 had another phone call between the two phones on
18 February 20th, which is about 972 seconds which is,
19 you know, an approximately 15-minute phone call.

20 Q. Were there any phone calls made to an
21 864-567-0512 after February 21st?

22 A. After February 21st?

23 Q. Correct.

24 A. Yes. There was a couple of calls that
25 were made during that time period. Significant

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 call activity of outgoing calls for 5184 dropped
2 dramatically after February 23rd.

3 Q. Okay. And what were the duration of
4 the calls between the 567-0512 and the Goodlett
5 phone?

6 A. Say that number again.

7 Q. 864-567-0512.

8 A. They had a -- they had a call around
9 March 2nd, and it was only about 32, 33 --
10 approximately, 32, 33 seconds at that time. Most
11 of the calls for the 5184 phone after February 23rd
12 ranged anywhere from just a few seconds to up to
13 around 40 or 42 seconds.

14 Q. Okay. On your call detail records, do
15 you have on February 23rd about how many times the
16 0512 attempted to contact the 5184 number?

17 A. Yes, sir. Approximately, during that
18 time, it was about 29 phone calls.

19 Q. Were they spread out or were they --

20 A. I would have to go back and look at the
21 records, but a lot of them were just back to back.

22 Q. You said that the call usage
23 dramatically dropped on February 23rd?

24 A. Yes. After that 9:00, 9:30 timeframe
25 on the 23rd, the call activity -- outgoing calls

1 significantly dropped.

2 Q. Okay. Prior to February 23rd, how many
3 outgoing calls were there for 5184?

4 A. There were approximately 64 outgoing
5 calls prior to that date.

6 Q. After February 23rd, how many outgoing
7 calls were there for Nicole Goodlett's phone?

8 A. There were seven outgoing calls after
9 that date -- after that date, and that's just for
10 the date range that I was provided from
11 February 15th, 16th through March 15th, 16th.

12 Q. Okay. And of those seven outgoing
13 calls, what was the longest in duration?

14 A. I think 40 seconds. And that -- and so
15 when the phone -- so when you press the green
16 button to make your phone call, that's -- for
17 Verizon, that's when the time starts to click for
18 how long your call is.

19 Sometimes there may be a delay of, you
20 know, the person answering the phone on the other
21 end or if it takes a second or two for the call to
22 get set up within the network, that includes that
23 time. So that might not be 40 seconds of actual
24 talk time.

25 Q. Okay. So in your expert opinion, was

SIMMONDS, ROBERT CLAY - DIRECT EXAM BY MR. STEGALL

1 there someone actively using the 5184 after
2 February 23rd -- well, let me word it another way.
3 Were there any calls of significance after
4 February 23rd?

5 A. Yes, sir, because as I showed in the
6 presentation earlier, there was activity on the
7 phone on March 9th, and then there were a few phone
8 calls that took place that gave us tower
9 information that we were able to see that the
10 phone, you know, was answered or connected to the
11 network at the time.

12 Usually, when you get an incoming call
13 and it goes to -- it gets forwarded or goes to
14 voicemail, Verizon does not provide us any tower
15 information. It just says, hey, this call took
16 place at this time, it was approximately this
17 length. And they don't give us any tower
18 information.

19 There were a few calls that had tower
20 information within the records after February 23rd,
21 but nothing like it was prior to that date.

22 MR. STEGALL: Okay. The Court's
23 indulgence?

24 THE COURT: Certainly.

25 MR. STEGALL: Agent Simmonds, I have

1 nothing further. Please, answer anything
2 Mr. Smiley has.

3 THE WITNESS: Yes, sir.

4 THE COURT: Cross examine.

5 CROSS-EXAMINATION

6 BY MR. SMILEY:

7 Q. Just a couple of questions. I'm Jim
8 Smiley; I represent Jerald Howard.

9 A. Yes, sir.

10 Q. It's good to see you.

11 A. Same here.

12 Q. I understand that when a cell phone
13 calls a tower or makes a call, it goes to the
14 nearest tower?

15 A. No. Cell phones work -- usually the
16 nearest tower, but cell phones work in the sense
17 that your phone when it's sitting in an idle mode
18 waiting for a call or a text or a transaction to
19 take place over the network, it's constantly
20 scanning its environment looking for the tower that
21 provides the cleanest, strongest signal.

22 Now, most of the time that is the tower
23 that is closest to the phone at that moment, but
24 it's not always that way. There could be
25 obstructions that cause that to take place. Height

1 of a tower, terrain, things of that nature could
2 cause it to take place, but your phone will always
3 use the tower that it sees at that particular time
4 that that transaction is made that has the
5 clearest, strongest signal.

6 Q. All right. I didn't think about that
7 and we are in the Lowcountry, but if you were up in
8 -- somewhere with mountains or what have you, you
9 could have a tower real close but couldn't latch
10 onto it?

11 A. Yes. It may not be able to penetrate
12 through the mountains, or if you're in New York you
13 have --

14 Q. Buildings?

15 A. -- a tall building or a tower higher or
16 lower, something of that nature. And it just does
17 not -- cell phones like a direct line of sight as
18 best that it can. And so it may not always use the
19 closest tower, but uses the one with the clearest,
20 strongest signal at the time.

21 Q. Okay. When you've got your phone on
22 and it's -- I know I'm not using the right words,
23 but you can correct me. When it's on and you say
24 it's scanning, it's basically latching to a tower
25 until a better tower comes on and then it jumps to

1 that tower?

2 For instance, if you're driving down
3 the highway and your phone is on, is it latching,
4 for lack of a better word, scanning out and saying
5 this is my tower? And it shows me how many bars
6 I've got on my phone, and then it changes all of a
7 sudden. Is that when it jumps to another tower?

8 A. So cell phone towers and cell phone
9 networks are made up kind of like your sprinkler
10 system; they want to have overlapping coverage of
11 the network. So as you drive from tower to tower,
12 you don't lose service.

13 Because if you remember in the early
14 days of telephones, you always got to that one
15 point where you would be talking to your family or
16 friend or whatever and you'd say, I'll call you
17 back in just one second, because you know you're
18 phone is going to die. You get on the other side
19 of that spot, you get service again.

20 Well, cell phone companies are a
21 billion dollar industry; they get tired of having
22 complaints on that. So they start trying to get
23 their phones to be like a sprinkler system and
24 providing that overlapping coverage; because you
25 don't want dead grass in your yard, you don't want

SIMMONDS, ROBERT CLAY - CROSS EXAM BY MR. SMILEY

1 dead spots with your cell phone coverage.

2 So when your phone is just sitting in
3 an idle mode, it's constantly scanning its
4 environment looking to see what towers provide the
5 clearest, strongest signal. With that, those
6 records are not provided to us to use in analysis.

7 The only time that we are able to get
8 what tower was utilized is when the phone says,
9 hey -- or the network says, hey, you have a call,
10 or you want to make a call, and the phone says, I
11 see this particular tower and this side of the
12 tower has my clearest, strongest signal.

13 And when you press that green button,
14 that's when those records are populated and
15 maintained by the provider that we are able to have
16 access to.

17 Q. Okay. So, if I understand -- I'm
18 trying to make this for the dumb guys, like me --
19 is when -- is it scanning for those towers, and for
20 my lack of better word, it's latched on, but it's
21 not creating a record, and when you make a call
22 then that tower is creating a history?

23 A. Yeah. Then -- so yes. When your phone
24 is sitting in auto mode, it's always looking for
25 the tower with the clearest, strongest signal. And

1 as you move around, it will change from tower to
2 tower.

3 Records are not generated until you
4 press the green button to answer your call or your
5 text or make that call or text. That's when the
6 records are generated.

7 Q. Okay. So you were able to show when a
8 phone had activity that reached out and touched a
9 tower?

10 A. Yes. To provide a general location
11 where the phone was, I have to have tower
12 information to do so, yes, sir.

13 Q. All right. And you used -- you've used
14 it several times, general information. It doesn't
15 give you a specific spot?

16 A. Well, the information is specific, but
17 the location of the area of that phone is a general
18 location. I just know it used that tower, and
19 whatever sector that was illustrated, it used that
20 sector of the tower.

21 And it could be anywhere within those
22 arms that were drawn on the map.

23 Q. Well, to use your illustration in your
24 PowerPoint, is each -- there are three sides to the
25 tower?

SIMMONDS, ROBERT CLAY - CROSS EXAM BY MR. SMILEY

1 A. Generally, yes, sir.

2 Q. Well, the ones that we're talking about
3 today?

4 A. Yes, sir.

5 Q. So each of those sides has 20 degrees
6 of coverage?

7 A. Approximately, yes, sir.

8 Q. Okay. And so it tells you which of
9 those three sides first that it hits, correct?

10 A. So the records that we visually depict
11 on any maps is the one that the phone chose when
12 the call initially started. We don't do anything
13 afterwards.

14 Q. And so it tells you it's within this
15 120-degree cone?

16 A. That's correct.

17 Q. All right. So when you say generally,
18 that's what you were talking about?

19 A. Correct. So I can't tell you if it's
20 at the base of the tower or 500 yards from the
21 tower or 1,000 yards from the tower. I can just
22 only tell you it's somewhere within that general
23 tower edge that I drew on the map.

24 Q. Or five miles away from the tower
25 depending on the tower -- other towers around,

1 correct?

2 A. Right. Just depending on where -- the
3 density of towers and things of that nature. In
4 more rural areas, you might have some towers spread
5 out a little further because the demand for
6 services aren't as high as places like downtown
7 Charleston or New York and stuff. You may have --
8 you will have towers closer because more people are
9 demanding services on the network.

10 Q. All right. And so in that 120-degree
11 cone is -- and you used minutes, I guess, is in
12 there, you can't say it was at -- if we're using
13 one side, zero to 120 degrees, you don't say it was
14 at 84 degrees, do you?

15 A. I can only tell you it's between those
16 arms.

17 Q. That's all you can tell, and you aren't
18 predicting distance from the tower?

19 A. Not in this situation, no, sir.

20 Q. Okay. So, additionally, when -- you
21 called them Goodlett phone and the Howard phone.
22 You were provided those names, correct?

23 A. That's correct.

24 Q. All right. So those phones you were
25 able to determine time, date, and which tower?

SIMMONDS, ROBERT CLAY - CROSS EXAM BY MR. SMILEY

1 A. And the duration of the calls.

2 Q. And duration. And a general place of
3 where the call -- where the phone would have been
4 located?

5 A. Yeah. I was able to determine what
6 sectors, or what side of the tower was used, and it
7 would be in that general area.

8 Q. All right. If you had two phones
9 within a minute of each other bounce off the same
10 tower, does it necessarily mean that the phones are
11 in the same place?

12 A. No, it doesn't necessarily mean the
13 phones are in the same place.

14 Q. Okay. And it certainly doesn't say
15 who's using the phone?

16 A. No. I mean, I can only tell you that's
17 where the phone was. I don't know who's using it.
18 It's not my job.

19 Q. All right. I wasn't suggesting that it
20 was.

21 A. Right.

22 Q. All right. I'm trying not to ask you
23 spy novel questions because there's a whole bunch
24 of them that come up, but -- I just have general
25 knowledge, but it's not specific to this case. But

SIMMONDS, ROBERT CLAY - CROSS EXAM BY MR. SMILEY

1 is -- because you have done this so many times, in
2 your expert opinion in doing this, people that are
3 trying to avoid being located don't use their
4 phones as often?

5 A. That would be a smart thing to do.

6 MR. SMILEY: Beg the Court's
7 indulgence?

8 THE COURT: Yes, sir.

9 MR. SMILEY: Nothing further, Your
10 Honor.

11 THE COURT: Redirect?

12 MR. STEGALL: Nothing on redirect, Your
13 Honor.

14 THE COURT: Thank you. Do you wish the
15 witness to be excused?

16 MR. STEGALL: Please.

17 THE COURT: Any objection?

18 MR. SMILEY: No objection.

19 THE COURT: Agent Simmonds, you're free
20 to leave. Good to see you.

21 THE WITNESS: Thank you, sir. Good to
22 see you.

23 THE COURT: You may call your next
24 witness, please.

25 MR. ALFARO: The State calls Dashawn

JOSEPH, DASHAWN- DIRECT EXAM BY MR. ALFARO

1 Joseph.

2 DASHAWN JOSEPH,

3 being first duly sworn, testified as follows:

4 THE CLERK: Have a seat please. State
5 your full name, and spell your last name.

6 THE WITNESS: Dashawn Joseph,
7 D-A-S-H-A-W-N, last name J-O-S-E-P-H.

8 DIRECT EXAMINATION

9 BY MR. ALFARO:

10 Q. Before we get started, this lady here
11 is the court reporter. She has to take down
12 everything you say. So when I ask you a question,
13 try to answer in that microphone so everybody can
14 hear you and she can type it all down. Okay?

15 A. Yes, sir.

16 Q. Can tell us how old you are?

17 A. I'm 21.

18 Q. And what area do you live in?

19 A. Right now I live on Rivers, but back
20 then in Huge, South Carolina.

21 Q. Okay. So back in November 2015, you
22 were living in Huge?

23 A. Yes, sir.

24 Q. What part of Huge was it?

25 A. Cainhoy.

JOSEPH, DASHAWN- DIRECT EXAM BY MR. ALFARO

1 Q. Okay.

2 A. Right there on Brantley.

3 Q. So you're familiar with Cainhoy
4 Elementary Middle School?

5 A. Yes, sir.

6 Q. And can you tell the jury where that is
7 sort of in relation to 526 and 26? Like how you
8 would get there from there?

9 A. Well, you got to hit West -- well, I
10 think it's West Columbia, or whatever, you got to
11 go around that loop. And then hit Clements Ferry
12 all the way down, all the way to you get all the
13 way to Cainhoy at that old red building, or
14 whatever, at that light right there.

15 Q. So you go up Clements Ferry Road to --

16 A. Yes, sir.

17 Q. -- to Cainhoy?

18 A. Yes.

19 Q. All right. And can you describe for
20 the jury the area, what the area around and behind
21 Cainhoy Elementary School looks like?

22 A. It's like a pine forest area. Like
23 just lot of debris and brushes, stuff like that.

24 Q. So like woods?

25 A. Yeah, woods pretty much.

JOSEPH, DASHAWN- DIRECT EXAM BY MR. ALFARO

1 Q. And were you in that area on
2 November 26, 2015?

3 A. Well, there next, on the other side,
4 yes, sir.

5 Q. Okay. And what were you doing?

6 A. I was running dogs. You know, trying
7 to get an afternoon hunting before it get dark.

8 Q. And who were you hunting with at that
9 time?

10 A. Just like the club. One of my club
11 members and all that.

12 Q. Okay. You've got a hunting club?

13 A. Yes, sir, pretty much.

14 Q. Okay. And were you specifically -- do
15 you know Vincent Taylor?

16 A. Yes, sir.

17 Q. Was he with you?

18 A. No, sir, not right now -- not at the
19 moment.

20 Q. So you're running the dogs back there.
21 You said it was -- before it was getting dark?

22 A. Just about, probably like 30 minutes to
23 an hour before it get dark. And we -- go ahead.

24 Q. No, finish your thought.

25 A. I was about to say, like when the time

JOSEPH, DASHAWN- DIRECT EXAM BY MR. ALFARO

1 change, it started getting dark like around 5:30 or
2 6:00. So in that time frame.

3 Q. All right. Did you find yourself in
4 the area behind the school around that time?

5 A. Yes, sir, because once they get on the
6 radio and say my dog crossed over, you know, that's
7 like, they got these expensive, you know, Garmin
8 collars. And I be danged if I let her get over, or
9 whatever, so I have to try to go and try to
10 retrieve the dog.

11 Q. So you went over there near -- behind
12 the school to go get your dog. Can you tell us
13 what happened?

14 A. After that, I parked my truck right on
15 the edge and I hopped out, started calling for him.
16 Then when I hear him, like when there was barking
17 still going there, I tried to ran in there and
18 tried to stop them, but, you know, I ran up upon
19 like this skull probably like 65 yards, 75 yards
20 from the football field.

21 So -- and then, you know, just me --
22 reminding me we just had a flood, you know,
23 after -- you know, after Halloween or whatever. So
24 I thought it was fake, or whatever.

25 I was like, Vince, there's a skull, or

JOSEPH, DASHAWN- DIRECT EXAM BY MR. ALFARO

1 whatever. Like, well, like a skull. And he was
2 like, man, that might be a dog skull. I was like,
3 no, that's a human skull.

4 So I picked it up and like the teeth
5 falled out. And after that, I picked up the teeth,
6 and I had touched it or whatever, and I put it back
7 down. And it was getting kind of dark, like I
8 said, so I cleaned it out and marked the tree, like
9 break it, and headed back toward the football
10 field. And that morning I reported it.

11 Q. Okay. So --

12 A. That's when the police came.

13 Q. Just so we're clear and everybody
14 understands it, you're looking for your dog and you
15 come across the skull?

16 A. Yes, sir, pretty much.

17 Q. Did you say that was 65 to 75 yards in?

18 A. Yeah, 75 yards.

19 Q. Okay. Seventy-five yards. Okay.

20 A. Pretty much, if I can remember.

21 Q. Okay. So you picked it up and put it
22 back down?

23 A. Yes, sir.

24 Q. And you said you broke something.

25 You're talking about marking, like breaking a tree

1 or marking something?

2 A. Yeah, like a tree. Like a little
3 debris pretty much, yes, sir.

4 Q. So you could find it --

5 A. So I could track it back.

6 Q. Okay. And you said you reported it to
7 the police the next day, the 27th?

8 A. The next day.

9 Q. Okay.

10 A. That's when I reported it. And they
11 said it was real, and all this came about.

12 Q. So the next day when the police get
13 there on November 27th, did you show them what you
14 had found?

15 A. Well, pretty -- well, at the moment, I
16 guess, I was at work. And one of the detectives
17 called me, and he told me to come back. And pretty
18 much what we're doing now, told me to tell the
19 story of how I came upon it, or whatever.

20 Q. So you just came across this while you
21 were --

22 A. Yes, pretty much.

23 MR. ALFARO: Okay. Thank you. Please
24 answer any questions that the defense may have for
25 you.

JOSEPH, DASHAWN- CROSS EXAM BY MR. SMILEY

1 THE COURT: Cross examine.

2 CROSS-EXAMINATION

3 BY MR. SMILEY:

4 Q. I'm Jim Smiley; I represent Jerald
5 Howard. How you doing?

6 A. Fine, thank you.

7 Q. Did you grow up in Huge?

8 A. Yes, sir, all my life.

9 Q. Okay. So you're familiar with the
10 area, right?

11 A. Yes, sir, pretty much.

12 Q. And not that day, but, in general, you
13 have been to Cainhoy --

14 A. Yes, sir.

15 Q. -- Elementary?

16 A. Pretty much.

17 Q. And because some of this jury might not
18 have been there before, I'm going to ask you to
19 describe it a little bit. You've got --

20 A. It's like --

21 Q. -- Cainhoy Road, right?

22 A. Yeah, Cainhoy, yes, sir.

23 Q. And then --

24 A. The school.

25 Q. -- the school, and then behind --

JOSEPH, DASHAWN- CROSS EXAM BY MR. SMILEY

1 A. And then the football --

2 Q. -- football --

3 THE COURT: Hold on a minute. You need
4 to let him ask the question, because this lady is
5 taking it down. When both of you are talking, it's
6 trouble. So just wait for him to finish and then
7 you can talk.

8 BY MR. SMILEY:

9 Q. It's the third time I've done it in
10 this trial, so I'm going to try too. I'm bad about
11 it.

12 All right. So I'm going to describe it
13 and ask if you agree. Okay?

14 A. Okay.

15 Q. So we have the road, the school, behind
16 it is the football field with the track around it,
17 right?

18 A. Yes, sir.

19 Q. And then behind that is woods?

20 A. Yes, sir.

21 Q. You found the skull about 60, 70 yards
22 into the woods?

23 A. Yes, sir.

24 Q. Past the track and the football field?

25 A. Yes, sir.

JOSEPH, DASHAWN- CROSS EXAM BY MR. SMILEY

1 Q. Now, were there -- this was

2 Thanksgiving?

3 A. No. It was like around after

4 Halloween. So like in the middle pretty much of

5 both.

6 Q. Okay. So there was -- were people

7 generally out around that track?

8 A. No, sir.

9 Q. Okay. Not when you were out there?

10 A. No, sir.

11 Q. Your hunting club, what's the name of

12 it?

13 A. Charity Hunting Club.

14 Q. Charity?

15 A. Yes, sir.

16 Q. How long have you been a member?

17 A. Ten years.

18 Q. Okay. A while, right?

19 A. Yes, sir.

20 Q. Okay. Where -- when you all are going

21 to do a hunt, where is the clubhouse?

22 A. It's right there by Charity Church,

23 right there by Barbican plant, right down there.

24 Q. Right. Okay. So right off of Charity

25 Church Road?

JOSEPH, DASHAWN- CROSS EXAM BY MR. SMILEY

1 A. Pretty much, yes, sir.

2 Q. Okay. Now, DaShawn, you had a dog that
3 day, right?

4 A. Sir?

5 Q. You had your hunting dog, right?

6 A. Oh, yeah, I had my dog.

7 Q. Everybody brings the dogs out --

8 A. Oh, yes, sir.

9 Q. -- or there is just one or two?
10 There's a bunch of them?

11 A. Oh, yeah. I mean --

12 Q. I got you. And he has a collar on?

13 A. Yes, sir, GPS collar.

14 Q. So when you all are running the dogs on
15 you all's property, everything is good, right?

16 A. Yes, sir, pretty much.

17 Q. If he gets out of your property, then
18 you got to go get your dog, right?

19 A. Sometimes. Like, depending on where
20 you're at. Like if it's a locked gate or they got
21 no trespassing, you can't. We try to like call if
22 anybody's familiar with the area.

23 Q. Okay. And so when you saw the dog was
24 heading towards the school --

25 A. Yeah, pretty much. I tried to get

JOSEPH, DASHAWN- CROSS EXAM BY MR. SMILEY

1 there with the truck. I had to run out of the
2 woods, get my truck and went straight to Cainhoy,
3 and --

4 Q. You went down Charity Church?

5 A. Well, no, Cainhoy. Cainhoy Road, not
6 Charity Church. Cainhoy Road.

7 Q. Okay. And so you went down Cainhoy
8 Road to the school?

9 A. Yes, sir.

10 Q. And as you pulled into the school --
11 were you able to drive all the way back?

12 A. Well, yeah, because the gate was
13 opened. So, yeah, I was able to drive to the back.

14 Q. Is it always open?

15 A. Yes, pretty much. Yes, sir, it be
16 open.

17 Q. And Vincent was riding with you?

18 A. Yeah. Yes, sir.

19 Q. Okay. And when -- you said you picked
20 up the skull?

21 A. Yes, sir, it was like --

22 Q. And sort of like, oh --

23 A. Yeah, like this is real.

24 Q. This is real, this ain't -- I'm going
25 to put it here.

JOSEPH, DASHAWN- CROSS EXAM BY MR. SMILEY

1 THE COURT: Hold on, guys. Again, you
2 all are doing that. I know that you are a
3 conversationalist, but you've got to help me, Mr.
4 Smiley.

5 MR. SMILEY: I need to, and I
6 apologize, Your Honor.

7 THE COURT: Especially with an
8 individual who's not familiar with --

9 MR. SMILEY: Absolutely.

10 THE COURT: -- this.

11 You're not doing a thing wrong. You
12 are doing exactly what we all do.

13 THE WITNESS: Yes, sir.

14 THE COURT: But it's a time when you
15 have to have a break, and then give a pause before
16 you respond. And it's nothing wrong. Please,
17 there is nothing wrong with what you're doing.

18 BY MR. SMILEY:

19 Q. You're doing good. I'm the one that's
20 having a problem, but I'm going to do better.

21 All right. Backing up just a step.
22 Vincent was with you?

23 A. Yes, sir.

24 Q. You saw the skull?

25 A. Yes, sir.

JOSEPH, DASHAWN- CROSS EXAM BY MR. SMILEY

1 Q. And you didn't want to take it?

2 A. No.

3 Q. Because you didn't want any --

4 A. Yeah, backup.

5 Q. So you made sure that you could find it
6 by marking it and then you and Vincent left, right?

7 A. Yes, because it was --

8 THE COURT REPORTER: Say again.

9 THE WITNESS: Because it was getting
10 dark. So I was just trying to do the right thing
11 and wait until the morning and call so they could
12 have light to see, or whatever.

13 And then, I was like 16 at the time
14 so --

15 BY MR. SMILEY:

16 Q. You were only 16 when this happened?

17 A. Yes, sir.

18 Q. I got you.

19 A. Yes, sir.

20 MR. SMILEY: Beg the Court's
21 indulgence?

22 THE COURT: Certainly.

23 MR. SMILEY: Nothing further. Thank
24 you.

25 THE COURT: Any redirect, Solicitor?

BELL, SCOTT - DIRECT EXAM BY MR. ALFARO

1 MR. ALFARO: No, Your Honor.

2 THE COURT: Mr. Joseph, you may step
3 down. And thank you again for your help with
4 testifying, sir.

5 Do you want the witness to be excused?

6 MR. ALFARO: Yes, Your Honor.

7 THE COURT: Any objection?

8 MR. SMILEY: No objection.

9 THE COURT: And you are also free to
10 leave. Thank you, sir.

11 MR. ALFARO: The State calls Scott
12 Bell.

13 SCOTT BELL,

14 being first duly sworn, testified as follows:

15 THE CLERK: Please have a seat. State
16 your full name, and spell your last name for the
17 record.

18 THE WITNESS: Scott Blake Bell. Last
19 name is spelled B-E-L-L.

20 DIRECT EXAMINATION

21 BY MR. ALFARO:

22 Q. Could you tell us where you work?

23 A. I work for the Berkley County Sheriff's
24 Office.

25 Q. And how long have you been with the

BELL, SCOTT - DIRECT EXAM BY MR. ALFARO

1 sheriff's office?

2 A. It's six and a half years with the
3 sheriff's office.

4 Q. And do you have any prior law
5 enforcement before that?

6 A. Not certified as a law enforcement, no,
7 sir.

8 Q. And what is your current rank and duty
9 responsibilities at this time?

10 A. I'm a corporal, and I work with the
11 criminal investigations division as an investigator
12 primarily for child abuse and elder abuse.

13 Q. And what capacity were you working in
14 at the sheriff's office on November 27, 2015?

15 A. I was assigned to the patrol division
16 as a deputy on the road.

17 Q. And in that capacity, did you have the
18 opportunity to respond to the area behind Cainhoy
19 Elementary Middle School on November 27, 2015, at
20 approximately 9:00 a.m.?

21 A. Yes, sir.

22 Q. And what was the type of call that you
23 were responding to?

24 A. Dispatch had informed me that there was
25 a couple of hunters in the woods behind the school

1 that had possibly come across a human skull.

2 Q. And when you got to the scene, were you
3 shown where the skull was located?

4 A. Yes, sir.

5 Q. Did they take you to where it was?

6 A. Yes, sir.

7 Q. And how far would you estimate that the
8 skull was into the woods?

9 A. I would estimate anywhere from 75 to
10 100 yards. It might have been -- I'm guessing, I
11 haven't been there in awhile.

12 Q. Okay. And when you got to the area
13 where the skull was located, what did you do?

14 A. After I got to the area and -- to me,
15 it look like a human skull. I notified my
16 supervisor who was my sergeant at the time, and
17 then I secured the area, taped it off with crime
18 scene tape at the actual site and then crime scene
19 tape all the way out to the wood line.

20 Q. So your primary role at that time was
21 just to secure the area?

22 A. Yes, sir.

23 Q. And as part of securing that area, do
24 you keep a log of who comes in and out of that
25 secured area?

BELL, SCOTT - CROSS EXAM BY MR. SMILEY

1 A. Yes, sir. It's called a major crime
2 scene log.

3 Q. And did you prepare one of those in
4 this case?

5 A. Yes, sir.

6 Q. And other than securing the scene and
7 doing that crime scene log, did you collect any
8 evidence yourself?

9 A. No, sir.

10 Q. Okay. And were you essentially just
11 controlling that scene until investigations
12 arrived?

13 A. Yes, sir. Until investigations -- I
14 believe, it was the coroner and forensics.

15 MR. ALFARO: Okay. Thank you. Please
16 answer any questions that the defense may have.

17 THE WITNESS: Yes, sir.

18 THE COURT: Questions?

19 CROSS-EXAMINATION

20 BY MR. SMILEY:

21 Q. That area, was that an area you
22 regularly patrolled?

23 A. Probably not in the woods, but that
24 area, yes, sir. Zone seven, yes, sir.

25 Q. You were familiar with Cainhoy

1 Elementary and Middle School?

2 A. Yes, sir.

3 Q. And there is a gate that leads to the
4 back of the school where the field is and the
5 track. Are you familiar --

6 A. I'm not sure on the gate. I do not
7 remember on a gate. I know there is a track behind
8 it.

9 Q. That track behind it, is that a place
10 where the community gathers?

11 A. Not to my knowledge.

12 Q. Okay. When you got there, were you
13 able to drive your cruiser back to the wood line?

14 A. Yes, sir.

15 Q. Is that where you met the hunters?

16 A. The person I met was one of the
17 hunters, was Vincent Taylor. I did not -- the
18 other, I believe, Sergeant Jackson had met.

19 Q. Okay. Did you meet him in your patrol
20 car back at the woods or out on the road?

21 A. Back by the wood line, yes, sir.

22 Q. When you go back there, was it direct
23 -- directly back to the wood line or to left or the
24 right?

25 A. From where we entered in, it was not a

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 direct line based on the trees and things like
2 that. We had kind of like to take a path. It
3 appeared that there was a path to get to the area
4 where the actual remains were.

5 MR. SMILEY: That's all I have, Your
6 Honor.

7 THE COURT: Redirect?

8 MR. ALFARO: No, sir.

9 THE COURT: Thank you. You may come
10 down, sir. Thank you.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Call your next witness.

13 MR. ALFARO: Thank you, Your Honor.
14 The State calls Bob Shuler.

15 BOBBY RAY SHULER,
16 being first duly sworn, testified as follows:

17 THE CLERK: Please have a seat. State
18 your full name, and spell your last name for the
19 record.

20 THE WITNESS: My full name is Bobby Ray
21 Schuler. The spelling of my last name is
22 S-H-U-L-E-R.

23 DIRECT EXAMINATION

24 BY MR. ALFARO:

25 Q. Can you tell us where you work?

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 A. I'm with the Berkeley County Sheriff's
2 Office.

3 Q. And what do you do at the sheriff's
4 office?

5 A. Currently, I'm the captain over staff
6 services.

7 Q. And how long have you been with them?

8 A. Going on 21 years.

9 Q. And what capacity were you working in
10 in November 27, 2015?

11 A. At that time, I was the captain over
12 the criminal investigations division.

13 Q. And in that capacity, did you have the
14 opportunity to respond to the area of Cainhoy
15 Elementary Middle School on that day?

16 A. Yes, I did.

17 Q. And what type of call were you -- or
18 why were you responding out there?

19 A. So I get a phone call from our duty
20 detective, which was Sergeant Cortay. He advised
21 that some hunters had found a -- what appeared to
22 be a human skull located behind the school.

23 Q. At the time you arrived, had the scene
24 around the skull already been secured?

25 A. It was.

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 Q. Now, can you describe for the jury what
2 the area looked like around where the skull was
3 located?

4 A. So the area where the skull was located
5 was a wooded area. At that time of the year,
6 you're talking about November, almost close to
7 December, so a lot of foliage had fallen or
8 starting to fall.

9 The area around there where the skull
10 was, like I said, you could see a lot of some
11 branches, some loose leaves, some pine straw.
12 Normal stuff that you would probably see in the
13 woods here, you know, in the Berkeley County area.

14 Q. And when you got to where the skull was
15 located, were you able to make any observations
16 about the skull and the immediate area around it?

17 A. So looking at the skull -- I saw the
18 skull. There was also -- I could see that there
19 was still some teeth intact inside the skull.

20 There was also some loose teeth near
21 the area of the skull. And it appeared, looking at
22 where the skull was, that the skull had been just
23 moved a little bit, so...

24 Q. And so you -- I believe you just said
25 that it appeared that it had been moved a little

1 bit?

2 A. That's correct.

3 Q. And did you make any other observations
4 about the area immediately around skull?

5 A. So the area there, obviously it's out
6 there in the forest, a wooded area. I noticed
7 around the trees and stuff, it looked like some
8 burning or charring may have been made around on
9 the bark of the trees.

10 Q. And while you were at the scene, was
11 the surrounding area also searched?

12 A. It was.

13 Q. And was anything else that potentially
14 was believed to be of value collected?

15 A. Yes. While we were searching the area,
16 probably -- and I'm just going to do approximate --
17 maybe 20, 30 feet away from where the skull was
18 found to the left of the skull was a bone, probably
19 about a six-inch bone. So we flagged that, and we
20 ultimately collected it.

21 And then probably somewhere between 10
22 to 15 or 20 feet away from -- to the left of that
23 bone, we found a black piece of like quilted style
24 material. It looked like it had been burnt. It
25 had like stitching around it, like something you

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 would see on a comforter or something like that.

2 Q. And, specifically, as to the other bone
3 that you said was recovered about 20 feet away from
4 the skull, was that during the course of the
5 investigation eventually determined whether it was
6 related to the victim or not?

7 A. Yes. So we ended up having a forensic
8 anthropologist came out and met with us at the
9 scene. And he looked at it and really, really,
10 super quick -- I was like, wow -- he determined
11 that the bone was actually a deer.

12 Q. Okay. So I'm going to show you some
13 photographs that are marked as State's Exhibits 39,
14 40, 41, 42, 43, 44, 39 through 44, and ask you to
15 take a look at those exhibits. And then I'm going
16 to ask you some questions.

17 Do you recognize what is depicted in
18 those exhibits?

19 A. Yes. The pictures that the Solicitor
20 just showed me, was pictures of basically kind of
21 depicting the scene the day that we were out there
22 originally. Pictures of the school, the football
23 field area, you can see the football goals, and
24 then leading into the actual woods area where we
25 found the skull.

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 And then there was pictures of the
2 skull and also pictures of the bone that we found,
3 which was later determined to be a deer bone.

4 Q. And do each of those exhibits fairly
5 and accurately depict the scene as you saw it that
6 day?

7 A. They do.

8 MR. ALFARO: Your Honor, at this time,
9 we would ask that State's Exhibits 39 through 44 be
10 admitted into evidence.

11 THE COURT: Any objection?

12 MR. SMILEY: No, sir.

13 THE COURT: Without objection State's
14 39 through 44, inclusive, are admitted and that
15 each are a photograph in evidence.

16 (STATE EXH. 39 - 44 in evidence.)

17 BY MR. ALFARO:

18 Q. I'm going to start with -- if you'll
19 turn around that way, there's a laser pointer
20 there. Starting with State's 40, can you kind of
21 explain to the jury what is in that photograph?

22 A. So this is if you're familiar -- I
23 don't know if any of you are familiar with the
24 Cainhoy area, Cainhoy Road, this is the back side
25 of Cainhoy Elementary and Middle School.

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 That's the ball field that's located in
2 the back of the school, and it's also got like a
3 little running track on it.

4 THE COURT REPORTER: Say again, has a
5 little what?

6 THE WITNESS: A running track. Yes,
7 ma'am. Sorry.

8 BY MR. ALFARO:

9 Q. Now, can you tell us for those of us
10 that aren't so -- those that may not be familiar
11 with Cainhoy Elementary, what will be the route
12 that you would take to get there if you were coming
13 off of 526?

14 A. If you were coming off of 526, you'd
15 make a left onto Clements Ferry Road, take Clements
16 Ferry Road all the way down to Cainhoy Road, which
17 there is a light at Clements Ferry and Cainhoy.
18 You make a left on Cainhoy Road, and you follow
19 down -- I don't know the exact mileage that it is
20 from Clements to Cainhoy, but you follow down, and
21 the school is located on the right-hand side.

22 Q. And if you were trying to get to
23 Cainhoy from, let's just say, Moncks Corner just
24 for people's edification for location?

25 A. Okay. So you would basically take --

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 go over the Tail Race Canal, take the right on 402
2 right there at the base of the bridge where the
3 light is, take 402, and you're going to take 402
4 all the way to 41.

5 And when you get to 41, you make a
6 right onto 41. 41 is the road that will actually
7 take you all the way to Mount Pleasant also, but
8 you take 41, and you travel maybe -- maybe a mile,
9 and you make a right. And now you are on Cainhoy
10 Road. You'll take Cainhoy Road all the way out
11 heading towards Clements Ferry, and at that point
12 the school would be on the left.

13 Q. Okay. Now, State's Exhibit 41, can you
14 tell us what's in that photograph?

15 A. So if you could see right there,
16 there's the yellow tape for the crime scene going
17 around this area where they roped that off. And
18 this is the wooded area that we're talking about.
19 And if you can barely see, that's the picture of
20 the skull right there.

21 Q. And State's Exhibit 42?

22 A. And there's the actual skull.

23 Q. And is that the initial position it was
24 when you got there?

25 A. When we got there, yes, sir.

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 Q. And State's Exhibit 43?

2 A. So we turned it on its side so we could
3 get pictures of it. So if you can see here, it's
4 the skull obviously on its side. The reason why
5 the skull -- you see all that brown stuff on the
6 top of the skull, that's where it was laying upside
7 down in the actual pine straw, and that's why you
8 have that discoloring right here, but right here
9 (indicating) what you see, this is actual burnt and
10 charring on the side of the skull.

11 Q. Okay. And State's 44?

12 A. And that's the six-by-six inch deer
13 bone that we were talking about that we found to
14 the left of the skull.

15 Q. So at the time, you didn't know what it
16 was, that's why it was photographed?

17 A. No, sir.

18 Q. Okay. Thank you. Now, do you know
19 what was done with the skull, the bone that we just
20 saw, and the piece of fabric that was located? Do
21 you know what was done with those items that day?

22 A. Yeah. Once we got done processing and
23 searching the scene, all of that was turned over to
24 Berkeley County coroner.

25 Q. And was the area searched again after

1 November 27th?

2 A. It was.

3 Q. And what day did you go out there again
4 to search it?

5 A. Once we were able to get everybody
6 gathered up and organized and everything to go out
7 there, we went back out there around -- I believe
8 it was December 1st of that same year, of 2015.

9 Q. And for that search on December 1,
10 2015, who was out there? Just agency wise. Not
11 every individual, but agency wise.

12 A. Okay. Agency wise it was Berkeley
13 County Sheriff's Office personnel. We had --
14 ultimately, the coroner's office showed up out
15 there for that one. We also had STAR search and
16 rescue, which is a cadaver dog team that's in the
17 Upstate. And they came down and helped us.

18 Q. And I believe you mentioned an
19 anthropologist. Are you familiar with Williams
20 Stevens?

21 A. I am.

22 Q. And who is William Stevens?

23 A. So Dr. William Stevens is a -- the
24 coroner up in -- and anthropologist up in Richland
25 County in the state of South Carolina.

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 Q. And was he asked to participate in the
2 investigation?

3 A. He was.

4 Q. And was he at the scene on
5 December 1st?

6 A. He was.

7 Q. And on December 1st, were there any
8 items of significance located during the search?

9 A. On December 1st? No, there was not.

10 Q. And in your presence was -- you said
11 Dr. Stevens was at the scene on December 1st?

12 A. That is correct.

13 Q. Did you obtain any information at that
14 scene that helped you further your investigation?

15 A. Yes, sir. He took a -- he met with me
16 and the coroner in our presence, and he took a look
17 at the skull. And his preliminary finding
18 looking at the skull, just doing a preliminary
19 visual observation of the skull, he was able to
20 tell us that it appeared that that skull was of an
21 African and Caucasian ancestry.

22 Q. And is that the same time that he made
23 the conclusion about the deer bone?

24 A. Yeah. As soon as I pulled the deer
25 bone out, he looked at it, and it was -- like I

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 said, it was really, really quick when he looked at
2 it.

3 He examined it, he said he felt very,
4 very certain that it was a deer bone but he would
5 still collect it and take it and make a 100 percent
6 confirmation, but he would do that back at his lab.

7 Q. And based off the information you
8 received regarding the potential ancestry of the --
9 related to the skull, did you take any other steps
10 in your investigation at that time?

11 A. I'm sorry --

12 Q. Based off the information you were
13 provided regarding the possible ancestry of the
14 person's skull belonged to, did you then take any
15 next step in your investigation?

16 A. Yes. What we did is we went and
17 started searching our system and started looking
18 and seeing if we had any reports in Berkeley County
19 for any African American -- either African American
20 or Caucasian descent that might have been missing
21 from that area.

22 Q. And were you able to locate any in your
23 system?

24 A. Not in our system, not in that time.

25 Q. Now, prior to November 27th, had you

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 had any communication or involvement with
2 Spartanburg County related to Nicole Goodlett's
3 disappearance?

4 A. Yes, we did.

5 Q. And what was your initial involvement
6 with them?

7 A. In 2014, when we -- I made --
8 Spartanburg actually made contact with us and
9 advised us that they had a missing person out of
10 their jurisdiction. They told us that the
11 boyfriend of Nicole at the time had family and
12 relatives, and he had ties to the community in the
13 Huge area of Berkeley County. So that was when we
14 had first contact with this case.

15 Q. Okay. And were you able to determine
16 at that time where his parents lived in Huge?

17 A. Yeah. So they live, I believe, it's
18 1012 -- I would have to look. I'd have to go back
19 and look at my notes, but it's off of Gray Drive,
20 which is in the Cainhoy/Huge area, which -- that's
21 the best way to explain it. It's not that far in
22 the Huge/Cainhoy area.

23 Q. Are you able to provide us an
24 approximate distance between where the skull --
25 Nicole's skull was found on November 27, 2014, to

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 the defendant's parents' house on 1012 Gray Drive?

2 A. Yeah. So the area from where his
3 parents live over off of Gray Drive to where the
4 skull was found behind the Cainhoy Elementary and
5 Middle School, as the crow flies it's somewhere
6 probably between one and a half to maybe 1.8 miles
7 from -- as the crows flies.

8 Q. Okay. I'm going to show you what has
9 been marked for identification as State's Exhibit
10 72.

11 A. Okay.

12 Q. And ask -- I'm going to ask you to take
13 a look at that, then I'm going to ask you a couple
14 of questions about it. And does this exhibit sort
15 -- or fairly and accurately depict the locations of
16 where the victim's skull was located as well as the
17 residence of the defendant's parents on Gray Drive?

18 A. It does.

19 MR. ALFARO: Your Honor, at this time,
20 we would ask that State's Exhibit 72 be admitted.

21 THE COURT: What number?

22 MR. ALFARO: 72.

23 THE COURT: Thank you. Any objection?

24 MR. SMILEY: No objection.

25 THE COURT: Without objection State's

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 72 is admitted.

2 (STATE EXH. 72 in evidence.)

3 BY MR. ALFARO:

4 Q. I'm going to show behind you State's
5 Exhibit 72. Can you give us an idea of what is
6 depicted on that map, as well as kind of if you're
7 familiar with sort of the roads that you can see?

8 A. So down here is the defendant's
9 parents' house which is right off of Gray Drive.
10 When you take this road here and go out here, you
11 make a right. This is now Cainhoy Road and you can
12 go left or right, but if you take a right, you run
13 it up here.

14 And as you can tell, that right there
15 is the school, there's the ball field, and this
16 yellow dot depicts the area where the skull was
17 found.

18 Q. Okay. And you indicated that that's
19 between a mile and a half and 1.8 miles?

20 A. That's correct.

21 Q. Give or take?

22 A. That's correct.

23 Q. Now, as part of your investigation into
24 the case, did you have any conversations with
25 anyone from the Forestry Commission or fire

1 department regarding the case?

2 A. Yeah. So what we did, you know, based
3 off the charring and stuff that we saw on the trees
4 and stuff like that, we wanted to find out if we
5 had any reports of any fires or controlled fire
6 burns or anything like.

7 So one of the things we did, we reached
8 out to Berkeley County Dispatch, 911 dispatch, to
9 see if they'd had any reports of a fire, reported
10 fire or controlled burn in that area, which they
11 did not.

12 So then I reached out to the state
13 forestry division and ended up speaking to Gray
14 Vallentine and Assistant Chief Claymore, which is
15 also part of the state forestry division. I asked
16 them if they would mind accompanying me out there
17 to that area and give me their assessment of that
18 area and the burning and charring of the trees.

19 MR. SMILEY: It's going to require --

20 THE COURT REPORTER: I can't hear what
21 you're saying.

22 MR. SMILEY: I apologize. Your Honor,
23 I'm going to object to the next response because it
24 would require hearsay, I believe.

25 THE COURT: Well, he's already

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 testified to some of it, but anyway --

2 MR. ALFARO: I'm not asking him to
3 respond.

4 MR. SMILEY: Okay. Then I withdraw.

5 THE COURT: Okay. Thank you, sir.

6 BY MR. ALFARO:

7 Q. Now, in addition to the November 27,
8 2014, and December -- November 27, 2015 and
9 December 1, 2015 searches, did you go back out to
10 the scene on April 27, 2016?

11 A. We did.

12 Q. And was that an additional search to
13 try to recover additional remains?

14 A. That's correct.

15 Q. And can you tell us who, again agency
16 wise, participated in that search on April 27,
17 2016?

18 A. So it was a larger scale search. We
19 had obviously Berkeley County personnel,
20 detectives. We had detectives and personnel from
21 the Spartanburg Sheriff's Office. We had South
22 Carolina Search and ERT cadaver dogs; DNR was
23 involved, Berkeley County EMS. Forestry was out
24 there. I think I said DNR already.

25 Can I take a look and see if there is

1 anybody else on that list?

2 Q. At that point in time, had the skull
3 been identified as that of Nicole Goodlett?

4 A. It had.

5 Q. And was anyone from Spartanburg present
6 at the search?

7 A. There was.

8 Q. I'm going to show you some photographs.
9 I'm going to show you what's been marked for
10 identification as State's 45 through 71. I'll ask
11 if you can flip through those, and then I'll ask
12 you a couple of questions before we talk about
13 them.

14 THE COURT: While he's doing that --
15 you are going to be asking questions on each of
16 these photographs?

17 MR. ALFARO: The majority of them, yes.

18 THE COURT: Okay. Why don't we do
19 this, ladies and gentlemen. Let's take a break at
20 this point. That will give him a chance to go
21 through that.

22 Do not begin your deliberations and
23 don't discuss the case. We'll be with you in about
24 15 minutes.

25 (Jury out, 3:08 p.m.)

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Appreciate you turning and
2 talking to the jury, but keep -- the mic does not
3 pick up very well. Okay. Anything from the State
4 before we recess?

5 MR. ALFARO: No, sir.

6 THE COURT: Anything from the
7 defendant?

8 MR. SMILEY: No, Your Honor.

9 THE COURT: Okay. We'll be at ease for
10 about 15 minutes.

11 (A recess transpired.)

12 THE COURT: Is the State ready to
13 continue?

14 MR. ALFARO: Yes, sir.

15 THE COURT: Is the defendant ready to
16 continue?

17 MR. SMILEY: Yes, sir.

18 THE COURT: Let the record reflect that
19 Mr. Howard is present. Thank you. Let's bring in
20 our jury.

21 (Jury in, 3:23 p.m.)

22 THE COURT: Thank you, ladies and
23 gentlemen. We are ready to continue.

24 Solicitor, thank you very much. You
25 may resume the examination.

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 MR. ALFARO: Thank you, Your Honor.

2 BY MR. ALFARO:

3 Q. Mr. Shuler, have you had the
4 opportunity to review State's Exhibits 45 through
5 71?

6 A. I did.

7 Q. And do each of those exhibits fairly
8 and accurately depict the scene as you saw it on
9 April 27, 2016?

10 A. It does.

11 MR. ALFARO: And, Your Honor, at this
12 time, we would ask that State's Exhibits 45 through
13 71 be admitted into evidence.

14 MR. SMILEY: Without objection.

15 THE COURT: Without objection, they are
16 admitted.

17 (STATE EXH. 45 - 71 in evidence.)

18 BY MR. ALFARO:

19 Q. Again, if you could turn back around
20 and starting with 46. Again, is that the same
21 general area or wooded area as where the initial --
22 the skull was found initially?

23 A. It is.

24 Q. Approximately, how far or close to
25 where the skull was found are we looking at here?

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 A. I would say, approximately -- I would
2 say maybe 50 feet maybe from where the skull was to
3 where we started finding the additional human
4 remains.

5 Q. And State's Exhibit 47?

6 A. These are areas right here -- you will
7 see we gave all the searchers that day some pink
8 surveying tape, and we also gave them some little
9 orange flags and different colored flags. If they
10 found anything of interest or it looked like it was
11 something of interest, they would flag it off with
12 the surveying tape and also put the flag down there
13 so we could come back and take a look at it.

14 Q. So State's Exhibit 48, is that one of
15 the flags that you were talking about?

16 A. That's correct, one of the orange
17 little surveying flags and the pink surveying tape.

18 Q. And State's 49?

19 A. That's a close up of the flag and then
20 actually a bone.

21 Q. And State's Exhibit 50?

22 A. Another area where some more bones were
23 found, human remains were found, and the orange
24 flags.

25 Q. And State's Exhibit 51?

1 A. So in this area right here, you can
2 barely see it, there's a little orange flag right
3 here behind this piece of concrete. Another piece
4 of human remains were found there and a pink
5 surveying tape on there.

6 Q. And State's 52?

7 A. This is a close up of behind that piece
8 of concrete, and we can see the concrete right
9 here. And this was a piece of the actual human
10 remains with the flag next to it.

11 Q. And State's 53?

12 A. So this area here you can see there is
13 a large collection of flags that are posted here.
14 This is the area where we started finding the
15 majority of the human remains.

16 Q. And State's Exhibit 55?

17 A. As you can see, this is more a close up
18 of the same area, and you will see all the flags
19 and different bones and human remains.

20 Q. And State's 56?

21 A. Same thing, flags and more pieces of
22 the human remains in the area.

23 Q. And State's Exhibit 58?

24 A. Same thing. Pretty good size piece of
25 human remains and bones and the flag.

SHULER, BOBBY RAY - DIRECT EXAM BY MR. ALFARO

1 Q. And State's 60?

2 A. Once again, you got some human remains
3 over here where all the flags are at and another
4 large piece right there.

5 Q. And State's Exhibit 62?

6 A. Another close up of a piece of bone and
7 human remains with the orange flag all in that same
8 area.

9 Q. And State's 65?

10 A. That's just a little step back, a
11 little bit farther where you can see where the
12 different bones were scattered throughout the area
13 right there where the flags and stuff are in that
14 wooded year.

15 Q. And State's 67?

16 A. Another piece of a human remains
17 located with the flag and the human remains right
18 there.

19 Q. And State's 68?

20 A. Once again, a piece of a bone
21 determined to be human remains with a flag.

22 Q. And Exhibit 69?

23 A. So this was an area -- right here, this
24 was actually determined to be actual lower jaw bone
25 with teeth intact from the skull.

SHULER, BOBBY RAY - CROSS EXAM BY MR. SMILEY

1 Q. And State's 71.

2 A. And that's a close up of it. You can
3 see the lower part of the jaw, the teeth intact,
4 and then you see some of the charring and stuff on
5 the actual bone itself.

6 Q. You can turn back around now. To your
7 knowledge, at the scene that day, who took custody
8 of the bones, the remains that were recovered that
9 day?

10 A. Those were all turned over to
11 Dr. William Stevens.

12 Q. And the purpose of that was for further
13 analysis?

14 A. That is correct.

15 MR. ALFARO: Thank you. Please answer
16 any questions that the defense may have.

17 THE COURT: You may cross examine.

18 CROSS-EXAMINATION

19 BY MR. SMILEY:

20 Q. Just a few questions, Captain Schuler.
21 Jim Smiley.

22 A. Yes, sir.

23 Q. I represent Jerald. The first time you
24 went out there was the end of November --

25 A. Yes, sir.

SHULER, BOBBY RAY - CROSS EXAM BY MR. SMILEY

1 Q. -- is that right?

2 A. That's correct.

3 Q. And you observed the skull and where it
4 was located before it was removed?

5 A. That is correct.

6 Q. All right. And you did a report that
7 documented what you had done, correct?

8 A. That is correct.

9 Q. And in that report you said that the
10 skull was found about 50 feet back into the woods?

11 A. Approximately. Approximately 50 feet.
12 It could have been a little bit more or a little
13 less.

14 Q. I understand.

15 A. Yes, sir.

16 Q. I'm just trying to get generally.

17 A. Yes, sir.

18 Q. You also said that when the skull was
19 recovered you got the deer bone, and you said there
20 was a piece of cloth?

21 A. Yeah. There was a -- like I said
22 earlier, we had the skull, and to the left of the
23 skull about 20 or 30 feet was the actual bone that
24 was later determined to be a deer bone.

25 And, yes, about 10 or 15 feet or so to

SHULER, BOBBY RAY - CROSS EXAM BY MR. SMILEY

1 the left of the actual deer bone we found this
2 black piece of -- it looked like a burnt piece of
3 black quilted material style in the area.

4 Q. Okay. And that was collected?

5 A. That was also collected, yes.

6 Q. Was any analysis done on that?

7 A. I don't believe there was any analysis
8 done on the actual quilted part of the material.

9 Q. And, Captain Shuler, let me ask you
10 this: Lieutenant Gary you know from Spartanburg,
11 right?

12 A. I do.

13 Q. Okay. And he was the case agent with
14 Investigator Moss up there. Do you know that?

15 A. That is correct.

16 Q. And could I consider you the case agent
17 for the Berkeley County part of the case?

18 A. That is correct.

19 Q. All right. So the end of November the
20 skull is located, the cloth and the bone. Shortly
21 thereafter, the first part of December, is when the
22 cadaver dogs came down, right?

23 A. Yes.

24 Q. And you went back out there with them?

25 A. We did.

SHULER, BOBBY RAY - CROSS EXAM BY MR. SMILEY

1 Q. And nothing was found at that time?

2 A. Nothing.

3 Q. And then April of 2015, and you tell me
4 if I'm wrong now, is when the big search operation
5 --

6 A. That would be April of 2016.

7 Q. Okay. I apologize. I'm not trying to
8 trick you.

9 A. No, sir.

10 Q. I'm trying to get all my dates.
11 April of 2016 is when the collection of bones that
12 we just saw were found, correct?

13 A. That is correct.

14 Q. All right. And then one of the
15 pictures showed a bunch of flags, and you said
16 that's where you believed the body was originally
17 left, correct?

18 A. I didn't say that. I just said that's
19 where the larger collection of the human remains
20 were located.

21 Q. Okay. Well, I'm not trying to put
22 words in your mouth. I'm just making sure that I
23 understood.

24 A. Yes, sir.

25 Q. And after those pictures were taken,

SHULER, BOBBY RAY - CROSS EXAM BY MR. SMILEY

1 all of the bones were collected and sent off with
2 Dr. Stevens to do his analysis?

3 A. That is correct.

4 Q. And, subsequently, you got a report
5 from Dr. Stevens later on, right?

6 A. That is correct.

7 Q. And maybe that's where I get -- later
8 in 2016, he provided you with that analysis,
9 correct?

10 A. That is correct.

11 Q. After that analysis there wasn't any
12 further evidence collected in this case, was there?

13 A. Not that I'm aware of.

14 Q. Not in Berkeley County?

15 A. That's correct.

16 Q. In February of 2018, you provided an
17 affidavit for probable cause to a magistrate,
18 correct?

19 A. That is correct.

20 Q. Here in Berkeley County?

21 A. That is correct.

22 Q. And that's when Mr. Howard was charged
23 with murder?

24 A. Yes.

25 Q. How long have you been with Berkeley

SHULER, BOBBY RAY - CROSS EXAM BY MR. SMILEY

1 County? A while, haven't you?

2 A. Twenty-one years.

3 Q. Twenty-one years. And you know the
4 Huge area fairly well, right?

5 A. I'm not from Berkeley County
6 originally, but in the time I've been here I can
7 say -- I can tell you I know Huge. Do I know it
8 really super well? I can't say I know it super
9 well.

10 Q. It's got a big county, I know that.

11 A. It's a huge county.

12 Q. Yeah. and the Huger/Cainhoy area is in
13 lower Berkeley County, right?

14 A. That's correct.

15 Q. And the Cainhoy Elementary and Middle
16 School, other than looking in this case, have you
17 been there before?

18 A. I have.

19 Q. And have you been in the afternoon
20 hours after school?

21 A. I can't recall.

22 Q. Okay. If you can't recall, I can't ask
23 you the next question so I will move on. All
24 right.

25 A. All right, sir.

SHULER, BOBBY RAY - CROSS EXAM BY MR. SMILEY

1 MR. SMILEY: Beg the Court's
2 indulgence?

3 THE COURT: Certainly.

4 BY MR. SMILEY:

5 Q. You had testified earlier that you and
6 Lieutenant Gray (sic) back in 2014 had talked about
7 the missing person's case of Ms. Goodlett; is that
8 correct?

9 A. Lieutenant Gray or Lieutenant Gary?

10 Q. Excuse me. I'm having a tough day; I
11 didn't get much sleep last night. Okay.
12 Lieutenant Gary.

13 A. I did have an opportunity to speak to
14 Lieutenant Gary back then.

15 Q. All right. And no searches were done at
16 that school back then though?

17 A. No, there was not.

18 MR. SMILEY: That's all I have.

19 THE COURT: Redirect?

20 MR. ALFARO: No, Your Honor.

21 THE COURT: You can step down.

22 THE WITNESS: Can I stay, Your Honor?

23 THE COURT: You are welcome to stay
24 now.

25 You -- do you anticipate any further

VALLENTINE, JACK - DIRECT EXAM BY MR. STEGALL

1 testimony of --

2 MR. ALFARO: Don't anticipate any.

3 THE COURT: All right. Is there any
4 objection to him remaining in the courtroom?

5 MR. SMILEY: None.

6 THE COURT: You may remain.

7 THE WITNESS: Thank you.

8 THE COURT: Call your next witness.

9 MR. STEGALL: The State calls Gray
10 Vallentine.

11 JACK GRAY VALLENTINE,

12 being first duly sworn, testified as follows:

13 THE CLERK: Please have a seated.

14 State your full name, and spell your last name for
15 the record.

16 THE WITNESS: My full name is Jack
17 Vallentine, Jack Gray Vallentine. The spelling of
18 my last name is V-A-L-L-E-N-T-I-N-E.

19 DIRECT EXAMINATION

20 BY MR. STEGALL:

21 Q. Mr. Vallentine, where are you currently
22 employed?

23 A. The South Carolina Forestry Commission
24 working out of Berkeley County.

25 Q. And how long have you been with the

1 forestry commission?

2 A. Since March of 1998.

3 Q. Okay. And what is the South Carolina
4 Forestry Commission?

5 A. primary responsibility of wild and fire
6 control and law enforcement related to wild and
7 fire.

8 Q. What are your duties and
9 responsibilities with the South Carolina Forestry
10 Commission?

11 A. A law enforcement officer covering
12 Berkeley County, as well as supervising forest fire
13 and control fire fighters within Berkeley County.

14 Q. Do you remember the case that we are
15 here for today?

16 A. Yes, I do.

17 Q. Okay. Well, let me back up. With the
18 forestry commission is part of your responsibility
19 to keep track of controlled burns and wild fires in
20 the area?

21 A. Yes, we do.

22 Q. Okay. Moving ahead to the case that
23 we're here for today. Did you receive a call about
24 this case?

25 A. Yes, sir.

VALLENTINE, JACK - DIRECT EXAM BY MR. STEGALL

1 Q. And do you remember who that call came
2 from?

3 A. Captain Bobby Shuler.

4 Q. Okay. Do you remember about when you
5 received that call?

6 A. In December of '15, I believe it was.

7 Q. Okay. All right. What did that case
8 involve?

9 A. He had located the remains of a human.
10 The remains were next to a fire line that was
11 obviously plowed by forestry equipment, and we were
12 ask to come out to determine if there was a
13 wildfire that may have caused some scorching to the
14 remains.

15 Q. Okay. So you were asked to determine
16 when -- well, as a part of this investigation, were
17 you asked to determine when the last controlled
18 burn or wildfire was in the area behind Cainhoy?

19 A. Yes, sir. Behind the Cainhoy
20 Elementary, to see if there were any wildfires or
21 controlled burns down in that area.

22 Q. Were you able to make a determination?

23 A. Based on the fire line we located, it
24 was estimated six to eight years was our last
25 response in that area.

VALLENTINE, JACK - DIRECT EXAM BY MR. STEGALL

1 Q. Okay. Just so we're clear, six to
2 eight years from 2015?

3 A. Yes, sir. Prior to the date we went
4 out there.

5 MR. STEGALL: Okay. No further
6 questions.

7 THE COURT: Cross examine?

8 MR. SMILEY: Nothing, Your Honor.

9 THE COURT: You may step down.
10 Do you wish this witness to be excused,
11 Solicitor?

12 MR. STEGALL: Yes, Your Honor.

13 THE COURT: Any objection?

14 MR. SMILEY: No objection.

15 THE COURT: You are also free to leave.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you, sir.

18 Call your next witness, please.

19 MR. ALFARO: The State calls Bill
20 Salisbury.

21 WILLIAM B. SALISBURY,
22 being first duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State
24 your full name, and spell your last name for the
25 record.

SALISBURY, WILLIAM - DIRECT EXAM BY MR. ALFARO

1 THE WITNESS: William B. Salisbury,
2 S-A-L-I-S-B-U-R-Y.

3 DIRECT EXAMINATION

4 BY MR. ALFARO:

5 Q. Could you tell us a little bit about
6 your professional experience?

7 A. Well, when I graduated from high
8 school, I went to work with the Charleston Naval
9 Shipyard and worked there 27 years, retired when
10 they announced base closure. I then started
11 working for a company selling air condition
12 equipment, and I did that for about a year or two.
13 Then I changed over and went to work in
14 the forensics unit at the Berkeley County Sheriff's
15 Office and worked there part-time and was, also,
16 sworn as a deputy coroner and worked there as a
17 volunteer. And then from the volunteer deputy
18 coroner, I was hired part-time, and then from
19 part-time to full-time deputy, and from full-time
20 deputy, I was promoted to the chief deputy coroner.
21 And from that, I ran for coroner, and I
22 served as the coroner for eight years. So I was in
23 the coroner's office for a total of about 27 years.
24 Q. So when were you actually elected the
25 coroner?

SALISBURY, WILLIAM - DIRECT EXAM BY MR. ALFARO

1 A. I was elected in 2010. I served two
2 terms, two four-year terms in eight years.

3 Q. And so you were elected coroner on
4 November 27, 2015?

5 A. That is correct.

6 Q. And in that capacity, did you respond
7 to the area of the wooded area behind Cainhoy
8 Elementary School that day?

9 A. I did respond. One of my -- one of my
10 deputy coroners was on the way and he called me and
11 told me what he had. And I responded as his
12 backup.

13 Q. And at the scene, did your office take
14 custody of the skull that was found at the scene?

15 A. That is correct.

16 Q. And did you also take custody at that
17 time of what, at the time, was believed to be
18 possibly a human bone and a piece of fabric?

19 A. Right. And the bone turned out to be a
20 deer bone.

21 Q. And at the time you took custody of it
22 on November 27th, what did you do with the skull
23 and the bone?

24 A. I returned to my office with it. I
25 have an evidence locker in my office, it's a gun

SALISBURY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 safe, and I kept it in that gun safe until which
2 time I turned it over to Dr. Stevens. I think
3 Stevens; I can't recall the doctor's name now.
4 William Stevens.

5 Q. Okay. So you met with him and turned
6 over custody of the skull to him?

7 A. That's correct. On December 1st of
8 2015, we organized another search of the area.
9 Dr. Stevens was on site at the Cainhoy area, and I
10 transported the skull to there and met with him on
11 site and transferred it to him.

12 Q. And your purpose for transferring that
13 to him was for further analysis; is that correct?

14 A. That would be correct.

15 Q. And is Dr. Stevens -- where is he?
16 What county does he work out of?

17 A. He works for Richland County, Coroner
18 Gary Watts.

19 MR. ALFARO: Okay. Thank you. Please
20 answer any questions the defense may have.

21 THE COURT: Any cross examine?

22 MR. SMILEY: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. SMILEY:

25 Q. Coroner Salisbury, Jim Smiley. I

1 represent Jerald Howard.

2 A. That's retired coroner now.

3 Q. Retired coroner. I wish I could be a
4 retired attorney.

5 Let me ask you, is part of your job is
6 to do a death certificate?

7 A. The coroner's job is to determine the
8 manner and cause of death.

9 Q. Okay. Let's talk about that. What is
10 a manner of death?

11 A. The manner of death could be homicide,
12 suicide, natural, accidental, or undetermined.

13 Q. Okay. And in this case when you did
14 the death certificate, what was the manner of
15 death?

16 A. The manner of death was undetermined.

17 Q. Okay. You also tried to determine the
18 cause of death?

19 A. That's correct.

20 Q. What is -- in laymen's terms for the
21 jury, what is the cause of death?

22 A. The cause of death could be a cardiac
23 event, a heart attack; it could be blunt force
24 trauma from a car accident; it could be a gunshot.

25 Q. It could be a number --

SALISBURY, WILLIAM - CROSS EXAM BY MR. SMILEY

1 A. A number of different things.

2 Q. The cause of death in this case, what
3 were you able to determine?

4 A. It was undetermined also.

5 Q. On the death certificate, is one of the
6 things you try to determine is the time of death,
7 correct?

8 A. That would be correct.

9 Q. The date and time. In this case, were
10 you able to determine the date and time of the
11 death?

12 A. The State of South Carolina will not
13 let you put an unknown time anymore, and so you
14 have to go by the evidence that you have. And in
15 this situation, she was last seen on February 20th
16 of 2014, she was reported missing on March 12th of
17 2014, and she was found on 11/27 of '15.

18 I would have to look at this -- and you
19 probably can tell me what the time of death is.

20 Q. February the 20th, 2014.

21 A. Okay. That's what we put because that
22 was the day that she was last seen and that's what
23 the State of South Carolina, DHEC, that's what they
24 require.

25 In fact, I first put another date and

SALISBURY, WILLIAM - REDIRECT EXAM BY MR. ALFARO

1 they had me change it.

2 Q. Okay. So in truth in fact is, if you
3 didn't have to fill out that blank, you would have
4 put after February 20th, 2016, and before the skull
5 was recovered, right?

6 A. I first put down the date that the
7 skull was recovered. That's what I put down first,
8 and they had me change it.

9 Q. All right. On your death certificate,
10 do you put where she was -- where she died?

11 A. Where she was found.

12 Q. Okay. Where she was found.

13 MR. SMILEY: That's all I have, Your
14 Honor.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION

17 BY MR. ALFARO:

18 Q. Retired Coroner Salisbury --

19 A. Thank you, sir.

20 Q. -- I have some follow-up questions for
21 you. You were asked on cross about the manner of
22 death that you placed on the death certificate,
23 correct?

24 A. That was correct.

25 Q. And you placed undetermined on there?

1 A. Correct.

2 Q. Can you tell us what normally goes into
3 the process of determining the manner of death for
4 an individual?

5 A. Well, we look at all of the evidence
6 that we have collected, all of the medical reports,
7 and it's the coroner's job to make a determination
8 on the manner of death. And in this particular
9 case, and I'm sure the doctor will get in more
10 detail when he comes on the stand about what he
11 had, but we had some bones.

12 And he was not able to determine why
13 that person died. And, of course, I rely a lot on
14 his information. And his information, he couldn't
15 tell me why the person died, so that's why I put
16 undetermined.

17 Q. And it's, essentially, the same
18 analysis in determining the cause of death?

19 A. That's correct.

20 Q. And it, actually, also is the same
21 analysis in determining the time of death, correct?

22 A. That is correct.

23 Q. And would it be fair to say that the
24 condition in which the remains of Nicole Goodlett
25 were found made it difficult or impossible to

1 determine the manner of death?

2 A. I would say just about impossible.

3 Q. And same -- would that be the same
4 answer for the cause of death?

5 A. That would be the same answer for the
6 cause of death. It would be just about impossible
7 to determine.

8 Q. And would it also make it impossible to
9 determine the exact time of death?

10 A. Impossible.

11 MR. ALFARO: Thank you. No more
12 questions.

13 THE COURT: Recross?

14 MR. SMILEY: No, sir.

15 THE COURT: You may come down, Mr.
16 Salisbury.

17 Do you wish this witness to be excused?

18 MR. ALFARO: Yes, Your Honor.

19 THE COURT: Any objection?

20 MR. SMILEY: No objection.

21 THE COURT: You are also free to leave,
22 sir.

23 Call your next witness.

24 MR. ALFARO: The State calls Dean
25 Kokinda.

KOKINDA, DEAN - DIRECT EXAM BY MR. ALFARO

1 DEAN KOKINDA,

2 being first duly sworn, testified as follows:

3 THE CLERK: Please have a seat. State
4 your full name, and spell your last name for the
5 record.

6 THE WITNESS: Dean Robert Kokinda. The
7 spelling of the last name is K-O-K-I-N-D-A.

8 DIRECT EXAMINATION

9 BY MR. ALFARO:

10 Q. Can you tell us where you work?

11 A. I'm employed with the Berkeley County
12 Sheriff's Office.

13 Q. How long have you been with the
14 sheriff's office?

15 A. Thirty years.

16 Q. And what do you currently do over
17 there?

18 A. Currently, I'm assigned to the cold
19 case unit.

20 Q. And prior to that, were you previously
21 assigned to the forensics unit?

22 A. Yes, sir. In 2015, I was.

23 Q. And how long were you in forensics for
24 the sheriff's office?

25 A. 25, 26 years.

KOKINDA, DEAN - DIRECT EXAM BY MR. ALFARO

1 Q. And you indicated that you were working
2 in that capacity in 2015. Were you in that
3 capacity on December 9th, 2015?

4 A. Yes, I was.

5 Q. And on that day did you have the
6 opportunity to respond to the Richland County
7 Coroner's Office?

8 A. Yes, sir, I did.

9 Q. And what was the purpose of your trip
10 to the Richland County Coroner's Office?

11 A. I met with Bill Stevens, and they
12 transferred a skull and some loose teeth to me.

13 Q. And what did you do with the skull
14 after it was transferred into your possession?

15 A. After I received the skull and the
16 teeth, I went from the Richland County Coroner's
17 Office to the State Law Enforcement Division's lab
18 and transferred the teeth to them, and then I
19 brought the skull back to the sheriff's office
20 evidence locker.

21 Q. I'm going to show you what's been
22 marked for identification as State's Exhibit 1, and
23 ask you if you recognize what's contained in that
24 exhibit.

25 A. So that's the teeth.

KOKINDA, DEAN - DIRECT EXAM BY MR. ALFARO

1 Q. And those are the teeth that you
2 obtained from Dr. Stevens in Richland County?

3 A. Yes, they are.

4 Q. And did you take those to SLED's intake
5 department?

6 A. Yes, sir, I did.

7 Q. Okay. And you said you brought the
8 skull back to the sheriff's office?

9 A. Yes, sir. I transferred it to the
10 evidence room.

11 Q. In the time that the teeth and the
12 skull were in your possession, did you alter or
13 tamper with them in any way?

14 A. No, sir, I didn't.

15 MR. ALFARO: Thank you. Please answer
16 any questions the defense may have.

17 THE COURT: Cross examine?

18 MR. SMILEY: No questions, Your Honor.

19 THE COURT: Thank you, Mr. Kokinda.
20 You may step down.

21 Call your next witness.

22 MR. ALFARO: The State calls Paul Meeh.

23 PAUL MEEH,

24 being first duly sworn, testified as follows:

25 THE CLERK: Please have a seat. State

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 your full name, and spell your last name for the
2 record.

3 THE WITNESS: My name is Paul Meeh.
4 That's M-E-E-H.

5 DIRECT EXAMINATION

6 BY MR. ALFARO:

7 Q. Could you tell us where you work?

8 A. Yes. I work at SLED in Columbia.

9 Q. And what do you do with SLED?

10 A. I'm a forensic scientist in the DNA
11 department.

12 Q. And how long have you been with SLED?

13 A. For 12 years.

14 Q. Have you been in the DNA lab that
15 entire time?

16 A. Yes, that's correct.

17 Q. Can you tell us a little bit about your
18 educational background?

19 A. Yeah. In 2001, I got my bachelor's
20 from the University of South Carolina, and that was
21 in biology. And then 2003, I got my master's and
22 that was in biomedical science, which is pretty
23 much molecular biology. That was cancer research.
24 It was like colon cancer research and breast cancer
25 research.

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 And then I did three years of PhD work,
2 but I was taken away by SLED or recruited away. I
3 didn't finish my PhD. So, then I did a year and a
4 half of training with SLED under an analyst there
5 studying DNA and studying serology, which is the
6 identification of body fluids and those sorts of
7 things.

8 Q. And as part of that training program,
9 can you tell us a little bit about what you -- what
10 that consists of?

11 A. The training program consists of, you
12 have a mock court, which is sort of supposed to be
13 like this. You have training on cases, cutting out
14 cases, the intricacy of cases. You know, cases can
15 be complicated and difficult sometimes.

16 But you work with an analyst who is
17 very experienced, and they show you all the details
18 of casework and -- how just to be clean is one of
19 the main things. We have a bunch of different
20 aspects to that, unfortunately. It's very
21 complicated training.

22 Like I said, mine took a year and a
23 half, and I was from the field.

24 Q. And as a result of that, are you
25 certified by SLED to perform DNA analysis?

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 A. Yes, I am.

2 Q. And how long have you been handling DNA
3 cases with SLED?

4 A. I was hired in April of 2007 and 1.5
5 years after that. So something like ten and a half
6 years.

7 Q. And, roughly, can you give us an
8 estimate of how many cases you have handled?

9 A. That would be in the hundreds or
10 thousands. Many cases.

11 Q. And have you previously been qualified
12 as an expert in the area of DNA analysis in court?

13 A. Yes, I have.

14 Q. How many times?

15 A. In general sessions court, I would say
16 about 35 or 40.

17 MR. ALFARO: Your Honor, at this time,
18 we would offer the witness as an expert in the area
19 of DNA analysis.

20 THE COURT: Do you care to examine as
21 to his qualifications?

22 MR. SMILEY: No, Your Honor.

23 THE COURT: He will permitted to render
24 opinions in that area.

25 BY MR. ALFARO:

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 Q. In general terms, can you tell us what
2 the field of forensic DNA analysis entails?

3 A. We create a DNA fingerprint. We don't
4 test all the DNA in your body, but just very short
5 pieces, a short tandem repeat. But it's very
6 powerful because that short tandem repeat you get
7 half of it from your mother and half of it from
8 your father. And your fingerprint then reflects
9 both of those and it's individual to you.

10 It's so individual to you that nobody
11 else ever in the history of the earth would ever
12 have that same, unless they're your identical twin.
13 It would be -- in my testing, that would look exact
14 to me, an identical twin would, but nobody else.

15 I mean, there has probably been 140
16 billion people that have ever lived on the planet,
17 and you would exceed that by quadrillions in the
18 number that we can generate with that DNA
19 fingerprint.

20 Q. And in general terms, can you tell us
21 and tell the jury how you go about a developing DNA
22 profile?

23 A. We extract the DNA from the cells
24 that's inside the portion called the nucleus. We
25 take it out and we quantify it, which just means we

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 say how much is there, because you don't want to
2 use too much. It hurts the instrumentation and
3 you're not able to generate a profile.

4 So after we quantify it, we create that
5 STR profile that I was talk -- telling the jury
6 about, and that's through a kit. And it just tests
7 a bunch of different -- I think it's 25 in the kit
8 that we use now, that's positioned in your geno.

9 And then that creates your profile.
10 It's just a series of numbers. It's almost like a
11 locker combination. Once we generate that profile
12 from the evidence, we can generate one from you.
13 From like a buccal swab from the inside of your
14 mouth that's called a standard. And we compare
15 those two things.

16 That's the main part of my job is
17 comparing and telling you how sure I am that those
18 two things either go together or don't.

19 Q. And did you perform DNA analysis
20 related to Nicole Goodlett, Jerald Howard, Bozena
21 Goodlett, James Goodlett, and James Mangle?

22 A. Yes, I did.

23 Q. Now, your -- in your analysis or your
24 involvement in this case, did you also prepare
25 written reports detailing your findings?

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 A. Yes, I did.

2 Q. It appears that there were two
3 different lab numbers associated with this case,
4 one being L 1403679 and L 1516076?

5 A. Correct.

6 Q. Is that because there are two separate
7 agencies submitting -- law enforcement agencies
8 submitting things to you?

9 A. Yes, that's correct. Spartanburg
10 County submitted under 3679 and Berkeley County
11 submitted under 16076.

12 Q. Okay. And so your reports with those
13 lab numbers are related to the case we just
14 discussed?

15 A. Correct.

16 Q. Okay. And, now, I'm going to kind of
17 try to walk you through some of the items that were
18 submitted and analyzed as detailed in your report.
19 On February 8, 2016, did you receive items that
20 were placed in the DNA freezer on December 11,
21 2015, by Verona O'Herra?

22 A. Yes, I did.

23 Q. And who is Verona O'Herra?

24 A. Verona O'Herra is a DNA forensic
25 technician, which means she works in concert with

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 us, the scientist. And she processes items and
2 helps us out with DNA storage and things of that
3 nature.

4 Q. And so she, essentially, moves things
5 from one place in the lab to another?

6 A. Yes. That's part of her job duties,
7 yes.

8 Q. And at SLED, do you have protocols or
9 policies in place to document when items are moved
10 from one location to another or from one person to
11 another?

12 A. Oh, yes, absolutely. So when an item
13 comes through the door, it immediately gets put
14 into a heat-sealed pouch. And that's signed and
15 sealed by the officer that's submitting it and by
16 the technician that's taking it in.

17 And then it's closed from there on out
18 unless it goes to somebody that processes it or
19 something like that. It should be closed when I
20 get; and if it's not, I wouldn't process it.

21 Q. Okay. I'm going to show you what is
22 listed under the lab number L 1516076. It is
23 State's Exhibit 1.

24 A. You can see my initials here and the
25 date each time I opened it and closed it. I

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 probably had to work on this several times. It
2 says freezer required. This must be the teeth.

3 Q. And did you perform analysis on that
4 item?

5 A. Yes, I did. I performed analysis on
6 both teeth.

7 Q. Okay. Now, in addition to receiving
8 that item on February 8th of 2016, on March 21st of
9 2014, did you have the opportunity to receive some
10 items obtained from Spartanburg under the L 1403679
11 lab number?

12 A. Yes, I did.

13 Q. Were those received from Amy Stevens
14 Black on April -- or March 21st, 2014?

15 A. I believe so, yes.

16 Q. And those would be what your items are
17 SLED's 3, 4, 6, and 7; is that correct?

18 A. Yes.

19 Q. All right. Starting with State's --
20 I'm going to show you State's 2, 3, 6, and 7, which
21 correlate to your 3, 4, 6, and 7.

22 A. Yes. These packages appear to contain
23 those items.

24 Q. And those items would have been
25 provided to you for analysis on that date?

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 A. Would you restate the date, please?

2 Q. They were provided to you by Amy

3 Stevens Black on 3/21/14 at 9:20?

4 A. Correct.

5 Q. And also on March the 21st of 2014, at

6 11:04 a.m., did you also receive what is marked as

7 SLED Item 5.4?

8 A. Yes, I would think so. It appears that

9 I gathered all these items to process that day.

10 Q. Okay. I'm going to show you State's

11 Exhibit 4, which correlates with your SLED Number

12 5. There are several envelopes in there.

13 A. Yes, it's in here. Yes, I received

14 that.

15 Q. Okay. Can you tell us who Ms. Black

16 and Ms. Stowe are?

17 A. Amy Stevens Black was a -- she was an

18 intake person at the front. Like I said, when

19 evidence gets brought in, we have three or four

20 evidence people, and she was one of them. They

21 just put them into those pouches and keep care of

22 that.

23 And who was the second person please?

24 Q. Jessica Stowe.

25 A. Jessica Stowe is a forensic technician.

MEEH, PAUL - DIRECT EXAM BY MR. ALFARO

1 She has the same position as Verona O'Herra or
2 equal to.

3 Q. And also on June 23rd, 2014, at
4 2:04 p.m., did you also receive some buccal swabs,
5 which are SLED Items 8, 11, 19, and 20 -- actually,
6 let me back up a little bit.

7 You received buccal swabs, which are
8 SLED's 8, 19, and 20, and then a carpet cutting
9 which is SLED's 11, correct?

10 A. Correct.

11 Q. Okay. I'm going to show you State's
12 Exhibits 8, 9, and 10.

13 A. Yes, those are correct.

14 Q. And those are items that were also
15 received by you for SLED analysis?

16 A. Yes.

17 Q. And each of those items that you just
18 described, were those properly packaged and sealed
19 prior to your performing any analysis on them?

20 A. Yes, they would be. I wouldn't process
21 them if they were not.

22 Q. And a couple of the items that you were
23 provided are buccal swabs. Can you tell us what a
24 buccal swab is?

25 A. Yeah. The buccal is a standard that we