

VOLUME I OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable Alex Kinlaw, Circuit Court Judge

RECEIVED

Dec 15 2025

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JEFFREY MICHAEL GEORGE,

APPELLANT

APPELLATE CASE NO. 2024-001653

RECORD ON APPEAL

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	)	2021-GS-23-2637
COUNTY OF GREENVILLE	)	
	)	
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
JEFFREY MICHAEL GEORGE,	)	
DEFENDANT.	)	
	)	

September 16, 17, 18, 19, 20, 21, 2024
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE, and a
jury.

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

ALLEN O. FRETWELL, ESQ.
JESSE MICHAEL WILLIAMS, ESQ.
Attorney for the Plaintiff

LUCAS CRAIG MARCHANT, ESQ.
Attorney for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

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P R O C E E D I N G S

Monday, September 15, 2024

(WHEREUPON, State's Exhibit Numbers 217, 218, 227 and 228
were marked for identification; proceedings commenced at
1:05 PM.)

MR. FRETWELL: May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. FRETWELL: Your Honor, we're here in the matter
of the State vs. Jeffrey Michael George, 2021-GS-23-6090,
indicted for murder and kidnapping.

Your Honor, at this point in the case, we, with the
Court's permission, would like to move through the
Jackson v. Denno hearing with Investigator Garrett and
hopefully be able to move into some of the Neil vs.
Biggers with Investigator Garrett and a civilian witness
that we have here as well.

THE COURT: All right. Mr. Fretwell, you can call
your first witness.

MR. FRETWELL: Your Honor, the State calls
Investigator Jon Garrett.

WHEREUPON,

JONATHAN GARRETT

After having been duly sworn, testified as follows:

THE CLERK: Thank you. Have a seat, please. And
state your full name for the record.

1 THE WITNESS: My name is Jonathan Jeter Garrett.

2 MR. FRETWELL: May it please the Court, Your Honor.

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION

5 BY MR. FRETWELL:

6 Q Investigator Garrett, let me take you to December
7 the 18th of 2019 at approximately 5:30 p.m. Did you
8 interview the defendant, Jeffrey George, at that time?

9 A I did.

10 Q And where did this interview take place?

11 A It took place at the Greenville County Law
12 Enforcement Center, Criminal Investigation Division
13 interview room.

14 Q And is that interview room equipped with video and
15 audio surveillance?

16 A It is.

17 Q Was anyone else present for this interview?

18 A Yeah. Investigator Antonio Bailey.

19 Q And Investigator Bailey is right here?

20 A That's correct.

21 Q All right. How did you begin your interview with
22 the defendant?

23 A I introduced myself and asked him what he preferred
24 to be called. He stated Jeff.

25 MR. MARCHANT: Your Honor, I realize these are

1 pretrial matters, but it strikes me that there's a
2 witness, I believe a State's witness in the courtroom.
3 While it may not be directly on point to Investigator
4 Garrett's testimony, I'm moving to sequester all
5 witnesses.

6 THE COURT: What witness are you referring to,
7 Mr. Marchant?

8 MR. MARCHANT: I believe this is Bobby Ray Smith
9 who's a codefendant in this case who I anticipate
10 testifying.

11 THE COURT: Step outside and be nearby, Mr. Smith.

12 MR. FRETWELL: Are there any of the other
13 individuals here on the witness list for the State or the
14 defense? Okay.

15 THE COURT: Go ahead.

16 MR. FRETWELL: Thank you, Judge.

17 BY MR. FRETWELL:

18 Q Let me take you back just a minute, Investigator
19 Garrett. I asked you how you began your interview with
20 the defendant in this case. Did you go over any kind of
21 information relating to his educational background?

22 A I did. I asked him how far he went to school and
23 what his educational level was.

24 Q Okay. And what information did he provide to you?

25 A He stated he had gotten his GED in Michigan and

1 Ohio, and he'd been in South Carolina for about 20 years.

2 Q Did you talk with him about what kind of work he
3 does?

4 A Correct. He said he was an electrician with Bayou
5 Electric.

6 Q Okay. And why do you begin your interview by asking
7 these kinds of questions?

8 A Because I want to advise him of his constitutional
9 rights and I just want to pursue what his educational
10 level is, if he's going to understand what I'm explaining
11 to him.

12 Q And do you use a specific form when you go over
13 these rights?

14 A I do. A Greenville County waiver of rights form.

15 Q I'll ask you -- I'll ask you if you recognize what's
16 been marked as State's Exhibit 227 and whether you
17 recognize that document.

18 A I do.

19 Q And what is that?

20 A That's the Miranda form I read to Mr. George on
21 December 18, 2019.

22 MR. FRETWELL: Okay. And, Judge, I think in just a
23 moment we're probably going to need to have the computer
24 up, and I was thinking about pulling down the thing but I
25 guess we don't have it anymore. It shows up on the

1 screen.

2 THE COURT: She'll take care of it.

3 BY MR. FRETWELL:

4 Q Okay. All right. Did the defendant, Mr. George,
5 sign this form?

6 A He did.

7 Q Did you sign this form?

8 A I did.

9 Q Did you and the defendant have any difficulty
10 communicating?

11 A No, sir.

12 Q Did the defendant appear to understand his rights?

13 A He did.

14 Q Did you ask him if he understood what you read to
15 him?

16 A I did.

17 Q How did he respond?

18 A I think he said "yes, sir."

19 Q Okay. Did he appear intoxicated or under the
20 influence of any drugs?

21 A He did not.

22 Q Did he ask you any questions about his rights?

23 A He didn't.

24 Q Did the defendant do or say anything that would make
25 you believe he didn't fully understand the rights as you

1 explained them?

2 A He did not.

3 Q Has the form that you're looking at, State's
4 Exhibit 227, been materially altered in any way?

5 A It has not.

6 Q Is the form in substantially the same condition as
7 when you completed it with the defendant?

8 A It is.

9 MR. FRETWELL: Your Honor, for the purpose of this
10 hearing, we'd introduce State's 227 into evidence.

11 THE COURT: All right. Any objection?

12 MR. MARCHANT: No objection.

13 THE COURT: All right. So entered without
14 objection.

15 (WHEREUPON, State's Exhibit Number 227 was admitted into
16 evidence for purposes of this hearing only.)

17 BY MR. FRETWELL:

18 Q Investigator Garrett, how did you go over the rights
19 portion of the form with the defendant?

20 A I read it to him line by line.

21 Q And as a result of that, what did you ask him to do
22 line by line?

23 A Initial in the little lines beside each line stating
24 he understood the rights.

25 Q And did he do that?

1 A He did.

2 Q All right. Did you follow that procedure for all of
3 these rights?

4 A I do.

5 Q And did the defendant initial each line that you
6 read to him?

7 A He did.

8 Q What did Investigator Bailey do at this point in the
9 interview to make things easier for Mr. George?

10 A He removed his handcuffs.

11 Q Okay. At this time, I would ask that you read the
12 rights into the record from that document, State's 227,
13 as you presented them to the defendant and as he
14 initialed them.

15 A "Before we ask you any questions, you must
16 understand your rights. You have a right to remain
17 silent. Anything you say can be used against you in
18 court. You have the right to talk to a lawyer for advice
19 before we ask you any questions and have him present with
20 you during questioning. If you have no money to pay for
21 a lawyer's fees, the court will appoint one to represent
22 you without cost if you wish. If you decide to answer
23 questions now without a lawyer present, you still have
24 the right to stop answering questions at any time. You
25 also have the right to stop answering questions at any

1 time until you talk to a lawyer."

2 Q And he initialed each one of these rights?

3 A He did.

4 Q How did you go over the waiver portion of the form
5 with the defendant?

6 A I read it to him also.

7 Q All right. Would you please read the waiver -- let
8 me ask you this. Did he sign the waiver portion?

9 A He did.

10 Q Okay. Did he appear to understand the waiver?

11 A He did.

12 Q Did he ask you any other questions about the waiver
13 portion?

14 A He did not.

15 Q Did he do or say anything that would make you
16 believe he didn't fully understand the waiver as you
17 explained it to him?

18 A He didn't.

19 Q Did he initial next to the waiver paragraph itself?

20 A He did.

21 Q Please read the waiver as presented to and initialed
22 by the defendant in State's 227.

23 A "I have read this statement of my rights and I
24 understand what my rights are. I am willing to make a
25 statement and answer questions. I understand and know

1 what I'm doing. No promises or threats have been made to
2 me."

3 Q And his signature appears after that.

4 A It is.

5 Q All right. Did you and Investigator Bailey sign as
6 witnesses?

7 A We did.

8 Q Did he, that being the defendant, ever invoke his
9 right to remain silent?

10 A After the interview.

11 Q Okay. Well, for purposes of this hearing without
12 the jury present, I'm going to instruct you not to
13 comment at all on the defendant invoking a different
14 right. But as far as the right to remain silent, did he
15 ever invoke that right?

16 A He did not.

17 Q Okay. All right. Were the defendant's handcuffs
18 removed for the remainder of this interview?

19 A They were.

20 Q Did you or anyone promise the defendant anything in
21 exchange for making a statement?

22 A I did not.

23 Q Did you or anyone coerce or threaten him into making
24 a statement or answering your questions?

25 A We did not.

1 Q To the best of your knowledge, was the defendant's
2 statement given freely and voluntarily?

3 A It was.

4 Q All right. I'm going to show you what's been
5 premarked as State's 228. Do you recognize State's 228?

6 A I do.

7 Q How do you recognize it?

8 A My initials in red on the front.

9 Q And did you review the video that is depicted on
10 this exhibit?

11 A I did.

12 Q Other than redactions for purposes of evidentiary
13 rules and court rules, is it a true and accurate copy of
14 the interview that you had with this defendant on
15 December 18, 2019?

16 A It is.

17 MR. FRETWELL: Your Honor, at this time for the
18 purposes of this hearing, we would introduce State's 228
19 into evidence.

20 THE COURT: Any objection?

21 MR. MARCHANT: No objection.

22 THE COURT: So entered without objection.

23 (WHEREUPON, State's Exhibit Number 228 was admitted into
24 evidence for purposes of this hearing.)

25 MR. FRETWELL: Judge, I typically would not play

1 this during a Jackson v. Denno. I spoke to Mr. Marchant.
2 I think Mr. Marchant wants it played. Whenever he wants
3 it played is fine with me. I just don't have anything
4 turned on to do that at this point.

5 THE COURT: We've got the capability.

6 (WHEREUPON, State's Exhibit Number 228, a video
7 recording, was played in open court.)

8 MR. MARCHANT: Are you done with your questions?

9 MR. FRETWELL: With my questioning, yeah.

10 CROSS EXAMINATION

11 BY MR. MARCHANT:

12 Q All right. Investigator Garrett, I'm going to
13 return this rights form back to you. You had an
14 opportunity to review the clip that we just listened to,
15 right?

16 A Yes, sir.

17 Q All right. How is it that you came into contact
18 with Mr. George that day?

19 A Investigator Bailey had signed a warrant on him and
20 a fugitive squad had picked him up. And I was still
21 working at the office, and I was partners with him.

22 Q This is in your office at the Law Enforcement
23 Center?

24 A Yes. The interview room in our office.

25 Q Okay. Had you had any interaction with Mr. George

1 prior to you walking into the interview room?

2 A I don't recall. I think I was in my office and I
3 was told he was here and I met in a room.

4 Q Never seen him before in your life?

5 A Other than pictures in the investigation.

6 Q Right. Never had any interaction with him.

7 A Not that I recall.

8 Q Okay. And you were fully up to speed on the ins and
9 outs of the investigation when you interviewed
10 Mr. George.

11 A Fully up to speed meaning knowing every detail?

12 Q Well, I realize Investigator Bailey and you had
13 other officers working with you, but you generally
14 understood what the case was about.

15 A The major details of it, but not every detail.

16 Q Okay. And, in fact, that there had been a lot of
17 discussion up to that point in time about drugs and drug
18 usage and things like that.

19 A Yes, sir.

20 Q Okay. Did you have Mr. George's prior record with
21 you when you interviewed him?

22 A I had saw it before I went in.

23 Q Okay. Do you recall if he had any record?

24 A Yes. I remember him saying something about a
25 cocaine charge.

1 Q Okay. And anything besides that?

2 A He was on probation for it or had just gotten off
3 for after a year.

4 Q Conditional discharge to be exact; is that right?
5 That's your recollection? You're not sure.

6 A Ins and outs of the -- yeah.

7 Q Okay. So we know the case is about drugs and heart?

8 A Correct.

9 Q You've never seen Mr. George a day in your life?

10 A Not before that day.

11 Q Never had any interactions with him before. So you
12 had no familiarity with him of how he acts when he's
13 sober or impaired or intoxicated.

14 A I wouldn't.

15 Q Okay. Did you ask him if he had been consuming any
16 substances that day?

17 A I didn't.

18 Q Did you ask him if he drank any alcohol?

19 A I didn't.

20 Q What time of day was this?

21 A Around 5:30-ish.

22 Q Did he say whether or not he had been working that
23 day?

24 A I don't recall.

25 Q Do you recall what day of the week this was?

1 A December 18th, a week before Christmas.

2 Q I'm sorry. Was it Wednesday? Thursday? Friday?

3 A No.

4 Q Okay. As you're going through his rights with him,
5 and I may need to get the solicitor's assistance here,
6 but at 17:55 and about 10 seconds, you tell him, "This is
7 not saying I want to talk. It's just understanding my
8 rights."

9 A Right. Does he understand what his rights are.

10 Q Okay. So you're telling me he doesn't have to talk,
11 you're just making sure he understands his rights.

12 A Correct.

13 Q Okay. Did you ever ask him if he wanted to talk?

14 A No.

15 Q Never asked him.

16 A I didn't.

17 Q Okay. So the only thing that you did was read these
18 lines line by line and had him initial.

19 A Saying he understood that he didn't have to talk to
20 me.

21 Q But you never asked him if he wanted to talk to you.

22 A No. I read what was on the Miranda form.

23 Q You read what was on the line. Did you ever have
24 him read anything that was on the form?

25 A No, sir.

1 Q You don't know if he can read.

2 A That's why I read it to him.

3 Q Okay. Why didn't you ask him if he could read?
4 Because if he can't read and he doesn't know what the
5 words say, then he doesn't know what's being read to him,
6 does he?

7 A That's why I ask how far he's gone in school. He
8 said he had a GED. I know that's the standard for
9 reading.

10 Q Now, to be clear, you never asked him if he wanted
11 to talk with you.

12 A No, sir.

13 Q You just had him sign and initial a couple spots and
14 then you got into talking to him.

15 A That's right.

16 Q Okay. And then at some point in time after you told
17 him what he was being accused of, he invoked his right to
18 an attorney and you stopped questioning, correct?

19 A Yes, sir.

20 Q And that point in time is when you told him what he
21 was being charged with.

22 A I think I did.

23 Q As he's sitting in this room at the beginning of
24 this interview, he does not know what he is under arrest
25 for, correct?

1 MR. FRETWELL: Objection. Speculation, Your Honor.
2 Speculation.

3 THE COURT: Sustained.

4 BY MR. MARCHANT:

5 Q Well, did you tell him what he was under arrest for?

6 A Eventually.

7 Q Before you read the warrants to him in about ten or
8 12 minutes from now?

9 A I did not.

10 Q Did Antonio Bailey?

11 A I don't recall. I think we eventually did. But if
12 he'd have asked, I would have told him.

13 Q So you're 60 to 90 seconds with him made you
14 comfortable that he understood what he was doing.

15 A Yes, sir.

16 Q That he wasn't under the influence of anything.

17 A Right.

18 Q Even though you never asked him if he consumed any
19 substances.

20 A I didn't. Based on asking him, I worked 14 years in
21 narcotics so he didn't -- my training and experience, he
22 appeared completely sober.

23 Q My question is whether or not you asked him. You
24 didn't ask him if he consumed any substances.

25 A Did not ask him. No, sir.

1 Q Okay. And you never had any prior interaction or
2 conversation with him before.

3 A No, sir.

4 Q Didn't ask him if he could read one of the lines out
5 loud to make sure he did understand what was being told
6 to him and what he signed, correct?

7 A I did not.

8 MR. MARCHANT: Okay. No further questions, Your
9 Honor.

10 MR. FRETWELL: Very briefly, Your Honor.

11 THE COURT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. FRETWELL:

14 Q Just two things. Investigator Garrett, your
15 14 years as a narcotics officer, you have the ability to
16 speak with people who were under the influence versus
17 those that were not; is that correct?

18 A I have.

19 Q And let me make sure I understand your testimony is
20 that the time that you sat with this defendant in that
21 room, based on your experience with people in general,
22 you did not believe him to be under the influence of any
23 substance, alcohol or drugs.

24 A I did not. I wouldn't have continued if I did.

25 Q Okay. And then secondly, the procedure that you

1 followed in this particular case, is this the same
2 procedure you follow in every single case?

3 A That's correct.

4 Q This is the degree and the amount of time that you
5 have to assess anybody in every case that you have.

6 A Just about, yes.

7 MR. FRETWELL: No questions, Judge.

8 THE COURT: Anything else?

9 MR. MARCHANT: Briefly.

10 RECROSS EXAMINATION

11 BY MR. MARCHANT:

12 Q Do you ever read -- I mean, do you ever ask an
13 individual to read any portion of this form to make sure
14 that they do understand their rights?

15 A If I -- if I had a -- if I thought they weren't
16 understanding, I would. But he was an electrician. He
17 had his GED. I asked him did he understand his rights,
18 and he stated he did.

19 Q You can make that determination in a matter of about
20 90 to 120 seconds.

21 A I did in this case. Yes, sir.

22 MR. MARCHANT: In this case. Thank you.

23 MR. FRETWELL: No questions, Judge.

24 For the purposes of this hearing, we would ask that
25 the Court determine that the statement made by the

1 defendant in this case that's depicted in, I believe,
2 State's Exhibit 228 is admissible as a knowing,
3 intelligent and freely given statement pursuant to rights
4 given to him by Investigator Garrett.

5 THE COURT: All right. Mr. Marchant?

6 MR. MARCHANT: Judge, before you make that decision,
7 I have a witness to call ---

8 THE COURT: All right.

9 MR. MARCHANT: --- for limited purposes of this
10 particular subject. I call Mr. George to the stand.

11 THE CLERK: Please pause here by the bench. Lay
12 your left hand on the Bible, raise your right hand.
13 WHEREUPON,

14 JEFFREY GEORGE

15 After having been duly sworn, testified as follows:

16 THE CLERK: Thank you. You may be seated. And
17 please state your full name for the record.

18 THE WITNESS: Jeffrey Michael George.

19 DIRECT EXAMINATION

20 BY MR. MARCHANT:

21 Q Make sure you're up close on the microphone so
22 everybody can hear you.

23 A Jeffrey Michael George.

24 Q Mr. George, I'm showing you what's been marked for
25 this hearing as State's Exhibit 227. Do you recognize

1 that?

2 A I recognize my signature.

3 Q Okay. Have you seen this document prior to today?

4 A I guess the day that they interviewed me.

5 Q Okay. Do you recall this interview?

6 A Sort of.

7 Q Okay. Well, you say "sort of." Why is it that you
8 sort of recall this interview?

9 A Because I was on methamphetamines at the time.

10 Q Okay. Do you recall whether or not you had worked
11 this day?

12 A I think I might have. I'm not sure.

13 Q Okay. Well, how frequently had you been using
14 methamphetamine back in December of 2019?

15 A Every day.

16 Q And on this particular day, do you recall how much
17 you used?

18 A No. A lot. It was always a lot.

19 Q Well, you're going to have to help me out because I
20 don't know what a lot is.

21 A I don't know. Probably 2 or 3 grams at least.

22 Q Okay. And in your experience, how much did it cost
23 to get 1 gram?

24 A \$20 or \$30.

25 Q Okay. So ballpark, \$100 worth of meth you used that

1 day?

2 A I would say so.

3 Q This interview appears to be at 6 o'clock at night,
4 roughly, if the time stamp is correct on there. Did you
5 use before you went to work that day?

6 A Yeah.

7 Q Would you have used while you were working?

8 A Yes.

9 Q And do you use after you work?

10 A Yes.

11 Q Okay. What sort of work were you doing?

12 A I was an electrician.

13 Q Were you here -- the investigator talked about your
14 level of education. Can you read and write?

15 A Yes, I can.

16 Q Okay. And where did you get your GED from? Was it
17 from Michigan or Ohio?

18 A It was Ohio.

19 Q Given the amount of drugs that you had ingested that
20 day, do you remember -- I know we just watched this video
21 and that's you on the screen. Do you remember sitting
22 down with those two investigators at the sheriff's office
23 that day?

24 A Barely.

25 Q Do you remember going over these rights with them?

1 A Not necessarily, no.

2 Q Were you in a conscious state of mind such that you
3 were clearheaded and understood what they were talking
4 about?

5 A No, sir.

6 MR. FRETWELL: Leading.

7 THE COURT: Overruled.

8 BY MR. MARCHANT:

9 Q I'm sorry. I didn't hear your answer.

10 A I said no, sir.

11 Q Had you used drugs the day before?

12 A Yes.

13 Q And how long -- on the 18th of December in 2019 at
14 6 p.m. in the evening, how long had you been up that day?

15 A I had been up probably -- the day before that I got
16 up at 3 o'clock in the morning and stayed up straight
17 through.

18 Q So you'd been up 36-plus hours going on 40 hours?

19 A Yes, sir. Yes, sir.

20 Q But you had worked that day ---

21 A Yeah.

22 Q --- the best of your recollection.

23 That's your signature. You agree with that.

24 A Yes. I did sign that.

25 Q You've seen yourself sign that on the screen, right?

1 A Yes, sir.

2 Q But you're telling me and this court that you don't
3 remember signing it.

4 A No.

5 MR. MARCHANT: Thank you. Please answer any
6 questions the solicitor may have for you.

7 THE COURT: Cross-examination?

8 MR. FRETWELL: May it please the Court, Your Honor.

9 THE COURT: Yes, sir.

10 CROSS EXAMINATION

11 BY MR. FRETWELL:

12 Q Mr. George, you answered Mr. Marchant that you don't
13 recall these rights and you said the words "not
14 necessarily." What did you mean by that?

15 A It means I do not recall them being read to me.

16 Q What did you mean by "not necessarily"?

17 A That I did not remember them being read to me.

18 Q So why didn't you answer Mr. Marchant "no"? What
19 does it mean by "not necessarily"?

20 A I see this in front of me. I know I signed it.
21 That's my signature. Those are my initials.

22 Q Do you recall what happened that day before you were
23 in this interview with these investigators?

24 A With the investigators?

25 Q This interview right here, do you recall what you

1 were doing when you were arrested and brought to the Law
2 Enforcement Center?

3 A I was at home.

4 Q Okay. Do you recall what you were doing at the time
5 that they arrested you?

6 A I have no recollection.

7 Q Do you recall where you were in relation to your
8 pickup truck?

9 A I was put down in the driveway by it, I'm guessing.

10 Q Okay. Do you recall -- this is the 18th. Do you
11 recall making jail phone calls from the jail to family
12 members or friends ---

13 MR. MARCHANT: Objection. That information is after
14 this interview whether or not he was conscious, coherent
15 and competent to sign this document and give the
16 interview that day. Anything that's made after is not
17 for the Court's consideration.

18 MR. FRETWELL: With due respect, Your Honor, the
19 testimony that Mr. Marchant elicited is that as he sits
20 here today, he does not recall this interview.

21 THE COURT: Right.

22 MR. FRETWELL: I am permitted to ask him about that
23 and to test whether just a few -- couple weeks afterwards
24 he had a cogent and clear conversation on the phone about
25 the events that were immediately prior to this particular

1 interview.

2 THE COURT. I'll allow it. Go ahead.

3 BY MR. FRETWELL:

4 Q Do you recall making those calls in January between
5 the 1st and the 4th where you talked to your daughter and
6 other friends and families about the events that happened
7 right before this interview? Do you remember that?

8 You're under oath.

9 A It's been five years.

10 Q Okay. So -- all right. So if I play your jail
11 recordings where you talk about your truck, where you
12 were in relation to your truck, all of that, you won't
13 remember that. Do you remember that discussion, sir?

14 A I was slammed on the driveway at my home. Yes, I do
15 remember at least parts of it.

16 Q But do you remember having a conversation about
17 where you were and how far away from the truck you were
18 when you were arrested with family members or friends on
19 those jail calls some two weeks after this event?

20 A Yeah. Sure.

21 Q Okay. So you had a good memory of what happened
22 immediately before this interview that you could discuss
23 it the 1st of January, but you don't have a good memory
24 today; is that your testimony, sir?

25 A No.

1 Q You don't dispute in any way, shape or form that you
2 have a GED; is that correct?

3 A No, I do not.

4 Q You don't dispute in any way, shape or form that you
5 can read and write, correct?

6 A Correct.

7 Q You don't dispute that you signed...

8 A It's right here.

9 Q You don't dispute that you ---

10 A No. That's my signature.

11 Q And these are all your initials.

12 A Yes.

13 Q Okay. And all this biographical information, where
14 you were living, how far you went in school, that all
15 applied to you.

16 A Uh-huh.

17 Q Are you under the influence of methamphetamines
18 today?

19 A No.

20 Q Did you hear your answers to the questions that the
21 investigators asked you on that video?

22 A No. We didn't play that part.

23 Q Did you hear any of your conversation with those
24 investigators on that video?

25 A Yes.

1 Q Did you hear how, when somebody asked you a
2 question, you paused for a minute or for a few seconds
3 and then you answer?

4 A Okay.

5 Q Just like you're doing today, sir.

6 A Right.

7 Q And you understand what you're doing and what you're
8 saying today, do you not?

9 A Yes. I'm not under the influence of -- okay.

10 MR. FRETWELL: No further questions, Judge.

11 THE COURT: Anything else, Mr. Marchant?

12 MR. MARCHANT: No, Your Honor.

13 THE COURT: All right. Sir, you can step down.

14 Any other witnesses, Mr. Marchant?

15 MR. MARCHANT: That's it, Judge.

16 THE COURT: All right. Having heard the arguments
17 of counsel with the State as well as the defendant, the
18 Court finds that the statement that was set forth in
19 State's Exhibit Number 228 was knowingly, voluntarily and
20 intelligently given by the defendant. All right.

21 MR. FRETWELL: Your Honor, at this time, I would
22 like to recall Investigator Garrett to see if we can get
23 through his portion of the Neil vs. Biggers hearing,
24 Judge.

25 THE COURT: All right. But before you do that, on

1 another matter, I agreed to take a plea from Judge
2 Morgan's docket. So are you involved in that?

3 (Pause in proceedings to address a different matter.)

4 THE COURT: All right. Go ahead.

5 MR. FRETWELL: He's still under oath.

6 THE COURT: He's still under oath.

7 MR. FRETWELL: May it please the Court, Your Honor.

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION

10 BY MR. FRETWELL:

11 Q Investigator Garrett, did you meet with an
12 individual by the name of Bobby Ray Smith on December the
13 18th to discuss the death of Ivan Gula?

14 A I did.

15 Q All right. Let me show you what has been marked as
16 State's 217. I'll ask if you recognize State's 217.

17 A I do.

18 Q What is that, sir?

19 A That's a photo lineup of -- involving Jeff George
20 with Bobby Ray Smith's initials and date on it.

21 Q Is that how you recognize this document, through the
22 initials and the fact that you've seen this before?

23 A That's correct.

24 Q All right. Did you ask Mr. Smith to review this
25 particular lineup?

1 A I did.

2 Q Where were you when you showed Mr. Smith the lineup?

3 A Greenville County Law Enforcement Center, sheriff's
4 office, homicide interview room.

5 Q Is that a room like what we just saw?

6 A Same room. Same room.

7 Q Okay. Anyone there besides you and Mr. Smith?

8 A I think Investigator Picone.

9 Q And how many photos are on that lineup?

10 A Six.

11 Q Are the photos of similar description?

12 A They are.

13 Q Were the photos displayed one at a time or all at
14 once?

15 A All at once.

16 Q What, if anything, did you tell Mr. Smith about the
17 lineup before you presented it to him?

18 A I think I just told him -- I asked him to look at
19 this lineup and tell me who jumps out at you or who you
20 recognize.

21 Q Did you or Investigator Picone, at any time, suggest
22 the photo that Mr. Smith should select?

23 A Did not.

24 Q How long did he say that he had known the defendant
25 to your recollection?

1 A I want to say -- I'll have to review my notes. I
2 did a lot of interviews that day. (Reviews document) I
3 want to say it's several months. He had known him
4 through an acquaintance, Audrea Cook. So I'd say like
5 two or three weeks, maybe.

6 Q Okay. And then did Smith display any doubt that
7 Jeff George was the man he identified and described as
8 having a gun at Audrea Cook's house the evening of
9 December 1, 2019?

10 A He did not.

11 Q Was he able to ID the gunman from the photos that
12 you showed him?

13 A Almost immediately.

14 Q Which photograph did he select?

15 A Number 4.

16 Q And how sure was he of his selection?

17 A He immediately tapped it and said that's him, Jeff
18 George, 100 percent.

19 Q How did you have him indicate which photo he
20 selected?

21 A I had him circle it, initial it and put the date on
22 it.

23 Q Okay. And did you have him complete any other
24 forms?

25 A Yeah. An affidavit of photo identification. It's a

1 sheriff's office form.

2 Q Is State's 217 in the same condition as it was when
3 you last saw it?

4 A It is.

5 Q Has it been altered in any way?

6 A It has not.

7 Q Did Mr. Smith ever select a photo of anyone else he
8 described as the gunman at Ms. Cook's residence on
9 December 1, 2019?

10 A No, sir.

11 Q Let me show you what's been marked as State's 218
12 and I'll ask if you recognize this document.

13 A I do.

14 Q What is that document?

15 A Affidavit of photograph identification.

16 Q Is that the document that Mr. Smith completed on
17 that day at that same time?

18 A It is.

19 Q Is it in the same condition as it was when he
20 completed it?

21 A It is.

22 Q Did you sign it?

23 A I did.

24 Q Did he sign it?

25 A He did.

1 MR. FRETWELL: At this time, for the purpose of
2 this hearing, Judge, I would move State's 218 into
3 evidence.

4 THE COURT: All right. Any objection?

5 MR. MARCHANT: No objection.

6 THE COURT: All right. So entered without
7 objection.

8 (WHEREUPON, State's Exhibit Number 218 was admitted into
9 evidence for purposes of this hearing.)

10 BY MR. FRETWELL:

11 Q Could you please tell the Court what is on that
12 affidavit that you -- the information that you received
13 from Mr. Smith.

14 A Do you want me to read it?

15 Q Yes.

16 A "I, Bobby Ray Smith, have reviewed a group of six
17 photographs this 18th day of December 2019 for which I
18 positively identified Photograph Number 4 displayed to me
19 by Investigator Jon Garrett of George -- Jeff George as
20 being the person who held a gun on Ivan at Audrea Cook's
21 house while David Stokes assaulted Ivan with a weapon."
22 Thin his signature and address and information.

23 MR. FRETWELL: Thank you, sir.

24 No further questions, Your Honor.

25 THE COURT: Cross-examination?

CROSS EXAMINATION

BY MR. MARCHANT:

Q Is Bobby Smith under arrest when you were interviewing him?

A He was.

Q Had he been informed of what he was charged with?

A I don't think so.

MR. FRETWELL: Your Honor, relevance.

THE COURT: What's the relevance, Mr. Marchant?

MR. MARCHANT: Your Honor, Mr. Smith is going to come in here and testify in a few minutes. And his state of mind about whether or not he is being truthful in identifying someone is extremely relevant. I'm asking Investigator Garrett whether or not Mr. Smith is under arrest. It goes to his state of mind and his motivation for the selection of the photograph that he has apparently picked out. I would like a little leeway.

THE COURT: All right. I'll give it to you.

BY MR. MARCHANT:

Q Was he under arrest?

A Yes, he was.

Q Had he been informed he was charged with murder?

A I'm not sure. I think we advised him afterwards, I think.

Q Would it be fair to say that you made some comment

1 to him and others that you interviewed that, you know,
2 we're going to give everybody the same opportunity, and
3 the person who comes forward first gets to eat the best?

4 A Eats the best. But they usually give the first
5 information that we get to corroborate and start working
6 with.

7 Q And Mr. Smith repeatedly told you over and over that
8 he was being truthful with you that day when you were
9 interviewing him, correct?

10 A Correct.

11 Q Said things like "I swear to Christ, I swear on my
12 grandfather's grave," things of that nature?

13 A He did.

14 Q Had you been with Mr. Smith at any other time prior
15 to this interview room?

16 A I hadn't.

17 Q Sort of like Mr. George a minute ago, that's the
18 first time you ever met Mr. Smith.

19 A Correct.

20 Q And you say he didn't hesitate to pick out what
21 number on that lineup?

22 A Number 4.

23 Q And y'all do a separate piece of paper that's got
24 people's names on them, right?

25 A Yes.

1 Q Okay. And how do we know that Number 4 is Jeffrey
2 Michael George?

3 A Well, the Greenville County Sheriff's Office Records
4 Division does it one way. If they don't have an updated
5 or a similar photo that we can make a six-photo lineup,
6 we use SLED. And they get those from the South Carolina
7 Department of Motor Vehicles.

8 Q So you know whether or not this lineup came from ---

9 A It did. I can tell by looking at it. And it does
10 not have another separate one with names on it. They
11 just send you a DMV picture with his driver's license to
12 show you it would correlate with the one that you wanted
13 to include them in the lineup.

14 Q So you got a copy of his driver's license?

15 A Yeah. It would be somewhere.

16 Q Your testimony would be that that's the same photo
17 that's in the report?

18 A That's it, yeah.

19 Q And you showed Mr. Smith that driver's license
20 photo?

21 A No. I showed him a six-photo lineup. But that lets
22 me know which photo it is because they're so similar.

23 Q And you say Mr. Smith didn't hesitate to pick out
24 Number 4.

25 A He didn't.

1 MR. MARCHANT: All right. Thank you. I have no
2 further questions.

3 THE COURT: Anything else?

4 MR. FRETWELL: No questions, Judge.

5 THE COURT: All right. Sir, you can step down.

6 Any other witnesses?

7 MR. FRETWELL: Your Honor, I would call Mr. Smith if
8 we have time.

9 THE COURT: Yes, sir.

10 MR. FRETWELL: Your Honor, the State calls Bobby Ray
11 Smith.

12 THE COURT: All right.

13 THE CLERK: Please pause here at the bench. Lay
14 your left hand on the Bible, raise your right hand.
15 WHEREUPON,

16 BOBBY RAY SMITH

17 After having been duly sworn, testified as follows:

18 THE CLERK: Thank you. You may be seated. Please
19 state your full name for the record.

20 THE WITNESS: Bobby Ray Smith.

21 MR. FRETWELL: May it please the Court, Your Honor.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. FRETWELL:

25 Q Good afternoon, Mr. Smith.

1 Mr. Smith, let me take you to the afternoon of
2 12/18/2019. Did you meet with Greenville County
3 Sheriff's Office Investigator Jon Garrett that's seated
4 right here ---

5 A Yes, sir.

6 Q --- about the death of Ivan Gula?

7 A Yes, sir.

8 Q Were you asked to review a lineup at that time?

9 A Yes, sir.

10 Q Let me see if you recognize what's marked as
11 State's 217. Is this the lineup that you were asked to
12 review?

13 A Yes, sir.

14 Q Do you recall who showed you the photo lineup?

15 A The officer sitting right there behind you.

16 Q This one right here (indicating) in the brown
17 jacket?

18 A Yes, sir.

19 Q Okay. Where were you when you were shown that photo
20 lineup?

21 A Greenville County Police Department in an
22 interrogation room, I guess you'd say.

23 Q A little room you were sitting in?

24 A Yeah. Yes, sir.

25 Q Do you recall if there was another investigator

1 besides Investigator Garrett there at the time?

2 A There was a second one, but he was in and out.

3 Q Okay. How many photos are in that lineup, sir?

4 A Six.

5 Q And are the photos of similar description?

6 A Similar, yes.

7 Q Were the photos displayed to you just like they are
8 on that exhibit or did they show them to you one at a
9 time?

10 A Just like it is.

11 Q What, if anything, do you recall Investigator
12 Garrett telling you before he asked you to look at that
13 lineup?

14 A Well, I know when he put the lineup in front of me,
15 he asked me if I recognized anybody on it.

16 Q Okay. Did he suggest somebody that you should
17 select?

18 A No, sir.

19 Q How long have you known the defendant, Mr. George?

20 A Six months, maybe.

21 Q Okay. And how did you meet him?

22 A Through Audrea Cook or Audrea Jones. Whatever her
23 name is.

24 Q She also goes by Audrea Jones?

25 A Yeah.

1 Q Okay. And how many times would you say the two of
2 you had gotten together, that being you and Mr. George?

3 A I'm not positive on how many, but there's been a few
4 over at Audrea's house.

5 Q Okay. Any doubt that Jeff George was the man with
6 the gun at Audrea Cook's house the evening of December 1,
7 2019?

8 A No, sir.

9 Q Were you able to identify that gunman from the
10 photos that you were shown?

11 A Yes, sir.

12 Q Which photograph did you select, sir?

13 A Number 4.

14 Q How sure were you of your selection?

15 A Positive. 100 percent.

16 Q How did you indicate -- I'm sorry?

17 A 100 percent.

18 Q Okay. How did you indicate which photo that you
19 selected?

20 A I circled it and initialed it and dated it.

21 Q Was that what Investigator Garrett asked you to do?

22 A Yes, sir.

23 Q Did you also fill out what is entitled an Affidavit
24 of Photograph Identification?

25 A Yes, sir.

1 Q All right. So let me refer you back to State's 217.
2 Is that in the same condition as it was when you last saw
3 it?

4 A Yes, sir.

5 Q Has it been altered in any way?

6 A No, sir.

7 Q Let me show you State's 218. On State's 218, is
8 that the -- well, first of all, does it have your
9 signature on it?

10 A Yes, sir.

11 Q All right. And take a moment to read the
12 information that's on it, sir.

13 A Do you want me to read it aloud or just ---

14 Q Just read it to yourself. I just need to know if
15 that is accurate.

16 A (Reviews exhibit) Yes, sir.

17 Q Is that the information that you provided to
18 Investigator Garrett?

19 A Yes, sir.

20 Q Did he write it as you told him?

21 A Yes, sir.

22 Q Did you read that and then sign that?

23 A Yes, sir.

24 Q Is that the truth about what happened that
25 particular night?

1 A Yes, sir.

2 Q All right. Have you ever selected a photo of anyone
3 else as the person who had the gun?

4 A No, sir.

5 MR. FRETWELL: All right. Your Honor, at this time,
6 for the purpose of this hearing, we would introduce
7 State's 218 into evidence.

8 THE COURT: All right. Any objection?

9 MR. MARCHANT: No objection.

10 THE COURT: So entered without objection.

11 (WHEREUPON, State's Exhibit Number 218 was admitted into
12 evidence.)

13 BY MR. FRETWELL:

14 Q Is the person that you've identified that was
15 present that night with a gun and that you identified in
16 this lineup as being Jeff George present in the
17 courtroom?

18 A Yes, sir.

19 Q Can you identify him for the Court?

20 A (Indicating) He's right there.

21 MR. FRETWELL: All right. Your witness.

22 THE COURT: Mr. Marchant?

23 CROSS EXAMINATION

24 BY MR. MARCHANT:

25 Q Mr. Smith, do you recall where you were before law

1 enforcement brought you in this day under arrest on ---

2 A At home.

3 Q --- December 18, 2019? You were at home?

4 A Yes, sir.

5 Q Who were you at home with?

6 A My mother, my father, my son and there were a few
7 other people there, but...

8 Q So you were arrested in front of your family?

9 A Yes, sir.

10 Q Had you worked that day?

11 A I took the day off.

12 Q You just happened to take the day off you got
13 arrested.

14 A Yes, sir.

15 Q Had you done any drugs that day?

16 A No, sir.

17 Q You don't do drugs?

18 A Not anymore.

19 Q Were you doing drugs back in December of 2019?

20 A Yes, sir.

21 Q But you're telling us on the 18th of December you
22 weren't doing drugs that day.

23 A No sir. I just woke up when they come in.

24 Q What time did they get you?

25 A I do not recall. I'm wanting to say around

1 lunchtime.

2 Q The statement that you signed says 15:56. That's
3 3:56 in the afternoon. Does that feel right?

4 A Yes, sir. It sounds about right.

5 Q And you'd just woken up?

6 A I woke up around 10, 11 o'clock.

7 Q What had you done the night before?

8 A I had been high the night before, but I hadn't had
9 none at that point. I hadn't been up -- when Spartanburg
10 County came and picked me up from my house, I hadn't been
11 up probably an hour or two.

12 Q What were you high on the night before?

13 A Meth.

14 Q Something you do every day?

15 A Not every day, but a lot. Back then I did it a good
16 bit.

17 Q As much as you can get your hands on it.

18 A Not as much as I can get my hands on it, but I did
19 get high.

20 Q So you get down to the Law Enforcement Center and
21 you meet with Investigator Garrett who's over here in the
22 brown jacket. And he's told you you're in a pretty
23 unique situation, right?

24 A Yes, sir.

25 Q He's telling you you're educated. You're not really

1 situated like everybody else in this case, right?

2 A I wouldn't -- I was just telling him the truth about
3 what was going on.

4 Q You told him the truth that day?

5 A For the most part.

6 Q Didn't leave anything out?

7 A I left something out.

8 Q You lied to him, didn't you?

9 A No. I didn't lie to him. For the most part, I was
10 100 percent.

11 Q Well, you can't be 100 percent and be for the most
12 part. Which one is it?

13 A Well, for the most part, it was.

14 Q So for the most part, not 100 percent.

15 A Yes, sir.

16 Q Investigator Garrett told you tell me everything
17 about how and what. You've got to be completely honest,
18 because if we catch you in one little lie, it's going
19 against your case. Do you remember him telling you
20 that?

21 A I think so. I can't...

22 Q So your testimony here today is that you'd known
23 Mr. George for six months.

24 A (Nods head affirmatively) Yes, sir.

25 Q That's what you told Investigator Garrett back in

1 December of 2019, that you'd known him for six months?

2 A I don't remember exactly how long I told him then.

3 Q Okay. Well, in those six months, where did you see
4 Mr. George and how many times over that six-month period,
5 if that is, in fact, true?

6 A There's been numerous times at Audrea Cook's house.

7 Q Well, how many is numerous? Two? four?

8 A More than ten.

9 Q You'd seen him more than ten times at Audrea Cook's
10 house; is that right?

11 A Right around in there, yeah. It was right at, I'd
12 say, ten or better, yes, sir.

13 Q Ten or better.

14 And every time it was over at Audrea Cook's house.

15 A Yes, sir.

16 Q What were you doing at Audrea Cook's house?

17 A We were all over just hanging out, getting high.

18 Q How long would you be at Audrea Cook's with
19 Mr. George when you were there? Ten minutes? an hour?

20 A It varied.

21 Q Who supplied the dope to everybody that was getting
22 high over there?

23 A Whoever had it.

24 Q You?

25 A I have.

1 Q You've sold before, too, right?

2 A Yes, sir.

3 Q Sold to Ivan.

4 A Yes, sir.

5 Q Didn't tell law enforcement about that before you
6 picked Mr. George out of a lineup, did you?

7 A No, sir.

8 Q So it's your testimony that you'd seen Mr. George
9 about a dozen -- ten to a dozen times over six months
10 before you picked him out of a lineup.

11 A Yes, sir.

12 Q And it's your testimony that everything you told law
13 enforcement that night is mostly correct.

14 A Yes, sir.

15 Q You knew that you were in a spot and you needed to
16 get out of it, right? Correct?

17 A Yes, sir.

18 Q And you needed to find somebody that was more
19 responsible than you, right?

20 A No, sir. I just told them the truth about the gun.

21 Q So you're saying Mr. George had a gun. What kind of
22 gun did he have?

23 A I'm not positive on the brand, but it was an
24 automatic -- semi-automatic.

25 Q Why are you assuming it's an automatic?

1 A Because it was a pistol. It wasn't a fully
2 automatic. It was a semi-automatic pistol.

3 Q Well, what's your familiarity with firearms?

4 A Okay for the most part.

5 Q Well, do you own one?

6 A No, sir.

7 Q Do your parents own some?

8 A Yes, sir.

9 Q You supposed to be around guns?

10 A No, sir. They're not in the house anymore.

11 Q Were they in the house in December of 2019?

12 A My parents' guns are locked up -- was locked up in a
13 safe at the time.

14 Q So you're saying you couldn't get to them.

15 A No, sir.

16 Q Okay. And all you know is this is an automatic?

17 A Yes, sir.

18 Q Don't know if it was a nine or a .40 or a .45 or a
19 .22.

20 A I speculate it was a .40. I'm not positive.

21 Q So you don't know.

22 It's your testimony that you -- you're admitting
23 that you lied to law enforcement during the interview,
24 right?

25 A Yes, sir.

1 Q But yet, Mr. George is the one that you identified
2 as having a firearm that night.

3 A Because he did.

4 Q Did he shoot it?

5 A No, he didn't.

6 Q Did he chamber it?

7 A I don't remember that.

8 Q Do you know if there were any projectiles or bullets
9 in it?

10 A I know the clip was loaded.

11 Q How do you know?

12 A Because he had showed me.

13 Q He showed you.

14 A Earlier that night.

15 Q Oh. Did you tell law enforcement that he showed you
16 earlier that night or is this the first time we're
17 hearing it five years later?

18 A That question hadn't been asked before now.

19 Q You just conveniently left that out being
20 interviewed?

21 MR. FRETWELL: Objection. Argumentative.

22 THE COURT: Sustained.

23 MR. MARCHANT: No further questions.

24 THE COURT: Redirect.

25 MR. FRETWELL: Very briefly, Judge.

REDIRECT EXAMINATION

BY MR. FRETWELL:

Q Mr. Smith, Mr. Marchant asked you several times about an automatic. What kind of handgun did Mr. George have on the evening of December 1, 2019?

A It looked like a semi-automatic pistol.

Q Semi-automatic, not fully automatic.

A Not fully automatic. I apologize for not clarifying myself.

Q That's okay.

And you indicated, in response to one of his questions, that you believed it to be a .40 caliber; is that correct?

A Yes, sir.

Q All right. What were you untruthful about in your conversations with the investigator that night?

A The fact that I had sold Ivan some drugs and that's the reason I was there.

Q Sure. What about a lady by the name of Kayla Jordan? Who was she?

A She is my son's mother.

Q Okay. And did you tell Investigator Garrett the first time you went through the account of what happened, did you say anything about Kayla or her boyfriend at the time, Joe, being in that house at the time?

1 A No, sir.

2 Q Why did you not tell the investigator about those
3 two individuals?

4 A Because I didn't want my son's mother to be tied up
5 in this.

6 Q Is that why you answered Mr. Marchant you were
7 mostly truthful?

8 A Yes, sir.

9 Q Were you mostly truthful or completely truthful
10 about the identification of his client, Mr. George, as
11 the individual who had the gun that night?

12 A 100 percent truthful on that.

13 MR. FRETWELL: No questions, Judge.

14 THE COURT: Anything on recross?

15 MR. MARCHANT: Not at this time, Your Honor.

16 THE COURT: All right. Sir, you can step down.

17 MR. FRETWELL: Your Honor, at this time with respect
18 to the identification of Mr. George by this witness, the
19 State would ask that the Court make a determination
20 pursuant to Neil v. Biggers that the identification of
21 Mr. George was done in a manner that law enforcement was
22 not unduly suggestive and did not overcome Mr. Smith's
23 ability to select the individual that he knew to be Jeff
24 George as the individual who had the gun that particular
25 night.

1 THE COURT: Any argument, Mr. Marchant?

2 MR. MARCHANT: Yes, Your Honor. May it please the
3 Court. Investigator Garrett testified as did this
4 witness that there was consideration for him -- going to
5 be given to him to identify people in the lineups. The
6 video, if it were to be played, would show that
7 Investigator Garrett tells him he's in a unique position
8 because you don't look like everybody else, you're
9 educated and you work every day. He has been partial to
10 Mr. Smith and has given him incentive such that the
11 identification of Mr. George is biased and should be
12 suppressed in this trial.

13 THE COURT: All right. Thank you, Counsel.

14 All right. The Court's finding is pursuant to Neil
15 v. Biggers, the Court would make the following finding:
16 The Court finds that Mr. George was not unduly -- his
17 identification of the defendant was not unduly
18 suggestive, and so I'm going to go ahead and let it in.

19 MR. FRETWELL: Thank you, Judge.

20 Judge, at this point, it is 2 o'clock. I know that
21 you're waiting on Mr. Weston. I know you're also waiting
22 on the jury. I just -- we have more witnesses we can
23 call, but I certainly don't want to get in the way of
24 anything the Court needs to do.

25 (Pause in proceedings to address a different matter.)

1 THE COURT: Do you want to get another short witness
2 in maybe?

3 MR. FRETWELL: I don't think he's short, Judge, but
4 can I inquire as to the status of the jury panel? When
5 are we going to be in the position to strike a jury, do
6 you know? I'm asking the clerk, but maybe the clerk
7 doesn't know.

8 (WHEREUPON, a recess is taken at 2:04 PM; Court's Exhibit
9 Number 1 was marked for identification; proceedings
10 reconvened at 2:30 PM.)

11 THE COURT: All right. Let's go back on the record,
12 the State vs. Jeffrey Michael George.

13 Mr. Williams?

14 MR. WILLIAMS: Yes, Your Honor. At this time, we
15 would move forward with the Neil v. Biggers hearing with
16 Investigator Bailey.

17 THE COURT: All right. Come on around, Mr. Bailey
18 -- Officer Bailey. You'll be sworn.

19 Swear him in.

20 WHEREUPON,

21 ANTONIO BAILEY

22 After having been duly sworn, testified as follows:

23 THE CLERK: Thank you. Please have a seat. And
24 state your full name for the record.

25 THE WITNESS: Antonio Bailey.

1 MR. WILLIAMS: Your Honor, if it's permissible,
2 before we get into the Neil v. Biggers portion of
3 Mr. Bailey's testimony, there's a Facebook exhibit that
4 we would like to get admitted as a court's exhibit.

5 THE COURT: All right.

6 DIRECT EXAMINATION

7 BY MR. WILLIAMS:

8 Q Investigator Bailey, were you assigned to
9 investigate the death of Ivan Gula?

10 A I was.

11 Q Okay. And as an investigator on this case, is one
12 of the things you did is request a search warrant for the
13 Facebook records of the defendant, Jeff George?

14 A I did.

15 Q Did you get a search warrant for those records?

16 A Yes, sir.

17 Q Did you receive the Facebook records of the
18 defendant?

19 A I did.

20 Q Was there also a certificate of authenticity that
21 was included from Facebook about those records?

22 A Yes, it was.

23 Q Do you recognize this item?

24 A Yes, sir. It's a thumb drive.

25 Q Okay. Do you know what is included on that thumb

1 drive?

2 A It's a copy of the Facebook records for Mr. George.

3 Q How do you know that?

4 A It has my initials.

5 Q Have you viewed it?

6 A I have.

7 Q Is it accurate?

8 A Yes, sir.

9 MR. WILLIAMS: Your Honor, at this time, the State
10 would move to publish what's included on the disk.

11 THE COURT: Any objection to the publication?

12 MR. MARCHANT: Yeah. I'm a little confused of how
13 this is relevant to a Biggers hearing with Investigator
14 Bailey.

15 MR. WILLIAMS: I asked Judge Kinlaw before we began
16 the Neil v. Biggers if we could get into the Facebook
17 records since Investigator Bailey was on the stand.

18 MR. MARCHANT: Okay.

19 MR. WILLIAMS: So I guess we're going a little out
20 of order, if permitted, Your Honor.

21 THE COURT: Yeah.

22 BY MR. WILLIAMS:

23 Q All right. Investigator Bailey, first of all, you
24 said you've reviewed these records. Can you tell us what
25 we're looking at here?

1 A That's the certificate of authentication.

2 Q Okay. And would you indicate who signed that
3 document?

4 A Looks like a Ryan Spector, the custodian of records.

5 Q Custodian of records at Facebook?

6 A Yes, sir.

7 Q What does the certificate of authenticity determine
8 that the identifying number, that ten-digit number is for
9 the records that they provided in this case?

10 A That was the number of the certificate, indicates
11 that it was in relationship to the Facebook records that
12 were requested.

13 Q And what was that identifier? Can you read that
14 number?

15 A I cannot.

16 MR. WILLIAMS: Your Honor, permission to have the
17 witness be able to step closer in order to be able to
18 read the number.

19 THE COURT: Yes. Go ahead.

20 THE WITNESS: 1531985965.

21 BY MR. WILLIAMS:

22 Q Okay. And you've also reviewed the Facebook records
23 that were included?

24 A I did.

25 Q I'm not going to go through the entire 460 pages,

1 but is this the Facebook records that were provided by
2 Facebook?

3 A Yes, sir.

4 Q For the defendant, Jeff George?

5 A Yes, sir. Jeff George.

6 Q And can you tell me that second line down where it
7 says tiger -- or, I'm sorry -- "target"? Tell me what
8 that number is as well. If you need to step down again
9 to read that ten-digit number...

10 A 1531985965.

11 Q Is that the same number that was included in the
12 certificate of authenticity?

13 A Yes, sir.

14 MR. WILLIAMS: All right. Your Honor, we also have
15 attached to this exhibit a notice of intent to admit the
16 Facebook records using the certificate of authenticity.
17 This is under the uniform business records as evidence
18 act. And we submitted this to Lucas sometime last year,
19 and he never offered any kind of an objection. So the
20 State would move to have the Facebook records -- at least
21 we're not going to, of course, include all of the
22 Facebook records, but we're going to include a portion of
23 the relevant Facebook records. And the State would move
24 to have those records admitted.

25 THE COURT: Any objection?

1 MR. MARCHANT: With respect to the records, I
2 understand that we are proffering them at this point in
3 time as authentic and that's the only thing we're doing.
4 There's no -- there's nothing that's going to be
5 published or shown to any witnesses right now? Just
6 making sure I'm understanding where we're at.

7 MR. WILLIAMS: That's correct.

8 MR. MARCHANT: All right. And so at some point in
9 time, I assume the solicitor is going to put some of
10 these records -- or try to publish some of these records.
11 I don't know what those are. But obviously, I may have
12 objections at that point in time to specific pages or
13 pieces of the ---

14 THE COURT: Or we may enter a proffer at that time
15 to see where we are.

16 MR. MARCHANT: Thank you.

17 THE COURT: Okay.

18 MR. WILLIAMS: Your Honor, I would note for Your
19 Honor that the State did pass along about two weeks ago
20 the Facebook records that we intend to introduce.

21 THE COURT: To opposing counsel?

22 MR. WILLIAMS: That's correct, Your Honor.

23 THE COURT: Did you receive those, Mr. Marchant?

24 MR. MARCHANT: The records that I believe we're in
25 possession of are Mr. George's, Ms. Cook's, Bobby

1 Smith's.

2 MR. WILLIAMS: Your Honor, if I could clarify. The
3 state gave Mr. Marchant the Facebook records we intend to
4 introduce about two weeks ago.

5 THE COURT: Did you get those?

6 MR. WILLIAMS: Through an exhibit that was derived
7 from not only the Facebook records, but also the cell
8 phone dump for the defendant.

9 THE COURT: All right. You sent it to him
10 electronically?

11 MR. WILLIAMS: Yes, sir, Your Honor.

12 MR. MARCHANT: And I guess this is where we're
13 getting ready to have some rub. I was given notice of
14 intent to have the authentication of the records. That's
15 what we're talking about right now.

16 THE COURT: Right.

17 MR. MARCHANT: Authenticate the records ---

18 THE COURT: Right.

19 MR. MARCHANT: --- whether it's Mr. George, Ms. Cook
20 or Mr. Smith; is that right?

21 MR. WILLIAMS: Mr. Marchant, I'm not talking about
22 -- I'm not talking about the authenticity of these
23 Facebook records. I'm saying a couple weeks ago we sent
24 you an exhibit that we intend to introduce that includes
25 not only some of the Facebook records, not all of the

1 Facebook records but some of the Facebook records of the
2 defendant. It also includes some of the cell phone dump
3 material that was found from the defendant's phone.

4 MR. MARCHANT: You're a little ahead of me, though.
5 Okay. Make sure I understand, make sure the Court's
6 clear. What we're trying to do with Investigator Bailey
7 right now is to say that the records are authentic based
8 off of the affidavit from whoever this person is at
9 Facebook, correct?

10 MR. WILLIAMS: Your Honor, the reason I raise that
11 issue is that he said earlier that he did not know which
12 records we intend to introduce. And I was just pointing
13 out that two weeks ago we told him, we showed him which
14 records we intend to introduce.

15 THE COURT: So we're looking at authenticity on one
16 hand, which I think there was some discussion in chambers
17 about that. And I didn't see an objection or hear an
18 objection from you, Mr. Marchant.

19 But right now, Mr. Williams, what I'm hearing is
20 there's a ton of Facebook stuff, but there's some
21 specific Facebook stuff that they intend to utilize that
22 they sent you exactly what they were going to utilize.
23 And my question -- I think his question was did you
24 receive those. And you hadn't answered that yet.

25 MR. MARCHANT: And before we get that far down the

1 path, I need to make sure I'm clear about are they only,
2 with Investigator Bailey in this case, trying to submit
3 Jeff George's Facebook records with this certificate of
4 authenticity? Because there are multiple certificates
5 for multiple people. And I guess where I'm headed,
6 Judge, is if I'm not objecting and I'm agreeable to let
7 these records in, I mean, you're the judge that's going
8 to make the rule, but if there's no issue, then there
9 shouldn't be an issue if Facebook records under the same
10 premise are needed for Mr. Smith or Ms. Cook or the
11 victim.

12 THE COURT: I see.

13 MR. MARCHANT: So kind of what's good for the goose
14 is good for the gander, right? So that's what I need
15 clarification on before we move to a proposed exhibit
16 that was sent.

17 MR. WILLIAMS: Your Honor, the State's position is
18 we're only introducing the defendant's Facebook
19 records ---

20 THE COURT: No one else.

21 MR. WILLIAMS: --- because that's the only subject
22 that we are concerned about at this time. So if the
23 defendant wants to introduce records, that's his
24 decision.

25 MR. MARCHANT: Okay. So my concern is you're going

1 to make a ruling. But my concern is that if there are
2 other records throughout the course of the trial that
3 needs to be introduced, are they going to object to the
4 authenticity of those records that this investigator or
5 another investigator received that also has this same
6 certificate of authenticity?

7 THE COURT: So you're going to have some Facebook
8 records to introduce?

9 MR. MARCHANT: Judge, I've got to see where the case
10 goes. But quite possibly.

11 So that's what I'm asking. Are they going to object
12 to the records that they got that they've given to me ---

13 THE COURT: Well, can't we just wait till you do
14 that? Because you may not even do that.

15 MR. MARCHANT: I need -- Judge, it's a potential
16 critical point that I need to be thinking about over the
17 next four or five days. Are they going to object to the
18 records that they've gotten that aren't Mr. George's is
19 the question.

20 THE COURT: What do you say, Mr. Fretwell?

21 MR. FRETWELL: We've already told them we will not
22 object. We -- if we gave them the records, the State
23 will stipulate they're authentic. Not admissible, but
24 authentic.

25 THE COURT: All right. So is that clear as far as

1 that area?

2 MR. MARCHANT: Yes.

3 THE COURT: Okay.

4 MR. MARCHANT: Now, with respect to the exhibit, I
5 was given an email, yes, about ten days ago. I don't
6 have the email printed out. I have the record -- or the
7 exhibit printed out. It said something to the effect of
8 here is a proposed exhibit. Investigator Garrett is
9 checking on some things. And that's the last I've heard.

10 THE COURT: But you did get the Facebook records.

11 MR. MARCHANT: Well, I don't know what it is. I
12 mean, it says Facebook/cell phone. It's 90 something
13 pages. It has a whole bunch of dates and people on here
14 with various pieces of information that presumably come
15 off of the Facebook and/or cell phone.

16 MR. WILLIAMS: Judge, I can assure you most of the
17 data in this case was not included in that exhibit. We
18 cut it down as far as we possibly could. But what the
19 exhibit includes is both we feel the relevant Facebook
20 records relating to the defendant as well as the relevant
21 portions of the cell phone dump of the defendant. And so
22 we've combined it all. That's why it's an exhibit like
23 that, for readability sake.

24 MR. MARCHANT: Judge, it says Facebook/cell phone,
25 Jeff George. And there are 98 pages listing roughly

1 20 different data sets on each page. I don't know from
2 this exhibit which one is Facebook and which one is the
3 cell phone.

4 But I'm going to have a line of questioning based
5 off of this demonstrative exhibit they're trying to put
6 in. I'm going to have to ask the investigator, well, did
7 this one come off of Facebook or did this one come off
8 the cell phone, and where in the cell phone did you get
9 that information. It's going to take two weeks to go
10 through this with whoever prepared it. And I don't know
11 that all the information inside is relevant to be
12 presented to the jury.

13 MR. WILLIAMS: Your Honor, Mr. Marchant is more than
14 welcome to ask the investigator any questions he wants to
15 about that exhibit.

16 MR. FRETWELL: Judge, before we proceed, can we
17 approach?

18 THE COURT: Yeah. Seems to me that might be some
19 voluminous cross-examination. Come on up.

20 (WHEREUPON, a bench conference was held off the record.)

21 THE COURT: Let's go back on the record.

22 Mr. Brehm, I noticed that you -- obviously, you were
23 present in chambers when we were talking about the status
24 of this case and try to see what posture it was in. And
25 I think at the start of the case, Mr. Marchant made a

1 motion that all witnesses be sequestered. Of course, the
2 Court granted that motion.

3 The concern that the Court has is that you represent
4 -- one of the names listed on the defendant's witness
5 list is Audrea Cook who you represent. And the Court as
6 well as counsel was concerned that if you're sitting
7 there and, you know, of course -- keep in mind nobody's
8 accusing you of anything, but if you're sitting there,
9 they just want to make sure that there's no possibility
10 that you may disseminate anything that happens in this
11 courtroom of anything that you observe to Ms. Cook. And
12 that's the concern. So they would want you to be excused
13 from the trial of this case for that reason. And if I
14 didn't say that correctly, I've got these lawyers can
15 tell you what the concern is. Do you want to address
16 that?

17 MR. BREHM: Yes, sir, Your Honor. I would
18 vehemently oppose that. And the reason being, I think
19 simply what you can do is put me under an order not to
20 disseminate that information.

21 But it is very important for me to be in here and to
22 gather the evidence that's critical for the defense of my
23 client, one thing of which is what's going on right now
24 in that they claim that they have sent -- this case was
25 originally supposed to be tried together. They said -- a

1 couple weeks ago they sent Mr. Marchant a bunch of
2 records that they intend to introduce. I didn't get
3 that. So this is stuff that's critical to me and my
4 defense and how I should prepare for what's going on. If
5 that was sent to me, Judge, what I would have done is
6 specifically show me what you intend to introduce. I
7 haven't seen it, but it looks like a document with a
8 bunch of numbers and stuff.

9 It is critical for me and the defense of my client
10 for me to be in here and to witness what's going on for a
11 number of reasons. Again, I will abide by the Court's
12 ruling telling me I cannot disseminate that information
13 until she is released off Mr. Marchant's witness list.

14 THE COURT: That Facebook information, why wasn't it
15 sent to Mr. Brehm?

16 MR. FRETWELL: Judge, a couple of things about that.
17 First of all, this is a demonstrative exhibit. If you go
18 back in time, Mr. Marchant and Mr. Brehm have received
19 all of the Facebook records, all of the cell phone dumps
20 in this case. What we did two weeks ago, knowing that
21 Mr. George was going to go to trial, we sent an exhibit
22 that we had prepared taking all of those Facebook records
23 of Mr. George's and all of the cell phone dump from
24 Mr. George. So this is a -- I can't remember the
25 statistical name for it, but, you know, you've got the

1 universe of everything that we sent them. This is a very
2 small part that we sent to Mr. Marchant knowing that his
3 client was proceeding to trial.

4 THE COURT: But the big thing was sent to both
5 parties?

6 MR. FRETWELL: Both of these individuals have
7 everything from which these records were drawn. What we
8 did for Mr. Marchant two weeks ago is we distilled them
9 down to select Facebook records, select cell phone
10 records. And we gave those to Mr. Marchant because we're
11 proceeding with trial.

12 The concern the State has, Judge, and I believe
13 Mr. Brehm asked you in chambers if we get underway, can
14 he be excused, his client be excused and can he be
15 excused.

16 THE COURT: He did.

17 MR. FRETWELL: And we would ask that the Court do
18 that at this time.

19 Mr. Brehm has an obligation to the Court. He also
20 has an obligation to his client, Judge. And the State is
21 concerned about those two competing interests forcing
22 Mr. Brehm to consider whether he should disseminate
23 information to his client or some kind of off-way doing
24 that, therefore violating the Court's order of
25 sequestration in this case requested by Mr. Marchant and

1 ordered by the Court.

2 MR. BREHM: Judge, if I could, you're talking about
3 apples and oranges. You're talking about the Facebook
4 records, some of which law enforcement gave to us, some
5 of which we asked them to provide to us because they
6 wouldn't do it. That's the whole picture. But he's
7 talking about -- or what I'm complaining about is that I
8 was on the trial docket and I was led to believe that if
9 their case didn't go, I was up. I never got any email
10 from these guys telling me that they were going to
11 introduce anything off of Facebook. I never got any
12 document. And I would not have gathered that had it not
13 been for me being in here and participating and
14 listening.

15 THE COURT: Let me ask you, there's a big dump of
16 Facebook.

17 MR. FRETWELL: Yes. Right.

18 THE COURT: This is a big dump of Facebook. But was
19 the big dump sent to Mr. Marchant and Mr. Brehm, the big
20 dump?

21 MR. FRETWELL: Yes.

22 MR. BREHM: Yes.

23 THE COURT: So now the State has narrowed it down to
24 we're going forward with Mr. George's trial. The State
25 took the applicable emails as it relates to

1 Mr. George ---

2 MR. FRETWELL: The Facebook.

3 THE COURT: The Facebook. The Facebook. And sent
4 that to Mr. Marchant. That's in the 90-page document
5 that he ---

6 MR. FRETWELL: That's in the 90-some page -- and
7 I'll say this, Judge. Obviously, we're trying
8 Mr. George.

9 THE COURT: Right.

10 MR. FRETWELL: The document we sent to Mr. Marchant
11 is for Mr. George. Mr. Brehm may get that. I'm sure
12 Mr. Marchant may decide to give him that. That's not any
13 of our concern. But this is specifically for the trial
14 of Mr. George because only his statements would be
15 admissible against him in his trial. That's it, Judge.

16 MR. BREHM: Judge, I'm backing this case up and I
17 didn't get anything.

18 THE COURT: But you got the big dump. You've just
19 got to go through it.

20 MR. BREHM: I got the big dump. Everybody got the
21 big dump. That's not what's at issue. What's at issue
22 is they're wanting to kick me out of the courtroom, and
23 had I not been in the courtroom, I wouldn't have realized
24 that I didn't get the narrow focus of what they intend to
25 introduce. They've got me and my witness under basically

1 a bond card to be here for a trial.

2 Judge, if I could refocus. My understanding is that
3 Mr. Marchant is going to take Ms. Cook off the witness
4 list so I can stay here.

5 THE COURT: Y'all just agreed to that a minute ago?
6 Because you know in my chambers, you asked me to excuse
7 you because you weren't going to be involved, you wanted
8 to go back to your office and do some other things.

9 MR. BREHM: It wasn't that I was going to be
10 involved. It's that I've got ten people under subpoena,
11 or about ten people under subpoena. I've got -- I've got
12 a trial to prepare for if this thing -- if this gets
13 started and I get released, then I can not just go to my
14 office and have a, you know, late kick-back. I've got
15 other court matters that I've got to go to.

16 THE COURT: Well, let me just say, this is going to
17 go forward. This has started. So you're released.
18 You're free to go.

19 MR. BREHM: But I don't want to go.

20 THE COURT: And you can tell those witnesses you've
21 got under subpoena they're free to go.

22 MR. BREHM: But, Judge, the issue is, is that, I
23 guess, they informed you that because of the sequestered
24 -- Mr. Marchant asking for the witnesses be sequestered
25 that I should be removed. My understanding, after

1 talking with Mr. Marchant, is that he is going to release
2 Ms. Cook. And I should be able to stay here and watch
3 this. I'm a member of the public now just like anybody
4 else. There's no ---

5 THE COURT: But you're representing Ms. Cook.

6 MR. BREHM: But, Judge, if I wasn't -- if she wasn't
7 sequestered on the witness list, I'd be here anyway.

8 THE COURT: What have you got to say, Mr. Marchant?

9 MR. MARCHANT: Thank you, Your Honor. Frankly, I've
10 never found myself in this position before. It's quite
11 interesting. But given where we are, I'm going to remove
12 Ms. Cook from my proposed witness list, so that should
13 resolve the issue.

14 MR. FRETWELL: With all due respect, Judge, this was
15 a motion brought by Mr. Marchant on behalf of his client,
16 his client, Jeff George, not Ms. Cook. At the time that
17 Mr. Marchant was asked for his witness list, he provided
18 the name of Audrea Cook, and the Court ruled at that time
19 that a sequestration order requested by Mr. Marchant be
20 granted. I'm asking the Court to enforce that order and
21 ask Mr. Brehm, because of the fact that he represents one
22 of the sequestered witnesses in this case, to leave the
23 courtroom.

24 MR. MARCHANT: Judge she's no longer a witness.

25 MR. BREHM: She's no longer a witness.

1 MR. MARCHANT: The jury has not heard that name.
2 She hasn't been in here for the two or three pretrial
3 hearings we've had.

4 I feel like I'm fighting this fight right now
5 because this is just the most ludicrous thing I've ever
6 been involved in. But she is -- I'm taking her off the
7 witness list, Judge. She should not be under
8 sequestration which should resolve the issue with
9 Mr. Brehm.

10 THE COURT: So Mrs. Cook is not going to be called
11 as a witness by anyone.

12 MR. MARCHANT: Not by the defense, Judge, if it gets
13 to it.

14 MR. BREHM: And she's not under subpoena. I just
15 found out a little while ago that she was on his witness
16 list.

17 THE COURT: Well, Ms. Cook's not going to be a
18 witness and she's not going to testify in any form or
19 fashion, then it really becomes, Mr. Fretwell, whether or
20 not you trust Mr. Brehm. That's what it really boils
21 down to, whether you trust Mr. Brehm, a gentleman that
22 you've known for a long period of time. And I've known
23 Mr. Brehm, and I think he's an honorable person. I think
24 he can be trusted. I've never seen him demonstrate
25 anything to me over all these years I've known him that

1 he would not be trusted. So that's what it boils down to
2 at this point since Ms. Cook is not on the list, she's
3 not going to be called. It boils down to whether you
4 trust him.

5 MR. FRETWELL: I don't disagree, Judge.

6 THE COURT: And I will tell him, instruct him that
7 he cannot discuss this case in any form or fashion of
8 anything that happens in this courtroom with Ms. Cook.
9 And, you know, sometimes you're just going to have to
10 trust him.

11 MR. FRETWELL: Yes, sir.

12 The final thing I will say on that point, Judge, is
13 when Mr. Smith was testifying pretrial, I turned around
14 at some point and Mr. Brehm is shaking his head
15 vehemently. Of course, the Court's not aware of this,
16 but his client's theory of the case is that this is all
17 Mr. Smith's fault. So I would like the Court to instruct
18 Mr. Brehm that he's not to make any facial -- give any
19 kind of indication to this jury or to this court his
20 approval, disapproval of anything that the witnesses say.
21 Because I'll be honest with that. Mr. Smith did -- is in
22 a position to see him and was in a position to see him,
23 and I don't want Mr. Smith to be intimidated in any way,
24 shape or form by anything that Mr. Brehm does.

25 MR. BREHM: Judge, I did shake my head. When

1 Mr. Smith admitted to lying to law enforcement, I did
2 shake my head. And I apologize to the Court. I will
3 refrain from doing that.

4 THE COURT: All right. You are not to shake your
5 head, Mr. Brehm.

6 MR. BREHM: Thank you.

7 THE COURT: You're only permitted to chew your
8 chewing gum very softly. If you chew your chewing gum
9 more than softly, I will have to ask you to leave the
10 courtroom.

11 MR. BREHM: Thank you.

12 THE COURT: No shaking of the head.

13 MR. BREHM: Yes, sir.

14 THE COURT: All right. Okay. Where were we? All
15 right. Go ahead. I think, Mr. Marchant, you were in the
16 middle of an objection.

17 MR. MARCHANT: I think we're at the point of
18 discussing this demonstrative exhibit that they're going
19 to try to introduce. They claim that it is a summary of
20 items, but I, again, am unclear because it says
21 Facebook/cell phone. I don't know which record it comes
22 from. But I guess we'll take that up at the proper time.

23 THE COURT: The appropriate time. And you'll have
24 the opportunity to ask Mr. Bailey anything about that.

25 Go ahead.

1 MR. WILLIAMS: Your Honor, we will now move into the
2 Neil v. Biggers portion of the hearing.

3 THE COURT: All right.

4 BY MR. WILLIAMS:

5 Q Investigator Bailey, when you were investigating the
6 death of Ivan Gula, did you meet with a witness named
7 Micco Dillard on December 17, 2019, to discuss this
8 incident?

9 A Yes, I did.

10 Q Let me show you State's Exhibit 197. Did you ask
11 Mr. Dillard to review that lineup?

12 A I did.

13 Q Where were you when you showed Dillard the photo
14 lineup?

15 A At his residence.

16 Q Where was that at?

17 A It's on Bonner Road in Gaffney.

18 Q Was anyone there besides you and Dillard?

19 A I believe Investigator Garrett, and I believe his
20 wife may have been there as well.

21 Q How many photos are on this lineup?

22 A Six.

23 Q Are they of similar description?

24 A Yes.

25 Q Were the photos displayed one at a time or all at

1 once?

2 A All at once.

3 Q What, if anything, did you tell Dillard about the
4 lineup?

5 A I believe I told him if he saw the person that was
6 there that night with the gun, I needed him to pick him
7 out.

8 Q Did you or Investigator Garrett, at any time,
9 suggest the photo he should select?

10 A No, sir.

11 Q Did he make a selection?

12 A He did.

13 Q What number did he choose?

14 A Photo Number 4.

15 Q How sure was he of his selection?

16 A He's really certain.

17 Q Was there any -- did he display any doubt to you?

18 A No, sir.

19 Q How did you have him indicate which photo he had
20 selected?

21 A He was asked to circle the photograph that he
22 selected, place his initials and date that it was shown.

23 Q Okay. Did he do that?

24 A Yes, he did.

25 Q Is State's Exhibit 197 in the same condition as when

1 you did this with Mr. Dillard?

2 A Yes, sir.

3 Q Has it been altered in any way?

4 A No, sir.

5 Q Did Mr. Dillard ever select a photo of anyone else
6 as the gunman?

7 A No, sir.

8 Q All right. I'm showing you State's Exhibit 198. Do
9 you recognize this document?

10 A Yes, I do.

11 Q What is it?

12 A It's an affidavit for photographic identification.

13 Q Okay. What's an affidavit -- identifying what
14 photo? That photo lineup we just looked at, 197?

15 A Yes, sir.

16 Q Okay. Who filled that affidavit out?

17 A Myself and Investigator Garrett. It looks like his
18 signature -- I mean it looks like his handwriting.

19 Q It looks like Investigator Garrett's handwriting?

20 A Yes. Name -- name and the date and ---

21 Q Who was the person that swore that affidavit?

22 A Terry Dillard.

23 Q Okay. What's the date on that?

24 A December 17, 2019.

25 Q Okay. Is that document in the same condition as

1 when you received it from Mr. Dillard?

2 A Yes, it is.

3 Q Has it been altered in any way?

4 A No, sir.

5 Q And did he provide a description of the photo -- of
6 Photo 4, the person that he identified?

7 A He did.

8 Q All right. Moving on to Janice Velichko now, did
9 you meet with Janice Velichko on December 20, 2019, to
10 discuss this incident?

11 A Yes, I did.

12 Q Did you also go over a photo lineup with her that
13 included the defendant?

14 A Yes, sir.

15 Q I'm showing you State's Exhibit 207. Would you look
16 at that? Do you recognize that photo lineup?

17 A Yes, I do.

18 Q What is it?

19 A It's a photo lineup generated by the sheriff's
20 office of a Jeff George.

21 Q Okay. Is this the photo lineup that you presented
22 to Janice Velichko?

23 A Yes, it is.

24 Q Where were you when you met with Janice Velichko?

25 A At the Law Enforcement Center CID office located in

1 the interview room.

2 Q Is anyone there besides you and Velichko?

3 A Investigator Garrett.

4 Q How many photos are on this lineup?

5 A A total of six.

6 Q Are the photos of similar description?

7 A Yes, they are.

8 Q Were the photos displayed one at a time or all at
9 once?

10 A All at once.

11 Q What, if anything, did you tell Janice Velichko
12 about this lineup?

13 A I told her if she saw the person that came out of
14 the room that particular night with the gun, then I
15 needed her to pick him out.

16 Q Did you or Investigator Garrett at any time -- did
17 you or Investigator -- at any time suggest the photo she
18 should select?

19 A No, sir.

20 Q Did Velichko display any doubt to you that Jeff
21 George was the man with a gun at Audrea Cook's house the
22 evening of December 1, 2019?

23 A No, sir.

24 Q Was she able to ID the gunman from the photo you
25 showed her?

1 A Yes.

2 Q Which photograph did she select?

3 A Photograph Number 6.

4 Q How sure was she of her selection?

5 A Very positive.

6 Q How did she indicate which photo she had selected?

7 A She circled the Photograph Number 6, placed her
8 initials and the day's date which was 12/20/2019.

9 Q Okay. And then did she also fill out an affidavit?

10 A Yes, sir, she did.

11 Q I'm showing you State's Exhibit 208. Can you tell
12 me what that document is?

13 A It's an affidavit of photograph identification.

14 Q Who filled that out?

15 A It looks like Ms. Velichko.

16 Q What's the date on that?

17 A December 20, 2019.

18 Q Is that an affidavit in relation to her selection of
19 the defendant, Jeff George?

20 A Yes, it is.

21 Q Okay. And what was the description that she gave?

22 A This guy was the one that held the gun out at Ivan
23 several times.

24 Q Is that document in the same condition as when
25 Ms. Velichko wrote it down and signed it?

1 A Yes, sir.

2 Q Has it been altered in any way?

3 A No, sir.

4 MR. WILLIAMS: Your Honor, at this time, the State
5 would move to have Exhibits 197, 198, 207 and 208
6 admitted into evidence as court's exhibits just for the
7 purpose of this hearing.

8 THE COURT: Any objection?

9 MR. MARCHANT: I need to see the exhibits, Judge.
10 (Reviews exhibits) No objection.

11 THE COURT: All right. So entered without
12 objection.

13 (WHEREUPON, State's Exhibit Numbers 197, 198, 207 and 208
14 were admitted into evidence for purposes of this
15 hearing.)

16 MR. WILLIAMS: No further questions, Your Honor.

17 THE COURT: Mr. Marchant?

18 MR. MARCHANT: Thank you, Judge.

19 CROSS EXAMINATION

20 BY MR. MARCHANT:

21 Q Investigator Bailey, let's start with Mr. Dillard.
22 So I'm looking at 197 and 198 of the State. This is with
23 respect to Terry Dillard, right?

24 A That's correct.

25 Q Start with Mr. Dillard. You were at his home?

1 A Yes, sir.

2 Q How is it that you come to find out that he may have
3 some information?

4 A He initially contacted the sheriff's office.

5 Q He reached out to law enforcement.

6 A He did.

7 Q Okay. And you and Investigator Garrett traveled to
8 his house and met with him and his wife.

9 A We did.

10 Q How many lineups did you show him that evening?

11 A More than one.

12 Q More than one.

13 A Yes, sir.

14 Q Did he tell you what his familiarity was with
15 Mr. George that he's identified in 197?

16 A I believe he said he had done some research on
17 Facebook, I believe.

18 Q Okay. Did he say that he had ever met Mr. George
19 prior to y'all's arrival?

20 A Not that I can recall, no, sir.

21 Q So when you're out there at his house, he told you
22 that he had not seen Mr. George before, but he had done
23 some research on Facebook.

24 A That's correct.

25 Q And, in fact, you also asked him several other

1 questions about other people, right?

2 A I did.

3 Q And he identified other people on Facebook or off of
4 some investigation that he did off of Facebook, right?

5 A That's correct.

6 Q And he identified three people by name that don't
7 actually exist, correct?

8 A That's correct.

9 Q And, in fact, one of those people is Michael Tucker,
10 right?

11 A Yes, sir.

12 Q And you secured arrest warrants on Mr. Tucker.

13 A I did.

14 Q Based off of Mr. Dillard's identification.

15 A Yes, sir.

16 Q And is there a lineup for Mr. Tucker?

17 A Not that I can recall, no, sir.

18 Q How did he identify Mr. Tucker?

19 A I believe it was from the Facebook information as
20 well.

21 Q So did he show you the photograph of Mr. Tucker?

22 A Not that I can recall, no, sir.

23 Q Did you do a lineup of Levi Spalding with
24 Mr. Dillard?

25 A I can't remember if I had one of Levi Spalding or

1 not or if that was the individual we could not locate a
2 photograph on.

3 Q What about a lineup for Andrew Pulley?

4 A We had a photo lineup of Andrew Pulley, yes, sir.

5 Q And he identified Andrew Pulley as being present.

6 A Yes, he did.

7 Q And did you get warrants on Mr. Pulley?

8 A No, sir.

9 Q But you got warrants on Mr. Tucker based off of
10 Mr. Dillard's identification of Tucker being present at
11 Audrea Cook's house that night.

12 A Yes, sir.

13 Q And being a participant in this case such that
14 murder warrants were issued by a magistrate judge.

15 A That's correct.

16 Q Was the interview with Mr. Dillard recorded?

17 A It was.

18 Q Was it audio recorded or video recorded?

19 A It was audio recorded.

20 Q For some reason it was not video recorded?

21 A We were at his residence and I have access to a
22 camera.

23 Q You didn't have a body cam?

24 A No, sir.

25 Q Did Investigator Garrett?

1 A No, sir.

2 Q You subsequently followed back up with Mr. Dillard,
3 right?

4 A I did.

5 Q And that was video recorded, correct?

6 A No, sir. I believe that's audio.

7 Q On July 31, 2024, you went to Mr. Dillard's house.

8 A That sounds about right. Correct.

9 Q And that conversation was video recorded?

10 A To my knowledge I can remember it being videoed --
11 audio. Yes. Audio.

12 Q Okay. So if I'm telling you there's a video...

13 A It could very well be. I don't remember if, in fact
14 -- I knew I did an audio. Don't really remember if I did
15 a video on that particular visit or not.

16 MR. MARCHANT: All right. Thank you.

17 REDIRECT EXAMINATION

18 BY MR. WILLIAMS:

19 Q Mr. Bailey, with regard to Michael Tucker, what did
20 Mr. Dillard indicate Michael Tucker had been doing during
21 the incident?

22 A I believe he said Michael Tucker was standing at a
23 distance at the counter, I believe.

24 Q Okay. And what did he indicate that the defendant,
25 Jeff George, was doing during the incident?

1 A He came out of the room holding a gun on the victim.

2 Q Okay. And you interviewed Mr. Tucker?

3 A I did.

4 Q Okay. And after that interview, what determination
5 did you make about whether or not to charge him?

6 A Based on some other evidence that I had gathered, it
7 determined that he was not involved at all.

8 Q Now, Mr. Dillard's identification of the gunman, was
9 that consistent with other eyewitnesses?

10 A It was.

11 Q They also said that Mr. George held a gun.

12 A That's correct.

13 Q As to Mr. Pulley -- and you mentioned that
14 Mr. Dillard had done some Facebook records. Had
15 Mr. Pulley -- when you showed him the photo lineup of
16 Mr. Pulley, what did Mr. Dillard tell you at that time?

17 A I believe he indicated that that was the gentleman
18 who he believed was in the house, but he subsequently
19 said that they had been the person that had tried to sell
20 some things on Facebook.

21 Q So did he tell you that after his Facebook research
22 and he thought it was Pulley with the machetes? Did he
23 tell you that that was incorrect at that point?

24 A That's -- that's correct.

25 Q Who did Mr. Dillard end up identifying as the person

1 hitting the victim, Ivan Gula, with the machetes?

2 A Mr. Stokes, David Stokes.

3 Q To your knowledge, has Mr. Stokes pled guilty to any
4 charges relating from this incident?

5 A Yes, sir.

6 Q What has he pled guilty to?

7 A I believe he pled guilty to murder and kidnapping.

8 Q Of the victim, Ivan Gula?

9 A Yes, sir.

10 MR. WILLIAMS: No further questions, Your Honor.

11 RECROSS EXAMINATION

12 BY MR. MARCHANT:

13 Q Investigator Bailey, when you were talking with
14 Mr. Dillard about Andrew Pulley, it's you and
15 Investigator Garrett, right?

16 A Yes, sir.

17 Q And y'all tell Mr. Pulley, well, if you're not sure,
18 maybe we should just put him down as the one selling the
19 things on Facebook if you're not sure if he was there or
20 not.

21 A I don't recall making that statement.

22 Q Okay. And I may be paraphrasing. It wasn't word
23 for word. But y'all didn't suggest to him that we best
24 not identify him as being in the house because you're not
25 sure, but you're sure that he's selling stuff on Facebook

1 that's Ivan's?

2 A Not that I can recall. It could very well have
3 been.

4 MR. MARCHANT: The Court's indulgence, Your Honor.
5 Judge, I'm going to have to burn a disk for
6 purposes of this hearing. I'm going to show what I'm
7 going to mark as Defendant's 1. This is audio only,
8 Judge.

9 See if this refreshes your memory, Investigator
10 Bailey.

11 (WHEREUPON, Defendant's Exhibit Number 1, an audio
12 recording, was played in open court.)

13 BY MR. MARCHANT:

14 Q So this is at two minutes and five seconds you're
15 telling him the person that you picked out was definitely
16 there. That's what you're telling Dillard, right?

17 That's what you just said.

18 A That's right. Yes, sir. Yes, sir.

19 (WHEREUPON, Defendant's Exhibit Number 1, an audio
20 recording, continued to play in open court.)

21 BY MR. MARCHANT:

22 Q So it's Investigator Garrett is what it sounds like.
23 It says, "Go ahead and circle Pulley in the event," and
24 then it cuts off, right? You heard that?

25 A You'll have to play it again. I didn't quite hear.

1 (WHEREUPON, Defendant's Exhibit Number 1, an audio
2 recording, continued to play in open court.)

3 BY MR. MARCHANT:

4 Q Did you hear it now?

5 A I did.

6 Q You heard Investigator Garrett say "Go ahead and
7 circle Pulley in the event," right?

8 A Yes, sir.

9 (WHEREUPON, Defendant's Exhibit Number 1, an audio
10 recording, continued to play in open court.)

11 BY MR. MARCHANT:

12 Q Did you hear that last part?

13 A Something about night.

14 Q I think it says "about being at the house that
15 night."

16 A Okay.

17 Q That's what you said. Let's listen to it one more
18 time. I'm at currently two minutes and 56 seconds. I'm
19 going back to 2:43 so you can hear it again.

20 (WHEREUPON, Defendant's Exhibit Number 1, an audio
21 recording, continued to play in open court.)

22 MR. WILLIAMS: Your Honor?

23 BY MR. MARCHANT:

24 Q Was at the house that night, right?

25 THE COURT: You're asking him?

1 MR. MARCHANT: Yes, sir.

2 BY MR. MARCHANT:

3 Q That's what you said, isn't it?

4 A That's what I heard, yes, sir.

5 MR. WILLIAMS: Your Honor, I would ask for
6 Mr. Marchant to play the whole clip so we can make sure
7 we're hearing the entire -- entirety of that
8 conversation.

9 MR. MARCHANT: I started at the beginning, Judge,
10 and we're now at two minutes and 57 seconds.

11 THE COURT: You want to play it again?

12 MR. WILLIAMS: All the way through, if possible.

13 MR. MARCHANT: There's 17 minutes left.

14 MR. WILLIAMS: Well, I guess my point is, I don't
15 feel that Mr. Marchant is allowing the thought to finish,
16 to complete, so we're not getting the full picture of
17 what's being said between Mr. Dillard and Mr. ---

18 MR. MARCHANT: Judge, I'm not done with my
19 cross-examination. I'm making sure Investigator Bailey
20 is hearing what's being told to Mr. Dillard. And I'm
21 confirming that those are his words or Investigator
22 Garrett's words.

23 THE COURT: But the State wants to hear the whole
24 thing?

25 MR. WILLIAMS: We'd just like him to not be cutting

1 it off mid-sentence or right at the end of a sentence
2 when there's a couple more sentences that are coming that
3 complete the entire thought, Your Honor.

4 THE COURT: All right. So Detective Bailey, is he
5 saying anything beyond that last sentence? Is that what
6 you're saying?

7 MR. WILLIAMS: We'd just like to hear it, Your
8 Honor.

9 THE COURT: Is there anything after that? After he
10 says about when you just cut it off, is he saying
11 anything after that?

12 MR. MARCHANT: Judge, it goes on for another
13 17 minutes. I'm happy to continue playing it. I don't
14 know -- I want to be sure the record is clear about what
15 Investigator Bailey and Investigator Garrett have told
16 Terry Dillard. Because you are getting ready to
17 determine whether or not these lineups are suggestive.

18 MR. WILLIAMS: Your Honor, the point that I'm making
19 is we're not hearing everything that they're saying
20 necessarily.

21 THE COURT: Play the whole thing.

22 MR. MARCHANT: Judge, I'm just going to start from
23 the beginning so there ain't no confusion.

24 THE COURT: The whole thing is 17 minutes?

25 MR. MARCHANT: 17 minutes and 33 seconds. We were

1 three minutes in when ---

2 THE COURT: All right. Play the whole thing.

3 (WHEREUPON, Defendant's Exhibit Number 1, an audio
4 recording, continued to play in open court.)

5 MR. MARCHANT: That's the end of that portion,
6 Judge.

7 THE COURT: All right.

8 BY MR. MARCHANT:

9 Q Y'all stay at the house for a little bit, right?
10 Because somebody else is bringing another lineup to you.

11 A That's correct.

12 Q Okay. Which lineup was brought to you after this
13 whole Andrew Pulley thing?

14 A I believe it was David Stokes's lineup.

15 Q Okay. And did you bring that with you to court
16 today?

17 A I didn't bring any lineups.

18 Q There are no other lineups?

19 A I didn't bring any lineups with me.

20 Q You didn't bring any, period.

21 A No, sir.

22 Q So you don't have the lineup of Michael Pulley --
23 excuse me -- Michael Tucker.

24 A I do not, no.

25 Q You showed somebody -- I mean, excuse me. You

1 showed Mr. Dillard a lineup, and he says this looks like
2 -- Number 2 looks like Michael Tucker because I feel more
3 comfortable with Number 2, but he's wavering on Number 1.
4 So is that lineup the one with Michael Tucker or is it
5 the one of Jeff George?

6 A I can't say because I'm not exactly sure.

7 Q Would it help to listen to that part of the
8 interview?

9 A I'm sorry?

10 Q Would it help to listen to that part of the
11 interview to help you know who you're talking about?

12 A Rephrase your question.

13 Q Let me back up. What we just heard was all the
14 discussion about Andrew Pulley.

15 A Correct.

16 Q Right. And we now know -- well, that portion of the
17 interview stops, and y'all are waiting on somebody else
18 from your agency to bring another lineup.

19 A That's correct.

20 Q Okay. The recording cuts off and it cuts back on at
21 some future time that same day.

22 A Okay.

23 Q Okay. So there are two audio recordings that I've
24 been provided that occurred on December 17, 2019, okay?

25 A Okay.

1 Q So the second part of December 17th, y'all are
2 showing a lineup to Mr. Dillard. And Mr. Dillard says,
3 "Number 2 looks like Michael Tucker." What I'm trying to
4 understand is which lineup was shown to him where he's
5 telling you this looks like Michael Tucker.

6 A Without me actually seeing the lineup, I really
7 can't answer the question.

8 Q Okay. Subsequently, you showed him one of
9 Mr. George. And this is where I'm unclear whether or not
10 what the State has got marked on 1 -- marked on 197 is
11 whether or not this lineup is shown to Mr. Dillard and
12 he's identifying Number 2 looks like Michael Tucker. And
13 you can't -- you can't tell us that right now.

14 A No. He's telling me once he looks at that lineup,
15 that the Number 4 is Jeff George. That's what he's
16 telling me when he looked at that lineup.

17 Q Okay. So there is another lineup that you showed
18 him where he's telling you Number 2 looks like Michael
19 Tucker.

20 A Without actually seeing the lineup, I don't know if
21 I'm -- I don't believe I'm following what you're asking.

22 Q I believe there's another lineup based off of the
23 audio recording that you and Investigator Garrett had
24 that afternoon with Mr. Dillard.

25 A Okay. There were several photo lineups that we had,

1 but I don't know exactly which one you're referring to.

2 Q Okay.

3 A But I can say this particular lineup that was shown
4 to Mr. Dillard, he picked out Mr. George as being
5 Number 4 in that particular lineup.

6 Q Okay. If somebody did not identify someone
7 positively in a lineup, would y'all keep that lineup as a
8 piece of evidence in the case file?

9 A I would say no because there wouldn't be any use for
10 it. I would say no. Now, whether or not that's what was
11 done in this case, honestly, I cannot recall.

12 Q So you don't know whether or not your case file
13 contains a photo lineup that was shown to Mr. Dillard
14 where he is indicating to you that Number 2 looks like
15 Michael Tucker.

16 A Not that I can recall.

17 Q Conversations with Mr. Dillard result in warrants
18 against Mr. Tucker.

19 A Question?

20 Q Yes. I'm sorry. Your conversations with
21 Mr. Dillard that day resulted in you pursuing warrants
22 against Michael Tucker.

23 A That's correct.

24 Q But if there was a lineup, you don't know whether or
25 not it would still be part of the case file.

1 A I don't know if I actually have it with me, no.
2 Honestly, I don't.

3 Q Would it be in records or somewhere else?

4 A If they -- if there was a lineup, it would be in
5 records and we would have it.

6 Q But it might not be in records if an identification
7 was not made.

8 A That's correct. That's a possibility, yes.

9 Q You might have just thrown it away.

10 A It's a possibility, yes.

11 MR. MARCHANT: All right. I don't have any further
12 questions.

13 FURTHER REDIRECT EXAMINATION

14 BY MR. WILLIAMS:

15 Q Mr. Bailey, Mr. Dillard did pick Michael Tucker out
16 of a photo lineup, right?

17 A Yes, he did.

18 Q Okay. Mr. Bailey, you presented Mr. Dillard a photo
19 lineup of Michael Tucker?

20 A I did. I did.

21 Q It's just a court's exhibit. If you could, identify
22 both of those documents. What's the first document I
23 showed you?

24 A The first one is a photo lineup which indicated that
25 it's Michael Tucker, and the second one is an affidavit

1 of photograph identification identifying Photo Number 2
2 as Michael Tucker.

3 Q Who made that identification?

4 A It would have been Terry Dillard.

5 Q Okay. And what did he indicate on -- how did he
6 indicate his selection of that photo?

7 A "Was Michael Tucker who was involved in the assault
8 of Ivan Gula at the house located at 212 C and S Drive in
9 Greer on December 1, 2019."

10 Q What photo did he select?

11 A Photo Number 2.

12 Q And was that the same -- the same photo number that
13 he indicated on the recording that Michael Tucker looks
14 like Number 2?

15 A Yes, sir.

16 Q Okay. And I believe we already went over the fact
17 that you later determined that Michael Tucker was not
18 present, you as the investigator ---

19 A That's correct.

20 Q --- based on other information you had.

21 A Yes, sir.

22 Q And as far as Mr. Stokes is concerned, there was
23 some waffling back and forth originally. Due to his
24 Facebook research, he had told you he thought it was
25 Mr. Pulley who had the machetes; is that right?

1 A That's correct.

2 Q And then when he saw the photograph, he wasn't so
3 sure of Mr. Pulley.

4 A That's correct.

5 Q What did Mr. Dillard do when he saw the six-photo
6 lineup of David Stokes?

7 A He picked David Stokes out as being the person with
8 the machete.

9 Q Really. And as to Mr. Pulley, what was the
10 description he gave on the photo lineup? Obviously, he
11 identified Mr. Pulley correctly; is that right?

12 A I don't think I follow your question.

13 Q When you gave Mr. Dillard a six-photo lineup of
14 Andrew Pulley, did he correctly identify Andrew Pulley?

15 A Do you have a copy of the lineup?

16 Q Did he correctly identify Andrew Pulley in that
17 lineup?

18 A Yes, he did.

19 Q And what was the description in the affidavit of
20 that lineup that Mr. Dillard gave for Andrew Pulley?

21 A "Someone I recognize as Andrew Pulley who I
22 recognize as selling the items belonging to Ivan Gula on
23 Facebook."

24 Q Did he indicate that Mr. Pulley had machetes or that
25 he was even present during the murder? Did he indicate

1 that Mr. Pulley had machetes on him?

2 A Not in this affidavit identification, no.

3 Q Okay. And what did he say David Stokes did in the
4 six-photo lineup? Did he -- all right. Let me make it
5 easier. Did he indicate that Mr. Stokes was the person
6 hitting Ivan with the machete?

7 A Yes.

8 Q Okay. Did he ever, at any time, show you any room
9 at all that he had any doubt that the gunman was the
10 defendant, Jeff George?

11 A None whatsoever.

12 MR. WILLIAMS: No further questions, Your Honor.

13 THE COURT: Mr. Marchant?

14 MR. MARCHANT: Judge, I think for clarity of the
15 record, we need to identify and mark these exhibits. I'm
16 fine to mark them as defense exhibits, Judge, but I'm not
17 confident that I've been provided one of them yet. The
18 solicitor's going to check on that overnight. So I don't
19 know if you want to enter them as a court's exhibit or if
20 the solicitor wants to mark it as a -- court's exhibit,
21 Your Honor, can we proceed that way?

22 THE COURT: That will be fine.

23 MR. FRETWELL: Judge, just one second.

24 MR. MARCHANT: Judge, I'm going to mark these as
25 defense exhibits.

1 THE COURT: Okay.

2 MR. MARCHANT: And we'll resolve the discovery issue
3 later.

4 So we're clear, I'm going to mark Terry Dillard's
5 identification, his affidavit of photo identification as
6 Defendant's Number 2. And we'll mark the lineup
7 Defendant's 3.

8 (WHEREUPON, Defendant's Exhibit Numbers 2 and 3 were
9 marked for identification.)

10 MR. MARCHANT: We're going to mark Terry Dillard's
11 affidavit of photo identification of Andrew Pulley as
12 Defendant's 4, and we will mark the lineup as
13 Defendant's 5.

14 (WHEREUPON, Defendant's Exhibit Numbers 4 and 5 were
15 marked for identification.)

16 FURTHER RECROSS EXAMINATION

17 BY MR. MARCHANT:

18 Q All right. Investigator Bailey, just so we can have
19 a clear record, I'm showing you what's marked as
20 Defendant's 2 and 3. Is that the affidavit of photo
21 identification and lineup where Terry Dillard identified
22 Michael Tucker?

23 A Yes, sir.

24 Q Okay. And then Defendant's 4 and 5, is that Terry
25 Dillard's affidavit of photo lineup and the photo lineup

1 of Andrew Pulley?

2 A Yes, sir.

3 MR. MARCHANT: Okay. That's all I have. Thank you,
4 Judge.

5 MR. WILLIAMS: Nothing further from the State, Your
6 Honor. Thank you.

7 THE COURT: All right. Thank you. You can step
8 down.

9 MR. MARCHANT: Your Honor, could I request a few
10 minutes to step down the hall?

11 MR. FRETWELL: Judge, before he does that, can I
12 just inquire, we have a witness out here that law
13 enforcement had to pick up an hour and a half away
14 obviously for a Neil v. Biggers. It's probably not going
15 to take more than 15 minutes or so. We have another
16 witness that is coming and should be in the parking lot
17 shortly. Those are the only two witnesses we have for
18 the Neil v. Biggers matters that have to be decided
19 before -- for trial. I don't know if the Court at this
20 time wants to send the balance of the panel home.

21 THE COURT: I already handled that.

22 MR. FRETWELL: Oh, you did. Fantastic.

23 THE COURT: In fact, I knew how y'all's feet were
24 dragging. The jury left 30 minutes ago.

25 MR. FRETWELL: Judge, I'm going to sit back down and

1 shut up, okay?

2 THE COURT: Yeah. Until you get the name "Judge" in
3 front of your name, that would probably be the best thing
4 to do.

5 MR. FRETWELL: Never going to happen, Judge.

6 THE COURT: I know. I've got this. I've got this.
7 Trust me. I saw what -- I've done what y'all have done
8 and I know where this is headed.

9 And let me tell you what. I'm really helping you
10 out. Do you know why I helped you out? Because you've
11 got all those people sitting in that little cramped
12 courtroom waiting on you guys to finish what you're
13 doing. So I helped you out and I sent them home
14 30 minutes ago and told them to come back at 9:30 in the
15 morning. So I deserve a thank you from all of you.

16 MR. FRETWELL: You do. Thank you, sir.

17 THE COURT: Mr. Marchant won't give me a thank you.
18 But that's All right. I'll get a thank you. That's
19 okay.

20 So no. We'll hear the rest of these motions.

21 MR. FRETWELL: Thank you.

22 THE COURT: But I took care of that.

23 MR. FRETWELL: Thank you, Judge.

24 THE COURT: All right. Okay. Let me hear some
25 argument.

1 MR. WILLIAMS: Your Honor, I think Mr. Marchant
2 would like a few minute break.

3 THE COURT: Oh, that's right. You did ask that.
4 We're going to take ten, 15 minutes.

5 MR. MARCHANT: I don't need that, Judge. I just
6 need to use the restroom briefly.

7 THE COURT: We'll take about, you think if -- it's
8 4 o'clock now, if we come back maybe ten after, we still
9 can get in all these other witnesses?

10 MR. FRETWELL: Yes, sir. I think we'll finish
11 everything before 5 o'clock.

12 THE COURT: All right. Ten after.

13 (WHEREUPON, a recess is taken at 4:02 PM.)

14 THE COURT: Okay. Have we got some other witnesses?

15 MR. WILLIAMS: The State calls Micco Dillard to the
16 stand -- Terry Dillard.

17 THE CLERK: Please come forward here. Pause here at
18 the bench. Put your left hand on the Bible, raise your
19 right hand.

20 WHEREUPON,

21 TERRY DILLARD

22 After having been duly sworn, testified as follows:

23 THE CLERK: Thank you. You may be seated. And
24 please state your full name for the record.

25 THE WITNESS: Terry Lynn Dillard, Jr.

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q Good morning, Mr. Dillard.

A Good morning.

Q Did you have a conversation with Investigator Antonio Bailey and Investigator Jon Garrett at your house on December 17, 2019?

A Yes, sir.

Q Did you, in fact, tell them ahead of time that the defendant, Jeff George, was the person who held a gun on Ivan Gula on December 1, 2019?

A I did.

Q I'm showing you State's 197. Were you asked to review this lineup?

A I was.

Q Who showed you this photo lineup?

A It was the detectives.

Q Were you at your residence?

A Yes.

Q Anyone there besides the two investigators and your girlfriend at the time, Lynn?

A No.

Q Were there six photos on this lineup?

A Yes.

Q Were they of similar description?

1 A Yes. They all looked very much similar to each
2 other.

3 Q Were the photos displayed one at a time or all at
4 once?

5 A It was just like this. It was in a six pack.

6 Q Were the photos the same size?

7 A Yes.

8 Q What, if anything, did Investigator Bailey tell you
9 about that lineup?

10 A He just said to look at it, take my time and see if
11 I recognized anyone, and if I did, to circle the number
12 and initial it and date it.

13 Q Did anyone, Investigator Bailey or Investigator
14 Garrett, suggest to you which photo you should select?

15 A No.

16 Q How long were you able to observe the man with the
17 gun that night?

18 A Roughly about 15 minutes.

19 Q How close were you to this individual that night?

20 A No more than seven foot, maybe.

21 Q Well, in this trailer where this event took place,
22 were there lights on in that trailer?

23 A Yes.

24 Q Were you able to get a good look at this person?

25 A Yes.

1 Q Based on what happened that night to your friend
2 Ivan, would this have been a memorable event to you?

3 A It's always going to be a memorable event for the
4 rest of my life, yes.

5 Q And would this be a face that you would remember
6 particularly just a couple weeks later?

7 A Yes.

8 Q Were you able to ID the gunman from the photos you
9 were shown?

10 A Yes.

11 Q Which photograph did you select?

12 A Number 4.

13 Q How sure were you of your selection?

14 A 100 percent.

15 Q How did you indicate which photo you had selected?

16 A I circled the number and then initialed and dated
17 it.

18 Q Okay. Is that photo lineup in the same condition as
19 when you last saw it that day when you identified it?

20 A Yes, sir, it is.

21 Q Has it been altered in any way?

22 A No.

23 Q Did you also fill out an affidavit of photographic
24 identification related to that photo lineup?

25 A I did.

1 Q I'm showing you State's Exhibit 198 for purposes of
2 this hearing. Do you recognize that document?

3 A Yes, sir. It's the affidavit that I wrote out when
4 I identified Mr. George.

5 Q And is that your name on there?

6 A Yes.

7 Q Did you sign that document?

8 A Yes, sir.

9 Q Has anything about that document been altered in any
10 way?

11 A Not that I can tell, no.

12 Q Those are the words that you used ---

13 A Yes, sir.

14 Q --- to describe the gunman?

15 A It is.

16 Q Could you please tell us what the description was?

17 A It said, "Jeff George, the person who had the pistol
18 during the assault of Ivan Gula at the house located at
19 212 C and S Drive, Greer, on December 1, 2019." And then
20 it has my name, address and phone number.

21 Q Okay. I know you were shown a number of photo
22 lineups in this case. Did you ever identify anyone else
23 as the person who had the gun?

24 A No.

25 Q Do you see Mr. George in the courtroom today?

1 A Yes.

2 Q Could you please point him out?

3 A (Indicating) He's sitting right over there at the
4 table.

5 Q Does Mr. George, as you see him in the courtroom
6 today, does he look the same as he did that night almost
7 five years ago?

8 A Mostly.

9 Q Okay. What about his beard in particular?

10 A I mean, he looks clean-shaven from what I can see
11 from here. The computer monitor's in the way a little
12 bit.

13 Q You say "clean-shaven." Was his beard back then on
14 December 1, 2019, was it longer?

15 A It was just like a normal goatee type.

16 Q Okay.

17 A Obviously, he's clean-shaven today. But that's the
18 only difference. Everything else looks the same.

19 MR. WILLIAMS: No further questions, Your Honor.

20 THE COURT: Cross-examination?

21 CROSS EXAMINATION

22 BY MR. MARCHANT:

23 Q Mr. Dillard, you go by Micco?

24 A Micco.

25 Q Is that a given name or is that a nickname or what?

1 A It's a nickname.

2 Q A family nickname? Or what does Micco mean?

3 A My grandfather gave it to me. It stands for little
4 panther.

5 Q Little panther?

6 A Yes, sir.

7 Q What nationality are you?

8 A I'm sorry?

9 Q What nationality are you?

10 A My heritage is Ukrainian.

11 Q And Ivan's your uncle?

12 A I called him my uncle. He was just a friend.

13 Q Okay.

14 A But we were close enough that...

15 Q And you told law enforcement when you were being
16 interviewed that you called him my uncle.

17 A Yes.

18 Q How long have you known Ivan?

19 A At the time of the incident?

20 Q Yeah. Back in December of 2019.

21 A I had known him probably two and a half, three
22 years, maybe.

23 Q And you got so close to him within that period of
24 time you ---

25 A Yes. He moved in and was living with me at times.

1 And we were just -- hit it off. We were close.

2 Q How did you initially meet him?

3 A Through a mutual friend where I was living.

4 Q Okay. The night in question, and it's December 1,
5 2019, did he come and pick you up and take you over to
6 Audrea Cook's house?

7 A He did.

8 Q Yes?

9 A Yes.

10 Q Okay. Were y'all doing drugs before you got to
11 Ms. Cook's house?

12 A No, sir.

13 Q Were you doing drugs at your house before he picked
14 you up?

15 A No, sir.

16 Q Did you do drugs when you got to Ms. Cook's house?

17 A No, sir.

18 Q Did you do drugs when you got home?

19 A I did.

20 Q Methamphetamine?

21 A Yes.

22 Q With Mr. Poole.

23 A Yes.

24 Q Had you ever met Mr. George before that evening?

25 A No.

1 Q Did anybody tell you his name that night?

2 A No.

3 Q How do you know his name was Jeff George?

4 A At the time, I didn't. When I picked out the
5 original identification, I guess. Like I -- I went on my
6 own and tried to find Ivan and everybody that was there.
7 By the time I found out on Facebook what his name was, I
8 knew.

9 Q So you found the name out on your own ---

10 A Right.

11 Q --- is what you're telling us.

12 The other people that were present in the car with
13 you when you went to Ms. Cook's house that evening,
14 Isaiah and Janice, had you met them before?

15 A I had Janice, not Isaiah.

16 Q So had you ever been to Ms. Cook's house at all
17 before that evening?

18 A I had never been to her house, no.

19 Q What was the purpose of you going to her house that
20 evening?

21 A To work on computers and electronics and to get
22 high.

23 Q How did you get connected to go work on computers?

24 A I had met Ms. Cook years before. I have known her
25 for a while.

1 Q So how did the two of you connect such that you're
2 going to work on computers at her ---

3 A She ---

4 Q Hang -- I just need to finish the question so the
5 court reporter can get it down, okay?

6 A Yes, sir.

7 Q So how did you end up connecting or meeting Ms. Cook
8 prior to December 1, 2019?

9 A She was my drug dealer.

10 Q She was your drug dealer?

11 A Uh-huh.

12 Q And what did she sell you?

13 A Methamphetamine.

14 Q And how much methamphetamine were you doing back
15 then?

16 A I mean, I don't know.

17 Q Once a day? once a week?

18 A I mean, it was probably -- it was every day, once a
19 day.

20 Q Just meth or were you doing anything else?

21 A No. Just meth.

22 Q Were you employed at the time?

23 A No.

24 Q How were you paying your rent and paying your bills?

25 A I'm on disability.

1 Q What are you on disability for?

2 A For mental health issues.

3 Q So you have disability through the State of South
4 Carolina for mental health issues.

5 A No. Through the federal government.

6 Q The federal government.

7 A Social Security.

8 Q Well -- and I'm sorry. I don't mean to pry, sir,
9 but it's important. What is your diagnosis?

10 A I have several of them. I mean, they're all related
11 to PTSD and trauma.

12 Q So we're clear, this was before 2019 that you were
13 on disability for your mental health.

14 A Yes. I've been on disability since -- sorry.

15 Q Go ahead.

16 A Since 2009, I think.

17 Q So about ten years give or take before this event
18 occurred, you'd been on disability through the federal
19 government ---

20 A Right.

21 Q --- for mental health issues.

22 And what is the PTSD? What does that stem from?

23 A Back then it was from being raped.

24 Q What sort of medication were you taking?

25 A I was taking antidepressants and mood stabilizers.

1 Q Were you taking those medications in the dosage
2 prescribed by your doctor on December 1, 2019?

3 A No. I was off medication at that time.

4 Q Off medication. Not taking any medication ---

5 A Nothing.

6 Q --- as it relates to your mental health condition.

7 A Right. Nothing.

8 Q 2009 is when you were put on disability. Can you
9 tell me -- and we don't need to go into the details, sir,
10 but how earlier in time was the event that has sent you
11 down this mental health path?

12 A When I was 9 years old.

13 Q Okay. How old are you, sir, now?

14 A I'm 45 now.

15 Q 45. So 1985, 1989?

16 A It was '88.

17 Q '88. So in 1988 you had this event. And did you
18 start taking medication then for these mental health
19 issues?

20 A I didn't tell anybody about it for a while. And
21 when I finally just spun out of control and my parents
22 noticed that I was having issues, they started taking me
23 to the doctor and had me put on medication, going to
24 therapy as a child. And it just continued on into
25 adulthood.

1 Q Okay. So if this event occurred when you were
2 around 9 years old around about 1988, how long was it
3 before you told your parents and then started taking this
4 medication?

5 A Probably six, seven years.

6 Q 1994, '95? You would have been about ---

7 A About that, yeah.

8 Q You would have been 16 or 17?

9 A Right. I was in high school.

10 Q Did you finish high school?

11 A Yes.

12 Q Where?

13 A In Florida. Gainesville.

14 Q Do you have a high school diploma?

15 A Yes.

16 Q Not a GED, a diploma.

17 A Right.

18 Q Any secondary education?

19 A I've taken college courses.

20 Q Any degrees that you received?

21 A No.

22 Q So since 1994, '95, you've been prescribed what sort
23 of medication for this PTSD?

24 A I mean, various different medications. I can't list
25 the specific one.

1 Q Okay. Are you taking those medications today?

2 A No. I haven't been going to the doctor like I
3 should be. So no.

4 Q What are the effects when you don't take your
5 medication versus when you take your medication? What's
6 different about your personality?

7 A I isolate myself and stay away from people.

8 Q When you're not taking it?

9 A Yes.

10 Q So you stay away from people when you're not taking
11 your medication.

12 A Right.

13 Q Do you have trouble sleeping?

14 A All the time.

15 Q Does the methamphetamine help you sleep or does it
16 keep you up?

17 A No. It keeps me up.

18 Q Is there any other illicit substances that you were
19 taking in the fall/winter of 2019?

20 A No.

21 Q Just methamphetamine.

22 A Right.

23 Q You don't smoke pot?

24 A No, sir.

25 Q Don't do cocaine?

1 A Nope.

2 Q Crack?

3 A No other drugs.

4 Q No pills?

5 A Nope.

6 Q Nothing.

7 Okay. You never met Mr. George before December 1,
8 2019, right?

9 A Correct.

10 Q You testified or maybe Mr. Williams asked you a few
11 questions about there were a number of people in the
12 house that you did not know that evening when you got to
13 Ms. Cook's, right?

14 A Right.

15 Q And Bobby Ray Smith is one of those people that was
16 at the house that night, right?

17 A Yes.

18 Q But you know Bobby Ray Smith.

19 A Correct.

20 Q And how long have you known Bobby Ray Smith?

21 A At that time, I had known him probably two years,
22 almost about the same amount of time as I knew Ivan.

23 Q And the relationship between you and Mr. Smith was
24 what?

25 A I mean, it wasn't a relationship so much to say as

1 we were acquaintances. We knew each other. We didn't
2 hang out. We weren't talking all the time, buddy, buddy.

3 Q How many times would you say you'd seen Mr. Smith
4 prior to December 1, 2019?

5 A Probably eight, nine times.

6 Q So getting back to that night, you're not on your
7 medication.

8 A Right.

9 Q Right. And you're not working. And you say at
10 least before you got to the house you weren't doing any
11 drugs.

12 A Right. I was completely sober.

13 Q Okay. So after the event, you mentioned you've done
14 some drugs with Shane Poole back at your house.

15 A Right.

16 Q And then over the next several weeks, you continued
17 to use.

18 A Right.

19 Q And when is the last time you've used
20 methamphetamine?

21 A Yesterday.

22 Q Yesterday.

23 Are you sober right now?

24 A Yes.

25 Q How much did you use yesterday?

1 A Maybe a quarter of a gram.

2 Q How much does a quarter of a gram cost you?

3 A I don't pay for it. It was given to me.

4 Q Who gave it to you?

5 A I can't disclose that.

6 Q Well, somebody in this case?

7 A No.

8 Q I'll ask you that. We won't put the other person in
9 jeopardy. But it wasn't anybody that's associated in
10 this case.

11 A No, sir.

12 Q But you did methamphetamine yesterday.

13 A Yes.

14 Q Prior to yesterday, when did you last do it? The
15 day before?

16 A I'm a drug addict. It's been something I've done
17 almost every day for a while.

18 Q Just methamphetamine, though.

19 A Right.

20 Q Nothing else.

21 And you're sure you're sober right now. You're
22 clear-headed.

23 A Yes, sir.

24 Q What's today's date?

25 A Today is September 16th.

1 Q Okay. Very good.

2 All right. So that night you get to Cook's house.
3 You'd known her from two years prior but hadn't seen her
4 in quite some time.

5 A Right.

6 Q You go inside and it becomes chaos pretty quickly,
7 right?

8 A It does.

9 Q There's you, Ivan ---

10 A Janice.

11 Q --- Janice and Zay. Bobby Ray Smith comes outside
12 and meets y'all.

13 A Right.

14 Q And then he ushers you inside the house.

15 A He didn't usher us inside the house. Auddy was
16 standing up on the back deck, and when we got there, I
17 mean, it was with the intent to go inside. So no
18 particular person ushered.

19 Q Okay. And you get inside. And you hadn't been
20 drinking alcohol? Nothing?

21 A Hu-uh. I don't drink.

22 Q You get inside. And how many people do you see and
23 what happens?

24 A Initially, when we get inside, there was Auddy,
25 there was Bobby Ray and there was another person that I

1 didn't know at the time in the kitchen. Janice, Zay and
2 myself and Ivan walk into the main room, and within maybe
3 a minute after that, people bust out of the back room
4 and ---

5 Q Okay. Let's talk about the guy in the kitchen.

6 A Okay.

7 Q You get a good opportunity to see him?

8 A Uh-huh.

9 Q White? black? Hispanic?

10 A It was a white man.

11 Q Can you further describe how tall, facial hair, what
12 he looked like?

13 A I mean, he was probably average build, 5'4", had a
14 dark brown beard and scruffy hair.

15 Q And is that person somebody that you identified when
16 one of these two investigators were at your house?

17 A I did.

18 Q Okay. And what was ---

19 A But I identified him incorrectly.

20 Q What was that person's name that's standing in the
21 kitchen that you came -- when you came inside the house?

22 A His real name or the name he went by?

23 Q Well, I mean, what do you know him by?

24 A I know him as his real name now which is Isaiah
25 Hill.

1 Q And who did you identify him as?

2 A Levi Spalding.

3 Q Did law enforcement show you a lineup with
4 Mr. Spalding?

5 A Yes.

6 Q They did. Just a minute, sir.

7 A Can I correct that a little bit, that answer? It
8 wasn't a lineup like a six pack or whatever. It was the
9 second visit that they came to see me because we were
10 trying to figure out who this person was. They had a
11 single photograph. They didn't know his name or
12 anything. They just said do you know -- is that the guy
13 who was there? So it wasn't an actual lineup like the
14 other ones were.

15 Q Okay. So do you remember which of the investigators
16 that are sitting over here showed you this single photo?

17 A I don't remember exactly which one it was.

18 Q Was the photo identifiable meaning did it have a
19 name associated with it or was it just a photo?

20 A It was just a piece of paper, printout, and it was
21 -- the picture was all the way to the borders. There was
22 no writing, nothing on it.

23 Q Was it on a piece of 8 1/2 x 11 like this?

24 A Yes.

25 Q And so it was a full sheet with a photograph on it.

1 A Right. With -- the photograph covered the whole
2 sheet.

3 Q Okay. Was it in color or black and white?

4 A Color.

5 Q Okay. And did law enforcement tell you this is who
6 we think this is? Or how did that unfold?

7 A They just asked if I recognized him, if that was the
8 person that I was describing in the previous meeting that
9 we had.

10 Q Okay. And that's the person that you thought was
11 Levi Spalding.

12 A Right.

13 Q And that Levi Spalding name comes up because you are
14 doing some Facebook sleuthing ---

15 A Right.

16 Q --- and find that person. Okay. But, in fact, you
17 now know it's not Levi Spalding?

18 A His real name?

19 Q Yes.

20 A Yes.

21 Q How do you know his real name?

22 A Because I've actually spoken to him.

23 Q And what's his name?

24 A Isaiah Hill.

25 Q Okay. So that guy's in the kitchen. You've never

1 met him before.

2 A Right.

3 Q And I need you to describe the layout of where the
4 back door is in relation to the kitchen. And how big of
5 a room are we talking about?

6 A Okay. The -- when you come in the back door, in
7 front of you is a like bathroom. There's a bedroom to
8 the right. And as you come in and go to the left, you're
9 entering into the kitchen, and it has a weird angle where
10 the refrigerator is. And it comes around into an island
11 that separates the open living room area before it goes
12 down the hallway to the other bedrooms.

13 Q Okay. And so Mr. Hill, who you now know is
14 Mr. Hill, was standing in the kitchen.

15 A Correct.

16 Q Okay. And what is it that he did during the course
17 of the events that evening?

18 A Stared at the floor and had his hands in his pocket.

19 Q Did he say anything?

20 A Hu-uh.

21 Q How did you come to find out who he was such that
22 you met with him?

23 A Facebook sleuthing that -- mutual friends that this
24 Levi Spalding had. One of the friends he had was
25 well-known to myself and my roommate, and so we asked her

1 to, you know, give us the information.

2 Q Okay. If my math is right, there are four of y'all:
3 Bobby Ray Smith, Audrea Cook and this Hill person who are
4 all in the kitchen/den area at that time.

5 A No. I -- I had moved past the island, and I was
6 sitting on the couch. Janice and Zay had come into the
7 living room and were sitting on the opposite couch across
8 the way and Ivan was standing at the center of the
9 island.

10 Q You could see into the kitchen from the den area,
11 right?

12 A Right.

13 Q Okay. So by my count, make sure I'm right, there's
14 the four of you that came together?

15 A Right.

16 Q Bobby Ray, Audrea Cook, and who we now think is
17 Isaiah Hill.

18 A Right.

19 Q So there's seven of you.

20 A Right.

21 Q And then you say some other people come out of the
22 bedroom.

23 A Right.

24 Q How many people come out of the bedroom?

25 A Three or four.

1 MR. WILLIAMS: Your Honor, I understand you've got
2 to have some latitude, but at what point do we start
3 getting into a realm where it's not really relevant to
4 his identification of the defendant in the six-photo
5 lineup?

6 THE COURT: I was sitting here waiting for that to
7 happen. Mr. Marchant, will you move this along a little
8 bit?

9 MR. MARCHANT: Yes, sir.

10 BY MR. MARCHANT:

11 Q All right. So there are other people that come in.

12 A Right.

13 Q And you claim that Mr. George is one of them.

14 A Right.

15 Q You'd never seen him before that night.

16 A Never.

17 Q And you say he got seven feet away from you.

18 A I mean, he was very close to me.

19 Q What was he wearing?

20 A He had jeans on, he had a -- almost like a -- it
21 looked like a police holster. It was plastic. He had a
22 blue shirt with like white stripes and a hat.

23 Q Okay. Did he ever take his hat off?

24 A No.

25 Q What color was that?

1 A It was gray.

2 Q Gray.

3 Did it have any writing on it?

4 A That part I don't remember.

5 Q All right.

6 A I wasn't staring at the hat so much as the gun.

7 Q And the other people in there, are they as close to
8 you as Mr. George was?

9 A Some were closer, some were farther.

10 Q Okay. Well, you've identified some other people in
11 this case, and I'm going to show you what's been marked
12 as Defendant's 4 and 5. Do you recognize that, sir?

13 A I do.

14 Q Okay. And you initially tell law enforcement that
15 he was one of the people in the house, correct?

16 A I don't recall if I said he was in the house or if
17 he was outside afterwards.

18 Q Well, he was at this residence.

19 A He was at the residence.

20 Q Okay. So on here, on Defendant's Number 4, is this
21 your handwriting or is this somebody else's?

22 A That's mine.

23 Q That's your handwriting. Okay.

24 And you originally tell law enforcement he's at the
25 house.

1 A Right.

2 Q But, in fact, you now go back and you've changed
3 that story. He was not at the house.

4 A I don't know if he was at the house or not for
5 Andrew Pulley. There were misidentifications and names
6 because of the Facebook sleuthing. I believe ---

7 Q Well, let's look at Defendant's 5. Is this your
8 signature?

9 A It is. It is.

10 Q So is that dude at the house or not? In the yard,
11 wherever. That evening out there.

12 A I mean, he looks like he was the guy out in the yard
13 when we came back before we left, but I wasn't sure as
14 far as it being Mr. Pulley.

15 Q Okay. You've also -- showing you what's 2 and 3.
16 See if you recognize those two.

17 A Michael Tucker.

18 Q Yeah. Where was he inside the home? And what
19 opportunities did you have to observe him?

20 A He was definitely outside when we came back and
21 dropped Audrea off. I believe he was in the back room.

22 Q And he's one of the ones ---

23 A I don't know for sure. I can't say that he was in
24 the back room or anything. I know he was there when we
25 brought Audrea back. He relayed the message to Shane,

1 Patrick Poole, that he was to take us home.

2 Q Okay. In the backyard, is there a street light?

3 Are there ---

4 A No. There was just the light from the car. The
5 door was open. She left it open, and he stuck his head
6 in to grab the phones.

7 Q So you're saying now you didn't see him inside the
8 house.

9 A Right. Originally, when it all happened, I was
10 mistaking Isaiah Hill and Michael Tucker because I saw
11 him later.

12 Q I thought Isaiah Hill and Andrew Pulley are the same
13 person.

14 A No.

15 Q No.

16 A No.

17 Q Okay.

18 A Levi Spalding is Isaiah Hill.

19 Q Levi. That's right. Forgive me. I wasn't trying
20 to mislead you, sir.

21 Looking at Defendant's 2, you've identified Michael
22 Tucker as one involved in the assault of Ivan Gula. So
23 did Mr. Gula get assaulted outside in the yard?

24 A No. He was assaulted in the house. To me, that was
25 a generalization that everybody that wasn't brought

1 there, you know, Janice, Zay and myself and Ivan, anybody
2 at that house would have been there for the attack on
3 Ivan Gula.

4 Q So did he do something? Did he participate somehow?

5 A No.

6 Q So he didn't do anything now is what you're saying.
7 It says "was involved in the assault." But now ---

8 A Right. That's what I'm saying. Anybody who would
9 have been there to me would have been involved in the
10 assault.

11 Q Okay. I'm showing you State's 198. Is that your
12 handwriting down there?

13 A It is.

14 Q Okay. You say, "Jeff George is the person who had
15 the pistol during the assault of Ivan Gula at the house
16 located at 212 C and South Drive, Greer." How did you
17 know what the address of the residence was?

18 A I had to put it in the GPS when we were heading
19 there with Audrea's car.

20 Q You had your phone?

21 A Uh-huh.

22 Q Okay. And you put it in your GPS?

23 A I did.

24 Q Okay. So inside was Jeff George and Isaiah. And
25 who else were the other people that come out of the back

1 bedroom that you've identified for law enforcement?

2 A You said people were already in there?

3 Q I don't know. I wasn't there.

4 A Well, you just said Jeff George's name is first
5 being in there. He wasn't -- we didn't see him until the
6 people came out of the back room.

7 Q I think that's what I'm trying to get clear and why
8 this is important, sir, is your opportunity to see and
9 observe.

10 A Right.

11 Q Okay. So how many people come out of the back
12 bedroom?

13 A What I saw was three. Because the first three
14 people you see are telling you to get on the ground, you
15 know, face down and they have weapons pointed at you, so
16 you kind of aren't paying attention after that.

17 Q Okay. Who are the people?

18 A David Stokes, Jeff George and Patrick Poole.

19 Q And how long were you inside the house before y'all
20 left?

21 A A total of about 15 minutes.

22 Q 15 minutes. And during that 15 minutes, who are you
23 focused on?

24 A Various people, depending on where I was standing.

25 Q You were standing the whole time?

1 A No. I started off sitting on the couch when they
2 come out of the back room. And then Bobby Ray said, you
3 know, for me to get up and come into the kitchen. They
4 were afraid I was going to have a seizure.

5 Q Bobby Ray said that?

6 A Yes.

7 Q He said he was afraid you were going to have a
8 seizure?

9 A He did.

10 Q He did?

11 A Uh-huh.

12 Q All right. So law enforcement ends up talking to
13 you two weeks later when you did these lineups on
14 December 17th.

15 A Right.

16 Q Right. Had you spoken with either of these two
17 officers or any other deputies with the sheriff's office
18 prior to them?

19 A Not from Greenville County, no.

20 Q Did you talk to somebody else somewhere else?

21 A I spoke with a Detective Haden in Cherokee County
22 probably a day before Greenville County came, and that
23 was to try to get the ball rolling so they would know
24 that I knew.

25 Q Detective Haden?

1 A Haden.

2 Q Did he show you any pictures?

3 A No. I only spoke to him on the phone briefly, and
4 he advised me to call Greenville County.

5 Q You called Greenville County.

6 A I'm sorry?

7 Q And then you called Greenville County?

8 A Before I had time to call Greenville County,
9 Greenville County called me.

10 Q The day they showed up, you were smoking meth?

11 MR. WILLIAMS: Your Honor, I'm going to renew my
12 objection as to relevance. I feel like we're going down
13 that same road.

14 THE COURT: I'm going to sustain it. Move it along,
15 Mr. Marchant.

16 BY MR. MARCHANT:

17 Q You were smoking meth the day that law enforcement
18 come out and visit with you?

19 A Actually, no. I was sober and distraught that day.

20 Q On that day, the 17th.

21 A Uh-huh. I have days where I don't get high.

22 Q And how much were you doing around that time?

23 A Usually a small amount, quarter -- quarter gram.

24 Q Okay. So a little over two weeks after the event
25 occurred is when those two investigators showed up at

1 your house.

2 A I think they were there on the 16th and 17th, both
3 days.

4 Q Okay. So about a little over two weeks from the
5 time this happened.

6 A Right, right.

7 Q And you haven't seen any pictures of Mr. George?
8 No ---

9 A Only -- only what I had seen on Facebook, my
10 sleuthing.

11 Q And that was all done by you?

12 A Right.

13 Q So let's go back to the house and the opportunity to
14 see Mr. George. You say he comes out the bedroom.

15 A Uh-huh.

16 Q And you estimated 15 minutes.

17 A Right. That was long enough for Audrea to give her
18 long, crazy monologue and say what she had to say and
19 then us to get in the car and go.

20 Q Okay. And throughout the course of this, Ivan is
21 getting hatcheted up by David Stokes.

22 A Yes and no. He -- he was hit a couple times in a
23 burst, and then that was it. So during that time, he had
24 already been hit several times. He was standing there
25 bleeding while she was speaking and Janice was getting

1 napkins to try to stop the blood.

2 Q And you're focused on your uncle.

3 A At that time, I was standing behind Mr. George just
4 feet away from him next to Bobby Ray Smith and Isaiah
5 Hill at the stove.

6 Q So his back is to you.

7 A Almost -- almost his side.

8 Q And so how close? Could you touch him?

9 A Probably I would have to lean hard to touch him, but
10 he wasn't very far.

11 Q And meanwhile, Ivan's ---

12 A He kept moving back and forth.

13 Q Ivan's bleeding.

14 A Right.

15 Q People are running all over the place screaming.

16 A No.

17 Q No? You're not emotional?

18 A I mean, you're kind of numb at that point. You just
19 witnessed someone be attacked and somebody's still
20 standing there with a pistol and, you know, machetes and
21 such.

22 Q Well, let's talk about the pistol. Is the pistol --
23 you talked about there being some sort of holster.

24 A Right.

25 Q Did they come out the holster?

1 A When the first time I saw him, he already had it up
2 at the ready as he come down the little corridor there
3 from the back bedroom to the -- through the kitchen. It
4 was already -- the pistol was already up.

5 Q What did the pistol look like?

6 A It looked like it was a Glock.

7 Q I'm sorry. What?

8 A A Glock.

9 Q Oh, a Glock.

10 You're focused on the gun?

11 A At first.

12 Q Yeah. You're not looking at him.

13 A I mean, I looked at him and he had the gun moving
14 back and forth, back and forth (gesturing) close to his
15 face, and he kept rocking back and forth. So I did
16 notice his face and him.

17 Q So law enforcement comes out to your home. And they
18 didn't tell you any of these people to identify or how to
19 identify them.

20 A No.

21 Q No. Hu-uh. They didn't -- you didn't get into a
22 conversation with them about this being Pulley. And
23 you're not really sure if he was in the house, but go
24 ahead and circle it, Mr. Dillard?

25 A No. There was nothing like that.

1 Q They didn't tell you that.

2 A No.

3 Q Okay. If there was a recording that was different,
4 would that change your mind? Would that refresh the
5 conversation that you had with them?

6 A I mean, none of the -- when they showed me lineups,
7 they didn't say or push towards any particular person,
8 photograph or anything. It was done this way: Do you
9 recognize anybody there? Circle it, initial it and date
10 it. And then they would say, "Who is that?"

11 Q And your testimony is you were not smoking meth or
12 doing any drugs that day that they came to your house.

13 A Correct.

14 Q But you also weren't taking your medication that you
15 suffer from PTSD for.

16 A Right.

17 Q And forgive me if I asked this before. You do have
18 an official diagnosis because you're on disability. What
19 is the -- outside of PTSD, what's the ---

20 A I mean, there's a multitude of different things.

21 Q And I'm sorry to have to go here. I mean, are we
22 talking schizophrenia? bipolar?

23 A No, no, no, no. It's like the PTSD, agoraphobia,
24 not wanting to be around people in large crowds and
25 isolating, and ADHD. Then I have physical issues as

1 well, but -- that aren't prevalent to the disability, I
2 guess.

3 Q So law enforcement comes on the 16th to show you
4 some lineups and then comes back on the 17th.

5 A Right.

6 Q And you're saying you weren't doing any meth on
7 either one of those days.

8 A No.

9 Q But you didn't know they were coming.

10 A No. I didn't know they were coming until they
11 called me a few hours before.

12 Q With respect to the layout, I'm sorry to ask you,
13 there's you come in the back door.

14 A Right.

15 Q And you say you went left.

16 A Right.

17 Q And there's the kitchen and the den.

18 A Well, it's the kitchen opens up into the living room
19 area. There's a -- I could draw you a picture better
20 than trying to describe it.

21 Q Well, how many couches and chairs were in the area?

22 A There were -- there was a couch on the left-hand
23 side, there was a couch across the way, and there was one
24 up against the island that stuck out. And then the
25 entertainment center was on the back wall of the living

1 room.

2 Q Three couches.

3 A Yes.

4 Q And you think you were there for about 15 minutes.

5 A Right.

6 MR. MARCHANT: Thank you.

7 THE COURT: Anything on redirect?

8 MR. WILLIAMS: No redirect, Your Honor.

9 THE COURT: All right. Sir, you can step down.

10 THE WITNESS: Thank you.

11 THE COURT: You've got one other witness?

12 MR. WILLIAMS: Well, first, with regard to the
13 six-photo lineup where Micco Dillard picked out the
14 defendant, Jeff George, as the gunman, the State would
15 move at this time that the photo lineup be allowed to be
16 admitted at trial as it was not unduly suggestive.

17 THE COURT: Mr. Marchant?

18 MR. MARCHANT: Thank you, Your Honor.

19 I'm asking you to suppress the lineup for a number
20 of reasons. One, you heard the interview by Investigator
21 Bailey and Garrett as they were discussing this lineup
22 with Mr. Pulley. Certainly suggestive on that regard. I
23 realize we're talking about Mr. George, but the tenor and
24 the feeling of the room that day is that law enforcement
25 is wanting Mr. Dillard to make identifications. And, in

1 fact, we know that Mr. Dillard has misidentified several
2 people in this case, and I think allowing an
3 identification of Mr. George by Mr. Dillard is extremely
4 prejudicial because we cannot go back from that. There
5 may be other witnesses that the State has, but he has
6 mental health issues. I have not been provided any of
7 that information from the State. I think that is very
8 impactful in his ability to know or recall. He talked
9 about being on drugs that day, has been on drugs
10 basically every day of his life. He, again, has
11 misidentified Andrew Pulley and Michael Tucker such to
12 the extent that warrants were issued against Michael
13 Tucker.

14 There's too much with this witness to unring that
15 bell if he's allowed to testify and that lineup comes
16 into trial -- comes into evidence.

17 Thank you, Your Honor.

18 MR. WILLIAMS: Your Honor, respectfully, Mr. Dillard
19 did not misidentify Andrew Pulley. What he said is he'd
20 done his own Facebook research and that Andrew Pulley
21 looks similar. He's now said that he looks similar to
22 David Stokes and so that he thought -- because he saw
23 Andrew Pulley selling things on Facebook that he believed
24 belonged to the victim, he thought that Andrew Pulley was
25 the person with the machetes. But he was actually shown

1 a six-photo lineup. What did he say? I'm not so sure
2 about that.

3 And what the six-photo lineup was that he did circle
4 of Pulley, he didn't describe him as having the machetes.
5 He said this is the individual that was trying to sell
6 Ivan's belongings online on Facebook. When he gas showed
7 David Stokes -- the David Stokes lineup, he said that's
8 the guy. That's the guy.

9 He never -- there was never such wavering when it
10 came to Jeff George. He did his own research on Jeff
11 George on Facebook. And he found Jeff George and he said
12 that's the guy. He's shown a six-photo lineup which was
13 not suggestive in any way of Jeff George, and he
14 immediately said that's the guy.

15 And part of the reason that -- you know, he's
16 indicated he clearly didn't quite understand -- didn't
17 quite remember where this Michael Tucker guy was that
18 night. Like maybe he was in the trailer, maybe he
19 wasn't. I think I saw him when I came back after we left
20 the first time. I think I saw him when I came back on
21 the outside of the trailer. But that would make sense,
22 wouldn't it, Your Honor? Because this Michael Tucker guy
23 didn't have a weapon that Micco Dillard could see. He
24 didn't have anything that he was doing to the victim,
25 Ivan Gula. The reason he recognized Mr. George, the

1 defendant, so well is because Jeff George had a gun out
2 the whole time. He had a loaded gun out the whole time,
3 and he was putting it on Ivan. So that's something he's
4 never going to forget for the rest of his life.

5 So certainly, with respect to the identification of
6 Mr. George, he had no doubt. And it was not unduly
7 suggestive.

8 And I would also submit that the recording we heard
9 where Investigator Garrett says go ahead and circle that
10 one, it was not because he's telling him to circle him
11 because he's saying this is the photo you need to pick.
12 He's saying, well, if that's the guy that you recognize
13 as Andrew Pulley and he may have had something to do with
14 this, then go ahead and select it. That was not the --
15 this was his response to what Mr. Dillard was telling
16 him, that I think that guy is the guy that was doing the
17 stuff on Facebook. I don't know if he had the machetes
18 or not. I'd need to see the photo of David Stokes before
19 I could make that determination.

20 He's like, well, if you think that guy may have been
21 the guy selling stuff online, go ahead and circle it.
22 And if you think that's Andrew Pulley, go ahead and
23 circle it.

24 So the State would submit with respect to the
25 six-photo lineup of Jeff George by Micco Dillard, it was

1 certainly not suggestive at all.

2 THE COURT: All right. I agree with counsel's
3 argument, and I'm going to allow it.

4 MR. WILLIAMS: Thank you, Your Honor.

5 THE COURT: Subject to Mr. Marchant's objection.
6 All right. Where are we now?

7 MR. FRETWELL: Judge, we'd like to call our last
8 witness. However, I'm very mindful of your admonition in
9 chambers. I do believe this will be a brief witness,
10 certainly from our statement.

11 THE COURT: That's fine. I've just got until 5:30.

12 MR. FRETWELL: The State would call Janice Velichko.

13 THE CLERK: Please pause here at the bench. Put
14 your left hand on the Bible, raise your right hand.
15 WHEREUPON,

16 JANICE VELICHKO

17 After having been duly sworn, testified as follows:

18 THE CLERK: Thank you. You may be seated. And
19 please state your full name for the record.

20 THE WITNESS: Janice Velichko.

21 MR. FRETWELL: May it please the Court, Your Honor.

22 THE COURT: All right.

23 DIRECT EXAMINATION

24 BY MR. FRETWELL:

25 Q Ms. Velichko, I'm going to show you what has been

1 marked as State's Exhibit -- if I can find it.

2 (WHEREUPON, State's Exhibit Numbers 207 and 208 were
3 marked for identification.)

4 BY MR. FRETWELL:

5 Q Ms. Velichko, would you look at this lineup? And
6 I'm going to draw your attention to these initials right
7 there and ask you, are those your initials?

8 A Yes, sir.

9 Q And this writing right here that has the date, is
10 that your handwriting?

11 A I assume so. Yes, sir.

12 Q All right. Were you shown this photo lineup in
13 conjunction with the death of an individual you know as
14 Ivan Gula?

15 A Yes, sir.

16 Q Do you recall where you were when you met with the
17 investigators and they showed you this lineup?

18 A No, sir. A friend brought me, and it was in the
19 afternoon so I don't know where I was.

20 Q Did it look like a police station or was it at your
21 house?

22 A It was not at my house.

23 Q So it was like a -- were there a lot of police in
24 the building?

25 A No. There was not. It was nighttime.

1 Q Okay.

2 A They took me to a kind of dark room on the side.

3 Q Okay. All right. Do you know if -- do you remember
4 how many investigators were in that room with you?

5 A One or two.

6 Q Okay. How many photographs are on that document
7 which is State's Exhibit 207?

8 A There's six pictures on there.

9 Q And are they of similar description?

10 A Yes, sir.

11 Q And when they were presented to you, were they
12 presented to you like this or did they show them to you
13 one at a time?

14 A I don't remember. It was a long time ago.

15 Q Okay. I understand.

16 Ms. Velichko, you really don't want to be here
17 today, do you? You got a subpoena to be here, right?

18 A Yes, sir.

19 Q Right. You didn't come and say I'd like to come and
20 testify.

21 A No, sir.

22 Q Okay. You got a subpoena to be here.

23 A Yes, sir.

24 Q Okay. Would you like some water?

25 A No. I'm good.

1 Q Okay. All right. Do you recall -- when you were
2 shown that photo lineup, do you recall what the police
3 officer said to you at all?

4 A No, sir.

5 Q Okay. Do you recall whether he said to you do you
6 recognize anyone in that lineup?

7 A He must have said that, something along those words.

8 Q Did he suggest or point out anybody in that lineup
9 and tell you you ought to pick this one?

10 A No.

11 Q Okay. The night you went with Mr. Gula, all right,
12 the last time you saw him, you described somebody as
13 having a gun that night, right?

14 A Yes, sir.

15 Q Do you recall how long in minutes or if it was
16 longer than minutes in hours, how long were you around
17 that person that had the gun?

18 A Just like a minute or two. Not -- not long.

19 Q It didn't seem very long?

20 A No.

21 Q Okay. How close where you to the individual?

22 A Not very close.

23 Q Was it around the distance of you and me? Was it
24 closer?

25 A No. Farther than that.

1 Q A little further away?

2 A Yes.

3 Q Okay. Were you able to get a good look at the
4 person?

5 A Not really. If they were standing next to me in the
6 grocery store or somewhere, I would not recognize them.

7 Q Do you recall telling the investigator that you did
8 get a good look at him?

9 A No. I don't recall that.

10 Q Based on what happened that night, would that have
11 been a memorable event for you?

12 A No.

13 Q You don't think so?

14 A Uh-huh.

15 Q Was Ivan a good friend of yours?

16 A At the time, uh-huh. But...

17 Q And did you see Ivan hit with a machete that night?

18 A Maybe.

19 Q Okay. Which photograph on that document -- let me
20 make sure they're numbered. Yes. Which photograph did
21 you select by circling?

22 A It looks like I selected Number 6.

23 Q Do you recall -- let me show you to refresh your
24 recollection State's Exhibit 208. Is that your signature
25 right here?

1 A Yes, sir.

2 Q Okay. Do you recognize that document?

3 A No, I don't. Clearly, I filled it out, but I don't
4 remember doing it. It was a very long time ago.

5 Q I understand. But that is your signature on the
6 document.

7 A It looks like it, yes, sir.

8 Q Do you recall giving some information to the police
9 officer about what that individual that you had
10 identified did that night?

11 A It looks like it, yes, sir.

12 Q Okay. And what information is on that document?
13 What does this say up here?

14 A It says, "This guy was the one that held the gun out
15 at Ivan."

16 Q Okay. And what does -- and what is the last part of
17 this?

18 A "Several times."

19 Q Okay. Is that the information that you gave to the
20 police officer?

21 A It looks like it, yes, sir.

22 MR. FRETWELL: Okay. Your Honor, at this time for
23 the purpose of this hearing, the State would admit 207
24 and 208 into evidence.

25 THE COURT: 207 and 208.

1 MR. FRETWELL: Yes, sir.

2 THE COURT: Any objection?

3 MR. MARCHANT: No, Your Honor.

4 THE COURT: So entered without objection.

5 (WHEREUPON, State's Exhibit Numbers 207 and 208 were
6 admitted into evidence for purposes of this hearing.)

7 BY MR. FRETWELL:

8 Q Do you recall describing -- let me ask you this
9 question. The person that you saw that night and the
10 person that you identified, if you looked around the
11 courtroom, would you be able to identify him?

12 A I have no idea. I -- everything happened so fast it
13 just took glimpses. I didn't see that person, stare at
14 that person, look at that person, so there's no way I
15 would know. I literally don't -- don't know if I would
16 know them.

17 Q I understand, Ms. Velichko.

18 A I never seen anybody before. It was just one time
19 briefly, quickly and that's it. I didn't stare nobody in
20 the eyes, didn't see nobody face-to-face.

21 Q Let me ask you this. In response to my question
22 you've been looking just at me. I would ask that you
23 look around the room and answer my question as to whether
24 or not you would be able to identify the individual that
25 you pointed out to the police.

1 A No, sir.

2 MR. FRETWELL: Okay. Thank you Ms. Velichko.

3 Just one moment, Your Honor.

4 Your witness.

5 THE COURT: Mr. Marchant?

6 CROSS EXAMINATION

7 BY MR. MARCHANT:

8 Q Correct me if I mispronounce, okay? Velichko, is
9 that correct?

10 A Yes, sir.

11 Q Okay. The prosecutor's shown you some pictures
12 here. You don't remember meeting with investigators and
13 circling Number 6; is that correct?

14 A No, sir. It was a very long time ago.

15 Q Okay. Well, let's talk about the interview meeting
16 that you had with the investigators on this day. They're
17 saying that they met with you on December 20, 2019.

18 A Yes, sir.

19 Q Were you on drugs at that time?

20 A I was, sir.

21 Q What kind of drugs were you doing?

22 A I was on meth and everything. And I remember that
23 night when my friend, she's the one who scheduled all
24 that, she got me really high and then drove me to
25 Greenville and pretty much set me up for all of that.

1 But after that I've been clean for three, four years, so
2 I don't remember. I don't do anything. So that part of
3 my life is gone. I don't look back on it. I don't think
4 about anything that happened. I just don't live there,
5 that life. So...

6 Q Forgive me for going a little bit further, but we've
7 got to be clear so the judge can make a decision.

8 A Yes, sir.

9 Q You said you were on meth and everything else?

10 A Meth and heroin.

11 Q Heroin?

12 A Yes, sir.

13 Q How frequently had you been doing methamphetamine at
14 that time? Every day?

15 A Every day, yeah, for a couple years.

16 Q How about heroin? How frequently were you doing
17 heroin?

18 A It was every day.

19 Q Almost every day?

20 A Yes, sir.

21 Q Were you working at the time?

22 A No, sir.

23 Q And the testimony you just gave him is whenever
24 y'all -- the only thing you remember is when you got to
25 the house, y'all were inside for about one minute.

1 A Yeah. I was not in there for long.

2 Q And when you left, where did you go?

3 A I went home. I was able to get dropped off back at
4 my house.

5 Q So your recollection is that you were inside the
6 home for one minute.

7 A Like 15 minutes, maybe 15 minutes.

8 Q Maybe 15 minutes.

9 A Yeah.

10 Q Well, there's a big difference between, you know,
11 one minute and 15 minutes.

12 A Yeah.

13 Q Is it -- you don't remember?

14 A No, sir.

15 Q And you don't remember meeting with law enforcement
16 and signing this piece of paper or circling that
17 picture.

18 A No, sir. But I clearly did it. I was there. Yes,
19 sir.

20 Q But you don't remember doing it ---

21 A No, sir.

22 Q --- because you were high?

23 A Yes, sir.

24 Q And you told the prosecutor that.

25 A I have told them several times.

1 Q Okay. That you were high and you didn't remember
2 meeting with law enforcement.

3 A That's correct.

4 Q Okay. So you're not confident that the person you
5 circled is actually the person that had a gun at the
6 house that night, are you?

7 A No, sir. There's no way that I could be.

8 MR. MARCHANT: I don't have any other questions.
9 Thank you.

10 THE COURT: Redirect?

11 MR. FRETWELL: Yes, Your Honor. I would like to
12 have this marked as State's Exhibit 230.

13 (WHEREUPON, State's Exhibit Number 230 was marked for
14 identification.)

15 REDIRECT EXAMINATION

16 BY MR. FRETWELL:

17 Q MS. Velichko, is it your testimony you don't recall
18 the statements that you made to law enforcement that
19 particular day?

20 A Yes, sir.

21 MR. FRETWELL: Your Honor, at this time, I'm going
22 to play...

23 THE COURT: Is it audio?

24 MR. FRETWELL: It's video, Your Honor.

25 MR. MARCHANT: I need some clarification about what

1 the exhibit is.

2 MR. FRETWELL: It's her interview.

3 MR. MARCHANT: Judge, I'm going to object. I don't
4 know that it's relevant at this time. She's already
5 testified to what she recalls. I don't see the purpose
6 of this video being played.

7 MR. FRETWELL: Judge, I'll give you the rule number.
8 And obviously, every party can impeach even their own
9 witness.

10 THE COURT: You don't need to tell me the rule
11 number. I'm going to let you go forward. I'm familiar
12 with the rule. I think it's proper. I'm going to allow
13 you to do it.

14 MR. FRETWELL: Thank you, sir.

15 (WHEREUPON, State's Exhibit Number 230, a video
16 recording, was played in open court.)

17 BY MR. FRETWELL:

18 Q Ms. Velichko, now that you've seen that video ---

19 A Yes, sir.

20 Q --- you will agree that that is you on the video?

21 A That is me.

22 Q Does that refresh your recollection as to what you
23 told Lieutenant Bailey and Lieutenant Garrett who's
24 sitting back here? Does that refresh your recollection
25 about you saying it that day?

1 A Well, clearly I said it, yes. But I personally do
2 not remember.

3 Q Okay.

4 A I know I said I've done all this, but I personally
5 do not remember. I cannot go back and remember
6 everything that is said, everything that I did.

7 Q But you don't believe that what you were telling
8 those officers there was untrue.

9 A I -- I don't know.

10 MR. FRETWELL: Mr. Marchant.

11 THE COURT: Mr. Marchant?

12 MR. MARCHANT: I don't have any questions.

13 THE COURT: All right. Ma'am, you can step down.

14 MR. FRETWELL: Your Honor, for the day, may this
15 witness be excused?

16 MR. MARCHANT: That's fine, Judge.

17 THE COURT: All right. She can be excused.

18 You're free to go, ma'am.

19 THE WITNESS: Thank you.

20 THE COURT: Is that your last witness?

21 MR. FRETWELL: It is, Judge.

22 MR. MARCHANT: Judge, I'd like to call Investigator
23 Garrett to the stand to address this issue.

24 THE COURT: Come on up.

25 Madam Clerk, swear him in again.

1 WHEREUPON,

2 JONATHAN GARRETT

3 After having been duly sworn, testified as follows:

4 THE COURT: Mr. Marchant, your witness.

5 MR. MARCHANT: Thank you, Judge.

6 DIRECT EXAMINATION

7 BY MR. MARCHANT:

8 Q That's you on the video, Lieutenant? Is it
9 lieutenant?

10 A No. I wish it was.

11 Q Captain? major?

12 A No. It was sergeant, but I came back as an
13 investigator.

14 Q Investigator Garrett, you've been in the courtroom
15 during this portion of the trial, right?

16 A I have.

17 Q And you saw Ms. Velichko testify?

18 A Yes.

19 Q Were you in here when she said that she was high
20 when she came and spoke with you that day?

21 A The last part of it?

22 Q Were you in the courtroom when she was testifying?
23 I asked her, I said you were intoxicated on
24 methamphetamine when you came and met the officers,
25 right?

1 A Yes, yeah. I heard.

2 Q And heroin.

3 A I heard that.

4 Q And heroin. You see her. You met with her. How
5 many years of experience have you been in the drug
6 business?

7 A 14 in narcotics.

8 Q 14 in narcotics.

9 Do you think she's impaired?

10 A As she's pulling that picture out, no, sir. I think
11 she's scared today.

12 Q But she's the State's witness, right?

13 A Yeah. She is.

14 Q She has testified here under oath that she was
15 intoxicated on methamphetamine and heroin.

16 A Correct.

17 Q Had been doing that for days and weeks on end.

18 You never seen her before this day; is that right?

19 A I think -- no, I didn't. This is the first time I
20 met her. I know Antonio may have contacted her, called
21 her.

22 Q So you don't have any familiarity or context with
23 the way she behaves when she was sober or she was
24 impaired?

25 A Say that again?

1 Q On this date, which is December 20th ---

2 A 20th. That's correct.

3 Q --- this is the first time you've seen her.

4 A Right.

5 Q You don't have any contacts or familiarity with
6 Ms. Velichko other than the few minutes y'all are in an
7 interview room.

8 A Right.

9 Q So you don't know what she looks like when she's
10 high versus when she's sober?

11 A I would know. I feel like, on my training and
12 experience, I've seen it enough -- I mean, I terminated
13 an interview two nights ago because of intoxicant in the
14 interview room. I would have terminated that interview.

15 Q Well, what she just testified to was that she was
16 high and she was intoxicated. Sir, is it your opinion
17 that she's lying?

18 MR. FRETWELL: Your Honor, I object to that. It's
19 pitting the witnesses.

20 THE COURT: Sustained.

21 Move this along, Mr. Marchant.

22 MR. MARCHANT: That's all the questions, Your Honor.

23 THE COURT: All right. Do you have any questions?

24 MR. FRETWELL: No, I do not.

25 THE COURT: All right. You can have a seat. You

1 can be excused. And court's adjourned until 9:30 in the
2 morning. See you all later.

3 (WHEREUPON, a recess is taken at 5:16 PM)

4 MR. FRETWELL: Judge, can I just ask, are you going
5 to do your ruling on this particular -- the Neil
6 v. Biggers aspect of this particular lineup in the
7 morning?

8 THE COURT: What do you think?

9 MR. FRETWELL: Yes, sir. I believe so.

10 THE COURT: In the morning.

11 MR. FRETWELL: Judge, can I just give you and your
12 clerk two cites to read overnight? Do you mind?

13 THE COURT: Give it to my clerk. She'll give it to
14 me.

15 MR. FRETWELL: Thank you, Judge.

16 (WHEREUPON, proceedings recessed at 5:17 PM; State's
17 Exhibits 197 through 206 and 209 through 216 were marked
18 for identification.)
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24
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1 Tuesday, September 17, 2024

2 (WHEREUPON, State's Exhibit Numbers 1 through 39 and 41
3 were marked for identification; proceedings commenced at
4 10:01 AM.)

5 THE COURT: Madam Court Reporter, this is State vs.
6 Jeffrey Michael George. Let the record reflect that
7 Mr. George is present with his counsel, Mr. Marchant.
8 Mr. Williams and Mr. Fretwell are here on behalf of the
9 State along with the best investigator money can by right
10 here. There you go. I'm not talking about you,
11 Mr. Bailey.

12 All right. Okay. I think yesterday when we left
13 off, we were dealing with the Neil v. Biggers matter.
14 And I think, Mr. Fretwell, I believe the last witness
15 that you called was Velichko. How do you pronounce her
16 name?

17 MR. FRETWELL: Ms. Velichko.

18 THE COURT: Velichko. Okay.

19 And I think, Mr. Marchant, you had an opportunity
20 yesterday to cross-examine her. I think you did. That's
21 correct?

22 MR. MARCHANT: Yes, sir.

23 THE COURT: All right. And I didn't rule on that
24 yesterday. And, of course, I appreciate, Mr. Fretwell,
25 the cases you sent me. But I didn't rule on that

1 yesterday, so I'll be glad to hear argument on that issue
2 and then I'll rule on that and then we can go from there.
3 Go ahead.

4 MR. FRETWELL: Thank you, Judge. Just briefly, and
5 I believe for the record we're referring to Exhibits 207,
6 208, a photo lineup and an affidavit of photo lineup.
7 The State would just request, Judge, for purpose of the
8 Neil v. Biggers aspect of the preliminary matters that
9 the Court find that the photo lineup that was presented
10 to Ms. Velichko was not unduly suggestive, that it was
11 not presented in a manner or in a way or in a composition
12 that would overcome her ability to select the individual
13 she described as the individual with the gun the night of
14 the murder. And we would ask the Court to permit these
15 exhibits into evidence for purposes of the trial.

16 THE COURT: All right. Mr. Marchant?

17 MR. MARCHANT: Thank you, Your Honor. May it please
18 the Court. As you heard the testimony from Ms. Velichko,
19 she indicated on the night in question she did not
20 remember much, that she was only in the residence for
21 perhaps a minute, she was high on methamphetamine and
22 heroin and had been doing those daily for weeks leading
23 up to and after that event. She further testified that
24 she did not recall being in the interview room with
25 Investigator Garrett.

1 While she did acknowledge that was her signature,
2 she said she did not remember circling the picture
3 identifying anybody therein, and she certainly did not
4 identify Mr. George sitting at the table here today --
5 excuse me -- yesterday. I don't believe that her memory
6 or recollection is reliable, and any admission of that
7 lineup and identification of Mr. George is biased at this
8 point in time.

9 She should not be allowed to testify. She's
10 admitted to lying to investigators that evening during
11 the course of the interview and identification of
12 Mr. George. So it's unreliable, Judge. It's unduly
13 suggestive. And it's certainly prejudicial to Mr. George
14 and should not be presented into evidence in front of the
15 jury.

16 Thank you, Your Honor.

17 THE COURT: All right. Any reply?

18 MR. FRETWELL: Yes, Your Honor. And I'll take issue
19 about what Mr. Marchant said about any kind of lie that
20 she admitted to. She certainly -- and as the Court is
21 well aware since, as a finder of fact in this particular
22 matter, the Court has the opportunity some six, seven
23 feet away from the witness to observe the character and
24 the demeanor of the witness, the fact that when she came
25 into the courtroom, she looked literally terrified, that

1 she would not look in the direction of the defendant
2 sitting over here at the table until I basically ordered
3 her to look around the courtroom.

4 You heard in response the impeachment of the actual
5 interview where she was very comfortable, she was talking
6 very freely with the investigators. I believe she said
7 I'm a thousand percent sure that this is the individual,
8 Judge. And we can replay the tape -- or the video if you
9 need to see that. But my recollection of the video was
10 that she was a thousand percent sure at the time.

11 That is the evidence the Court has. The Court
12 certainly can look at her demeanor and the motivations
13 she might have for not wanting to say in front of someone
14 she saw -- she said within a less distance than I was to
15 her or around that same distance that night with a gun
16 when she saw her friend hacked with a machete, that the
17 Court can consider that this witness is scared to death
18 and does not want to admit in front of this defendant
19 that she recognized him.

20 MR. MARCHANT: Briefly, Judge. She didn't indicate
21 that she was scared. She didn't indicate that she didn't
22 want to be here. She didn't indicate that Mr. George had
23 threatened her. And this inference that's going to try
24 to be painted by the prosecution is highly prejudicial to
25 my client for them to stand up potentially when the jury

1 comes in and in front of the jury and say that she's
2 intimidated and doesn't want to look over here. That
3 inference is not permissible, especially given the fact
4 that she's saying that she doesn't remember. And so
5 they're trying to impute some sort of responsibility for
6 Mr. George by way of whatever Ms. Velichko's reason is
7 for not remembering.

8 She met with the prosecution several weeks ago, I
9 think maybe, in fact, prior to when this thing was
10 scheduled back in December. And she told, and I'm
11 quoting the email that came from Mr. Williams that,
12 quote, she was speaking faster in the interview and she
13 must have been high.

14 The information is not reliable and should not be
15 permitted to be presented in front of the jury, Judge.

16 THE COURT: All right. Let me just tell you,
17 Counsel, what I observed. And obviously, I saw the
18 witness when she came in and listened to not only your
19 question but also Mr. Fretwell's question. And I think
20 Mr. Fretwell is correct, I think, when he asked her
21 whether she could see anybody that resembled Mr. George
22 in the courtroom. She looked. As a matter of fact, when
23 she looked, the only person that she looked at was me.
24 She never looked at any portion -- other portion of the
25 courtroom.

1 I had the opportunity to observe her during the
2 interview, and to the Court, it appears to the Court that
3 she was -- she didn't appear under the influence of any
4 drugs. As a matter of fact, she started the conversation
5 with the detective. She came and said, listen, this is
6 -- I'm absolutely sure that this is the gentleman. So
7 she led -- she drove the conversation during the
8 interrogation.

9 And if you look at that, you know, Neil v. Biggers,
10 standard, you know, the Court needs to make a finding
11 whether or not it was -- her being shown the lineup, the
12 pictures were suggestive. And I find that there was
13 nothing suggestive about it at all. As a matter of fact,
14 I think that -- I think that her identity of Mr. George,
15 based on what I saw in the video, was done with a lot of
16 confidence on her part.

17 And I understand your objection, Mr. Marchant, but
18 I'm going to go ahead and allow it subject to your
19 objection. And that's noted for the record, okay?

20 All right. Anything else that we need to cover? Is
21 anybody from the AG's office here? Not yet. We'll deal
22 with that when we get there.

23 (WHEREUPON, a recess is taken at 10:10 AM.)

24 THE COURT: All right. Everybody's here?

25 MR. FRETWELL: Yes, Your Honor.

1 Opening statements. And I'll start with the State. The
2 State's ready to proceed?

3 MR. WILLIAMS: We are, Your Honor.

4 THE COURT: All right. And the defendant is ready
5 to move forward?

6 MR. MARCHANT: Yes, Your Honor.

7 THE COURT: All right. Opening statements.

8 OPENING STATEMENTS

9 MR. WILLIAMS: Thank you, Your Honor. May it please
10 the Court.

11 Ladies and gentlemen, anger is the oldest motive in
12 history for murder. On December 1, 2019, the defendant,
13 Jeff George, was angry. The evidence will show that he
14 believed a man named Ivan Gula to be in the business of
15 human trafficking. The defendant was angry because the
16 woman he wanted to be with, Audrea Cook, didn't want to
17 be with him. And the evidence will show that he was
18 especially angry that the man he believed to be
19 trafficking women, Ivan Gula, had somehow harmed the
20 woman he wanted to be with, Audrea Cook.

21 On December 1, 2019, Ivan likely never believed that
22 when he walked into Cook's trailer that evening, he would
23 not come out alive. The evidence will show Ivan had
24 taken Cook's car and driven to Charlotte earlier that day
25 to see his kids. Throughout the day, Cook reached out a

1 number of times, including through other people, asking
2 Ivan to return her car and trying to find out when he
3 would do so.

4 Two people to whom Cook turned for help were the
5 defendant and a man named Bobby Smith. These two in turn
6 reached out to others: David Stokes, a friend of Bobby
7 Smith's, and Shane Poole, a friend of the defendant.

8 This group, along with others, assembled at Cook's
9 house later that day and were all present when Ivan and
10 his friends arrived with Cook's car sometime after 9 p.m.
11 Cook and Smith met Ivan and his friends when they
12 arrived, and soon after they went inside, a group of
13 armed men including the defendant, Bobby Smith and Shane
14 Poole came out of a back room and ordered Ivan to his
15 knees. The evidence will show that the defendant held a
16 gun on Ivan while Cook berated him, accusing Ivan of all
17 kinds of things.

18 When Ivan started to protest, David Stokes
19 approached swinging a machete and striking Ivan several
20 times in the arms, hands and head. At some point during
21 the attack, Audrea Cook signaled for the attack to stop.
22 She then rounded up the group that would come with Ivan,
23 and along with Shane Poole, ushered them outside to take
24 them away from her trailer leaving Ivan behind with the
25 defendant, David Stokes, Bobby Smith and a younger man

1 named Isaiah Hill. Ivan's friends never saw him again.

2 Two weeks later, a man named Kurt Knutson reached
3 out to law enforcement. He had been living in a camper
4 on David Stokes's property. He reached out to them and
5 reported that he had helped David Stokes just two weeks
6 prior on the morning of December 2, 2019, bury a body on
7 Stokes's property. Stokes's property, by the way, was
8 just a quarter-mile away from Audrea Cook's trailer.

9 Investigators discovered Ivan's body in a shallow
10 grave in the precise spot identified by Knutson while
11 other investigators executed a search warrant at Audrea
12 Cook's trailer locating blood and a large area of carpet
13 missing from the living room near the front door.

14 You will hear further testimony about all the items
15 collected and processed that link Cook's trailer to
16 Ivan's buried body, and you will be presented by
17 statements made by the defendant to his co-conspirators
18 and friends revealing that he was present at Cook's
19 trailer when Ivan was murdered but didn't think that his
20 role in Ivan's murder could be proven.

21 You will hear from witnesses Janice Velichko and
22 Micco Dillard, two of Ivan's friends who accompanied him
23 to Cook's trailer the night he was killed. You will hear
24 from both Micco and Janice that Cook was clearly in
25 charge of the events that transpired at her trailer that

1 night and how they identified the defendant as the person
2 who held a gun on Ivan from the moment the men rushed
3 from that back room to kidnap Ivan and take him hostage.

4 You will also hear from codefendants Kurt Knutson,
5 David Stokes, Bobby Smith and Shane Poole detailing the
6 events of December 1, 2019, and the involvement of the
7 defendant in the murder of Ivan Gula. Specifically, you
8 will hear from Bobby Smith what happened when Audrea Cook
9 paused the assault on Ivan in order to take the witnesses
10 out of the trailer and how, after Ivan's friends were
11 gone, the defendant took a picture of Ivan on his cell
12 phone and sent it to a friend telling those still present
13 in the trailer that Ivan had tried to kidnap his friend
14 and his daughter in order to sell them into sexual
15 servitude.

16 After Ivan's friends were gone and after the
17 defendant had taken that photo on his phone and sent it
18 to his friend, you will hear from David Stokes that since
19 Stokes was unable to bring himself to kill Ivan, the
20 defendant took his own machete and finished him off.

21 As a result of their actions, Jeff George, Audrea
22 Cook, David Stokes, Bobby Smith and Shane Poole were all
23 charged with murder and kidnapping. Kurt Knutson, due to
24 his involvement in helping to bury Ivan's body, was
25 charged with accessory after the fact to murder. He has

1 pleaded guilty to that charge, is awaiting sentence, and
2 will testify in this trial. Likewise, David Stokes has
3 pleaded guilty to murder and kidnapping. He is awaiting
4 sentence and will testify in this trial.

5 Bobby Smith, due to his early cooperation with
6 police, was permitted to plead guilty to assault and
7 battery by a mob in the second degree and kidnapping. He
8 is also awaiting sentence and will testify in this trial.

9 Shane Poole has cooperated with law enforcement and
10 the prosecution in this case and will testify in this
11 trial.

12 Finally, Audrea Cook will be tried for her
13 involvement in the kidnapping and murder of Ivan Gula at
14 a later date.

15 To establish the defendant's guilt for the charge of
16 murder, we must prove that the defendant unlawfully
17 killed Ivan Gula with malice aforethought. The judge
18 will explain the concept of malice to you, but basically,
19 the law requires the existence of harmful intent in the
20 mind of the defendant at the time the killer acts in
21 taking another's life.

22 For the charge of kidnapping, we must prove the
23 defendant knowingly seized or confined or abducted or
24 carried away Ivan Gula without authority of law.

25 Ladies and gentlemen, the judge will instruct you

1 that when a crime is committed by people acting together,
2 the act of one is the act of all. If a person joins with
3 another to commit an unlawful act, he is criminally
4 responsible for everything done by the other person. For
5 example, two people can be guilty of killing another
6 person even when there's just one gun, one bullet and one
7 person firing the shot. If two people are together
8 assisting one another in committing the offense, then the
9 act of one is the act of all, or as it is sometimes said,
10 the hand of one is the hand of all. And, ladies and
11 gentlemen, under that hand of one, hand of all principle,
12 if two people combine for the purpose of committing an
13 unlawful act, then each person is criminally responsible
14 for the natural and probable consequence of that act.

15 Please listen carefully to the testimony you're
16 presented in this case. At the conclusion of all the
17 evidence, ladies and gentlemen, we'll ask you to find the
18 defendant, Jeff George, guilty of the kidnapping and
19 murder of Ivan Gula on December 1, 2019.

20 THE COURT: Thank you, Counsel.

21 Mr. Marchant?

22 MR. MARCHANT: Your Honor, may it please the Court.

23 That's a fantastic story he just told you. I don't
24 know if y'all ever watched the movie My Cousin Vinny, I
25 don't know if that rings any bells with you. Joe Pesci

1 is a lawyer from New York and he comes down to Alabama to
2 defend one of his relatives who's charged with murder.
3 And Joe Pesci stands up at the beginning of the defense's
4 opening argument and looks at the prosecutor and has one
5 statement, says everything that man said is BS.

6 And just like the judge told you a minute ago,
7 nothing he told you is a fact. You know why? Because
8 that's what he thinks happened, and that's what he thinks
9 he's going to be able to prove to you.

10 I'm going to walk over here because this is where
11 the facts and the evidence come in. I need y'all to
12 think because each person that comes is going to testify
13 is going to put their hand on the Bible and they're going
14 to swear to tell the truth. Okay. They're going to say
15 I promise to tell the truth and nothing but the truth.

16 Just about every single person he has already
17 mentioned has sat down with one of these two officers
18 back here, Investigator Garrett and Investigator Bailey,
19 and they've given a story. Well, told them I'm going to
20 tell you the truth and I promise you that's what
21 happened. One of them says I swear on Christ, I swear on
22 my grandfather's life, something to that effect. And
23 that's one of the gentlemen that they have already cut a
24 deal with. And after they cut a deal with him, he comes
25 forward with some more information. You'll have to

1 determine whether or not that information is critical or
2 not.

3 Does it matter to you that a witness has already
4 given a statement to a law enforcement officer and then
5 comes back and gives a different story and then maybe a
6 third story? And throughout the course of those stories,
7 oh, I forgot to tell you, when I gave you the first
8 statement, I might have been impaired on drugs or
9 alcohol. When I was at the events, I might have been on
10 drugs or alcohol. Or when I come into this courtroom, I
11 might have done drugs or alcohol yesterday or the day
12 before. How does that affect and impact somebody's mind?
13 Do they truly remember everything that occurred? Are
14 they being truthful with law enforcement? Are they being
15 truthful with you? Are they being truthful with the
16 Court?

17 Y'all are going to have to determine whether or not
18 the information the State is going to put up is
19 believable. Is it credible? Is it logical? Does it
20 make sense? More importantly, is there motivation by
21 these particular witnesses to fabricate information, to
22 lie, to make it look like they are less culpable so they
23 can get something?

24 He's already told you a couple of them have pled,
25 and we'll get into what they're facing and the amount of

1 time they may serve and what they've already avoided by
2 pleading to a reduced charge because in the words of him,
3 they came to the table early. Well, keep in mind that
4 same person has lied and lied again after they came to
5 the table. Are you going to believe a little bit of what
6 they said, a lot of what they said or none of it?

7 The same goes for law enforcement. We're here. We
8 back the blue. We trust that law enforcement is going to
9 do the right thing. We trust that what they write in
10 their reports is accurate and factual. And we trust that
11 they make the right decisions.

12 Do you find it convenient already right here at the
13 outset of this case that the prosecutor failed to mention
14 that there was another individual charged with murder
15 based off of some of the statements that these people
16 that they've cut deals with made? The witness told law
17 enforcement Michael Tucker was there and was involved.
18 Michael Tucker was charged. Michael Tucker was never
19 served with the warrants. Law enforcement determined
20 that that witness was not being truthful in the
21 information that they provided. So that story a minute
22 ago that the prosecutor told you sounds real bad.

23 And I'm going to ask Mr. George to stand up right
24 now so y'all can have a good look at him. As he sits
25 here today right now, he has pled not guilty. Until they

1 do everything to convince you beyond a reasonable doubt
2 that he is guilty of kidnapping and murder, he continues
3 to stand there not guilty. It is a heavy burden that
4 y'all are going to have to face to determine whether or
5 not he's responsible. It is not one that I envy, but one
6 we are very thankful that you have taken the charge and
7 agreed to carry out. It is an important day for
8 Mr. George, and it's going to be an important few days
9 while the State attempts to convince you that he's
10 responsible.

11 I ask you to keep an open mind. Because what
12 happened to Mr. Gula is horrific. It's terrible. It's
13 inhumane. There's no other way to describe it. The
14 question for you is, based off of the information that
15 law enforcement is going to provide, is he responsible?
16 And I submit to you that the information that they bring
17 forth with the witnesses that they have is not credible,
18 and you cannot hold him responsible. And we will ask you
19 to return a verdict of not guilty once all of the
20 evidence is before you.

21 Beyond a reasonable doubt, somebody lies, somebody's
22 on drugs, somebody lies, somebody's on drugs. Are you
23 convinced that what they tell you throughout the course
24 of this trial is believable and credible? If you're not,
25 then you have doubt, and you must resolve the doubt in

1 Mr. George's favor. And that is what we will ask you to
2 do at the end of this case.

3 Thank you.

4 THE COURT: All right. Thank you, Counsel.

5 State's ready to call it's first witness?

6 MR. FRETWELL: We are, Your Honor.

7 THE COURT: All right. Call your first witness.

8 MR. FRETWELL: Your Honor, the State calls Deputy
9 Kenneth League.

10 WHEREUPON,

11 KENNETH LEAGUE

12 After having been duly sworn, testified as follows:

13 THE CLERK: Thank you. You may be seated. And
14 please state your full name for the record.

15 THE WITNESS: Kenneth Blake League.

16 MR. FRETWELL: May it please the Court, Your Honor.

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. FRETWELL:

20 Q Good afternoon, Deputy League.

21 Deputy League, how long have you worked for the
22 Greenville County Sheriff's Office?

23 A I've worked for Greenville County Sheriff's Office
24 for ten years.

25 Q And what is your current assignment within the

1 Greenville County Sheriff's Office?

2 A Currently, I'm assigned at a Homeless Response Unit
3 at the sheriff's office.

4 Q And how long have you been functioning in that
5 capacity?

6 A For the last year.

7 Q Prior to that time, in what capacity did you serve
8 with the sheriff's office?

9 A Prior to that, I served in the Community Patrol Unit
10 or the Community Action Team.

11 Q And what were the years that you served in that
12 particular capacity?

13 A Probably 2018, 2019 to last year.

14 Q Okay. And what were your duties in the community
15 patrol?

16 A Community patrol, you're a community liaison for
17 personnel and businesses within the community. The
18 object of it was to seek long-term resolutions for
19 problems versus short-term resolutions.

20 Q Was there an area of Greenville County where you
21 predominately patrolled and where you worked within the
22 county?

23 A Yeah. Every deputy within that unit is assigned one
24 of the ten beat areas. During the 2019 timeframe, I've
25 worked in Area 1 which was the northeastern part of the

1 county.

2 Q And finally, do you have prior military service?

3 A Yes, I do.

4 Q Just tell us briefly about that.

5 A I served 20 years in the Navy.

6 Q And what was your MOS?

7 A By rank I was a master in arms with a background in
8 anti-terrorism.

9 Q Deputy League, let me take you to December of 2019.
10 Were you still functioning in your capacity as a
11 community patrol officer at that time?

12 A Yes, I was.

13 Q Specifically, on December 16, 2019, were you
14 contacted by dispatch with respect to some kind of
15 inquiry from a citizen?

16 A Yes, I was.

17 Q All right. And tell us about that.

18 A I was assigned out to the Law Enforcement Center
19 downtown. Dispatch contacted me, said they had an
20 individual wished to speak with me. So we were in a fire
21 alarm going off at that time so I was in the parking lot.
22 So I had them transfer the call to my work phone.

23 The individual on the phone was a Kurt Knutson, Kurt
24 Russell Knutson. It's an individual I've dealt with
25 numerous times in Area 1. He's between different places,

1 known to be homeless up there, you know. Had numerous
2 encounters with him, various locations up there.

3 But he wished to talk to me. He only wanted to talk
4 to me. He was at the Greer Police Department at that
5 time.

6 Q And what did he tell you he wanted to talk to you
7 about?

8 A He told me it was going to be in reference to ---

9 MR. MARCHANT: I'm going to object to hearsay.

10 MR. FRETWELL: Let me rephrase the question.

11 THE COURT: Rephrase your question.

12 BY MR. FRETWELL:

13 Q Did you have a conversation with Mr. Knutson?

14 A Yes, I did.

15 Q Did you recognize his voice?

16 A Yes, I did.

17 Q The information that he gave to you, did you provide
18 that to investigators in this particular case?

19 A Yes, I did.

20 Q All right. Now tell me why did he contact you on
21 that particular day?

22 A Reference a body location.

23 Q Did he give you any further details on the
24 telephone?

25 A The only thing, he wanted to speak face to face. He

1 didn't want to talk over the phone. He told me that it
2 was going to be in the location of the battery shop on
3 Highway 14 or near there.

4 Q Okay. The location of this body.

5 A Uh-huh.

6 Q And where did he want to meet you?

7 A He wanted to meet me there at the Greer Police
8 Department in the parking lot.

9 Q And did you agree to meet with him?

10 A Yes, I did.

11 Q And did you head that way?

12 A Yes, I did.

13 Q On the way, what did you do?

14 A I contacted Investigator King in our Homicide Unit
15 to inquire if we had any missing persons from that
16 geographical area of the county in particular or anybody
17 reported to up there.

18 Q Is that policy, basically, for someone in your
19 capacity to report that to the Homicide Unit?

20 A Generally, when you -- because you get -- a lot of
21 times in the upper area you'll get information where
22 people always say they know where a body is. So anytime
23 you do get anything, you let homicide know. And then if
24 there's more to it, the more, you know, stuff,
25 information, they might have other information, so if it

1 helps feed their stuff or whatnot. So basically, they're
2 going to vet everything when it comes out anyway.

3 Q Did you receive any instructions from Investigator
4 King as to what you were supposed to do?

5 A Talk with the individual. If he could give me a
6 name of the person and stuff, let him know and then he
7 can do some more looking from there.

8 Q And did you, in fact, meet with this Kurt Knutson at
9 the Greer Police Department?

10 A I did.

11 Q Did he give you information and details about this
12 particular body?

13 A Yes, he did.

14 Q Okay. And did you collect all of that information
15 and relay that to Investigator King with the Homicide
16 Unit for the purpose of the investigation?

17 A Yes, I did.

18 Q All right. Please tell us about the conversations
19 that you had with him.

20 A The conversation ---

21 MR. MARCHANT: Your Honor, I'm going to object to
22 hearsay. He can talk about what he's done, but this is
23 direct violation of the hearsay rule. What
24 Mr. Knutson ---

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, I'm going to send you back to your jury room for a
2 minute. Please, ma'am, please, sir, do not talk about
3 the case with each other. I'll bring you back out here
4 in just a minute.

5 (WHEREUPON, the jury exits the courtroom at 12:28 PM.)

6 THE COURT: All right. Let me hear your objection,
7 Mr. Marchant.

8 MR. MARCHANT: Yes, Your Honor. I mean, it is
9 clearly hearsay. He is getting ready to testify about
10 what another witness presumably in this case is going to
11 be called by the prosecution has said. That is hearsay.
12 It doesn't get any simpler than that. If there is
13 information that is relayed by the witness, then he can
14 discuss what he did in relation to that, but he can't say
15 what Knutson said. Not unless there's some impeachment
16 situation where Knutson said he didn't say it. But he
17 can't say this.

18 MR. FRETWELL: May it please the Court, Your Honor.

19 THE COURT: Mr. Fretwell.

20 MR. FRETWELL: First of all, as the Court is well
21 aware, State vs. Thompson, the officer can testify with
22 respect to what information he learned and what he did
23 with that information.

24 Secondly, as the officer's already testified, all of
25 this information was translated to the Homicide Unit and

1 formed the basis for their investigation in this case
2 which I assume Mr. Marchant will be attacking at some
3 point. So it is imperative that the jury and the Court
4 understand exactly what information was transmitted to
5 those investigators and at what time.

6 Finally, Your Honor, the witness that he is talking
7 about will be here to testify, Judge, and will be subject
8 to cross-examination to the degree that Mr. Marchant
9 wants to ask him about any of those statements that he
10 made.

11 And for those reasons, Your Honor, this evidence
12 should be admissible at this time.

13 THE COURT: Anything in reply?

14 MR. MARCHANT: Judge, we talk about witnesses that
15 are going to be here. It hasn't happened yet. We don't
16 know where Mr. Knutson is. I've never seen him. I don't
17 know that he's going to take the stand.

18 So for the purposes of Deputy League's testimony, he
19 has got to be limited to what he did and what he
20 responded to, not what somebody else said. And that goes
21 across the board for this entire case. There's going to
22 be so much hearsay in this thing ---

23 THE COURT: The information that he was provided was
24 -- led to his investigation.

25 MR. MARCHANT: And if they want to call Knutson

1 next, that's fine. But he can't talk about what Knutson
2 did. He can only discuss what he did in relation to
3 information he received, or otherwise it is hearsay.

4 THE COURT: You have anything else, Mr. Fretwell,
5 before I rule on that?

6 MR. FRETWELL: No, Your Honor.

7 THE COURT: I'm going to allow it subject to
8 Mr. Marchant's objection.

9 Now let me just say this, because I think if we're
10 going down this road, we're just going to have a trial
11 littered with hearsay objections. I mean, I'm seeing
12 that road. And, you know, what I don't want to do is be
13 scurrying the jury back, scurrying them back in,
14 scurrying them -- so, you know, if we've got some hearsay
15 stuff and we've got some exceptions to the hearsay rule
16 that needs to be addressed, you know, I don't have a
17 problem bringing the jury in and out. But, you know,
18 based on what I'm envisioning right now, I'm hearing a
19 bunch of hearsay objections not only with this witness
20 but a number of other witnesses. I may be wrong on that,
21 but I'm just trying to get a handle on something that's
22 coming down the road. So I don't know if it will or not,
23 but we'll continue. But I'm going to -- your objection
24 is noted for the record, Mr. Marchant.

25 MR. MARCHANT: Thank you, Your Honor.

1 THE COURT: All right. Bring the jury back.

2 (Pause in proceedings; a bench conference was held off
3 the record; Court's Exhibit Number 2 was marked for
4 identification.)

5 THE COURT: All right. Mr. Marchant, I think you've
6 got a motion?

7 MR. MARCHANT: Thank you, Your Honor. May it please
8 the Court. Recent at the bench conference, counsels in
9 this case were made aware that the juror ---

10 THE COURT: Let me just read the note into the
11 record so the record will be clear. This is State's
12 Exhibit -- Court's Exhibit Number 2. And this is what
13 the note -- this was -- the note was given to the Court
14 by the bailiff, and I'm assuming the bailiff got it from
15 the forelady.

16 THE BAILIFF: That's true.

17 THE COURT: All right. The note -- this is Juror --
18 I don't know who -- I'm assuming the forelady wrote this
19 note?

20 THE BAILIFF: Did she not sign it?

21 THE COURT: She didn't sign it.

22 THE BAILIFF: Okay. I asked her to sign it and I
23 didn't check it.

24 Yes, sir. It was the ---

25 THE COURT: The forelady wrote this note.

1 THE BAILIFF: Yes.

2 THE COURT: Juror 204, Kevin Pugh, whatever his name
3 is, he is tired, has not slept, and he is sure that the
4 defendant is guilty. This is what the note says that I
5 shared with the State as well as you, Mr. Marchant. And
6 I think upon your review of the note, you are wanting to
7 make a motion?

8 MR. MARCHANT: Yes, Your Honor.

9 THE COURT: I'll hear from you at this time.

10 MR. MARCHANT: Thank you, Judge.

11 The juror has apparently made up his mind despite
12 instructions from you about waiting to hear all the
13 evidence to determine whether or not my client is
14 responsible for these acts. He's indicated that through
15 the foreperson who has delivered this note to you that he
16 is guilty. There's obviously been some information and
17 communication back in the jury room already between this
18 particular juror and the foreperson. It is my position
19 at this point in time that the jury is now tainted and a
20 fair trial cannot be held for Mr. George and that the
21 only and the appropriate resolution for Your Honor is to
22 grant a mistrial.

23 So I'm making a mistrial motion at this time with
24 respect to that information that has been provided
25 knowing that information has been discussed at least in

1 part with other members of the jury, and other members
2 are now tainted and cannot be fair throughout the
3 duration of this trial for Mr. George. So motion for a
4 mistrial, Judge.

5 THE COURT: Mr. Fretwell?

6 MR. FRETWELL: Your Honor, while I agree with
7 Mr. Marchant that this juror has made up his mind, I
8 agree with the Court that he made up his mind about
9 saying whatever was necessary to get off of this jury
10 panel. And as the Court pointed out at the bench
11 conference, this juror, from the time he was selected and
12 even asked to stand up, displayed body language that even
13 the State did not see with respect to the fact that he
14 did not want to be here.

15 Once he was on the jury panel itself, I did watch
16 him myself. He had his head down. He seemed very
17 frustrated to be here. And while I agree with
18 Mr. Marchant he made up his mind, it's with respect to
19 saying what he believed was necessary to get off this
20 panel. Certainly, the Court will bring him out here and
21 ask him questions about that.

22 But I do not necessarily believe, Number 1, that
23 what he is saying is even true, and Number 2, the fact
24 that he communicated that information to the jury
25 foreperson as the Court instructed was the process by

1 which jurors were to communicate with the Court does not
2 mean that that juror, that foreperson is tainted in any
3 way, that she has made up any mind.

4 Judge, you know that the amount of evidence that has
5 been presented in this case is the sum total of the
6 opening statements, which the Court instructed all of the
7 jurors is not evidence. Deputy League has not even
8 gotten into the facts of this case other than to say that
9 he was told about the location of a body.

10 Your Honor, this is not a proper basis for a
11 mistrial in this case. As the Court suggested, the
12 appropriate remedy is to remove this juror. As much as I
13 hate standing before the Court and going to our very last
14 alternate in this case, but that is why these alternates
15 exist for situations like this. Do we anticipate that
16 we're going to use both alternates before we get through
17 the first witness in the case? No, sir. But in the
18 wisdom of the Court, we selected two alternates which is
19 why we are not faced with a mistrial at this point.

20 I would respectfully oppose Mr. Marchant's motion
21 for a mistrial. I would ask that this juror be
22 questioned and released and that the foreperson of the
23 jury be questioned about whether she herself has violated
24 any of the Court's instructions, and if there's anything
25 untoward in that jury, be questioned by the Court at this

1 time.

2 THE COURT: All right. Mr. Marchant, I'm going to
3 deny your motion for a mistrial. And, of course, as I've
4 indicated to counsel, I'm going to make inquiry of both
5 of these jurors separately.

6 And I'm going to ask Juror Number 204, bring 204 out
7 here. He should be in a separate room. Bring him out
8 here.

9 (WHEREUPON, Juror Number 204 enters the courtroom.)

10 THE COURT: All right. Sir, would you stand right
11 there for me? What's your full name?

12 JUROR NUMBER 204: Kevin Michael Pugh.

13 THE COURT: Pugh? How do you spell your last name?

14 JUROR NUMBER 204: P-U-G-H.

15 THE COURT: All right. Mr. Pugh, I have been given
16 a note that was given to the bailiff by the forelady, a
17 note apparently something you shared with the foreperson
18 of the jury; is that correct?

19 JUROR NUMBER 204: Yes, sir.

20 THE COURT: And did you share -- what is written on
21 this note, did you share that with any other members of
22 the jury panel?

23 JUROR NUMBER 204: No, sir. Just the one.

24 THE COURT: The only person that you talked to --
25 well, first of all, let me ask you this. The only person

1 that you talked to is the foreperson of the jury?

2 JUROR NUMBER 204: Yes, sir.

3 THE COURT: All right. And the reason I'm not
4 swearing you in to get this information from you, because
5 you were sworn in a minute ago.

6 And this note says that you told her that you were
7 tired. What did you tell her?

8 JUROR NUMBER 204: I've been up since 5 o'clock
9 yesterday morning. I ain't been to sleep yet.

10 THE COURT: What you're telling me is exactly what
11 you told her.

12 JUROR NUMBER 204: Yes, sir.

13 THE COURT: Tell me word for word what you told her.

14 JUROR NUMBER 204: I've been up since 5 o'clock
15 yesterday morning, that I haven't been to sleep, and --
16 sorry. But I said that -- and I can't remember.

17 THE COURT: You can't remember.

18 JUROR NUMBER 204: No. I'm tired. I just want ---

19 THE COURT: All I'm asking you is what did you tell
20 the foreperson of the jury. And I want word for word
21 what you told her. And that was just a few minutes ago,
22 so you had to remember what you said. I want you to be
23 candid. I want you to be honest with this court. I'm
24 asking you a question and I'm looking at you. And I want
25 you to tell me what you told the foreperson of that jury.

1 And I need you to be honest because you know what you
2 told her.

3 JUROR NUMBER 204: Okay. I said that I wasn't in a
4 mood to be here, that I was tired. I've been up since
5 5 o'clock yesterday morning. And as far as I'm
6 concerned, he's guilty. And that's my judgment. That's
7 -- I'll stand by that.

8 THE COURT: And you've not heard any testimony. You
9 hadn't heard -- what are you basing that on?

10 JUROR NUMBER 204: Just I've heard lies and seen
11 lies before. I do armed security.

12 THE COURT: I didn't ask you -- but I'm asking you,
13 you haven't heard any testimony. The case hasn't started
14 yet. So what are you basing that on?

15 JUROR NUMBER 204: Just if -- to me, if you've got
16 to come to court and you've been handcuffed before,
17 you're guilty of something. I went all my life without
18 being in handcuffs and everything. I've stayed on the
19 straight and narrow. I know there's other people that
20 can do it, too.

21 THE COURT: So when I indicated to the jury panel
22 that Mr. George was presumed innocent until the State
23 proved him guilty, you didn't care anything about that,
24 what I just said. That didn't matter to you.

25 JUROR NUMBER 204: No.

1 THE COURT: Because you already had your mind made
2 up ---

3 JUROR NUMBER 204: Yes, sir.

4 THE COURT: --- when you walked into that door.

5 JUROR NUMBER 204: Yes, sir.

6 THE COURT: It's fair to say that you didn't even
7 want to be on this jury; is that correct?

8 JUROR NUMBER 204: No, sir, I didn't.

9 THE COURT: All right. And I watched your body
10 language when you were in the panel, and you showed
11 frustration, the fact that you were even selected, that
12 your name was even called; is that correct?

13 JUROR NUMBER 204: Yes, sir.

14 THE COURT: And so you were frustrated from the day
15 that you walked into this courthouse being selected for
16 jury duty.

17 JUROR NUMBER 204: Yes, sir.

18 THE COURT: So is this more that you don't want to
19 be on the jury and this is your way of getting out of it?

20 JUROR NUMBER 204: No, sir.

21 THE COURT: What is this? This is what you believe?

22 JUROR NUMBER 204: That's the way I feel. Yes, sir.

23 THE COURT: Any other questions for this man?

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

25 THE COURT: Anything else?

1 MR. MARCHANT: Yeah, Judge. If I can have a minute.
2 I think we're entitled to understand where this
3 conversation took place.

4 Where did you speak with the forelady?

5 JUROR NUMBER 204: In the back room.

6 MR. MARCHANT: You were in the back room already
7 with the other 12 members.

8 JUROR NUMBER 204: Yes, sir. But me and her stood
9 off to the one side by ourself.

10 MR. MARCHANT: And how far was the closest person to
11 the two of you?

12 JUROR NUMBER 204: Probably from me to the officer.

13 MR. MARCHANT: Six, eight feet?

14 JUROR NUMBER 204: Give or take.

15 MR. MARCHANT: Okay. You're talking about one of
16 these jury rooms back here that's completely insulated.
17 They put you in the jury room, and there's 11 back --
18 excuse me -- 13 of you back there.

19 JUROR NUMBER 204: Yes, sir.

20 MR. MARCHANT: That room has got one table in there,
21 right?

22 JUROR NUMBER 204: Uh-huh.

23 MR. MARCHANT: And you agree with me it's probably
24 about 25 foot long?

25 JUROR NUMBER 204: Approximately.

1 MR. MARCHANT: And so you're saying that the closest
2 person to you and the Forelady was eight feet away.

3 JUROR NUMBER 204: Between -- I don't know. Between
4 six, eight feet.

5 MR. MARCHANT: And were you whispering in her ear?
6 Or how you did you communicate this message?

7 JUROR NUMBER 204: She was standing right here, and
8 I was talking to her as quiet as I could where she could
9 hear me.

10 MR. MARCHANT: Nothing to prevent somebody else from
11 hearing you, though.

12 JUROR NUMBER 204: No.

13 MR. MARCHANT: Thank you. I don't have any further
14 questions.

15 THE COURT: Did you engage with anybody else in the
16 jury room other than the foreperson?

17 JUROR NUMBER 204: No, sir.

18 THE COURT: Did any of the other members of the jury
19 engage with you?

20 JUROR NUMBER 204: No, sir.

21 THE COURT: Did you see any other members of the
22 jury engage with the forelady?

23 JUROR NUMBER 204: No, sir.

24 THE COURT: How soon after you got into that room
25 that you had this conversation?

1 JUROR NUMBER 204: Almost immediate.

2 THE COURT: You didn't get a chance to sit down?

3 JUROR NUMBER 204: (Shakes head negatively.)

4 THE COURT: Before you sat down, you went and got
5 her and the two of you, according to what you just told
6 Mr. Marchant, went into a corner? Is that right? I'm
7 not trying to put words in your mouth. I'm asking you.

8 JUROR NUMBER 204: Yes, sir.

9 THE COURT: All right. And none of the other jurors
10 looked at you.

11 JUROR NUMBER 204: No, sir. They were still busy
12 talking amongst themselves [sic].

13 THE COURT: About -- nothing about the case as far
14 as you know.

15 JUROR NUMBER 204: No, sir.

16 THE COURT: All right. Just so the record will be
17 clear, the forelady wrote that he is tired, has not
18 slept, he is sure -- this is what she wrote -- he is sure
19 that the defendant is guilty. Did you tell her you were
20 sure?

21 JUROR NUMBER 204: Yes, sir.

22 THE COURT: Those are your words?

23 JUROR NUMBER 204: Yes, sir.

24 THE COURT: All right. Counsel, I don't see any way
25 this young man can be -- I will say this. I heard what

1 he's saying. I will let the record reflect that I think
2 part and parcel of his reasons is the fact that he didn't
3 want to serve as a juror and indicated that frustration
4 since the time he was selected.

5 So, sir, I'm going to excuse you from the trial of
6 this case. I have no choice based upon what you just
7 said.

8 JUROR NUMBER 204: Yes, sir.

9 THE COURT: Anything further?

10 MR. FRETWELL: Not from the State, Your Honor.

11 MR. MARCHANT: No, Your Honor.

12 THE COURT: All right. But I'm going to send you
13 downstairs back to the jury assembly room, get some
14 instructions. You're excused from the trial of this case
15 but you're not excused from jury duty.

16 JUROR NUMBER 204: Yes, sir.

17 (WHEREUPON, Juror Number 204 exits the courtroom.)

18 THE COURT: All right. Bring the jury forelady
19 back. Bring her in.

20 (WHEREUPON, the jury foreperson enters the courtroom.)

21 THE COURT: Ma'am, would you stand right there for
22 me, please.

23 JURY FOREPERSON: Yes, sir.

24 THE COURT: All right. I'm not going to put you
25 under oath because you took an oath when you were sworn

1 in.

2 The bailiff brought me a note that was given to me.

3 Did you write this note?

4 JURY FOREPERSON: I did.

5 THE COURT: This is your handwriting?

6 JURY FOREPERSON: Yes, sir.

7 THE COURT: All right. And this note reflected your
8 communication with one of the jurors, Juror Number 204.
9 And you put his name on here, Kevin, and you spelled his
10 name P-U-C-H; is that right?

11 JURY FOREPERSON: I believe that's how it's spelled.

12 THE COURT: All right. Could you tell me, what did
13 Juror Number 204 say to you?

14 JURY FOREPERSON: Yeah. He said he hasn't slept
15 since -- I forgot exactly the time he said, but he hasn't
16 slept and that he doesn't want to do this at all and he
17 accused the defendant of being guilty.

18 THE COURT: All right. He indicated to you that he
19 does not want to participate in this at all. Those were
20 his words?

21 JURY FOREPERSON: Yes, sir.

22 THE COURT: All right. And so what you wrote on
23 this note, you just listened to him and you sort of
24 paraphrased what he said and gave me this note.

25 JURY FOREPERSON: Yeah.

1 THE COURT: But he specifically said he didn't want
2 to be here.

3 JURY FOREPERSON: Yes, sir, he did.

4 THE COURT: You heard him say that.

5 JURY FOREPERSON: Yes.

6 THE COURT: All right. Now, this conversation took
7 place inside the jury room?

8 JURY FOREPERSON: Yes, it did. On the corner right
9 by the door.

10 THE COURT: The corner by the door. All right.

11 This juror, he whispered this information to you or
12 did he just ---

13 JURY FOREPERSON: Yeah. We were close. I
14 specifically wanted to do that so not everybody can hear
15 us.

16 THE COURT: All right. So you had your back turned
17 to the other members of the jury.

18 JURY FOREPERSON: Yes.

19 THE COURT: All right. So they did not know what
20 you were talking about, and in your view, they did not
21 hear what you said.

22 JURY FOREPERSON: Yeah.

23 THE COURT: Were you whispering as well?

24 JURY FOREPERSON: Yes.

25 THE COURT: And you're soft-spoken so you were

1 talking a little softer than you are now; is that
2 correct?

3 JURY FOREPERSON: Yes.

4 THE COURT: All right. And even though you read
5 this note -- not read this note. You wrote this note.
6 And let me just read what you wrote.

7 JURY FOREPERSON: Okay.

8 THE COURT: Juror Number 204, Kevin Pugh, P-U-C-H,
9 he is tired, period. Has not slept, period. He is not
10 -- he is sure that the defendant is guilty. Those were
11 his words?

12 JURY FOREPERSON: Well, again, I paraphrased.

13 THE COURT: Paraphrased what he said.

14 JURY FOREPERSON: Yeah. I tried to shorten it.

15 THE COURT: But he said he didn't want to be here.

16 JURY FOREPERSON: Yeah.

17 THE COURT: All right. Now, even though you heard
18 him make this statement and it's memorialized on this
19 note ---

20 JURY FOREPERSON: I should have included it.

21 THE COURT: Ma'am?

22 JURY FOREPERSON: I should have included it.

23 THE COURT: That's fine.

24 Does this impact you and your decision regarding --
25 because you understand that I specifically stated that as

1 Mr. George sits there, he's presumed innocent. You heard
2 me give that instruction.

3 JURY FOREPERSON: Yes, sir, I did.

4 THE COURT: And I specifically said that the burden
5 of proof in this state is upon the State ---

6 JURY FOREPERSON: Right.

7 THE COURT: --- to prove this defendant guilty
8 beyond a reasonable doubt. You heard me say that.

9 JURY FOREPERSON: Yes, sir, I did.

10 THE COURT: All right. And you heard the opening
11 statements of both sides.

12 JURY FOREPERSON: Yes.

13 THE COURT: And you heard me say that the opening
14 statements is not evidence of anything.

15 JURY FOREPERSON: That's right.

16 THE COURT: It's an opinion.

17 JURY FOREPERSON: That's right. Yes, sir.

18 THE COURT: So has this note impacted your
19 opinion ---

20 JURY FOREPERSON: No, sir.

21 THE COURT: --- regarding this case?

22 JURY FOREPERSON: No, sir. That was his opinion.

23 THE COURT: All right. So this note is not going to
24 interfere with you, I'm talking about you ---

25 JURY FOREPERSON: Yes, sir.

1 THE COURT: --- following my instructions ---

2 JURY FOREPERSON: Right.

3 THE COURT: --- as the foreperson in this jury.

4 JURY FOREPERSON: No, sir. It won't affect me.

5 THE COURT: Do you think that you could carry out
6 your responsibilities untainted as the foreperson of the
7 jury?

8 JURY FOREPERSON: Yes, sir.

9 THE COURT: And follow my instructions?

10 JURY FOREPERSON: Yes, sir.

11 THE COURT: All right. Have you detected anything
12 in that jury room that would give you any indication at
13 all that any other juror was impacted by this or anything
14 else?

15 JURY FOREPERSON: There was one conversation that
16 kind of started that I heard one of the jurors say, well,
17 did you look at the defendant, like his reaction. And I
18 said, okay, we need to stop that.

19 THE COURT: You instructed the jury.

20 JURY FOREPERSON: Yes.

21 THE COURT: That question was directed to you or
22 to ---

23 JURY FOREPERSON: No. It was to the -- to the
24 whole...

25 THE COURT: All right. So when I said don't talk

1 about it at all, there was that one isolated
2 conversation?

3 JURY FOREPERSON: Something started, and I caught
4 her saying did you see how he reacted. And I said, no,
5 we're stopping that.

6 THE COURT: All right. Nothing else.

7 JURY FOREPERSON: Hu-uh. That's all.

8 THE COURT: Okay. All right. Any other questions
9 for this juror from the State?

10 MR. FRETWELL: You were quite thorough, Judge. No.

11 THE COURT: Mr. Marchant?

12 MR. MARCHANT: I just want to make sure I'm clear.
13 When you enter the jury room, there's the door, and the
14 restroom's either to the right or the left.

15 JURY FOREPERSON: Uh-huh.

16 MR. MARCHANT: You're standing in the kind of foyer,
17 for lack of a better word ---

18 JURY FOREPERSON: Yeah.

19 MR. MARCHANT: --- before you get into the room
20 where the table is?

21 JURY FOREPERSON: Yes, sir.

22 MR. MARCHANT: So you're all the way back here ---

23 JURY FOREPERSON: Yes, yes. Right by the door.

24 MR. MARCHANT: --- where the door to the hallway is.
25 Okay. But as you're discussing this with Mr. Pugh,

1 your back is to the remainder of the jury pool?

2 JURY FOREPERSON: Yes, sir.

3 MR. MARCHANT: Okay. And so he's talking towards
4 the room.

5 JURY FOREPERSON: He's kind of like by the wall.
6 His back was more towards the wall. So I'm kind of here.
7 He's like this.

8 MR. MARCHANT: He's leaning up against the wall
9 where the restroom is?

10 JURY FOREPERSON: He's talking down to me.

11 MR. MARCHANT: And you're standing perpendicular to
12 him?

13 JURY FOREPERSON: Yeah. So he's talking to me as
14 I'm writing down.

15 MR. MARCHANT: And could you see where the other
16 jurors were in the room?

17 JURY FOREPERSON: No, sir. I was paying attention
18 to him to make sure.

19 MR. MARCHANT: You don't know how close anybody was
20 to you or that conversation.

21 JURY FOREPERSON: No, sir.

22 MR. MARCHANT: But then you subsequently heard a
23 conversation of other jurors discussing Mr. George and
24 his physical attributes or his reaction or ---

25 JURY FOREPERSON: I forgot specifically what they

1 said. But all I caught was her saying -- when I heard
2 "defendant," I said, okay, that's talking about the case.
3 So I made sure let's not talk about that anymore. Let's
4 nip it in the bud.

5 MR. MARCHANT: Do you know if anyone in the pool
6 overheard you and Mr. Pugh and what y'all were talking
7 about? You can't say one way or another.

8 JURY FOREPERSON: (Shakes head negatively.)

9 MR. MARCHANT: Okay. Thank you.

10 JURY FOREPERSON: We haven't talked.

11 THE COURT: All right. Do you feel comfortable,
12 Madam Forelady, that --- and, you know, first of all, I
13 want to thank you for exercising your duty as forelady,
14 you know. Because when I specifically give instructions
15 that these people that you haven't met that you're in
16 charge of, I appreciate you doing that and I hope you
17 continue to do that as we move forward in this trial.
18 Because it's important to both sides.

19 All right. So I'm going to let you go back in the
20 jury room. And I'll bring you out as well as the jury
21 out in just a few minutes.

22 MR. MARCHANT: I'm sorry. Before she leaves, she's
23 done everything that you've asked her to do thus far, but
24 I think we need her -- I think we need some clarifying
25 instructions for her not to discuss what Mr. Pugh has

1 discussed with her.

2 THE COURT: Well, you know, and I know you're not
3 going to do that. But I think counsel is correct. You
4 can't discuss -- even if someone came up to you and asked
5 you what happened to Mr. Pugh, you can't answer that
6 question.

7 JURY FOREPERSON: Okay.

8 THE COURT: As a matter of fact, you shouldn't even
9 open your mouth to it. You shouldn't even acknowledge it
10 at all.

11 JURY FOREPERSON: Uh-huh.

12 THE COURT: You should not -- you shouldn't shake
13 your head or nothing. Just act like the question was
14 never asked.

15 JURY FOREPERSON: Okay. Yes, sir.

16 THE COURT: Would you do that for me?

17 JURY FOREPERSON: Yes, sir.

18 THE COURT: All right. Thank you, ma'am.

19 (WHEREUPON, the jury foreperson exits the courtroom.)

20 THE COURT: All right. Okay. Mr. Marchant, yes,
21 sir. What you got?

22 MR. MARCHANT: Waiting on the door to shut.

23 Thank you, Judge. I'm renewing my motion for a
24 mistrial. It's unclear, and I think as we sit here, it's
25 uncertain who else may be aware of this information in

1 the pool. So without -- I don't think there's any other
2 option than for you to bring each juror out here and ask
3 them if they've ever heard some conversation.

4 Further, we now know that other jurors have already
5 violated your instructions and orders to them discussing
6 my client and his reactions. So, again, in making a
7 motion for a mistrial, now I'm putting forth two grounds:
8 one, the conversation that exists with Mr. Pugh, and now
9 we now know of other conversations that went on back
10 there about my client and either his physical attributes
11 or the way he responded or reacted. And that is in
12 direct violation of the order and instructions you have
13 already given this jury. And so for those reasons, we
14 cannot receive a fair trial because those things have
15 already been violated.

16 MR. FRETWELL: Judge, words mean different things to
17 different people. I understand the Court. I understand
18 when the Court charges the jury to not discuss the
19 matter, that's exactly what the Court means. It is
20 possible, however, Your Honor, for somebody on that panel
21 to think as long as we don't talk about what was said,
22 that a comment about something else might be okay. I
23 would ask the Court to bring the panel out, to recharge
24 them on communication, to instruct them that any kind of
25 communication about anything that happens in this

1 courtroom is not to be had.

2 I will remind the Court that there's been no
3 evidence in this case whatsoever with the exception of
4 some very, very brief background by this officer, that
5 anything else was just the opinion, as Mr. Marchant
6 agreed with the Court in his opening, of the lawyers.
7 And I do believe that this jury, impaneled the way it is
8 with the Court's confidence in a foreperson the Court
9 selected who is vigilant about performing her duties,
10 will guarantee this defendant a fair trial in this case.

11 THE COURT: All right. Thank you, Mr. Fretwell.

12 This is not my first time, as my law clerk would
13 probably tell you, that we've been facing. So if you
14 notice when I give specific instructions to the jury, I
15 always say to the foreperson you are in charge of this
16 group that you don't know. And if anything happens back
17 there, I don't care what it is, you've got to let me
18 know. I say that, and I started doing that a few years
19 ago because I think the boilerplate language that the
20 Court uses in telling the jury not to discuss the case,
21 sometimes you've just got to be a little firmer. You've
22 got to direct that question directly at that foreperson,
23 because -- and tell that foreperson we're not going to
24 tolerate this.

25 And as you noticed, she did say when they started to

1 talk about whatever, she said we can't do that. So she
2 was following my instructions. She was exercising the
3 duty that I gave her to do this. So I'll hear from you.

4 But as far as your motion for a mistrial on the
5 other ground, Mr. Marchant, I'm going to go ahead and
6 deny that. I'll note it for the record. I will bring
7 the panel out and I will give them some hard-nose
8 instructions, which I can do. I don't have any problems
9 doing it, you know. I've done it in the past. And I
10 will say -- but I think I'm not inclined to grant a
11 mistrial, but it's noted for the record.

12 MR. MARCHANT: Thank you, Your Honor.

13 One more thing. We now don't know what they have
14 discussed back there because the foreperson was out here
15 being questioned by you. So I think there is no choice
16 other than you go through individually and ask them if
17 they've had any conversations or discussions about this
18 case so we are clear. I think we have another issue.

19 THE COURT: Thank you, Mr. Marchant.

20 MR. FRETWELL: Judge, I disagree. I believe that
21 Mr. Marchant is required to demonstrate some sort of
22 prejudice based on the information that's been presented
23 to the Court. I think at some point -- what the Court
24 has already articulated addresses the issues that have
25 been brought before the Court with respect to bringing

1 the panel out, making it absolutely clear at this seminal
2 stage in this case that nothing that goes on in this
3 courtroom can be discussed in any way, shape or form with
4 one another, that it is not merely the content of what is
5 said. It is anything that happens in this courtroom.
6 And I believe this jury impaneled with this foreperson
7 will abide by their oath, will follow the Court's
8 instructions and will give Mr. George a fair trial.

9 THE COURT: And, Mr. Marchant, I hear what you're
10 saying. But certainly, I'm going to deny it, your
11 continuance of a mistrial.

12 But here is -- you have no proof whatsoever what
13 conversation happened in that room when that foreperson
14 was out here talking to me. You have no idea what's
15 going on. You are just assuming that they were back
16 there talking with one another, but you can't prove that,
17 can you? It's speculation.

18 MR. MARCHANT: Your Honor, it would be -- it is. It
19 is. But there is context here because we already know
20 they have violated an order that you've given them. So
21 when ---

22 THE COURT: Hold. I think it's unfair to that jury
23 panel to put them all in the same boat when you use --
24 when you're using the same pronoun "they." I guarantee
25 you some jurors back there would be insulted by what

1 you're saying. Some jurors back there, they're doing
2 exactly -- probably the rest of them doing -- may be
3 doing exactly what I said. So when you say they
4 violated, this young lady clearly stated that she heard
5 one person say something and she shut it down. She never
6 said "they" or "it was a bunch of them." But you want to
7 characterize it as the whole room was saying something,
8 and you have no proof of that. It's all speculation.
9 And I think your argument is -- you know, is taken. But
10 I just think that that's unfair for the rest of those
11 jurors back there who did take the oath and who are
12 abiding by the oath. You don't know that. You don't
13 have any proof of that.

14 Now, what I'm going to do is when I bring them back
15 out here and what I say to them, trust me, if there's
16 somebody that violated it, once I get through talking,
17 they're going to get up and tell me. And then maybe at
18 that point -- but I just think we need to move this
19 along.

20 And so it's noted for the record. Let the record
21 note that I denied your motion for a mistrial, and I did
22 bring the Juror Number 204 in, we dismissed that juror,
23 we replaced that juror with the Alternate Number 2, and
24 then Ms. Ramirez, Juror Number 209 who is the foreman,
25 will remain as the foreperson of the jury.

1 Bring them out. Let me just see what I can do.

2 (WHEREUPON, the jury entered the courtroom at 1:13 PM.)

3 THE COURT: Ladies and gentlemen of this jury, I'm a
4 nice guy, but I'm a serious guy. And typically, I
5 respect all of you as jurors. I think your role as
6 jurors is up there. You're deserving of all the respect
7 that this court can give you both from the State, from
8 the other side. I'm going to continue to respect you in
9 that role as jurors because I think you deserve that
10 respect. I will never waver from that respect, giving
11 you the respect as jurors. But what I need from you and
12 what both sides in this case need from you is to follow
13 my instructions.

14 I don't know any of you. Never met you. And you've
15 probably never met me. But when I say repeatedly,
16 repeatedly, repeatedly that you are not to discuss
17 anything with each other about this case, I don't care
18 what it is, if it pertains to this case, you are
19 instructed not to have any discussion, dialogue or
20 anything of any kind at all.

21 This is not Alex Kinlaw talking. This is the Court
22 talking. Alex Kinlaw is somewhere under this robe. But
23 when I put this robe on, I become the Court. When I
24 ain't got the robe on, I'm Alex Kinlaw. But when I've
25 got the robe on, I'm the Court. And there's a

1 difference. So when I got in my car this morning, when I
2 put this on, I'm the Court. And when I give you
3 instructions, it's not Alex Kinlaw giving you
4 instructions, it's the Court. And the Court is
5 instructing you that however long this trial lasts, that
6 you cannot, you must not and you will not have any kind
7 of discussions about this case at all. If you don't
8 understand anything that I said, let me know.

9 You know, and I'll say it like this. I don't know
10 you but I love you because that's what I was taught to
11 do. And I'm going to still love you, but I need you to
12 do what I'm asking you to do, you know. You still love
13 your kids, but you still want them to do what you want
14 them to do. It doesn't take away the love for them.

15 So please ma'am, please, sir, please do what I'm
16 asking you to do and obey my instructions. And my thing,
17 I'm just doing what I'm supposed to do, and I want you to
18 do what you're supposed to do, okay? Can you do that for
19 me? So follow my instructions to the T.

20 Madam Forelady, you're in charge. I thank you for
21 what you're doing.

22 Now, Alternate Number 2, who is alternate Number 2?
23 All right. You are now a member of the panel. We've got
24 12 jurors up there, sitting up there. So we're going to
25 move forward.

1 So Mr. George, the defendant, and the State, they
2 deserve that from y'all. They deserve that from you. So
3 do that for me.

4 Anything from the State?

5 MR. FRETWELL: No, Your Honor.

6 THE COURT: Anything from the defendant?

7 MR. MARCHANT: No, Your Honor.

8 THE COURT: All right. Where were we before we left
9 off? Direct examination?

10 MR. FRETWELL: Yes, Your Honor.

11 THE COURT: All right.

12 MR. FRETWELL: May it please the Court.

13 BY MR. FRETWELL:

14 Q Deputy League, orient us back to what we were
15 discussing. You were going in to meet Mr. Knutson at the
16 Greer Police Department to discuss his phone call with
17 dispatch; is that correct?

18 A Yes, sir.

19 Q And you did arrive. You did speak with Mr. Knutson.
20 Could you very briefly give us a summary of the
21 information that was provided to you that you passed on
22 to Investigator King with the Homicide Unit?

23 A Yes, sir. When I met with Kurt, the first thing he
24 asked for was to sit in my backseat and talk. He was in
25 the parking lot, in the open area of the municipal

1 parking lot there.

2 He first asked me if I knew a Bobby Ray Smith. He
3 told me he lived off of 357 -- what was it he said? --
4 there past the fire station, the Dollar General and on
5 the corner road, come back towards Blue Ridge. He went
6 on describing that he was okay, though.

7 His next question to me was he asked me if I knew
8 who the Russians were. And I told him I did not. He
9 said they are in a gray or silver hightop Mercedes van
10 involved in human trafficking.

11 He then went on to ask about David Stokes. And at
12 the time, I didn't recognize David's name when he asked
13 me. I realized later on that I did know him several
14 years back in encounters. But he said David had prior
15 had assaulted somebody with a machete, you know, at his
16 place.

17 And then he went on to describe that Bobby Ray had
18 set up the Russian. He didn't know his name. He thought
19 it started with A. He thought they were supposed to rob
20 him and Bobby Ray had set it up.

21 He said one of them held him at gunpoint. They had
22 gotten him over to a different location. One of them
23 held him at gunpoint, and at some point, they started
24 hitting him with machetes. And as Kurt described it, you
25 know, they were -- you know, they were committed from

1 that point once they did that.

2 He said -- he told me he didn't know if they shot
3 the Russian or not. But he said he was not there. David
4 had actually left the evening before, said he was going
5 to do something with a girl.

6 And the next morning, Kurt wakes up, he hears a
7 noise. He goes outside, and David was digging a hole and
8 told him he couldn't help him, you know. Can't tell you
9 about this. You can't help me with this. He said then
10 as Kurt's describing this thing, he said he was dragging
11 the little dude to the hole.

12 He said he didn't know if they shot him. That's
13 when he said he didn't know if he shot him. He said he
14 was wearing a vest like mine type thing's what he
15 described. Almost like a bullet-resistant, bullet-proof
16 vest. He said it had a hole in it, wasn't sure. Told me
17 that David, I guess, relayed to him what had happened.

18 MR. MARCHANT: Objection. Hearsay.

19 THE COURT: Overruled.

20 THE WITNESS: Said David had relayed to him what had
21 happened. Said they had, you know, started with the
22 machetes on the guy. Said they couldn't finish him off.
23 Said, you know, an individual by the name of Jeff is the
24 one that finished off the individual.

25 He told me that it was David, a Jeff and an Isaiah

1 were involved. He said he thought there was a fourth
2 person, but he wasn't sure who that was that was involved
3 as well.

4 When I asked him where this happened, he told me he
5 didn't know the address, but it was at a female by the
6 name of Aubrey's [phonetic] place. And she lived next to
7 her grandmother which was 220 C and S Drive.

8 BY MR. FRETWELL:

9 Q All right. And as you've indicated, Mr. Knutson was
10 telling you he was not present ---

11 A That's affirmative, sir.

12 Q --- when this attack and this murder occurred.

13 A Yes, sir.

14 Q Okay. Let me show you what's been premarked as
15 State's Exhibit 1 through 4. I'll ask you to look at
16 these four items of evidence.

17 A (Reviews exhibits) Yes, sir.

18 Q And I'll ask you if those four items of evidence, if
19 you recognize them ---

20 A Yes, sir.

21 Q --- if you're familiar with them.

22 And with the exception of what you have indicated
23 pretrial on State's Exhibit 4 with the actual location of
24 the marker of the address of [REDACTED] Creek Road, are
25 these maps an accurate representation of that area and

1 are you familiar with that area?

2 A Yes, I am, sir.

3 MR. FRETWELL: Your Honor, at this time, the State
4 would move 1 through 4 into evidence.

5 THE COURT: Any objection?

6 MR. MARCHANT: No objection.

7 THE COURT: So entered without objection.

8 (WHEREUPON, State's Exhibit Numbers 1 through 4 were
9 admitted into evidence.)

10 MR. FRETWELL: Your Honor, permission to publish at
11 this time.

12 THE COURT: Any objection?

13 MR. MARCHANT: No, Your Honor.

14 THE COURT: So ordered.

15 BY MR. FRETWELL:

16 Q All right. Publishing Number 1, State's Exhibit 1.
17 And I am no expert at technology so let me see if I can
18 get that all on there.

19 Deputy League, I apologize that the monitor next to
20 you does not appear to be working. So with the Court's
21 permission, will you step down please, if that's okay
22 with the Court.

23 THE COURT: Yes, sir.

24 BY MR. FRETWELL:

25 Q And please demonstrate to the jury what area of

1 Greenville County are we referring to? Maybe point out a
2 couple of landmarks, major roads that the jury might be
3 able to associate with this particular area.

4 A Yes, sir. This is the northeastern part of
5 Greenville County. This is Highway 29 known as Wade
6 Hampton. It runs from Greenville through Greer. As a
7 matter of fact, this is the Greer -- all of this is the
8 Greer area right here, Greer City. Highway 14.
9 Everybody familiar with Otter Creek Water Park over there
10 if you're going towards Travelers Rest, that's what's
11 right here. Paris Mountain State Park and, of course,
12 Lake Robinson on the right (indicating throughout).

13 Q Now, let me ask you, you testified a few minutes ago
14 about a location on C and S drive. Can you orient the
15 jury, first of all, generally where this is on this map
16 and what area of Greenville County? And then I'll
17 present you with the other maps.

18 A This is the unincorporated portions of Greer which
19 resides inside Greenville County. This is Highway 14.
20 So if you're coming out of Greer, this is Highway 14
21 right here. This is Mount Lebanon Road -- excuse me --
22 Mount Lebanon Church Road that runs from Highway 414 --
23 or 14 and it continues on. C and S is actually right
24 here on this section here where you have Fitts comes up,
25 and then C and S picks up and goes down Cripple Creek

1 (indicating throughout).

2 Q And before we move to a different map of this, the
3 higher red mark on that map is what general location?

4 A The one right up here (indicating)?

5 Q Yes, sir.

6 A This is the location where the body was found on
7 Cripple Creek.

8 Q At this time, I want to -- just stay where you are.
9 I'm going to switch out and go to State's Exhibit 2. And
10 what is this, sir?

11 A This is both where the incident location and where
12 the -- recovery of the body location.

13 Q Okay. And I was looking down when you probably
14 pointed up there. So I can see it, can you point out the
15 location of where this incident was alleged to have
16 occurred and where the body was discovered, sir?

17 A Yeah. The incident location where it occurred was
18 actually 212 C and S (indicating) which is adjoining
19 220 C and S which was described by Mr. Knutson.

20 Q Okay. And the area that Mr. Knutson described as
21 where the body was buried, that he assisted in the
22 burial, where is that on that?

23 A That is going to be at [REDACTED] Creek, which you
24 see some residence here, but the actual location where it
25 happened was right up in here (indicating throughout).

1 Q And do those two streets, C and S Road and Cripple
2 Creek Drive -- or do I have that mixed up?

3 A Cripple Creek Road, sir.

4 Q Cripple Creek Road and C and S Drive, do they
5 intersect back there?

6 A Yes, sir. They intersect right back here
7 (indicating). C and S runs into Cripple Creek.

8 Q And just one other thing. That main yellow road
9 right there, what road is that, sir?

10 A Mount Lebanon Church Road.

11 Q Okay. Let me show you State's Exhibit 3. What is
12 this map of, sir?

13 A This is a map of the incident location, 212 C and S
14 Drive.

15 Q When you say "the incident location," what are you
16 referring to?

17 A This is where the crime occurred.

18 Q Okay. And finally, I'm going to ask you about
19 State's Exhibit 4. I'm sure there's a way to make that
20 brighter, but I don't happen to know how to do it. So if
21 you could just explain what this area is and any kind of
22 -- anything that you need to say about that particular
23 label of the location to the jury to make sure that they
24 understand what that map is supposed to show.

25 A This is [REDACTED] Creek. This is where the body

1 of the deceased or the victim was recovered. You see
2 where the label showing right here, it's actually a
3 separate numeric. There's this driveway comes off. This
4 actually has a separate numeric. That numeric actually
5 lies back up here into this little area that you can see
6 where you can see the circle and stuff and a small open
7 area (indicating throughout).

8 Q And this overhead satellite view, is this the same
9 way it was on the date of December -- in December of 2019
10 or are there things missing at this point?

11 A Well, there's the residence and stuff. There was a
12 trailer or mobile home that sat right here. It kind of
13 runs the same direction as the driveway coming up. There
14 was a camper as well, a small camper on the property, and
15 it run this direction (indicating throughout).

16 Q Is that the location that Mr. Knutson indicated to
17 you where he was staying and where the body was buried?

18 A Yes, sir. When he first described where he was --
19 was telling me where this was, you know, I didn't know
20 where he was talking until he started describing actually
21 that you have to drive up the driveway, you go back way
22 up the hill, you know. And then I recognize it from
23 prior calls for service several years before.

24 Q And did you relay all of that information to
25 Investigator King?

1 A Yes, I did, sir.

2 Q All right. And what did Investigator King instruct
3 you to do?

4 A At that point, it was -- because we were talking
5 with Kurt, you know, we were just -- basically, it was a
6 fill-out. But we have something that sounds like it's a
7 legitimate call here. At that point, it was to ask
8 Mr. Knutson if he would like to come down to the Law
9 Enforcement Center and speak with investigators formally
10 and further about it.

11 Q And did he, in fact, agree to go down to the Law
12 Enforcement Center?

13 A Yes, he did. He went voluntarily. Not cuffed. He
14 was trusted. This is voluntary. You're not being
15 handcuffed. You're not under arrest. We're just giving
16 you a ride.

17 Q Did you stay at the Law Enforcement Center while
18 Mr. Knutson was being interviewed?

19 A Yes, I did.

20 Q Okay. But you were not a part of that interview.

21 A No, I was not, sir.

22 Q At the conclusion of that interview, what, if any,
23 additional role did you have on that particular day?

24 A For that particular day, investigators obtained a
25 search warrant for the location at [REDACTED] Creek.

1 That's where I went to. I took -- drove Kurt back to
2 that -- or to that location with investigators and
3 forensics and other folks. And I had Kurt. Primarily,
4 all I did was transport him on -- if they needed to ask
5 him further questions up there or more to identify the
6 location and stuff that he described where the body was.

7 Q Final question for you. Both of those locations,
8 the C and S Drive and the Cripple Creek Road address, are
9 they within Greenville County?

10 A Yes, sir. They're both within Greenville County.

11 Q Close to Spartanburg, but in Greenville County.

12 A Yes, sir.

13 MR. FRETWELL: Okay. Thank you, sir.

14 No further questions, Your Honor.

15 THE COURT: Cross-examination?

16 CROSS EXAMINATION

17 BY MR. MARCHANT:

18 Q So you had prior dealings with Mr. -- I may be
19 mispronouncing -- Knutson?

20 A Knutson.

21 Q Knutson.

22 A Yes, sir.

23 I was more than familiar with him.

24 Q More than familiar. Because you'd been involved
25 with him once? twice? a dozen times?

1 A I've been involved with him. I mean, we have
2 involvement. It might not always be legal involvement.
3 But him at locations or talking with him or coming across
4 him.

5 Q Okay. And where did you meet him on December 16th?

6 A In the parking lot right next to the Greer Police
7 Department. Actually, the municipal parking area there
8 next to the building.

9 Q So you sat in your patrol car?

10 A Oh, I drove there. I stood outside of my patrol
11 car. He sat in my backseat.

12 Q On that date and time, were you on shift working?

13 A Yes, sir.

14 Q And as part of that, do you routinely run your video
15 and audio?

16 A Yes, sir. I had my body cam activated.

17 Q Did you have your body cam activated when you were
18 talking to Mr. Knutson?

19 A Yes, sir.

20 Q You did.

21 Do you recall how long that interaction was with him
22 out there at Greer?

23 A No, I do not, sir.

24 Q Okay. But then you subsequently got in touch with
25 Tracy King and brought Mr. Knutson to the Law Enforcement

1 Center.

2 A Yes, sir.

3 Q What did you do with the body camera footage from
4 the time you spent with him out at the Greer Police
5 Department?

6 A We do upload our body cameras. It goes uploaded.
7 There's nothing we do directly with it. Basically, we
8 have an upload process. They get uploaded. They go to
9 its own -- that one at the time was a cloud server.

10 Q So it would have been saved ---

11 A Yes, sir.

12 Q --- on your system and made available to the
13 prosecutor?

14 A Yes, sir.

15 Q Okay. So the majority of the conversation that you
16 had with him occurred in the parking lot?

17 A Yes, sir.

18 Q Was there any conversation? Did it continue on the
19 way back to the Law Enforcement Center?

20 A No, sir.

21 Q Was your body cam or in-car camera running at that
22 point in time?

23 A No. I don't believe at that point with that.

24 Q But you did capture that interview out at Greer
25 Police Department.

1 A Yes, sir.

2 Q This was December 16, 2019, correct?

3 A Yes, sir.

4 Q Okay. And were you involved in taking any DNA or
5 fingerprints or anything like that?

6 A No, sir.

7 Q Okay. Would that ever be a part of your role in
8 investigation?

9 A Not in Greenville County Sheriff's Office. It's not
10 part of my role at all, sir.

11 Q Okay. What about doing interviews? I realize you
12 had a conversation with him, but do you routinely
13 interview suspects back at the Law Enforcement Center?

14 A We can at times, depending.

15 Q And so what you've testified to is you had a
16 conversation with Mr. Knutson, and he's told you about a
17 couple different addresses. All right. So I'm showing
18 you State's Number 2. You're at the Greer Police
19 Department having a conversation with him about these two
20 addresses, right?

21 A Yes, sir.

22 Q Okay. And he has told you a whole bunch of stuff.
23 But to be clear, he told you he was not at C and S Drive,
24 right?

25 A He told me he was at 396 -- or [REDACTED] Creek.

1 Q So he stayed there the whole time. He was never at
2 C and S Drive.

3 A He never told me that.

4 Q Okay. And the only person that he talked to about
5 any of this was a fellow by the name of David Stokes.

6 A I don't know if that's the only person he talked to.
7 That was the only one he mentioned to me.

8 Q Okay. But he mentions Stokes having a machete and
9 being involved in an unrelated altercation ---

10 A Yes, sir.

11 Q --- meaning something else had happened somewhere
12 else.

13 A Someone -- something had happened -- you're talking
14 about for this incident or the previous incident for him?

15 Q Yes. His previous incident.

16 A The previous incident was just a previous incident.
17 That's all I knew on that.

18 Q Did he tell you where this previous incident
19 occurred?

20 A If he did, I don't remember. If he told me --
21 actually, it might have happened there at Cripple Creek.
22 But he didn't give me a name for the person on that one.

23 Q He didn't give you a name?

24 A No. He said a name of the person who -- the other
25 party in that.

1 Q He did. Did you document that in your report?

2 A No. Because I just put a brief narrative to our
3 conversation. It's all on my body camera.

4 Q That's on your body cam.

5 Okay. But the gist of what he's told you is that
6 David Stokes has assaulted not the deceased person we're
7 talking about here but somebody else ---

8 A Yes, sir.

9 Q --- at a previous time at Cripple Creek?

10 A Yes, sir.

11 Q Okay. Did you peel off -- and I say "peel off."
12 Did you create a new report number for that incident and
13 that crime?

14 A No, sir. That was something evidently was already
15 documented.

16 Q Documented by who?

17 A The sheriff's office.

18 Q So the sheriff's office has an open -- an open case.

19 A I don't know if it was open or not.

20 Q Do you know if there was a number, a case number
21 that y'all created on that case that was already
22 documented?

23 A At this moment, I do not know. I can go back and
24 pull that.

25 Q Okay. But then he also tells you that Bobby Ray

1 Smith is the one that set this whole thing up.

2 A Yes, sir.

3 Q And he further tells you that he drug a body into a
4 hole that he helped dig.

5 A He told me he helped bury the body later on towards
6 the end of it.

7 Q And he did that with an individual by the name of
8 David Stokes.

9 A Yes, sir.

10 Q So any information that he's giving you is coming
11 from somebody else. He has no personal knowledge of
12 anything except helping bury the body.

13 A As far as -- the way it appears, yes, sir. As far
14 as I know. I'm just getting what he is telling me for
15 that moment there.

16 Q But just so we're clear, he wasn't at C and S Drive.
17 He never told you he was at C and S Drive.

18 A He never told me that he was at C and S Drive.

19 MR. MARCHANT: Thank you, Deputy League. That's all
20 the questions I have.

21 THE COURT: Redirect?

22 MR. FRETWELL: One area, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. FRETWELL:

25 Q Deputy League, Mr. Marchant asked you about your

1 role at the scene there at Cripple Creek. You weren't
2 taking fingerprints. You weren't documenting anything.
3 But did you notice when you pulled up with Mr. Knutson
4 any kind of signage or anything that was in the area
5 right there at the beginning of the property?

6 A When you came up the driveway, when you started --
7 when you passed the -- where the numerics were, where I
8 pointed was actually a different numerics, a different
9 home. You came up the driveway, there was a sign coming
10 up the driveway right before you got up to that property.
11 I don't remember verbatim. It was like if you're caught
12 here, if you're found here, there's going to be a problem
13 and you're going to be that problem. And in addition
14 there was the noose that was hanging with the red paint.

15 Q I'm going to show you what's been marked as
16 State's 6 through 9 and ask you if you recognize what's
17 depicted in those photographs.

18 A (Reviews exhibits) Yes, sir.

19 Q Are 6 and 7 the sign that you just referred to?

20 A Yes, sir.

21 Q And are 8 and 9 the noose that you described?

22 A Yes, sir.

23 Q Do they accurately -- these pictures and photos
24 accurately reflect what you saw that evening?

25 A Yes, sir.

1 MR. FRETWELL: At this time, Your Honor, the State
2 would move 6 through 9 into evidence.

3 THE COURT: Any objection?

4 MR. MARCHANT: No objection.

5 (WHEREUPON, State's Exhibit Numbers 6 through 9 were
6 admitted into evidence.)

7 MR. FRETWELL: Permission to publish, Your Honor.

8 THE COURT: Any objection?

9 MR. MARCHANT: No objection.

10 THE COURT: No objection.

11 BY MR. FRETWELL:

12 Q Very briefly, Deputy League, I'll take you through
13 them one at a time. 6, is this the sign?

14 A Yes, it is.

15 Q 7 with the specific language that was on the sign?

16 A Yes, sir.

17 Q Could you just read that for maybe jurors that might
18 be having the same difficulty seeing that I do?

19 A The sign reads: No trespassing. If you -- if you
20 do, pray to your God. If you're caught on this property,
21 I'll have a mess to clean up. You will be that mess.
22 Thanks and fuck off. David -- and I can't read the last
23 portion at the leaves.

24 Q Okay. State's 8. Sorry. 8. Is that the noose?

25 A Yes, sir.

1 Q And then finally State's 9, close-up of the noose?

2 A Yes, sir.

3 MR. FRETWELL: Your Honor, those are the only
4 questions I have.

5 THE COURT: Anything on recross, Mr. Marchant?

6 MR. MARCHANT: No, Your Honor.

7 THE COURT: All right. Sir, you can step down.

8 MR. FRETWELL: Your Honor, may this witness be
9 excused?

10 THE COURT: Yeah. Any objection to him being
11 excused?

12 MR. MARCHANT: No, with the exception if we need him
13 back for reply for some reason.

14 THE COURT: All right. Can I see counsel just for a
15 second?

16 (WHEREUPON, a bench conference was held off the record.)

17 THE COURT: All right. Ladies and gentlemen of the
18 jury, I know you've had a long morning. And what I'm
19 going to do is we've got -- I know it's about a quarter
20 to two, but we're going to break for lunch. It's a
21 little late, but I know you need to get something for
22 lunch. So we're going to break, and I want you back at
23 3 o'clock if you can. So 3 o'clock.

24 Please, ma'am, please, sir, report to your jury
25 room. And please, ma'am, please, sir, do not talk about

1 the case or anything at all regarding this case during
2 your break. And I'll see you back around 3 o'clock,
3 okay? Thank you ma'am.

4 (WHEREUPON, the jury exits the courtroom at 1:42 PM.)

5 THE COURT: All right. If there's nothing further,
6 gentlemen, we will reconvene at 3 o'clock.

7 (WHEREUPON, a recess is taken at 1:42 p.m.; Defendant's
8 Exhibit Number 1 was marked for identification.)

9 THE COURT: Anything before we bring the jury out?

10 MR. FRETWELL: No, Your Honor.

11 THE COURT: Anything from the State?

12 MR. MARCHANT: No, Your Honor.

13 THE COURT: All right. Bring them out.

14 (WHEREUPON, the jury entered the courtroom at 3:06 PM.)

15 THE COURT: All right. Mr. Fretwell, the State may
16 call its next witness.

17 MR. FRETWELL: Tracy King, Your Honor.

18 THE COURT: Tracy King.

19 WHEREUPON,

20 TRACY KING

21 After having been duly sworn, testified as follows:

22 THE CLERK: Thank you. You may be seated. And
23 state your full name for the record.

24 THE WITNESS: Alvin Tracy King.

25 MR. FRETWELL: May it please the Court, Your Honor.

1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION

3 BY MR. FRETWELL:

4 Q Good afternoon, Mr. King.

5 A Good afternoon.

6 Q Mr. King, where are you currently employed?

7 A I'm employed with the Enchanted Homes.

8 Q What kind of work do you do with Enchanted Homes?

9 A I am a CDL truck driver.

10 Q How long have you held that position and done that
11 job?

12 A Since March 21, 2022.

13 Q Before this job, what was your career, sir?

14 A I was employed by the Greenville County Sheriff's
15 Office.

16 Q In what capacity?

17 A The last position I held was in the Homicide Unit.

18 Q And how long were you a homicide investigator for
19 Greenville County Sheriff's Office, Mr. King?

20 A Mid-2018 through March of 2022.

21 Q But you'd been helping with homicide cases before
22 that; is that correct?

23 A Yes, sir.

24 Q Since what year?

25 A January of 2009.

1 Q Let me take you back to December 16, 2019, sir.

2 Were you contacted by Deputy Blake League with the
3 Greenville County Sheriff's Office on that date?

4 A I was. I received a phone call. Yes, sir.

5 Q And what was the nature of that contact?

6 A He called me and advised that he had a subject that
7 he had dealt with in the past had reached out to him
8 wanting him to meet him at the Greer Police Department
9 and stated that he had some information for him about a
10 missing person. He wanted to know if I was aware of a
11 missing person in the northern Greenville County area
12 which we knew as Patrol District Number 1 which is
13 northern Greer area. I was unaware at that time, and I
14 advised him to go meet with this subject and see if the
15 information he had sounded legitimate.

16 Q And did he, in fact, to your knowledge go and meet
17 with that individual?

18 A He did.

19 Q And did he, upon the conversation with that
20 individual, report back to you what information that he
21 had?

22 A He did. It was a short time later. He called me
23 back and said that he had met with the complainant, a
24 Kurt Russell Knutson. And he advised me that he had
25 provided him with some detailed information.

1 Q Okay. And just very briefly, what was that
2 information about?

3 A It was about an individual that had been murdered
4 and had been buried.

5 Q And what was your understanding of the personal
6 knowledge that this individual had of any of this
7 activity?

8 A The information that I received from Deputy League
9 was that this individual was basically admitting that he
10 actually participated in digging the grave and placing
11 the body in the grave.

12 Q Was he admitting to a crime?

13 A Yes, sir.

14 Q And was he subsequently charged?

15 A Yes, sir.

16 Q What did you instruct Investigator -- I'm sorry --
17 Deputy League to do as a result of his conversation and
18 information he had transmitted to you?

19 A I requested that he bring the subject, Mr. Knutson,
20 down to the Law Enforcement Center.

21 Q Okay. And at that point at the Law Enforcement
22 Center, did you interview Mr. Knutson in this case?

23 A Yes, sir. Myself and Investigator Bailey.

24 Q And that's the gentleman seated right back here
25 (indicating)?

1 A Yes, sir.

2 Q Okay. So you interviewed this individual. As a
3 result of that interview, what did you understand from
4 what was being told to you with respect to other
5 information that you've had from other areas of the
6 sheriff's office? If you could enlighten us on that
7 information, sir.

8 A Yes, sir. It was either during the interview or
9 shortly thereafter the interview, I had made contact with
10 Sergeant Hammett. He was the supervisor over our unit at
11 the time. Briefed him on the information that we had
12 received. And that's when he informed me that Friday the
13 13th, which the weekend prior to this Monday when this
14 occurred, he had received information concerning a
15 missing person and possible homicide in the same area.

16 Q All right. And was Sergeant Hammett at that time
17 over missing persons as well?

18 A That's correct.

19 Q Okay. And what did you -- you and the Homicide Unit
20 do as a result of the information that Mr. Knutson
21 provided you that was corroborated by Sergeant Hammett
22 and the information that he had?

23 A At that point, he was able to give us -- he actually
24 provided us with the location that he stated the incident
25 had actually occurred, the murder itself occurred, and

1 also provided us with the location that the body was
2 buried. And I was able to use Google Earth mapping. And
3 as a result of that, we obtained search warrants for both
4 locations.

5 Q And just specifically, what were those two
6 addresses?

7 A The one location was actually -- I believe we
8 learned it was 212 C and S Drive.

9 Q All right.

10 A And the -- that was the location that he identified
11 where the murder had taken place. And then the second
12 location where he reported the body was located was
13 ██████████ Creek Road.

14 Q All right. And in situations like this -- and did
15 you indicate that you had gotten a search warrant for
16 these locations?

17 A Yes, sir.

18 Q When a body is involved, what is necessary for the
19 sheriff's office to do in those situations?

20 A In a situation like this, we notified the coroner's
21 office and we also notified forensics, explained to them
22 the circumstances, the fact that we had two locations.
23 The coroner's office responded to the Cripple Creek
24 location and forensics responded to both locations.

25 Q And where did you respond, if anywhere?

1 A I responded to the Cripple Creek location.

2 Q And what was the purpose of having teams go to these
3 locations essentially at the same time?

4 A In the event that there was anybody at either
5 location, it's to prevent them making contact. Like say
6 if we went to the Cripple Creek location first, roll in,
7 and let's say there's people present and we have somebody
8 run into the wood line, they could get on a cell phone
9 and alert the people at the other location or vice versa.

10 Q So security and preservation of evidence.

11 A That's correct.

12 Q Let me show you what's been already entered into
13 evidence at State's 1 through 5. Have you looked at
14 these maps, Mr. King?

15 A I have.

16 MR. FRETWELL: Your Honor, permission to republish
17 these exhibits.

18 THE COURT: Any objection?

19 MR. MARCHANT: No, Your Honor.

20 MR. FRETWELL: All right. I'm going to do my best
21 to call you Mr. King.

22 Mr. King, can you look at what is State's Exhibit?
23 Number 1.

24 And, Your Honor, does he have permission to step
25 down?

1 THE COURT: Yes, sir.

2 BY MR. FRETWELL:

3 Q If you can -- first of all, are you familiar with
4 this area, Mr. King?

5 A Yes, sir. That's the area I live.

6 Q Okay.

7 A And grew up.

8 Q And tell me, are you also familiar specifically with
9 the road indicated as Cripple Creek?

10 A Yes, sir.

11 Q And how is that?

12 A That's the road that one of my best friends growing
13 up and to this day grew up on.

14 Q So when you received information about this
15 location, you had no doubt in your mind where that was
16 and you were familiar with it; was that correct?

17 A That's correct. I knew the exact location. Yes,
18 sir.

19 Q Would you mind stepping down and just orienting the
20 jury to the extent possible of where this location is
21 generally in Greenville County?

22 A Okay. This is -- this is going to be US 29 or Wade
23 Hampton Boulevard. If you go southbound on that, that's
24 -- I mean, that's Greer City. You travel northbound on
25 Highway 14, you're going to pass by the Upstate Dog

1 Training Pet Resort, which I utilize. And just not far
2 past that, I'd say not even a mile, you turn right onto
3 Mount Lebanon Church Road. And then right here, this is
4 C and S Drive that goes around. And this is actually
5 Cripple Creek Drive that runs -- both run off of Mount
6 Lebanon Church Road (indicating throughout).

7 Q Stay right where you are, Mr. King. Let me let you
8 look at State's Exhibit 2. Is this the location that
9 you're describing?

10 A Yes, sir.

11 Q All right. And those roads, C and S Drive and
12 Cripple Creek Road, do they intersect?

13 A They do.

14 Q Okay. And where is that on the map?

15 A Right here (indicating).

16 Q Okay. In fact, can you go from the area -- first of
17 all, let me have you explain everything about the map
18 first. Show me the location where you had information
19 this incident took place.

20 A It would be right here (indicating).

21 Q Okay.

22 A It's a mobile home.

23 Q All right. And show me the location on the map
24 where you responded with the coroner's office for
25 purposes of the body excavation.

1 A Of course it doesn't show it at this point, but it
2 would be in this clearing right here (indicating).

3 Q Okay. Can you get from those two locations without
4 going out there on Mount Lebanon Church Road?

5 A Yes, sir.

6 Q Okay. And have you been out in that area of the
7 county at night?

8 A Several times.

9 Q How dark is it along that area right there at the
10 intersection of C and S Road and Cripple Creek? And let
11 me make you go back to 2019. How dark was it back then?

12 A Well, initially, when we first arrived on scene, it
13 was daylight but it was getting dark. However, when it
14 did get dark, it gets pretty dark there because you've
15 got a -- you've got a wooded area right here (indicating)
16 and right here (indicating) on the corner.

17 Q Let me show you State's Exhibit 3. Is that the
18 C and S location where you sent the other team with the
19 search warrant?

20 A Yes, sir (indicating).

21 Q And finally, this is the area that you responded to;
22 is that correct?

23 A Right up here (indicating).

24 Q Let me see if I can bring this out just a little
25 bit. Okay.

1 And you're discussing this area. This adjoining
2 road back in here (indicating) where it comes in, there's
3 that intersection, how well lit is that area back there?
4 Is it lit anything like Mount Lebanon Church Road?

5 A No, no.

6 Q And what about this area of detail up here
7 (indicating)? Can you describe that there to the jury of
8 what it's like and what it's like to be out there at
9 night or anything like that?

10 A This -- this (indicating) area on that night was
11 extremely dark, because as you can see it was a -- it's a
12 decently wooded area. And there's not a lot of -- a lot
13 of visibility, especially that -- that late.

14 Q Would you describe that area as a desolate area?

15 A Yes.

16 MR. FRETWELL: All right. Mr. King, let me ask you
17 if you recognize State's Exhibit Number 5. You can have
18 a seat.

19 Your Honor, I believe there's no objection to
20 entering State's Exhibit 5 into evidence.

21 THE COURT: All right.

22 (WHEREUPON, State's Exhibit Number 5 was admitted into
23 evidence.)

24 MR. FRETWELL: And, Your Honor, at this time with
25 the Court's permission, I'd like to play it.

1 THE COURT: All right. Any objection to that?

2 MR. MARCHANT: No, Your Honor.

3 BY MR. FRETWELL:

4 Q Mr. King -- oh, it's working. Okay. Good.

5 Mr. King, there's no audio on this exhibit, so if
6 you don't mind, as the exhibit is playing, if you'll just
7 give the jury some idea of where they are or what they're
8 looking at.

9 (WHEREUPON, the following testimony was given as State's
10 Exhibit Number 5 was played in open court.)

11 THE WITNESS: This is the back side or the left side
12 of the property. There was a camper, storage units that
13 were directly in front of the roundabout as you pull up,
14 the dirt roundabout. This is a mobile home that was to
15 the right (indicating throughout).

16 BY MR. FRETWELL:

17 Q And you don't necessarily need to get -- there's a
18 reason why this is no audio. If you just describe what
19 we're seeing as it relates to anything that was important
20 that particular day or that you recall.

21 A In a second it's going to show we were given
22 information that the body was off the corner of the
23 mobile home. I can't remember if it was a hundred or --
24 a hundred feet or a hundred yards.

25 And you can see myself and Investigator Bailey, we

1 were walking that direction. We were provided with
2 information that the body was supposed to be at the base
3 of where a tree had just fallen or had recently fallen,
4 and we were provided with information that the space
5 where the roots had popped up was the actual burial site
6 where they dug the grave.

7 Q And, in fact, do you remember the kind of tree that
8 Mr. Knutson identified as being some kind of a marker for
9 where the body was actually buried?

10 A I believe it was a locust tree.

11 Q Did you have any difficulty with the coroner's
12 office finding that location based off the information
13 that had been provided to you by Mr. Knutson?

14 A No, sir. You can see there was -- you can barely
15 see the corner of the mobile home there. We followed the
16 direction that was provided to us. And when we got to
17 where the tree -- we saw the tree laying down, we saw the
18 roots up, and when we got to the location where it was
19 described to us that the hole was dug, we actually found
20 shovel marks.

21 Q The individual that you interviewed, Mr. Knutson,
22 where was he staying on the property; do you recall?

23 A That, I do not remember. I think he was staying in
24 the mobile home that was burned out, but I'm not sure.

25 Q Okay. But you know there was a mobile home that was

1 burned out on the property?

2 A Yes, sir. As soon as you walked through the mobile
3 home that we saw earlier that's actually to the right of
4 this (indicating) image, as soon as you walk through the
5 door, the right half of the mobile home was burnt. And I
6 mean burnt as in unlivable. The left-hand side may have
7 had some smoke damage, but it was not -- I wouldn't say
8 -- for us it wouldn't be livable. But there was some
9 material up with a makeshift wall on the left-hand side
10 as you go in.

11 Q And certainly, whatever information Mr. Knutson
12 provided to you, that information would be in the
13 interview -- recorded interview that you had with him; is
14 that correct?

15 A That's correct.

16 Q And you're not sitting here telling this jury that
17 you know for certain whether it was a trailer, that
18 camper or any other location on that property, but just
19 somewhere on that property; is that correct?

20 A That's correct.

21 MR. FRETWELL: Okay. Your Honor, unless
22 Mr. Marchant has an objection, I'll stop the video at
23 this point. Certainly, he can play the rest of it and it
24 is in evidence.

25 THE COURT: He indicates he does not.

1 MR. MARCHANT: (Shakes head negatively.)

2 (End of playback of State's Exhibit Number 5.)

3 BY MR. FRETWELL:

4 Q Okay. Let me now point your attention to State's
5 Exhibits 10 through 16. And I'll ask you, were you there
6 and present when the coroner's office uncovered a wrapped
7 human body?

8 A I was.

9 Q Do you recall generally what that body looked like
10 and the wrapping?

11 A The wrapping ---

12 Q Do you recall it, just yes or no?

13 A Yes, sir.

14 Q Okay. Would you recognize a picture of it if you
15 saw it?

16 A Yes, sir.

17 Q Okay. Let me show you State's 10 through 16. Take
18 just a minute to flip through those and tell me if you
19 recognize what's depicted in those exhibits and whether
20 those photographs accurately reflect the images that they
21 bear.

22 A (Reviews exhibits) Yes, sir.

23 Q And what is depicted in State's Exhibit 10 through
24 13?

25 A 10 through 13 is the actual wrapped body.

1 Q And what about 14 through 16?

2 A Those are depicting the location of the dig.

3 Q Is that the grave?

4 A Yes, sir. The grave itself. You can see the string
5 that the coroner's office stretched out.

6 MR. FRETWELL: Your Honor, at this time, the State
7 would move State's Exhibit 10 through 16 into evidence.

8 THE COURT: Any objection?

9 MR. MARCHANT: No objection.

10 (WHEREUPON, State's Exhibit Numbers 10 through 16 were
11 admitted into evidence.)

12 MR. FRETWELL: Permission to publish, Your Honor.

13 THE COURT: Any objection? No objection?

14 MR. MARCHANT: No objection.

15 BY MR. FRETWELL:

16 Q I'll take these a little bit out of order. And I'll
17 -- well, I'll just take them in order. That's fine.

18 If you don't mind stepping down, I'm going to show
19 you what's identified in evidence as State's Exhibit 10.

20 A Okay. This is, again, the blue tarp was provided or
21 utilized by the coroner's office. And this is the --
22 shows the wrapping, the leopard print and the blanket
23 material that was utilized to wrap the victim's body.

24 Q Do you recall, Mr. King, I know this has been a
25 while, but which area of this wrapping was the head area

1 or the foot area?

2 A I believe this is actually the image of the foot
3 (indicating), and I believe the head was up top.

4 Q Let me call your attention to State's 11. Is that
5 the head area?

6 A Yes, sir.

7 Q And State's 12.

8 A That would be the foot area.

9 Q 13?

10 A Again, the foot area, yes.

11 Q Now let me show you what has been entered as State's
12 Exhibit 14. Tell me what is significant in that
13 photograph if you would, please, sir.

14 A This (indicating) is the locust tree that was
15 described to us by Mr. Knutson.

16 Q And, in fact, that root area right there
17 (indicating), is that what is depicted in State's
18 Exhibit 15?

19 A Yes, sir. You can actually see the top part of the
20 root (indicating) we just saw. And that (indicating)
21 would be the base where the tree fell and pulled up that
22 section.

23 Q Is that the location where the body was buried?

24 A Yes, sir.

25 Q And finally, I guess, is that from the other side?

1 A That is. That's looking back -- those last images
2 (indicating) would have been taken from this direction
3 over. And this is what would have been back in the other
4 direction.

5 Q Investigator King, whose responsibility is it
6 ultimately to identify the body of an individual that is
7 reported in this fashion at the sheriff's office?

8 A That's the coroner's office.

9 Q Okay. And do you know if the coroner's office did
10 identify the individual in this particular case?

11 A They did.

12 Q Do you know how they identified him?

13 A Through fingerprints.

14 Q And what name were you provided for the identity of
15 this individual?

16 A The name I was provided was Ivan Vladimirovich and
17 it's either Gull or Gula.

18 Q You're familiar with both of these locations, the
19 location on Cripple Creek and the location on C and S
20 Drive. Are both of those locations within Greenville
21 County?

22 A They are.

23 MR. FRETWELL: No further questions, Judge.

24 THE COURT: Cross-examination?

25 ///

CROSS EXAMINATION

BY MR. MARCHANT:

Q All right. Investigator King, you were just shown several exhibits from the prosecutor. I'm showing you what is State's Number 4.

A Yes, sir.

Q All right. Is this area that I'm pointing to right here (indicating), is that where all this investigation occurred?

A Yes, sir.

Q Okay. So this image which is State's 4 does not show a mobile home, correct?

A Correct.

Q Okay. So I don't know when this was prepared, but back in 2019, the body cam image that we just saw from Deputy League where you're walking around, there was a trailer. And is there one mobile home or two mobile homes back here?

A At that time, I believe there was one mobile home, a camper, and I believe there was a structure behind the mobile home, if I recall correctly.

Q A livable structure or -- I mean, was it a residence? Is that the one that's burned out?

A That's correct. It was -- it was burned like I stated. When you walk in the front door, the right-hand

1 side was burnt, and then the left-hand side looked like
2 that it was actually -- somebody was actually staying
3 there.

4 Q Okay. So we've got this burned out home, we've got
5 a camper. And I'm trying to understand. The third
6 structure, was somebody living in that other structure?

7 A To my knowledge, no, sir. There was no evidence of
8 that.

9 Q And the third structure was a mobile home or was not
10 a mobile home?

11 A To the best of my recollection, the third structure
12 was a -- like a storage building.

13 Q Like an outbuilding.

14 A Yes, sir.

15 Q Okay. All right. So moving to State's Number 2, we
16 see what you've already described as the locations you're
17 extremely familiar with, right?

18 A Yes, sir.

19 Q And you talked about how it is not very well
20 illuminated out there. Not a lot of light.

21 A Yes, sir.

22 Q Okay. In fact, I think you said it's not very
23 visible of an area.

24 A That's correct.

25 Q Okay. Between Cripple Creek -- between what you've

1 identified as the area where the body was found, right?

2 A Right.

3 Q Right about here (indicating).

4 Here (indicating) is the other location that y'all
5 responded to that day.

6 A That's correct.

7 Q Okay. Is your explanation of the visibility of
8 lights and all the same on C and S Drive as it is on
9 Cripple Creek Road, meaning both of them are dark?

10 A I would say the Cripple Creek intersection and the
11 beginning of C and S Drive. I would not say that the
12 212 C and S Drive would be dark. If I'm not mistaken,
13 there is a garage and an actual street light at that
14 location.

15 Q At 212?

16 A Yes, sir.

17 Q What about the area in between C and S (indicating)
18 and Cripple Creek? So as the crow flies and drawing a
19 straight line, are there streetlights out here
20 (indicating) or anything illuminating this area?

21 A I believe so. This -- the location where you see
22 the building that's actually offset ---

23 Q All right. If you want to step down on the big
24 screen. You're saying the building is offset.

25 A Right here (indicating). This -- this used to be

1 the original Upstate Dog Care.

2 Q So it looks like a house on Cripple Creek Road.

3 A Right. But the house that this is attached to, the
4 house is up here (indicating), and that's actually --
5 there we go. And then this (indicating) was the Upstate
6 Dog Care location.

7 Q As we're looking at C and S, in between C and S and
8 this Upstate Dog Care, are there any fences or streams or
9 rivers?

10 A That portion I do not know.

11 Q Okay. What about in between the Upstate Dog Care
12 and Cripple Creek?

13 A Cripple Creek, not that I recall.

14 Q Okay. Did you or anybody go out and speak to
15 anybody that lives or works at this facility?

16 A No, sir. To my knowledge, again, that was the prior
17 location, and at the time of this incident they had
18 already built and moved their business over to
19 Highway 14.

20 Q So there wasn't anybody occupying this facility back
21 in December of 2019.

22 A To my knowledge.

23 Q Okay. What about this residence right here
24 (indicating)? Is that part of [REDACTED] or is there a
25 different address associated with that?

1 A I believe that that is a different address
2 associated with that.

3 Q Okay. Back on -- you spoke with Mr. Knutson on
4 December 16, 2019; that sound right?

5 A Yes, sir.

6 Q So on December 16, 2019, that's when you went out to
7 C and S and Cripple Creek?

8 A That afternoon, yes, sir.

9 Q That afternoon. And that's when you had search
10 warrants for both of those locations.

11 A That's correct.

12 Q Okay. Did you talk to anybody or address anyone
13 that lived in that (indicating) residence?

14 A I did not.

15 Q Okay. So you didn't talk to anybody else anywhere
16 other than where y'all located the body. And did you
17 even go to C and S Road and talk to anybody there?

18 A No, sir.

19 Q Okay. Up at Cripple Creek, did you locate a shovel?
20 You mentioned some shovel marks. Did you locate a
21 shovel?

22 A I do not recall.

23 Q I'm going to show you State's Number 10. This blue
24 tarp, do you know where the blue tarp came from?

25 A That blue tarp was from -- or, I'm sorry, from

1 either forensics or I believe it was the coroner's
2 office.

3 Q Okay. And you were present when they, I guess, dug
4 up the body?

5 A Yes, sir.

6 Q And the coroner's office is the one that did that.

7 A Yes, sir.

8 Q Okay. Did you take any fingerprints or gather any
9 DNA off of anyone?

10 A I did not, no.

11 Q Did you execute any search warrants for any cell
12 phones?

13 A Not to my knowledge, no, sir.

14 Q And you indicated you were informed that the coroner
15 had identified a gentleman through his fingerprints. Do
16 you know how they obtained the fingerprints to make that
17 comparison?

18 A I do not know the process. No, sir.

19 Q Did you interview anybody else in this case?

20 A No, sir.

21 MR. MARCHANT: No further questions. Thank you.

22 MR. FRETWELL: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. FRETWELL:

25 Q Investigator King, is it your responsibility to

1 gather fingerprints, DNA, items for processing at a crime
2 scene?

3 A No, sir. That would be the forensic technicians.

4 Q Okay. And did forensics come out there that day and
5 do all that?

6 A They did. They were at both locations.

7 Q And taking you back to State's Exhibit 2 --
8 actually, that's not the one I want. Give me State's
9 Exhibit 4. This location, Cripple Creek Road, you
10 indicated, I believe, in your testimony that up here
11 (indicating) was where the trailer, camper, third
12 structure and the body was located?

13 A Yes, sir.

14 Q When you're up in this location like you can see in
15 that video we watched just a few minutes ago, can you see
16 this (indicating) residence at all?

17 A No, sir.

18 Q Precisely how desolate or -- or hidden is this area
19 right up in here (indicating)?

20 A Again, that's a location you've actually got to be
21 there to actually see it. You're not going to see it
22 from the roadway.

23 Q And even on that location at that address, the body
24 was discovered right in the middle or where?

25 A No, sir. That -- that was on the outskirts from

1 where the buildings were located. It was actually
2 further out, and it was a wooded area or wood line.

3 Q So in the woods.

4 | A Yes, sir.

5 MR. FRETWELL: Okay. No further questions.

6 THE COURT: Recross?

7 MR. MARCHANT: No, Your Honor.

8 THE COURT: All right. You can step down.

9 MR. FRETWELL: May the witness be excused, Your
10 Honor?

11 THE COURT: Any objection to him being excused?

12 MR. MARCHANT: No, Your Honor, with the same
13 exception should we need to recall him.

14 THE COURT: All right. State call its next witness.

15 MR. FRETWELL: The State would call Dr. Grace Dukes.

16 THE CLERK: Please pause at the bench. Put your
17 left hand on the Bible and raise your right hand.
18 WHEREUPON,

19 GRACE DUKES

20 After having been duly sworn, testified as follows:

21 THE CLERK: Thank you. You may be seated. Please
22 state your full name for the record.

23 THE WITNESS: Grace Dukes.

24 MR. FRETWELL: May it please the Court, Your Honor.

25 THE COURT: Go ahead.

DIRECT EXAMINATION

BY MR. FRETWELL:

Q Good afternoon, Dr. Dukes. How are you?

A Hi. Good.

Q Dr. Dukes, how are you currently employed?

A I'm currently employed by Pathology Associates of Greenville here in Greenville.

Q In what capacity?

A I'm a forensic pathologist.

Q And before we get into what a forensic pathologist is, do you have another responsibility in your employment at Pathology Associates of Greenville?

A My responsibility is to do forensic and hospital or medical autopsies. So I am a forensic pathologist, also have the title of a medical examiner for the county.

Q Okay. And is that for Greenville County?

A It is for Greenville County.

Q And how long have you been employed by Pathology Associates of Greenville?

A About seven years.

Q Okay. And would that be roughly the summer of 2018?

A Yes.

Q Okay. In fact, what was the reason you were specifically hired by Pathology Associates of Greenville?

A To do autopsies.

1 Q Okay. And that's what you spend your time primarily
2 doing; is that correct?

3 A That's what I do, yes.

4 Q Could you please detail your educational background
5 for the Court.

6 A Yes. I completed an undergraduate degree in
7 biological sciences at Clemson University. I then
8 completed four years of medical school at the Medical
9 University of South Carolina in Charleston. I then
10 completed an anatomic and clinical pathology residency at
11 the University of Kentucky. I then completed a one-year
12 fellowship in getting my specialty training in forensic
13 pathology at the Cook County medical examiner's office in
14 Chicago.

15 Q And where did you begin your career as a forensic
16 pathologist?

17 A My first job out of training was at the Georgia
18 Bureau of Investigation doing the same job.

19 Q Is that located in Decatur, Georgia?

20 A It is.

21 Q And, again, maybe I cut you off before the end of
22 that answer, but your job there in Decatur for the GBI
23 was performing autopsies?

24 A Yes.

25 Q Okay. What certifications and licenses have you

1 held or do you currently hold?

2 A I currently hold a physician's license in South
3 Carolina and California, and I have previously expired
4 physician's licenses in Kentucky, Illinois and Georgia.

5 Q And do you hold certifications?

6 A I do.

7 Q What is your certifications?

8 A I am certified by the American Board of Pathology in
9 anatomic and forensic pathology.

10 Q Is that a national certification?

11 A It is.

12 Q And just to be clear, are you a licensed medical
13 doctor in the State of South Carolina?

14 A Yes.

15 Q All right. You mentioned before that you are a
16 forensic pathologist. Can you please explain to the jury
17 what does it mean to be a forensic pathologist?

18 A Yes. I'll start with pathology in general.
19 Pathology, as a practice of medicine, is generally to
20 take some sort of specimen sample and make a diagnosis
21 based on that. And so my job is to do that by autopsy
22 where my sample essentially that I'm testing is the whole
23 body. I examine the whole body, and my responsibility is
24 to produce a diagnosis or a cause and manner of death.

25 Q And is that latter part that you described the

1 forensic aspect of being a forensic pathologist?

2 A Yes.

3 Q Okay. And what are your responsibilities as a
4 medical examiner?

5 A My responsibilities are to take custody of a body
6 that has been accepted -- that the coroner has accepted
7 for jurisdiction. The coroner is the one who decides if
8 it needs a forensic autopsy. The body will come to me in
9 the morgue where I work, and then I will perform the
10 autopsy and then produce a report and opine as to a
11 medical cause of death.

12 Q And we've used the term several times, but what is
13 an autopsy?

14 A An autopsy is the postmortem examination of a body.

15 Q Postmortem meaning basically Latin for after death?

16 A Yes.

17 Q And approximately how many autopsies have you
18 performed personally?

19 A Approximately 2,000.

20 Q 2,000?

21 A Somewhere around there.

22 Q And that's in Georgia, South Carolina, all the
23 different places that you practiced?

24 A Yes.

25 Q How many times have you testified in a court

1 proceeding?

2 A Probably 12 to 15.

3 Q Okay. And are those in states such as Illinois,
4 Georgia and South Carolina?

5 A I have testified in those three states, yes.

6 Q Were each of these proceedings in a criminal court?

7 A Yes.

8 Q And have you also testified in civil depositions?

9 A I have.

10 Q In each of the instances in which you have testified
11 in court, were you qualified as an expert witness and
12 permitted to provide expert testimony?

13 A Yes.

14 Q In what field?

15 A In forensic pathology.

16 Q Has any court declined to qualify you as an expert
17 witness?

18 A No.

19 MR. FRETWELL: Your Honor, at this point, the State
20 would offer Dr. Grace Dukes as an expert in the field of
21 forensic pathology.

22 THE COURT: Any objection?

23 MR. MARCHANT: No objection.

24 THE COURT: All right. She's deemed so qualified in
25 that field.

1 BY MR. FRETWELL:

2 Q Dr. Dukes, did you perform an autopsy on an
3 individual identified as Ivan Vladimirovich Gula on
4 December 17, 2019, at approximately 9:20 in the morning?

5 A I did.

6 Q How was the body identified in this case?

7 A The body was, I believe, actually brought to me with
8 an unknown name and then identified subsequently by
9 fingerprints.

10 Q And what agency performs that identification for the
11 fingerprint analysis?

12 A The Greenville County Coroner's Office.

13 Q Is that in conjunction with the forensics office?

14 A We do the autopsy for their office, but -- so we --
15 we work together but we are separate departments.

16 Q Okay. And were other members of law enforcement
17 present for the autopsy?

18 A I believe so, yes.

19 Q And how did you conduct the examination of
20 Mr. Gula's body?

21 A In general, I'll receive the decedent in a body bag
22 which has been sealed at the scene. We will then unseal
23 that bag in our morgue. We'll photograph the body as is,
24 remove layers, clothing otherwise that might be on the
25 body and document what we see. We will note things about

1 the body being identifying characteristics: hair color,
2 eye color, height, weight, tattoos, scars, injuries.
3 Things like that. Then we'll proceed to the internal
4 examination of the body where we open the body, remove
5 organs and examine them separately.

6 Q So basically, you perform an external examination
7 and then an internal examination?

8 A Yes.

9 Q Is that fair? Okay.

10 In what general condition was Mr. Gula's body when
11 you removed these outer layers and conducted your
12 autopsy? Can you tell us a little bit about that?

13 A Yes. He was in a state of about moderate
14 decomposition, I would say. He was wrapped in multiple
15 layers, and then once unwrapped, noted to be in a state
16 of decomposition and was prone in the bag, I believe.

17 Q And when you say "prone," that's a positional
18 reference?

19 A Yes. Face down.

20 Q Face down.

21 And can you tell us, were you able to determine
22 approximately his height and his weight?

23 A I was.

24 Q Can you give us that information?

25 A Yes. He was measured to be 132 pounds and 68 inches

1 in length on the table.

2 Q Is 68 inches about 5'8"?

3 A Yes.

4 Q Okay. And you said that he was wrapped and you had
5 to unwrap the body; is that correct?

6 A Correct.

7 Q Can you tell us a little bit about the outer layer?
8 And I'm not referring to the blue coroner's office tarp,
9 but the outer layer of packaging excluding the coroner's
10 office tarp.

11 A Okay. So the bag was open. There was the blue tarp
12 we just discussed which was used at the scene, I believe,
13 to move the body. Then the body was wrapped in multiple
14 items. There was a blanket which had leopard and floral
15 prints. There was a blue bedsheet and there was silver
16 tape wrapped multiply around various parts of the body to
17 hold that outer layer in place.

18 Q Okay.

19 A That was the first layer.

20 Q All right. Let me show you what's been marked as
21 State's Exhibits 17 through 25. If I could just have you
22 look through all of these photographs in State's
23 Exhibits 17 to 25 and ask if you recognize what is
24 displayed in those photographs.

25 A (Reviews exhibits) I do.

1 Q Okay. And what is displayed in all of these
2 photographs, if you would, please.

3 A These are photographs of the various wrappings.

4 Q That you just described?

5 A Some -- some of which I just described.

6 Q Okay. And do the photographs accurately represent
7 what you observed on that day during autopsy?

8 A Yes.

9 MR. FRETWELL: Your Honor, at this time, the State
10 would move these exhibits into evidence.

11 THE COURT: Any objection?

12 MR. MARCHANT: No objection.

13 THE COURT: All right. So ordered without
14 objection.

15 (WHEREUPON, State's Exhibit Numbers 17 through 25 were
16 admitted into evidence.)

17 MR. FRETWELL: I'd like to publish them.

18 THE COURT: Any objection to publication?

19 MR. MARCHANT: No, Your Honor.

20 THE COURT: All right.

21 BY MR. FRETWELL:

22 Q Let me start with State's Exhibit 17. More or less,
23 is this how you received the body, ma'am?

24 A Yes.

25 Q Okay. And let me show you State's 18. Without me

1 asking you too many questions about that, what do you
2 describe on there that you've already testified about,
3 please.

4 A The blue sheet that I described is over his -- the
5 -- on this side would be his head, so head and neck,
6 shoulders area, and then the blanket I described which
7 has a different print on the other side of the blanket
8 which is wrapped around the whole body and then the
9 silver tape wrapped around (indicating throughout).

10 Q Is that like duct tape?

11 A I suppose so. Silver tape.

12 Q All right. And this picture here, is that -- I
13 apologize -- the middle portion of the body?

14 A Yes.

15 Q And that's State's Exhibit 19.

16 And then finally, State's Exhibit 20, if you could,
17 describe that photograph and how it relates to what you
18 observed during the autopsy.

19 A So this is the foot end of the body. The feet have
20 been wrapped in a white plastic bag, and then silver tape
21 has been wrapped around the ankles. And there's muddy
22 debris on the body which is causing some of the
23 red-orange discoloration.

24 Q So a plastic bag like a white trash bag? Is that
25 what's basically ---

1 A A potentially white plastic bag.

2 Q All right. And then how about State's Exhibit 21?
3 What is this down here (indicating)?

4 A That's a portion of this leopard blanket you see.
5 That's the print on the other side of the blanket. So a
6 portion of it has been pulled away from the body.

7 Q And is that really kind of depicted up here in the
8 top part ---

9 A Yes.

10 Q --- the underside of the leopard print? All right.
11 Then let me show you State's Exhibit 22. What are
12 we seeing in this picture?

13 A In this image, the blanket portion has been removed.
14 And then underlying that is a grayish silver tarp which
15 is wrapped around approximately the top two thirds of the
16 body from the head down, and then that is also wrapped in
17 silver tape.

18 Q And then State's Exhibit 23?

19 A So here the white plastic bag has partially been
20 removed and you can still see the silver tape surrounding
21 the ankle area.

22 Q What is that red portion down there that we see in
23 the photograph?

24 A The red stripe is a portion of the pants.

25 Q So those are black and red striped pants?

1 A Yes.

2 Q This is State's Exhibit 24, a little closer up of
3 what you're describing?

4 A Yes.

5 Q And then finally, State's Exhibit 25, are these
6 basically the wrappings that are discarded after you
7 removed the body from their wrappings?

8 A They are.

9 Q Okay. Thank you.

10 So once we go to the outer layer, I believe that
11 you've indicated that there's a gray tarp that was over
12 -- what did you say? -- the top third or two thirds of
13 the body; is that correct?

14 A About the top two thirds.

15 Q Okay. After that layer, what is underneath that
16 layer?

17 A Underneath that layer is an additional smaller blue
18 tarp which has been wrapped around the head and neck
19 area. And I believe there's silver tape going from one
20 shoulder around the torso you see holding that partially
21 in place.

22 Q Let me show you what's been marked as State's 26 and
23 State's 27 and ask if that's what you're describing.

24 A Yes.

25 Q Do those picture accurately reflect the inner

1 wrappings of the head area of Mr. Gula that you observed
2 during autopsy?

3 A Yes.

4 MR. FRETWELL: Your Honor, at this time, the State
5 would move State's 26 and 27 into evidence.

6 THE COURT: Any objection?

7 MR. MARCHANT: No objection.

8 THE COURT: So entered.

9 (WHEREUPON, State's Exhibit Numbers 26 and 27 were
10 admitted into evidence.)

11 MR. FRETWELL: Request to publish, Your Honor.

12 THE COURT: Any objection?

13 MR. MARCHANT: No objection.

14 THE COURT: All right.

15 BY MR. FRETWELL:

16 Q Again, if you'll just tell us what's depicted in
17 this photograph.

18 A This photograph is with that second layer, the
19 grayish tarp still wrapped around the body.

20 Q And underneath that layer, is that this (indicating)
21 layer?

22 A That's correct. So you can see the grayish tarp has
23 been opened, and then there's a portion of blue tarp
24 around the head, neck, and then that's the left shoulder
25 because, again, he's face down. And then there's silver

1 tape extending around that shoulder and around the right
2 arm.

3 Q And the green that we're seeing, is that a shirt
4 that he's wearing?

5 A Yes.

6 Q Is that an injury that's depicted in State's
7 Exhibit 27 in the center there?

8 A There is an injury underlying that area, yes.

9 Q And I think you've described in part the shirt and
10 some of the pants. Can you tell the jury what items did
11 you note during your autopsy the body was clad in or
12 clothed in?

13 A Yes. There was a green short-sleeved shirt which we
14 just saw, the black and red striped track type pants, two
15 black shoes and two gray socks. And then there was an
16 additional coat which was received beneath the body and
17 still surrounding the wrist but had been removed from the
18 remainder of the body. And then some rings and
19 bracelets.

20 Q Okay. And since you talked about the jacket, I'm
21 going to show you State's 28 through 39. So State's 28
22 through 39, just ask you to look through all of those and
23 make sure those photographs depict what you just
24 described as clothing that you removed from the body of
25 Ivan Gula during autopsy.

1 A (Reviews exhibits) Yes. This looks like the
2 clothing that I removed.

3 Q And do all those photographs accurately depict what
4 you remember from the autopsy?

5 A Yes.

6 MR. FRETWELL: Your Honor, at this time, the State
7 would move 28 through 39 into evidence.

8 THE COURT: Any objection?

9 MR. MARCHANT: No objection.

10 THE COURT: So entered without objection.

11 (WHEREUPON, State's Exhibit Numbers 28 through 39 were
12 admitted into evidence.)

13 MR. FRETWELL: And request to publish, Your Honor.

14 THE COURT: Any objection?

15 MR. MARCHANT: No objection.

16 THE COURT: All right.

17 BY MR. FRETWELL:

18 Q Dr. Dukes, I'll show you these photographs. If
19 you'll tell the jury what this is.

20 A This is the front portion of the green T-shirt you
21 saw earlier.

22 Q And that is State's Exhibit 28.
23 29?

24 A This is the back of that same shirt.

25 Q Is that the same side of the shirt that was visible

1 in that photograph where the body was still clothed?

2 A Yes.

3 Q And what about -- and I'll call your attention --
4 sorry. That was State's 29.

5 This is State's 30. I call your attention right
6 down here to this area right here (indicating). What is
7 this demonstrating, to your knowledge?

8 A That is a defect in the shirt in the area where an
9 injury was found.

10 Q By defect, do you mean some kind of opening or tear
11 or cut?

12 A Yes.

13 Q Okay. And do you know what's placed in there to
14 make that highlighted right there (indicating)?

15 A I believe the forensics staff placed something white
16 underneath there to show that there was a defect more
17 clearly.

18 Q Okay. And what about on the back side of the shirt
19 depicted in State's Exhibit 31?

20 A Multiple defects on the back of the shirt also where
21 injuries occurred.

22 Q And you performed, obviously, the autopsy on
23 Mr. Gula's body. Do these defects in the clothing, do
24 they match the injuries that you located on Mr. Gula's
25 body?

1 A Yes. Roughly. Obviously, clothing can move around.
2 But generally, yes, they do.

3 Q I'll ask you about State's Exhibit 32. Is this the
4 track pants that you testified to the decedent, Mr. Gula,
5 was wearing when you performed his autopsy?

6 A Yes. They look like them.

7 Q And the silver tape that you described before?

8 A Yes.

9 Q Is this just a picture of the silver tape separated
10 from the item?

11 A Yes. It appears to be.

12 Q And the socks in State's Exhibit 34 that were
13 removed from Mr. Gula's body?

14 A Yes.

15 Q And finally, State's Exhibit 35; is that correct?

16 A Yes.

17 Q Okay. Really quickly, on State's Exhibit 36, is
18 this the jacket or the coat that was with Mr. Gula's body
19 when you performed autopsy?

20 A It's a little difficult to see, but it appears to be
21 the same jacket, yes.

22 Q What I'd like to ask you, he wasn't wearing the
23 jacket or the coat, was he, when you removed the clothing
24 from the body?

25 A It was not over his torso.

1 Q Okay. And you said it was somewhere down around his
2 hands or arm region?

3 A Yes. His hands were still in the sleeves, but it
4 was removed from his torso.

5 Q Okay. And do you recall -- if you don't, it's fine,
6 but do you recall any things that you call a defect in
7 this coat or jacket?

8 A Yes.

9 Q Okay. And 37, that's the back of the jacket; is
10 that correct?

11 A Yes.

12 Q Okay. And 38, are these some of the items that you
13 described that were on Mr. Gula's body at the time of
14 autopsy?

15 A Yes.

16 Q And then finally, 39, are these the beads that you
17 described?

18 A Yes.

19 Q I'd like to talk with you, Dr. Dukes, about the
20 physical condition of the body. And that's, I'm sure, a
21 medical term. Obviously, the individual was deceased.
22 But can you tell us a little bit about the physical
23 condition that you noted in your autopsy with respect to
24 Mr. Gula's body?

25 A He had some signs of postmortem change or

1 decomposition. Would you like for me to go through
2 those?

3 Q Please. And when I asked you about the postmortem
4 and the decomposition aspects, was that consistent with
5 the individual having been dead for some period of time?

6 A Yes.

7 Q Okay. Not a recent thing, but some appreciable
8 amount of time had passed?

9 A Some days had passed.

10 Q Okay. And tell us about that, if you would.

11 A So the body was out of rigor mortis meaning that
12 after you die, your muscles will start to stiffen. And
13 then the longer you're dead, they will start to loosen
14 back up. So at this point, all of that process was over.

15 There was skin slippage over the body. So the
16 longer a person is dead, the layers of skin will start to
17 separate and slip, especially with manipulation from
18 removing clothing and things like that.

19 There was discoloration diffusely over the body,
20 mostly green-brown colored discoloration. And then on
21 the back of the body, there was bright red discoloration
22 that appeared to be blood staining on the skin.

23 There was a change of the hands that indicated they
24 had been in a moisture-rich environment, wrinkling. And
25 then the skin of the hands and feet were beginning to

1 separate and sort of come off or deglove as we describe
2 it.

3 There were changes of the eyes which would indicate
4 there had been a postmortem interval. The eyes get
5 cloudy and they become shrunken, fluid starts to
6 evaporate. Things like that.

7 And then a portion of the scalp here (indicating),
8 it started to slip off just like the rest of the skin,
9 the same condition.

10 I believe that's most of them.

11 Q Given the temperature in December of the year, was
12 the decomposition and condition of Mr. Gula's body
13 consistent with the death approximately two and a half
14 weeks before?

15 A Under the circumstances, it could have been with the
16 body enclosed in wrappings.

17 Q Did you prepare a diagram of any injuries that you
18 discovered at autopsy?

19 A Yes.

20 Q And would this diagram assist you in presenting the
21 evidence of the injuries that you located upon autopsy to
22 the Court?

23 A Probably, yes.

24 MR. FRETWELL: I'll have this marked as State's
25 Exhibit 40.

1 (WHEREUPON, State's Exhibit Number 40 was marked for
2 identification.)

3 BY MR. FRETWELL:

4 Q I'll ask if you recognize State's Exhibit 40.

5 A Yes.

6 Q In fact, did you bring that over just a little while
7 ago, that copy for us to enter into evidence?

8 A Yes.

9 Q And does that accurately reflect the injuries that
10 you noted on Mr. Gula's body along with your notes about
11 the nature of those injuries, the location of those
12 injuries, the size and relative spacing of those
13 injuries?

14 A Yes.

15 MR. FRETWELL: Okay. At this time, we'd move
16 State's 40 into evidence.

17 THE COURT: Any objection?

18 MR. MARCHANT: No objection.

19 THE COURT: So entered without objection.

20 (WHEREUPON, State's Exhibit Number 40 was admitted into
21 evidence.)

22 MR. FRETWELL: Request to publish, Your Honor.

23 THE COURT: Any objection?

24 MR. MARCHANT: No objection.

25 THE COURT: All right.

1 BY MR. FRETWELL:

2 Q If you could, Dr. Dukes, do you have a copy of your
3 body diagram with you other than the one I'm using?

4 A I don't. I just have my report. But I can use this
5 one.

6 Q Okay. You can see it on that screen. I forgot that
7 that screen is actually working. Okay.

8 If you would, please, using that body diagram,
9 explain to us what injuries you discovered as you
10 performed the autopsy.

11 A So I noticed sharp force injuries, five stab wounds
12 and some additional sharp and blunt-force injuries.
13 Would you like for me to go through them?

14 Q Please. Yes.

15 A Okay. So there was one ---

16 Q Well, let me ask you before you go through those ---

17 A Yes.

18 Q --- what area of the body are you generally
19 referring to, if you don't mind?

20 A The stab wounds were predominantly in the head, neck
21 and torso, mostly back.

22 Q Okay.

23 A And then there were additional blunt-force injuries
24 of the head.

25 Q I noticed on State's Exhibit 40 that these injuries

1 are numbered.

2 A Yes.

3 Q Could you tell me -- could you tell the jury, do
4 those numbers have any significance?

5 A Those numbers do not indicate sequence of events or
6 severity of injury. They are just numbered so that I can
7 separate them in my report.

8 Q In fact, did you just basically start at the top of
9 the head and number going down as you found injury?

10 A Essentially, yes.

11 Q Okay. Yes. Please, if you'll go through those
12 starting with what you've identified as Stab Wound
13 Number 1.

14 A Okay. So there was a stab wound of the left upper
15 neck sort of at the left jaw line which -- and then I
16 have some measurements to describe exactly where it is.
17 But it's at the -- at the jaw bone, extended to a depth
18 of 2.8 inches which ended at the C2 vertebrae, so very
19 high in the neck in the spinal column which is how I was
20 able to measure the depth. And then on its pathway
21 through the neck, it severed the internal carotid artery.

22 Q Before I get to the carotid artery, you identified
23 this as a stab wound. Can you explain for people that
24 might not understand, why are you calling it a stab wound
25 as opposed to a different kind of wound?

1 A When we are describing injuries, we generally
2 separate them into blunt-force and sharp-force injuries.
3 Sharp-force injuries could either be a stab wound or an
4 incised wound. A stab wound is deeper than it is long.
5 An incised wound is longer than it is deeper. And that's
6 really the only distinction. So this wound was deeper
7 than it was long.

8 Q And when you testified that the C2 vertebrae was
9 impacted by this particular injury, is that part of the
10 spinal column?

11 A Yes.

12 Q Okay. Where is that on the spinal column?

13 A The very top right at the base of the skull
14 (indicating).

15 Q Could Mr. Gula's spine have slowed or stopped some
16 kind of a weapon's entry into his body?

17 A It could have stopped the further progression of the
18 injury, yes.

19 Q Okay. So that depth is based basically from that C2
20 to the entrance wound; is that correct?

21 A Yes. So from about here (indicating) to the middle
22 of the neck.

23 And keep in mind, please, as I'm demonstrating on
24 myself, everyone's anatomy is different. It might not be
25 two inches on me, but it might be two inches on that

1 individual.

2 Q Understood.

3 What associated injuries were caused by this
4 particular stab wound?

5 A The major injury would have been penetration of some
6 nerves and muscles within the neck, and then the major
7 injury would be the severing of the internal carotid
8 artery.

9 Q Let's talk about what is the carotid artery?

10 A It's a major branch of the aorta coming off of the
11 heart and pumps blood to the brain.

12 Q And what kind of effect would the kind of injury
13 that you noted in your autopsy have to Mr. Gula?

14 A Severing of a branch of the carotid artery would
15 rapidly remove blood flow from the brain and create loss
16 of consciousness to at least some degree because of a
17 lack of oxygen going to the brain.

18 Q And would this wound have eventually resulted in
19 Mr. Gula's death?

20 A Likely so, yes. It's a rapid bleed.

21 Q If Mr. Gula were lying, as you described earlier,
22 prone -- which is the way you received him; is that
23 correct? I believe he was on his face.

24 A That's the way I received him, yes.

25 Q Right. If he were lying prone, chest down on the

1 floor with his face, I guess, slightly to the left, would
2 this wound be consistent with someone standing over him
3 and stabbing downward?

4 A It could be, yes.

5 Q Okay. Like with obviously some kind of long, large
6 knife or some kind of sharp object; is that correct?

7 A Something that could penetrate to about 2.8 inches,
8 yes.

9 Q Okay. Please tell me about Stab Wound Number 2.

10 A Number 2 is of the left shoulder. It's the top of
11 the left shoulder that you see there numbered 2. And
12 this one was about 3.6 inches in length, but it went
13 through the musculature of the shoulder into the joint
14 space of the shoulder joint.

15 Q And was that -- and the wound path on this
16 particular wound was what?

17 A The wound path was from back to front and slightly
18 downward.

19 Q Okay. And you do not indicate a depth of this
20 particular wound. Why not, Doctor?

21 A Because the wound penetrated into the shoulder joint
22 space, and I don't know how far it went through the joint
23 space.

24 Q And could his shoulder, Mr. Gula's shoulder joint
25 have stopped or slowed the weapon's entry into the body?

1 A Yes.

2 Q What associated injuries were caused by this
3 particular stab wound?

4 A Essentially, severing of muscles and tendons and
5 joint tissue.

6 Q Was there any transection with this particular
7 injury to the left internal carotid?

8 A No.

9 Q Okay. Would this wound alone have resulted in
10 Mr. Gula's death?

11 A Likely, no.

12 Q Okay. Other than immense pain, what effect would
13 with wound have had on Mr. Gula?

14 A It would have interfered with his ability to use the
15 muscles that were severed.

16 Q That's the shoulder muscles?

17 A Yes. And then any bleeding that might come from
18 that injury.

19 Q And I'll ask you the same hypothetical I asked you a
20 minute ago. Is the wound consistent -- if he's lying
21 prone or face down on the ground with his head to the
22 left, is that consistent with someone standing over him
23 and stabbing downward?

24 A Potentially, yes.

25 Q How about Stab Wound Number 3?

1 A 3 is a stab wound of the left upper back, so one
2 step down from the shoulder wound. And it's numbered 3.

3 This wound is 1.5 inches in length. It is almost
4 vertical 11 to 5 o'clock, so slightly tilted or oblique.
5 Associated injuries include skin and musculature of the
6 back, and then through a couple of the posterior ribs
7 into the chest cavity, and then a laceration of the left
8 lung.

9 Q Let me go back just a couple seconds.

10 A Yes.

11 Q Posterior, what do you mean by posterior?

12 A Of the ribs. So the rib cage is, obviously, a
13 three-dimensional structure, and this is a stab wound to
14 the back. So the stab wound went through the posterior
15 aspect of the ribs, through the back, and then into the
16 lung space and then lacerated the lung.

17 Q And "lacerated" just means cut.

18 A Yes.

19 Q And then is this the same situation as it is with
20 the shoulder joint with respect to depth? You couldn't
21 determine depth because of that cavity?

22 A It is. The wound extends into the chest cavity and
23 then into the lung which is a deformable structure, so
24 it's not possible to get an exact depth of measurement.

25 Q When you say a lung is a deformable structure, is

1 that basically saying that lungs collapse?

2 A It's spongy.

3 Q Okay. All right. What associated injuries were
4 caused by this particular stab wound?

5 A There were fractures or sharp-force injuries to the
6 left sixth and seventh ribs through that posterior
7 aspects of the chest wall, and then injury to the lung
8 itself, and then some hemorrhage remaining in that left
9 pleural cavity where the lung is.

10 Q Hemorrhaging meaning what?

11 A Some bleeding that had occurred in that area. And
12 there was, again, a lot of postmortem change, so it might
13 not have been the exact amount of blood that was there
14 before. It might have not looked exactly the same, but
15 there was a collection of blood still in the chest
16 cavity.

17 Q What is that collection of blood called?

18 A A hemothorax.

19 Q And that's basically where the lungs will fill with
20 blood?

21 A That's when the space around the lung can fill with
22 blood.

23 Q Understood.

24 Would this wound, Doctor, have resulted in
25 Mr. Gula's death?

1 A It may have.

2 Q And why is that?

3 A Anything that fills the chest cavity places pressure
4 on the lung and the heart and interferes with their
5 ability to pump blood and oxygenated blood in the body.
6 So there is hemorrhage that can come from the injury,
7 there is interference with breathing because of damage to
8 the lung, potential blood collection in the chest cavity
9 and then actual defect in the chest cavity which
10 mechanically helps you breathe. And then associated with
11 this injury, air could have gotten into the lung cavity
12 also placing additional pressure on the lungs and heart.
13 So multiple factors.

14 Q Is that what you call a tension pneumothorax?

15 A It could create a tension pneumothorax if the cavity
16 were to fill there.

17 Q And what is the concern with a tension pneumothorax
18 with respect to the heart?

19 A It places pressure on the lung and the heart and all
20 the vessels entering and leaving those structures and
21 interferes with their ability to pump blood.

22 Q So, in essence, it could stop the heart.

23 A Yes.

24 Q Okay. All right. Again, other than immense pain,
25 what effect would this wound have had on Mr. Gula?

1 A It would have interfered with his ability to
2 breathe, at least.

3 Q And is this wound consistent with that same
4 hypothetical example of he's lying prone, somebody
5 stabbing downward into the -- into that back area, that
6 posterior area of the body?

7 A It's possible. I describe the direction of the
8 wound through the body, but that is consistent with the
9 way the wound could have occurred, yes.

10 Q Okay. And Stab Wound Number 4.

11 A 4 is the wound of the mid-back numbered 4. It is
12 about 2.1 inches in length, vertical wound meaning on the
13 skin it's critical. It's directed from back to front
14 through the body. It caused injuries of the left tenth,
15 eleventh and twelfth ribs right in the middle as they
16 intersect with the spinal column. And then inside the
17 body on the other side of that wound there was evidence
18 of a lot of tissue hemorrhage in that area.

19 Q And once the knife or weapon or whatever entered
20 Mr. Gula's chest cavity from the back, would it be
21 possible at that point to determine any kind of depth
22 with this particular wound?

23 A Not an exact depth, no.

24 Q What associated injuries other than you've already
25 described were caused by this stab wound?

1 A The injuries to the back chest wall, the ribs and
2 then the tissues extending -- lots of muscles extending
3 along the left side of the spinal column and then into
4 the lower chest cavity, upper abdominal cavity.

5 Q Doctor, what effect did decomposition have on this
6 particular -- your ability to examine this particular
7 wound?

8 A All of the tissues start to break down postmortem,
9 and they become discolored and start to fragment
10 slightly. And so it can interfere with the appearance of
11 an injured tissue anywhere in the body.

12 Q Would this particular wound that I'm referring to,
13 Stab Wound Number 4, have resulted in Mr. Gula's death?

14 A It could have.

15 Q And why is that?

16 A Again, disruption of the chest wall and the related
17 factors we discussed earlier with breathing and bleeding.
18 Predominately that.

19 Q And this wound as well, if someone was lying on the
20 ground, would be basically a stabbing-down wound type?

21 A Yes. Could be.

22 Q That's consistent with a stabbing down. Okay.

23 Let me ask you specifically on this wound, after
24 sustaining this kind of wound, if Mr. Gula was alive at
25 that point, would it surprise you to hear anything

1 associated with this particular wound?

2 A Hear?

3 Q Any kind of sounds or any kind of issues with
4 respect to that injury?

5 A That would depend entirely on the person. But I
6 would imagine a penetrating sharp-force injury to the
7 chest might provoke a noise or a movement of air through
8 the voice box.

9 Q That's what I'm asking.

10 Would you describe that to me as raspy type breath?

11 A It could be.

12 Q Okay. Let me ask you about the Stab Wound Number 5
13 on the left flank. And what is the flank, by the way?

14 A The flank is the side of the back and abdomen.

15 Q All right.

16 A So Number 5 on the left side of the back over here
17 (indicating) is 2.3 inches in length. Again, it's a
18 vertical wound, vertical on the skin. It is directed
19 from back to front, generally back to front, and extends
20 through the posterior chest wall, through the musculature
21 and everything we described, and then through that
22 portion of the cavity and injures two of the lower ribs,
23 sort of the anterior lateral side of the body.

24 Q And that's, again, that indeterminate depth based on
25 the cavity; is that correct?

1 A Yes. Based on the cavity and compressibility of the
2 tissues.

3 Q Okay. And would this wound by itself have resulted
4 in Mr. Gula's death?

5 A It could have.

6 Q And is there a specific effect on Mr. Gula that this
7 wound would have that maybe you haven't described with
8 some of the other wounds with respect to his ability to
9 move his torso?

10 A Potentially inability to use the muscles that are
11 injured and/or breathe effectively.

12 Q Dr. Dukes, with respect to Mr. Gula's body and what
13 you examined during autopsy, was there any evidence of
14 medical treatment whatsoever?

15 A No.

16 Q What other injuries did you discover as you
17 performed your autopsy?

18 A There were additional injuries to the head. There
19 were some superficial incised wounds, one sort of on the
20 left cheek, one on the right cheek. There were multiple
21 blunt-force injuries of the head, so lacerations,
22 laceration meaning a blunt-force injury. It's a cut in
23 the skin due to a blunt impact. So multiple of those.

24 You see on the back all of those lines on the back
25 of the skull indicate places where there were blunt-force

1 injuries. They could also have sharp-force components.
2 Again, the tissue was decomposing and it can alter the
3 condition of the tissue. But they look like irregular
4 wounds, like lacerations.

5 And then up on the top of the scalp and underlying
6 one of the injuries of the scalp, there was a depressed
7 skull fracture on the left parietal bone of the skull.

8 Q What does that mean, a skull fracture?

9 A So there was -- one of the flat bones of the skull,
10 the parietal bone, had a skull fracture which was
11 essentially indented inward.

12 Q Did you also locate at that same wound what is
13 described as a temporalis muscle hemorrhage?

14 A Yes. So that injury was right at the top border of
15 a muscle that runs across the side of your skull right
16 here (indicating). And so it was right at the top
17 border. And there was muscle hemorrhage associated with
18 it in that area. And then the shape of the fracture was
19 angulated, sort of pointing towards the middle part of
20 the head. And then there were extension fractures from
21 that central fracture that extended along multiple bones
22 of the front and the back of the skull.

23 Q And I think it's been a little bit since you -- or
24 explained what an incised wound -- those first wounds you
25 just talked about you indicated were incised wounds. Can

1 you remind us what that means in your understanding?

2 A Yes. They're sharp-force wounds, but they're more
3 superficial. They're longer than they are deep.

4 Q Like cuts?

5 A Yes. Cuts.

6 Q Okay. And what about some irregular or linear scalp
7 lacerations that you observed in your autopsy?

8 A So those are -- the best way to show you is that
9 they're drawn here. So those are the lines on the scalp
10 that you see. Those are -- some of them are linear with
11 sort of irregular skin edges, but they're linear in shape
12 overall. And then you can see on the left back of the
13 skull, there's one that takes like a more irregular path.
14 And it has actually -- the little ovoid part that you see
15 right here (indicating) has something we call
16 undermining, so a little bit of the scalp is flipped up
17 in that area. And it's from back to front, so the flap
18 of skin flips this (indicating) way.

19 Q What about on the other side of the body diagram,
20 the face? What about the injuries that you noted and
21 indicated there?

22 A So the one on the top left that you can see from the
23 front, it's still on the top of the head, but that's the
24 one that has the underlying skull fracture that we just
25 discussed. And then the others are additional

1 lacerations sort of on the top.

2 Q And what about on the face itself?

3 A And then on the face there's superficial lacerations
4 on this (indicating) cheek right near the stab wound and
5 then one across this (indicating) cheek.

6 Q I'm not sure that you described this, but going back
7 to the back of the head behind the right ear, did you
8 find some injuries there?

9 A Yes. I have not described that yet.

10 So right behind the right ear (indicating) drawn all
11 the way on the right side of the diagram behind that ear
12 is a vertical linear wound which extends under the skin
13 behind the right ear, so there's a partial avulsion of
14 the ear from the head. But that's about three inches
15 long and it extends forward.

16 Q When you say an avulsion, what does that mean?

17 A The skin is separated from the -- from the rest of
18 the scalp.

19 Q What about -- how about the hands or the -- I think
20 the extremities I think is how you referred to them?

21 A Yes. So on the medial portions, I describe
22 everything on the body based on anatomic position which
23 is how you see the body in the body diagram. So in this
24 case, it's the medial portion, middle portion of the left
25 hand. So there is a sharp-force injury which extends

1 along the wrist and then onto the palm, and it's curved
2 measuring 2.6 inches in length with some undermining, so
3 into the soft tissue of the palm extending from right to
4 left and slightly upward.

5 Q And is that injury consistent with what would be
6 referred to as a slashing type injury?

7 A It's a -- it's a cut. It's a deep cut.

8 Q And those injuries that you observed to Mr. Gula's
9 hands, would it be fair to characterize them as defensive
10 type wounds?

11 A It could be.

12 Q Did you discuss what you found in the actual wound,
13 one of those wounds?

14 A Yes. So the injury to the hand had multiple beads
15 embedded within the injury that matched the beads on a
16 broken bracelet which was loosely attached to the hand.
17 So some of the beads it appeared from the bracelet had
18 been forced into the wound.

19 Q And if those hands were raised in any kind of
20 defensive posture like that, is that consistent with
21 being caused by something described as a large weapon?

22 MR. MARCHANT: Objection. Calls for speculation.

23 MR. FRETWELL: She's an expert.

24 THE COURT: Overruled.

25 THE WITNESS: It's consistent with a sharp edge

1 cutting through the hand. So I can't describe the size
2 of the weapon based on -- there just needs to be a
3 pathway of the sharp object through the hand.

4 BY MR. FRETWELL:

5 Q Could something like a machete or a meat cleaver
6 make that kind of injury?

7 A It could.

8 MR. FRETWELL: Judge, can we approach for just a
9 second?

10 THE COURT: Yep.

11 (WHEREUPON, a bench conference was held off the record.)

12 THE COURT: I've been informed by the bailiff that
13 the jurors need a bathroom break. About five minutes,
14 maybe? Longer than that?

15 MR. FRETWELL: You've got to give them ten, Judge,
16 at least.

17 THE COURT: Ten minutes? Okay. Yeah. Go get a
18 bathroom break. Yeah.

19 Please, ma'am, please, sir, don't talk about the
20 case and I'll bring you back in in a second and let you
21 know what we're doing. Okay. All right.

22 (WHEREUPON, the jury exits the courtroom at 4:40 PM; a
23 recess is taken at 4:41 PM; the jury entered the
24 courtroom at 4:50 PM.)

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, I've been thinking, and I'm going to let y'all go
2 home today for the day. This thing that -- that's just
3 what I'm going to do. We've had a long day, and you may
4 be fatigued and you've probably got some other things
5 that you need to attend to. It's almost 5 o'clock so I'm
6 going to let you go home. Tomorrow morning I need you to
7 report to your jury room by 10 o'clock. Be there by
8 10 o'clock.

9 And I want to say it in my stern voice. That's my
10 nice voice. My stern voice, do not talk about this case
11 to anybody or anyone until I see you tomorrow morning at
12 10 o'clock. Everybody understand that?

13 All right. See you tomorrow morning at 10 o'clock.
14 Have a good evening.

15 (WHEREUPON, the jury exits the courtroom at 4:51 PM.)

16 MR. FRETWELL: Can I just ask you one quick question
17 before the jury gets out of here? I don't recall the
18 Court instructing the jury that they cannot do their own
19 private research, but that's typically what you say. And
20 I know the moment of the hour probably -- and I didn't
21 want to interrupt you because ---

22 THE COURT: You want me to bring them back in here?

23 MR. FRETWELL: No, sir. Would you step back and
24 just charge them in the deliberation room or something?
25 I just think that they ---

1 THE COURT: No, no, no. Bring them back in.

2 MR. FRETWELL: I'm so sorry, Judge. I thought about
3 standing up but I really didn't want to incur your wrath.

4 THE COURT: You've already done that.

5 MR. FRETWELL: Great, great.

6 THE COURT: But I'll do that. We will put it all on
7 the record.

8 MR. FRETWELL: Yes, sir.

9 While they're assembling, Judge, I do think the
10 witness needs to understand that she's still under oath,
11 can't discuss the case with either party, that kind of
12 thing, which I know you were about to get to and I'll ---

13 THE COURT: Mr. Fretwell ---

14 MR. FRETWELL: I am so sorry, Judge.

15 THE COURT: Mr. Fretwell ---

16 MR. FRETWELL: Yes, sir.

17 THE COURT: --- the last time I came in here -- the
18 last time I was still the judge. Let me be the judge.

19 MR. FRETWELL: Yes, sir.

20 THE COURT: You be the intern. Let me do my job.

21 MR. FRETWELL: Yes, sir.

22 THE COURT: Can you do that for me?

23 MR. FRETWELL: I'll try, Judge.

24 THE COURT: Because if you continue that kind of
25 behavior -- all right.

1 (WHEREUPON, the jury entered the courtroom at 4:53 PM.)

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, the reason I brought you back in here just so I can
4 tell you that please, ma'am, please, sir, do not do any
5 research on the case on your own while you're away. I'm
6 sure you're not going to do that, but a little birdie
7 told me to tell you that. So please, ma'am, please, sir,
8 do not do that, okay?

9 All right. Thank you. See you tomorrow morning at
10 10 o'clock.

11 (WHEREUPON, the jury exits the courtroom at 4:53 PM.)

12 THE COURT: All right. Madam Witness, I didn't get
13 an opportunity to tell you what I know to tell, since
14 counsel told you what I was going to tell you is that you
15 can't discuss the case with anyone. You understand?
16 You're still under oath. You understand that?

17 THE WITNESS: Yes.

18 THE COURT: Is that what you wanted me to tell her,
19 Mr. Fretwell?

20 MR. FRETWELL: Yes, Your Honor.

21 THE COURT: All right. Okay. Anybody else want to
22 tell me what I need to do?

23 MR. FRETWELL: I don't believe so, Judge.

24 THE COURT: All right. It's not a good idea to do
25 that, but if you want to continue to do that, you know,

1 because I've been doing this a long time.

2 MR. FRETWELL: You have, Judge.

3 THE COURT: Long time. I don't need instructions.

4 MR. FRETWELL: And I didn't mean for that to be -- I
5 do apologize, Judge.

6 THE COURT: Ma'am, you can step down. You can step
7 down.

8 All right. We're going to resume at 10 o'clock in
9 the morning.

10 MR. FRETWELL: Yes, sir.

11 (WHEREUPON, proceedings recessed at 4:54 PM.)

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1 Wednesday September 18, 2024

2 (WHEREUPON, State's Exhibit Numbers 42 through 125 were
3 marked for identification; proceedings reconvened at
4 10:08 AM.)

5 WHEREUPON,

6 GRACE DUKES

7 After having been duly sworn, testified as follows:

8 THE COURT: All right. Are y'all ready for the
9 jury?

10 MR. FRETWELL: Yes, Your Honor.

11 THE COURT: All right. Bring the jury out.

12 (WHEREUPON, the jury entered the courtroom at 10:09 AM.)

13 THE COURT: Good morning. How is everybody? Good.
14 Okay. All right.

15 MR. FRETWELL: May it please the Court, Your Honor.

16 THE COURT: Yes, sir.

17 DIRECT EXAMINATION (Continued)

18 BY MR. FRETWELL:

19 Q Good morning, Dr. Dukes.

20 A Good morning.

21 Q Doctor, we're almost finished with your testimony.
22 I think yesterday we were finishing up with all of the
23 injuries and wounds that you noticed during the autopsy
24 of Ivan Gula. Let me ask you, did you also, as part of
25 your autopsy, send off for toxicology results?

1 A Yes.

2 Q And where did you take the samples for purposes of
3 toxicology results?

4 A It was liver tissue samples.

5 Q Anything significant about taking liver tissue for
6 purpose of toxicology?

7 A In a decomposed body, it tends to be the most
8 reliable source when there's not a lot of frank blood in
9 the body.

10 Q And are you able, with the liver tissue, to give any
11 kind of indication of how much of the substance was in
12 the individual's body around the time of death?

13 A A positive finding in the liver tissue on toxicology
14 indicates that that drug is in the body at the time of
15 the person's death. The levels do not necessarily
16 correlate to the levels in the blood, but it tells us
17 that it's present.

18 Q Thank you. And in this particular case, what was
19 determined from the toxicology results that you received
20 on Mr. Ivan Gula?

21 A Methamphetamine and amphetamine were detected in the
22 liver tissue. In this case, probably safe to assume that
23 the amphetamine is the metabolite of the methamphetamine.

24 Q And metabolite meaning the methamphetamine is
25 breaking down?

1 A Yes. The body is processing the methamphetamine
2 into amphetamine.

3 Q Okay. Finally, Dr. Dukes, the cause of death that
4 you determined in this case was what?

5 A The cause of death was multiple stab wounds.

6 Q And the manner of death?

7 A Homicide.

8 MR. FRETWELL: No further questions, Your Honor.

9 THE COURT: Cross-examination?

10 CROSS EXAMINATION

11 BY MR. MARCHANT:

12 Q Since we've just discussed this toxicology result,
13 were you able to get a quantitative value associated to
14 the methamphetamine level that was found in the liver?

15 A Yes. There's a quantitative value.

16 Q Okay. And what was that?

17 A The level of methamphetamine was 18,000 nanograms
18 per gram of liver tissue.

19 Q I don't got any idea what that means. How much
20 methamphetamine is in the body normally?

21 A Normally, none.

22 Q Okay. If we ran your blood or tested your liver,
23 you got any meth in your system?

24 A I should not.

25 Q It's not something that would naturally occur.

1 A Right.

2 Q And not something that we would pick up from
3 drinking a Diet Coke or eating something with caffeine or
4 anything in our normal lives.

5 A Correct.

6 Q It is a foreign substance ---

7 A Yes.

8 Q --- that is man-made ---

9 A Yes.

10 Q --- that is typically for the purposes of getting
11 high?

12 A I would assume.

13 Q During your time at medical school, did y'all study
14 the effects that methamphetamine could have on a body?

15 A Yes.

16 Q Okay. And isn't it true that long-term
17 methamphetamine use can cause significant problems with
18 memory?

19 A I suppose it's possible. It would depend on the
20 patient and what else might be going on in that patient.

21 Q Okay. You would agree with me the longer someone is
22 using a narcotic, an illicit substance, the greater
23 impact it could have on their memory. Let me ask that
24 question a little different way. If I had taken
25 methamphetamine this morning and it was just a one-time

1 thing, once that clears my system, I should be back to
2 normal; is that a fair statement?

3 A I would think so.

4 MR. FRETWELL: Your Honor, may we approach?

5 THE COURT: Yes.

6 (WHEREUPON, a bench conference was held off the record.)

7 BY MR. MARCHANT:

8 Q With the analysis that you found, is that something
9 -- related to the methamphetamine, is that something that
10 you tested or does it go to some other division within
11 your office?

12 A It goes to an outside toxicology lab in
13 Pennsylvania.

14 Q Okay. So you're confident that the sample you took
15 and sent up and the result you got came from the sample
16 out of Mr. Gula.

17 A I am. It's sent specifically to a forensic
18 toxicology lab that is trained in maintaining chain of
19 custody.

20 Q Okay. The prosecutor asked you if you could tell
21 how long the victim had been deceased. You received
22 Mr. Gula on December 17th; is that correct?

23 A I examined him on the 17th, yes.

24 Q When did he get into the custody of the coroner's
25 office?

1 A Sometime between December 16th and 17th.

2 Q Okay. I'm sorry. Maybe I misunderstood. You're
3 with the coroner's office?

4 A I am -- I am not with the coroner's office. I am
5 essentially a consultant to the coroner's office. I do
6 the autopsy for the coroner's investigation.

7 Q Okay. So the coroner went out to the scene,
8 wherever that may be, brought the body directly to you or
9 does it go somewhere else in between the time the coroner
10 picks it up?

11 A It goes to the Greenville hospital morgue where it's
12 stored until autopsy.

13 Q So you performed your autopsy on December 17th at
14 9:20 in the morning; is that correct?

15 A Yes.

16 Q So December 17th, I don't recall what day of the
17 week that was, but are you able to go back and determine
18 when the person died?

19 A I'm not able to give an exact time of death, no.

20 Q Okay. You were given information about law
21 enforcement about generally what they thought happened,
22 right?

23 A I was given information about how the body was found
24 and the circumstances surrounding how the body was found.

25 Q Just how the body was found, not how any of the

1 injuries may or may not have occurred?

2 A I don't recall the details, but I don't believe the
3 coroner's report -- the coroner's report had any
4 information about how those injuries occurred because the
5 body had not been opened yet. When I received the body,
6 it was still wrapped in those layers.

7 Q Was there law enforcement present during the
8 autopsy?

9 A I believe so, yes.

10 Q And none of the investigating officers suggested to
11 you this is what we think happened?

12 A They may have discussed it amongst themselves as
13 they may do during the autopsy.

14 Q Okay. But you never sat down with them and went
15 through a scenario of what they believe occurred.

16 A Not that I recall.

17 Q You've identified a number of injuries on
18 State's 40. If we can go back to that.

19 In your testimony on direct, you identified five
20 different wounds and then you've discussed a number of
21 things around the head area. But you were never asked if
22 those were fatal wounds or could have been fatal wounds.
23 Do you have an opinion on that?

24 A On what exactly?

25 Q So in your report -- and I don't know. It may be

1 easiest for you to step down so you and I can walk
2 through this with the jury so they can see what we're
3 talking to. I will try to stay out of your way.

4 In your report, you talk about additional injuries.
5 And I believe the testimony that you talked about talked
6 about some of these here (indicating) that was like skin
7 that had been pulled forward or pulled back; is that
8 right?

9 A Yes.

10 Q Okay. And so it looks to me like on the back of the
11 head, have you identified one, two, three, four different
12 wounds?

13 A Approximately one, two, three, four, five, six,
14 maybe. I don't recall how many are listed in my report.

15 Q Well, if you need to refer back to your report,
16 let's do that.

17 Any of these wounds on the back of the head
18 considered fatal or could have resulted in the death?
19 And this is not a hypothetical because we know that he
20 has wounds 1 through 5 that you've already discussed.
21 Okay. But if 1 through 5 did not exist, the wounds on
22 the head area, could they have been fatal?

23 A They could have been.

24 Q Okay. So the one -- I think you testified about a
25 skull being cracked. Can you point out to the jury which

1 one you're referring to there?

2 A I believe it was one of these more anterior ones.
3 Underlying that one was a skull fracture with extension
4 fractures. They extended along multiple bones of this
5 skull.

6 Q And are you able to determine how that injury
7 occurred?

8 A It was a blunt-force injury of some kind.

9 Q So not a stab.

10 A Well, it could have been a chop wound which is a
11 combination of blunt and sharp-force injury. So it's a
12 blunt injury. It's a blunt-force pattern injury caused
13 by an object that is also sharp that creates an impact --
14 a blunt-force impact into the skull. So either one of
15 those would be possible.

16 Q So, for example, somebody got hit with a baseball
17 bat, that could have caused that injury?

18 A That would have been a blunt-force injury,
19 potentially. Baseball bat is unlikely to cause this
20 specific depression fracture that was discovered in the
21 skull, but a blunt-force injury could cause a skull
22 fracture, certainly.

23 Q Okay. So a 2x4?

24 A Could cause skull fractures.

25 Q A cinder block?

1 A Yes.

2 Q You identified these other five areas that you
3 talked about with the prosecutor, but you're not able to
4 say what type of instrument was used to cause those
5 injuries, are you?

6 A No.

7 Q So you don't know if it's a knife, right?

8 A Right.

9 Q A samurai sword?

10 A Right.

11 Q Screwdriver?

12 A It's not patterned like a screwdriver, but I suppose
13 possibly.

14 Q Okay. Well, let's talk about that. Why are those
15 injuries not patterned like a screwdriver? What
16 information did you discover during autopsy that you can
17 say with that confidence it's not a screwdriver?

18 A I mean, the -- the long end of a screwdriver, there
19 aren't small round puncture wounds that you would expect
20 from, say, a stab wound by a screwdriver. But let me
21 refer to that specific injury.

22 (Reviews document) So I describe that wound as a
23 laceration meaning that at least in the postmortem state,
24 it appeared to be consistent with a blunt-force impact.
25 Again, the edges of tissue are decomposing and irregular.

1 But I described that as blunt-force impact to the skull.
2 And underlying that injury was an angulated skull
3 fracture, so a depression in the skull that was a
4 fracture that was angulated at a point. That's the shape
5 it was.

6 Q Okay. Well, let's walk back through the 1 through 5
7 that you discussed with the prosecutor yesterday. You
8 were able to say that those were not by way of a
9 screwdriver?

10 A It does not appear so. They appear to be too long
11 and not shaped like a screwdriver. I suppose the handle
12 of a screwdriver could be used for a blunt-force impact.
13 This is all hypothetical.

14 Q Okay. A knife, for example, a kitchen knife that
15 has a serrated edge on it so you're cutting your steak.
16 Are you with me?

17 A I am.

18 Q Okay. Not a butter knife. Serrated. Would a
19 serrated knife leave a pattern of injury on one side of
20 the wound versus the other given that one side of the
21 blade is serrated?

22 A In intact skin, a serrated blade could leave a
23 scraping pattern on one side of the skin. It could also
24 leave a clean sharp-force defect. It would not leave a
25 blunt-force defect assuming the sharp edge was used.

1 Q Meaning the blade side versus the handle side.

2 A Correct.

3 Q And because of the timing of your analysis, you're
4 saying you can't determine whether or not an item or
5 instrument had a serrated edge on it; is that what you're
6 telling us?

7 A There was no evidence on the skin of a serrated edge
8 used.

9 Q And does that go through 1 through 5 that you
10 identified earlier?

11 A All of them, yes.

12 Q All of them. So none of the injuries from your
13 analysis come from an instrument that has a serrated
14 edge.

15 A No. There's no evidence on the decomposing skin
16 that there was a serrated edge.

17 Q Did you meet with the prosecutor before coming and
18 testifying today?

19 A Yes.

20 Q Did y'all review any photographs or anything?

21 A Yes.

22 Q You did? Were they photographs other than the
23 photographs we've seen today?

24 A No. I don't believe so. Potentially one or two
25 more that showed the same items, but very similar

1 photographs.

2 Q Did you take any fingerprint or DNA samples off of
3 Mr. Gula?

4 A I didn't.

5 Q Okay. And how do you know that his name is Ivan
6 Gula?

7 A He was identified by the coroner's office by
8 fingerprints.

9 Q So somebody else is telling you that's what --
10 that's who this person is.

11 A Yes.

12 Q There were no drivers license or Social Security
13 card or passport with him when he came to you.

14 A No. But he was also not visually identifiable based
15 on the postmortem changes.

16 Q You talked about the jacket still being around the
17 wrist. I'm a little unclear what you mean. And I may
18 ask you to step down and take your jacket off so I can
19 understand and display to the jury what you observed
20 about the jacket.

21 A The jacket was surrounding the hands as if -- and I
22 do not know how the jacket was removed from the body, but
23 the jacket had been removed from the torso of the body
24 and was still surrounding the hands.

25 Q So when the body came to you, it was wrapped --

1 wrapped up in several pieces of either fabric or carpet
2 or whatever that stuff was, right?

3 A Yes.

4 Q And so when you -- did you physically roll the body
5 over to start your autopsy or do you start upside down?
6 Or like how does that process work?

7 A We remove each layer and then I will, with
8 assistance, roll the body over and then examine things on
9 the front and continue to remove layers until there
10 aren't any.

11 Q Okay. So when you rolled the body over, I'm going
12 to try to demonstrate, you tell me if I'm right or wrong,
13 the jacket is -- the jacket's like this around the hands?

14 A Yes.

15 Q Okay. It wasn't tied up in knots like somebody had
16 been tied together.

17 A It was surrounding the wrist and lying beneath the
18 body.

19 Q Okay. And that's the black jacket that we've seen?

20 A Yes.

21 Q There was one other comment that you made. You
22 talked about the hands. You were able to determine that
23 the hands were in a moisture-rich environment. Can you
24 elaborate on that?

25 A There were changes to the hands that indicated they

1 had been in moisture and causing wrinkling of the skin
2 like you might see in a bathtub or similar.

3 Q Okay. So if I were to pass away today right now
4 with my hands -- and y'all took possession of my body and
5 started doing an autopsy tomorrow, would my hands have
6 the same effect as what you're describing?

7 A If your hands remained in water, they could.

8 Q If they remained in water.

9 A If they remain in a moisture-rich environment, yes.
10 If they were allowed to dry out, they would not have that
11 change.

12 Q Okay. When you unwrapped the body, was there water
13 standing in any of the materials that you unwrapped?

14 A Not water, but moisture.

15 Q Moisture. Okay. I guess I'm not -- sorry. You say
16 moisture. What is the difference between moisture and
17 water? And can you describe the volume of moisture you
18 found?

19 A There's not a volume.

20 So the body contains lots of water, and the body was
21 wrapped and enclosed in the items we talked about. So
22 any moisture seeping from the body would then be
23 surrounding the body and enclosed in those layers of
24 items.

25 Q I think the prosecutor asked you, in December of

1 2019, relatively generally cool outside. When the
2 temperature drops, does that help preserve the condition
3 of a body in the sense that it doesn't decompose as fast?

4 A It may slow decomposition, cold environment.

5 Q So if it's the summertime, it's going to occur
6 quicker.

7 A Yes. Hot temperatures will increase the rate of
8 decomposition. Other -- there are other factors at play
9 including the fact that the body was wrapped and
10 underground. But yes. Cooler temperatures will slow
11 decomposition.

12 Q But given all that, you can't say with any certainty
13 how long Mr. Gula had been deceased.

14 A No.

15 Q It could have been a week. It could have been two.
16 It could have been a month.

17 A It's potentially consistent with any of those
18 timelines.

19 Q The injuries that have been discussed, Number 2, 3,
20 4 and 5, those are all on the back side, right?

21 A Yes.

22 Q And Number 1 is on the front side (indicating).

23 A It's on the side, yes.

24 Q Can you point to the jury where exactly that injury
25 is?

1 A Right about here (indicating).

2 Q So underneath kind of the ear and the jaw?

3 A Right at the jaw line right here (indicating).

4 Q Right at the jaw line.

5 Number 2, you gave a description -- let me back up.

6 The description on all of these you reference stab
7 wounds; is that correct? So 1, 2, 3, 4 and 5 are all
8 stab wounds.

9 A Yes.

10 Q Okay. And as it related to Number 2, you can't say
11 how far the instrument went in. You were not able to
12 determine a depth?

13 A Correct.

14 Q And the same goes for Number 3?

15 A Correct.

16 Q What about 4 and 5? Were you able to determine the
17 depth?

18 A I believe 3, 4 and 5 extended into body cavities so
19 the depth was not able to be measured.

20 Q So no depth on anything except Number 1?

21 A No measured depth.

22 Q No measured depth.

23 A There's a depth of at least into the body cavity.

24 Q Okay. How did you come up with the depth on
25 Number 1?

1 A I measured it with an instrument.

2 Q Like a ruler.

3 A Like a ruler.

4 Q Yeah. Okay.

5 With respect to all of the wounds, whether we've
6 talked about 1 through 5, anything with the head, you're
7 not able to say which one, which specific one was the
8 fatal blow.

9 A There are multiple injuries to the body that could
10 have caused death.

11 Q You're also not able to tell this jury which
12 injuries occurred in which order.

13 A No.

14 Q I realize you've got some of them labeled 1 through
15 5, but that's just for identification purposes for you
16 only, right?

17 A That's correct.

18 Q So Number 5 could have been the first injury.

19 A Maybe.

20 Q Right? And the injury on the head, we've talked
21 about the skull fracture, could have been the second one.

22 A Sure.

23 Q And we can go through this with every single injury
24 on the body.

25 A Yes.

1 MR. MARCHANT: Thank you. I have no further
2 questions.

3 MR. FRETWELL: Very briefly, Your Honor.

4 THE COURT: Yes, sir.

5 REDIRECT EXAMINATION

6 BY MR. FRETWELL:

7 Q Doctor, I just want to ask you about -- I'll put
8 this back on. I just want to ask you about one of these
9 stab wounds, Stab Wound Number 1. Mr. Marchant has asked
10 you about the depth of that stab wound. I'd like to
11 focus on the length of the stab wound on the skin.

12 A Okay.

13 Q You indicated in your testimony that it was
14 approximately 1.3 inches?

15 A Yes.

16 Q Certainly, you couldn't say if it was a blade narrow
17 than 1.3 inches, but can you say, given the depth of the
18 injury that you noted, that that blade could not have
19 been wider than 1.3 inches?

20 A It could not have been wider than 1.3 inches at that
21 depth.

22 Q Thank you, ma'am.

23 And then also, with respect to your testimony just a
24 moment ago about the injury on the head, the skull
25 fracture, you indicated in your testimony that that could

1 lead to death. What was your finding of the cause of
2 death in Mr. Gula's case?

3 A Multiple stab wounds.

4 MR. FRETWELL: No further questions, Judge.

5 THE COURT: All right. Anything on recross?

6 RECROSS EXAMINATION

7 BY MR. MARCHANT:

8 Q You talked about the cause of death. Just so the
9 jury is clear, there are five causes of death?

10 A Manners.

11 Q Manners of death. Okay. And that's homicide which
12 means I didn't do it to myself.

13 A It's death at the hands of another, yes.

14 Q There's natural?

15 A Yes.

16 Q Like I've had a heart attack.

17 A Yes.

18 Q Suicide?

19 A Yes.

20 Q Unknown?

21 A Undetermined, yes.

22 Q Undetermined?

23 And what's Number 5?

24 A Accident.

25 Q Accident.

1 So in your opinion, the only one that applies here
2 is homicide.

3 A Yes.

4 MR. MARCHANT: Thank you.

5 THE COURT: All right.

6 MR. FRETWELL: May the witness be excused, Your
7 Honor?

8 THE COURT: All right. Thank you, ma'am. You can
9 step down.

10 Any objection to her being excused?

11 MR. MARCHANT: No, Your Honor.

12 THE COURT: All right. Thank you, ma'am.

13 THE WITNESS: Thank you.

14 THE COURT: Appreciate you coming.

15 All right. State's ready to call its next witness?

16 MR. FRETWELL: Yes, Your Honor.

17 THE COURT: All right.

18 MR. FRETWELL: Your Honor, the State would call
19 Master Deputy Jessie Arrowood.

20 THE COURT: All right.

21 THE CLERK: Please pause here at the bench. Lay
22 your left hand on the Bible, raise your right hand.

23 WHEREUPON,

24 JESSIE ARROWOOD

25 After having been duly sworn, testified as follows:

1 THE CLERK: Thank you. Go ahead and have a seat.
2 And please state your full name for the record.

3 THE WITNESS: Jessie Abrooks Arrowood.

4 MR. FRETWELL: May it please the Court, Your
5 Honor.

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. FRETWELL:

9 Q Master Deputy Arrowood, good morning. How long have
10 you been employed with the Greenville County Sheriff's
11 Office?

12 A Ten years, sir.

13 Q I'm going to dispense due to time with your current
14 assignments and your background. In December of 2019, in
15 what capacity were you serving with the Greenville County
16 Sheriff's Office?

17 A During that time, I was a master deputy on community
18 patrol.

19 Q And on that particular day, December 16, 2019, did
20 you participate in the execution of a search warrant at
21 212 C and S Drive in Greenville County?

22 A Yes, sir, I did.

23 Q And just to confirm, that location is within
24 Greenville County.

25 A Yes, sir, it is.

1 Q All right. And what was your role in that
2 particular search warrant execution?

3 A During that day, I was tasked with clearing the
4 residence that was located on that property.

5 Q Did you disable anything at the residence at that
6 time?

7 A Yes, sir, I did. At the residence, there were some
8 security cameras, and it was believed that they could
9 have been viewed from a different location. So I
10 disabled the security cameras.

11 Q And those were on the exterior of the trailer?

12 A Yes, sir, they were.

13 Q All right. And anything you noticed during your
14 sweep of the residence in particular that stood out to
15 you?

16 A Yes, sir. Once inside the residence, by the front
17 door, there was a section of the carpet that had been cut
18 out. And it appeared to have been cut out recently
19 because I could see the subfloor which appeared that it
20 was not worn.

21 Q Okay. When you went through the residence on this
22 search warrant execution, were you wearing a body cam?

23 A Yes, sir, I was.

24 Q And was it active at that time?

25 A Yes, sir, it was.

1 Q Let me show you what's been marked as State's
2 Exhibit 41. Tell me if you recognize this particular
3 item and how you recognize it.

4 A Sir, I recognize this because I've viewed this and
5 my initials JA BA are written on it.

6 Q Okay. And is this a true and accurate copy of a
7 portion of the body-worn camera video that you captured
8 on that particular day during that search warrant
9 execution?

10 A Yes, sir, it is.

11 MR. FRETWELL: All right. Your Honor, at this time,
12 the State would move State's 41 into evidence.

13 MR. MARCHANT: No objection. No objection to
14 publishing.

15 THE COURT: All right.

16 (WHEREUPON, State's Exhibit Number 41 was admitted into
17 evidence.)

18 BY MR. FRETWELL:

19 Q Master Deputy Arrowood, I believe that there's no
20 audio on this particular exhibit, so if you could just
21 simply, as the exhibit it playing, explain to the jury
22 what you're doing. You don't need to talk the entire
23 time, but if there's something significant, if you'll
24 please just relate that.

25 A Yes, sir.

1 (WHEREUPON, the following testimony was given while
2 State's Exhibit Number 41 was played in open court.)

3 THE WITNESS: At this time, myself and another
4 deputy are moving to the rear of the residence which was
5 the area we're assigned to. As I move up to the rear of
6 the residence, the security camera at the top right
7 corner I disabled.

8 BY MR. FRETWELL:

9 Q Is this the front or the rear of the trailer?

10 A This is the rear of the residence.

11 During this time, announcements are being made.

12 That's myself and the deputy in front of me are
13 entering the residence. Other deputies are clearing the
14 other side of the residence.

15 Q What is this area of the residence?

16 A This is what I would normally refer to as like a
17 master bedroom style area of the residence.

18 Q With a master bath?

19 A Yes, sir.

20 Q Okay.

21 A At this point, I was clearing underneath the bed
22 then for no one was underneath it.

23 Q This area that you're entering now?

24 A This is the kitchen area. Just past this area is
25 the living room.

1 Q Investigator Garrett there?

2 A Yes, sir.

3 Q How many exterior entrances to this trailer, Deputy
4 Arrowood?

5 A To my knowledge, there was two, the first one being
6 the one we entered. And then as prior to the video
7 panning, the second one, which would be the front door,
8 was the one that was over there to the right.

9 Q Is that the location you testified earlier where
10 there was some missing carpet?

11 A Yes, sir.

12 Q Exposed subfloor?

13 A Yes, sir.

14 As you can see right here with the door open, this
15 is the area that I'm referring to. Right now there is a
16 rug, like a movable rug or towel or something over that
17 area.

18 Q And your role, just to be clear, at this point
19 primarily is to clear the residence of people; is that
20 correct?

21 A Yes, sir.

22 Q Not to collect evidence.

23 A Yes, sir.

24 Q Not to collect.

25 A I was there in a support fashion.

1 (End of video playback of State's Exhibit Number 41.)

2 BY MR. FRETWELL:

3 Q Out of the interest of time, I'm going to pause the
4 exhibit there.

5 Let me just ask you, when you went outside of the
6 residence, did you have occasion to speak to anyone from
7 the community or a neighbor?

8 A Yes, sir, I did.

9 Q As a result of speaking to that neighbor, did you
10 give any kind of information to investigators on scene as
11 to any additional areas they should search on the
12 property?

13 A Yes, sir, I did. I spoke with a subject who
14 identified himself as Bruce Jones which was Audrea Cook's
15 grandfather. And he explained to me that there was a
16 well on the property.

17 Q And did you pass that information on to the
18 investigator?

19 A Yes, sir, I did.

20 Q Is your understanding that that well was searched?

21 A Yes, sir, it is.

22 Q And then let me take you to December 18, two days
23 later. Did you assist in the arrest of an individual by
24 the name of Bobby Ray Smith?

25 A Yes, sir, I did.

1 Q From whose custody did you get him?

2 A I took his -- custody of him from the Spartanburg
3 County Sheriff's Office in our facet unit.

4 Q And you transported him to detention?

5 A Yes, sir, I did.

6 MR. MARCHANT: Thank you, sir. Answer any questions
7 opposing counsel may have for you.

8 THE COURT: Cross-examination?

9 CROSS EXAMINATION

10 BY MR. MARCHANT:

11 Q Did you -- or maybe it's not your role, but did you
12 take possession of the security camera?

13 A No, sir, I did not.

14 Q Okay. That was your hand knocking it down on the
15 ground?

16 A Yes, sir, it was.

17 Q Did you engage in the search of the residence for a
18 server or anything related to the security camera?

19 A No, sir, I did not.

20 Q That's not your role, not your job?

21 A Not in this capacity, sir.

22 Q Whose would it have been?

23 A It would have been one of the investigators, sir.

24 Q So one of those. There's two in this case, John
25 Garrett and Antonio Bailey. It would have been their

1 responsibility?

2 A I'm not familiar with the roles above the supporting
3 element.

4 Q When you took possession of Bobby Ray Smith, did you
5 talk to him?

6 A Yes, sir, I did.

7 Q Okay. He made some comments to you?

8 A Yes, sir, he did.

9 Q Okay. And what were you taking him into possession
10 for? Why are you taking custody of him?

11 A Because he had an arrest warrant, sir.

12 Q For what?

13 A At the time, I believe it was for murder, and I'm
14 not -- I'm not sure what the other arrest warrant was at
15 that time.

16 Q Okay. Murder and kidnapping sound right?

17 A If you say that, it does, sir.

18 Q And so when you took possession of Mr. Smith, were
19 you in Spartanburg County or did you meet Spartanburg at
20 the county line?

21 A I was in Spartanburg County, sir.

22 Q Okay. So you went into Spartanburg County and took
23 possession of him.

24 A Yes, sir, I did.

25 Q And drove him down 85 back to the Law Enforcement

1 Center?

2 A Yes, sir, I did.

3 Q So you were with him for 30, 45 minutes, depending
4 on traffic?

5 A Approximately, sir.

6 Q Okay. When you took possession of him in
7 Spartanburg County, was he made aware that he was under
8 arrest for murder and kidnapping?

9 MR. FRETWELL: Your Honor, what's the relevance at
10 this point? I'd object.

11 THE COURT: I'm going to sustain the objection.
12 Rephrase your question.

13 MR. MARCHANT: Judge, it goes directly to
14 Mr. Smith's statements that he's made to this deputy and
15 whether or not he's ---

16 THE COURT: I've already sustained the objection,
17 Mr. Marchant.

18 BY MR. MARCHANT:

19 Q What did you do with Mr. Smith after you took
20 possession of him?

21 A I transported him to the Law Enforcement Center,
22 sir.

23 Q Okay. But you talked to him in the car on the way
24 to the Law Enforcement Center?

25 A I asked him a few general questions, and he spoke

1 with me without me asking any questions about the case,
2 sir.

3 Q Okay. And he told you some things about the case.

4 A Yes, sir, he did.

5 Q Okay. And that was on the 18th of December 2019,
6 correct?

7 A Yes, sir, it was.

8 Q And then once you got back to the Law Enforcement
9 Center, you turned him over to Investigator Garrett
10 that's sitting over here, right?

11 A Yes, sir, I did.

12 Q And then Investigator Garrett conducted further
13 interviews with Mr. Smith.

14 A Yes, sir. That is my knowledge.

15 MR. MARCHANT: Thank you. No further questions.

16 MR. FRETWELL: No questions, Your Honor. May this
17 witness be excused?

18 THE COURT: All right. Any objection?

19 MR. MARCHANT: Subject to recall if necessary.

20 THE COURT: All right. Sir, you're excused. Thank
21 you.

22 THE WITNESS: Yes, sir. Thank you, Your Honor.

23 THE COURT: All right. State can call its next
24 witness.

25 MR. WILLIAMS: The State calls Crystal Minwegan,

1 A I did.

2 Q What else did you see there in the living room
3 area?

4 A There was a couch right next to the front door, and
5 on the side of the couch, I observed there to be what I
6 would say would be suspected blood.

7 Q Suspected blood? What did you do when you saw that
8 suspected blood?

9 A I utilized my phenolphthalein testing which is a
10 field presumptive test to test for blood.

11 Q How does that work?

12 A You utilize a phenolphthalein reagent and hydrogen
13 peroxide, and they react with each other to give you a
14 result to tell you if it's blood or not.

15 Q What result did you get?

16 A A positive result.

17 Q So you knew it was blood based on that test.

18 A Yes.

19 Q Okay. And did you also photograph other areas of
20 the living room and kitchen area as well?

21 A I did.

22 Q So did you take -- you said you had those
23 presumptive blood tests. Did you also see spots on the
24 wall as well?

25 A Yes. But that was later during my -- when I was on

1 Q Now, without showing the jury, would you open that
2 up and view it to make sure that's the meat cleaver that
3 you collected from the right bedroom?

4 A (Witness complies.)

5 Q Without showing the jury. Do you recognize that?

6 A Yes.

7 Q Is that what you collected from the right bedroom?

8 A Yes.

9 Q Is it in the same condition as it was when you
10 collected it?

11 A Yes.

12 MR. WILLIAMS: Your Honor, at this time, the State
13 would move Item CM-8B into evidence.

14 THE COURT: Any objection?

15 MR. MARCHANT: No objection.

16 MR. WILLIAMS: I believe it's State's 83.

17 (WHEREUPON, State's Exhibit Number 83 was admitted into
18 evidence.)

19 MR. WILLIAMS: Permission to publish, Your Honor.

20 THE COURT: Any objection?

21 MR. MARCHANT: No objection.

22 THE COURT: All right.

23 BY MR. WILLIAMS:

24 Q I just want to talk about some of those -- and we've
25 seen some of the photographs already, but one of the

1 Can this witness also be excused?

2 MR. WILLIAMS: Yes, Your Honor.

3 MR. MARCHANT: No objection.

4 THE COURT: All right. Thank you, ma'am. You're
5 free to go.

6 Call your next witness.

7 MR. WILLIAMS: The State calls Brittany Brown, Your
8 Honor.

9 THE CLERK: Please pause at the bench. Place your
10 left hand on the Bible, raise your right hand.
11 WHEREUPON,

12 BRITTANY BROWN

13 After having been duly sworn, testified as follows:

14 THE CLERK: Thank you. You may be seated. Please
15 state your full name for the record.

16 THE WITNESS: Brittany Brown.

17 DIRECT EXAMINATION

18 BY MR. WILLIAMS:

19 Q Where are you currently employed?

20 A Greenville County forensics.

21 Q Were you asked on June 9, 2022, to collect buccal
22 swabs in the death investigation related to Ivan Gula?

23 A Yes.

24 Q Could you tell the jury what buccal swabs you
25 collected?

1 A Patrick Poole.

2 Q Okay. What were those item numbers?

3 A BB-1 and BB-2, I believe.

4 Q What did you do with those buccal swabs after you
5 collected them from Patrick Poole?

6 A I packaged them and transported to our Property and
7 Evidence.

8 MR. WILLIAMS: Thank you. No further questions.

9 THE COURT: Cross-examination?

10 MR. MARCHANT: No questions.

11 THE COURT: All right. Ma'am, you can step down.
12 Can this witness also be excused?

13 MR. WILLIAMS: Yes, Your Honor.

14 MR. MARCHANT: No objection.

15 THE COURT: Ma'am, you're free to go.

16 Call your next witness.

17 MR. WILLIAMS: The State calls Jonathan Hamilton.

18 THE CLERK: Please pause here at the bench. Place
19 your left hand on the Bible.

20 WHEREUPON,

21 JONATHAN HAMILTON

22 After having been duly sworn, testified as follows:

23 THE CLERK: Thank you. You may be seated. And
24 please state your full name for the record.

25 THE WITNESS: Jonathan Franklin Hamilton.

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q Mr. Hamilton, where are you currently employed?

A I'm employed with the Greenville County Coroner's Office.

Q Were you previously employed with Greenville County forensics?

A I was.

Q When did you work there?

A I worked there from 2007 to 2021 where I left as a sergeant.

Q Back in December of 2019, were you asked to process a scene at [REDACTED] Creek Road related to the death investigation of Ivan Gula?

A I was requested to respond out to process a scene of a possible death scene, yes, sir.

Q What day was that?

A It was December 16, 2019.

Q What information were you provided?

A I was provided that -- by the investigating officer that a possible homicide had occurred at C and S Drive in Greer where a body was transported to the Cripple Creek address and possibly buried on the property.

Q What can you tell us about that [REDACTED] Creek Road address?

1 A It was in a wooded area, very secluded, sat off from
2 the main road, gravel driveway, very dark, no -- no -- no
3 light or anything at nighttime.

4 Q Were you able to find a burial site there at [REDACTED]

5 A I did. When I arrived on scene, actually, the
6 Greenville County Coroner's Office and the Greenville
7 County Sheriff's Office were already on scene. And they
8 had already located a possible area of a clandestine
9 grave.

10 Q What did investigators ask you to do there?

11 A I was actually asked to take digital photographs and
12 collect any items of evidence from the scene. The
13 coroner's office said that they were going to handle
14 doing the excavation of the grave.

15 Q Does your office or your previous office, forensics,
16 have the ability to create I guess we could call it a
17 digital scan taken from a bunch of different photographs?

18 A Yes. At the time, we had a Faro scanner. That's
19 the name of the company, Faro. And it is a scanner which
20 can obtain digital points by laser and photographs with a
21 machine on a tripod.

22 Q Does it help kind of give a 3D image of the scene
23 that you're processing?

24 A It does. It does. It does give you a 3D view of
25 the scene.

1 Q I'm showing you State's Exhibit 231. Can you tell
2 us, do you recognize that item?

3 A I do.

4 Q What is it?

5 A This is a USB drive that contains the digital 3D
6 fly-through, as it were, of the scene.

7 Q How do you know that that thumb drive contains that
8 imagery?

9 A Because I looked at it, and my initials, JFH, are on
10 both the USB and the paper.

11 Q Is it a fair and accurate depiction of the scene
12 there at [REDACTED] Creek Road?

13 A It is.

14 MR. WILLIAMS: Your Honor, at this time, the State
15 would move Exhibit 231 into evidence.

16 THE COURT: Any objection?

17 MR. MARCHANT: No objection. No objection to
18 publication.

19 THE COURT: All right. So noted.

20 (WHEREUPON, State's Exhibit Number 231 was admitted into
21 evidence.)

22 MR. WILLIAMS: Mr. Hamilton, when we play this,
23 would you describe to the jury various things?

24 And permission to have him step down to the
25 television, Your Honor.

1 THE COURT: Yeah. Is that screen on?

2 THE WITNESS: The screen, they're logging in now.

3 Yes, sir.

4 THE COURT: All right. Whatever is comfortable for
5 you. He wants you to step down.

6 THE WITNESS: I'll do old school, if that's okay.

7 THE COURT: All right.

8 MR. WILLIAMS: Just in order to be able to show the
9 jury exactly what you're talking about.

10 (WHEREUPON, the following testimony was given as State's
11 Exhibit Number 231, a video, was played in open court.)

12 THE WITNESS: This is the actual property on Cripple
13 Creek. This is a forensics vehicle. This is the circle
14 driveway that sits at the front of the property as we
15 call it. It had a lot of miscellaneous items in the
16 front of it, trash, scrap metal, that kind of stuff. We
17 also have a camper, a trailer and a utility building on
18 the property.

19 And as it comes around, now we're at the back of
20 this trailer. And off to the right you'll see a colored
21 area. That is actually where the burial site is located.
22 And you'll get a better shot of it here in just a minute.

23 You can already see some colored areas and then
24 grayed areas. And the reason is, because this was at
25 nighttime. So this was using the light inside of the

1 home and this was not using light. So any of the grayed
2 areas is just the actual gray, black-and-white that the
3 scanner picked up.

4 There again, there's the burial site down here.

5 And as you can see, here's the driveway and the
6 burial site. So it's a bit of a distance between the
7 driveway and the site.

8 Now, the reason this is colored is because we -- we
9 had floodlights on at the time the scans were being
10 taken.

11 The blue tarped area is where the grave site is.

12 Once again, this is the front of the home, the
13 trailer.

14 Very dense vegetation, too, so you won't get a lot
15 of 3D imaging past that vegetation.

16 Any of these circled areas that you see is where the
17 actual scanner was sitting whenever the scans were being
18 obtained (indicating throughout).

19 BY MR. WILLIAMS:

20 Q So off to the left side there, is that the camper?

21 A This is the camper. There's a small little tiny
22 utility style building, and then you have the trailer
23 here.

24 There again, this just depicts all the trash.
25 Another utility building here. All the trash and junk

1 that was laying out on the property.

2 And this is another utility building at the rear of
3 the trailer.

4 Now we're moving into where the actual grave site
5 is. This was once it had been uncovered. The grave had
6 the dirt removed and items taken out of it.

7 So here's the grave site -- or excuse me. Here's
8 the grave site, and this is items that were in the grave
9 with the deceased (indicating throughout).

10 Q Are those cinder blocks over there?

11 A Yes. These (indicating) are cinder blocks the
12 Greenville County Coroner's Office had removed out of --
13 from around the victim and from on top of him once the
14 dirt was removed.

15 Q And I believe the grave site is with the body still
16 in the grave, right?

17 A Correct. You can actually see the wrapping right
18 here (indicating).

19 Q And that's at the base of a big tree there?

20 A Yeah, yeah. It was the base of a dead tree. It
21 looks like a pretty good distance from the actual
22 trailer.

23 (End of video playback of State's Exhibit Number 231.)

24 BY MR. WILLIAMS:

25 Q Thank you, Mr. Hamilton.

1 I'm showing you now State's Exhibit 126 to 131.
2 Would you look at those and tell me if you recognize
3 them?

4 A (Reviews exhibits) Yes. These are digital
5 photographs I took on the scene.

6 Q Are they the exterior?

7 A Yes. Exterior. I have one at -- near the grave
8 site and then the rest of them are the exterior of the
9 home.

10 Q And it fairly depicts the scene that night?

11 A Yes.

12 MR. WILLIAMS: Your Honor, at this time, the State
13 would move 126 through 131 into evidence.

14 THE COURT: Any objection?

15 MR. MARCHANT: No objection.

16 THE COURT: All right.

17 (WHEREUPON, State's Exhibit Numbers 126 through 131 were
18 admitted into evidence.)

19 BY MR. WILLIAMS:

20 Q All right. Mr. Hamilton, you said you took a
21 photograph. Tell us what we're looking at there in
22 State's 126.

23 A This is the blue tarp that had cinder blocks on it
24 that I was pointing out earlier near the grave site.

25 Q And that had originally been covering the grave

1 site?

2 A Yes. Greenville County Coroner's Office advised
3 that they had removed that from around and on top all
4 those items off the victim.

5 Q Is that 127 a picture of the side of the mobile home
6 there?

7 A Yes. This is the side of the home that faces where
8 -- the area where the grave site is.

9 Q Did you collect any tools? any shovels?

10 A Yes. This, if you go back one picture at the corner
11 of the property of the trailer, that bush right there,
12 that's where those tools were located.

13 Q And that's a close-up. 128 is a close-up of that
14 previous photograph?

15 A Uh-huh.

16 Q 129?

17 A This will be the front of the property. So the
18 front door of the trailer is off to the right off the
19 shot, and the camper is off to the left off the shot
20 looking towards the grave site area.

21 Q State's 131, what are we looking at there?

22 A This is the front of the home, front of the trailer.

23 Q Front of the trailer.

24 A Front door. Uh-huh.

25 Q Did you make your way inside that trailer?

1 A Yes, I did.

2 Q What did you see when you got in there?

3 A Very cluttered, dirty, unkempt. The -- as you walk
4 in through the front door, the right side area of the
5 home, the very right corner of the home, it looked like
6 it had prior fire damage. That was black soot. You
7 could tell that there was some kind of fire that
8 occurred. And when you walk through the front door, it
9 was one big room that had been cordoned off with a sheet
10 or blanket or carpet of some sort separating two areas.

11 Q That sheet, that blanket that you saw, how would you
12 describe that?

13 A It was like a carpet. Once I got in there and I
14 looked, it had kind of a leopard style or had that
15 leopard style look to it.

16 Q Did you take photographs when you were in there?

17 A I did.

18 Q I'm showing you State's 132 to 146. Take a look at
19 those and tell me if you recognize those photographs.

20 A (Reviews exhibits) Yeah. These are the photographs
21 I took both on scene and at the Greenville County Coroner
22 -- or the Greenville County Forensics Division.

23 Q Okay. So some of the photographs you took at
24 Greenville County Coroner's Forensics Division were items
25 that you collected from the trailer?

1 A Right.

2 Q Okay. And you just later took those photographs.

3 A Correct.

4 Q Fair and accurate depiction?

5 A They are.

6 MR. WILLIAMS: Your Honor, the State would move 132
7 to 146 into evidence.

8 THE COURT: Any objection?

9 MR. MARCHANT: No objection. No objection to
10 publication.

11 THE COURT: All right.

12 (WHEREUPON, State's Exhibit Numbers 132 to 146 were
13 admitted into evidence.)

14 BY MR. WILLIAMS:

15 Q All right. Exhibit 133, what are we looking at
16 here? Is this the inside of the trailer?

17 A It is.

18 Q What is that?

19 A It's a noose. It's a rope that's made into a noose.

20 Q Okay. 135?

21 A This is that carpet that I spoke of with a leopard
22 print that was hanging separating those two sections of
23 the room. And off to the left there is a roll of duct
24 tape with an evidence placard Number 2.

25 Q Does that placard number also translate to the item

1 -- to the number that you associate with that item?

2 A Yes. What I used to do is any physical items of
3 evidence, I would use a numbered placard, so 1, 2, 3, 4
4 for something physical. Anything DNA related, hairs,
5 fibers, DNA, trace evidence, that kind of thing, I would
6 use letters so that way I could distinguish between the
7 two of what -- what they are.

8 So 2 was actually -- should be JFH-2 in my report.

9 Q Is this a close-up of JFH-2, Exhibit 136?

10 A It is.

11 Q What can you tell the jury that stands out to you
12 about that roll of duct tape?

13 A Well, the first thing that I noticed was that it
14 appeared to have suspected blood on the tape and on the
15 cardboard insert of the tape.

16 Q Right in this (indicating) area?

17 A Uh-huh. And on the actual cardboard insert as well.

18 Q Okay. And then this is -- is this back when you
19 were at the forensics office when you took 138?

20 A It is. Basically, I took the item out -- put a
21 clean piece of parchment down, took the item out, put it
22 down. took some better photographs of it in a controlled
23 environment.

24 Q And what is the brand of duct tape there?

25 A Suretape PC-857.

1 Q Does that look like generic duct tape that the
2 average person would have lying around their house or is
3 that more of a contractor?

4 A No. For me, it kind of seemed to me that it was a
5 professional -- used in a professional setting, you know,
6 whatever that may be: HVAC, electrical, whatever the
7 case may be. But you don't see that normally. Normally,
8 you see the duct tape is just gray or a solid color that
9 we use in our homes.

10 Q You mentioned you thought there was blood on that
11 role of duct tape. Did you swab for DNA?

12 A Yes, sir. We always determine it's suspected blood
13 until we can actually do a confirmatory test.

14 This swab indicates a confirmatory test called
15 phenolphthalein presumptive blood test. And basically,
16 all that is, we used distilled -- ionized, distilled
17 water. We put just enough to moisten the Q-tip. We'll
18 swab an area of the suspected blood. And then we add
19 three different chemicals to that swab: alcohol,
20 phenolphthalein and hydrogen peroxide. That turns any
21 blood that pinkish color you see at the end of the
22 Q-tip. If it's not blood, then there will be no reaction
23 to it.

24 Q And that's what's depicted here in State's 139?

25 A Yes, sir.

1 Q Okay. State's 140, can you tell us what this might
2 be?

3 A This is back at the trailer. It's going to be on
4 the left side of that carpeted area when you come through
5 the front door. This shows the back wall.

6 And Number 4, there's an actual machete there that
7 was located which was reported to be a weapon possibly
8 used on the -- on the deceased.

9 Q Is State's 141 a close-up of that weapon?

10 A Yes. You'll see it runs off to the right side of
11 Number 4. So JFH-4 should be that machete with an orange
12 and black handle.

13 Q And State's 142, an even closer shot.

14 A Yes. Just a more up-close shot.

15 Q And you mentioned you'd taken a swab of the duct
16 tape. What did you label that item number as?

17 A JFH-2A, I believe. Let me make sure. Hold on one
18 second. (Reviews document) Yeah. JFH-2A is going to be
19 a swab of the suspected blood. So once we get that
20 positive result, I'll swab a sample of it so that way it
21 can be tested at a later date.

22 Q What did you do with that swab?

23 A It was sealed and it was transported to the Property
24 and Evidence section of Greenville County.

25 Q I'm showing you State's Exhibit 147. Take a look at

1 that and tell us what that is.

2 A (Reviews exhibit) Do you have a pair of gloves?

3 THE CLERK: I don't know if we've got any.

4 BY MR. WILLIAMS:

5 Q And without showing the jury what it is, have a look
6 at it.

7 THE CLERK: I don't have gloves. I have a pair of
8 scissors if you want to look at it.

9 THE WITNESS: Okay. This is the packaging of JFH-2
10 which is that roll of duct tape. Has my initials on it.
11 The bag is sealed with the evidence tape I put on with my
12 initials and date.

13 BY MR. WILLIAMS:

14 Q All right. Without showing the jury what's inside,
15 would you go ahead and look inside and tell us if you can
16 recognize what that is?

17 A (Witness complies) It appears the same duct tape
18 that I collected on the scene and packaged prior to...

19 Q Is that substantially in the same condition as when
20 you collected it?

21 A It appears to be.

22 Q Could you take it out?

23 A (Witness complies.)

24 MR. WILLIAMS: Your Honor, at this time, the State
25 would move JFH-2 into evidence.

1 THE COURT: Any objection?

2 MR. MARCHANT: No objection.

3 THE COURT: All right. So entered without
4 objection.

5 MR. WILLIAMS: Your Honor, that is State's
6 Exhibit 147.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit Number 147 was admitted into
9 evidence.)

10 BY MR. WILLIAMS:

11 Q It's the same duct tape there? Can you show to the
12 jury the blood spots that you noticed?

13 A It's all over inside of the cardboard, and it's in
14 the grooves (indicating) on the side of the tape.

15 Q Okay. And you said you did more with some of these
16 items when you got back to the forensics office. Can you
17 tell the jury what you're doing there?

18 A This is the machete with the Placard 4, JFH-4. This
19 is back at the office. And a piece of parchment paper.
20 Here I am using scaled tape to show the areas where
21 possible suspected blood was located on the blade of the
22 machete.

23 Q Is State's 144 a close-up of one of those spots?

24 A It is.

25 Q 145 as well?

1 A Yeah. There's a little bit down at the bottom and a
2 little bit at the top there.

3 This red marking here was some kind of marker or
4 something.

5 Q Okay. 146, is that the swab you're taking?

6 A Yeah. Again, this is that phenolphthalein
7 presumptive blood test. And I use that on the area of
8 suspected blood closer to the hilt of the weapon.

9 Q Okay. And you sealed that machete and put it into
10 Property and Evidence?

11 A I did.

12 Q I'm showing you State's Exhibit 148. Can you
13 identify what that is?

14 A This is JFH-4 which is the machete that you saw in
15 the pictures. My original seal has been breached, so
16 this is not the original seal that I put on it.

17 Q Is that the sort of thing when prosecutors go to
18 Property and Evidence to view the evidence?

19 A Absolutely. Or if there's any further investigation
20 that needs to be had with the weapon.

21 Q So if it was perhaps given to the DNA lab for
22 testing?

23 A Yeah. DNA lab, tool mark impressions. I mean, it
24 can be anything.

25 Q But is it currently sealed?

1 A Yes. It is currently sealed.

2 Q All right. I'm going to ask you again not to show
3 the jury, but would you cut that open and take a look to
4 verify that's actually JFH-4?

5 A (Witness complies) It is wrapped in a white
6 parchment paper that I have -- was not original to my
7 original packaging.

8 Am I okay to break the seal?

9 Q Yeah.

10 A It is the tape -- the paper was sealed with evidence
11 tape. Yes, sir. This is -- this is JFH-4 that I took on
12 scene.

13 Q The same condition as when you took it from the
14 scene?

15 A There are some writing on it from, I'm assuming,
16 testing.

17 Q DNA testing, perhaps?

18 A Perhaps. Yes, sir.

19 MR. WILLIAMS: Okay. Your Honor, at this time, the
20 State would move Exhibit 148 into evidence.

21 THE COURT: Any objection?

22 MR. MARCHANT: No objection.

23 THE COURT: So entered.

24 (WHEREUPON, State's Exhibit Number 148 was admitted into
25 evidence.)

1 BY MR. WILLIAMS:

2 Q Would you show that to the jury?

3 A So this is the picture. From the picture that you
4 see, this writing is all done by -- I'm assuming by
5 someone else who's testing it.

6 Q What about the -- I know you thought you saw blood
7 on there, but what about that writing? It almost looks
8 like crayon writing there in the middle. What does that
9 appear to be?

10 A I am unsure why. Almost looks like they were going
11 to cut that out, but I don't know.

12 Q Okay. In looking at the tip of the blade, would you
13 say that that tip there, that general tip area is less
14 than 1.3 inches or more than 1.3 inches? Hard to say?

15 A Yeah. It's hard to say.

16 Q Okay. So after you took photographs of the trailer
17 there, did you make your way outside to the camper as
18 well as the shed area?

19 A I did.

20 Q And did you take photographs in those locations as
21 well?

22 A I did.

23 Q I'm showing you State's 149 through 164. Do you
24 recognize those photographs?

25 A (Reviews exhibits) Yeah. These are photographs I

1 took on the scene of inside the trailer, inside the
2 camper, and inside the utility building on the property.

3 Q Fair and accurate depiction of the scene?

4 A Yes, sir.

5 MR. WILLIAMS: Your Honor, the State moves 149
6 through 164 into evidence.

7 THE COURT: Any objection?

8 MR. MARCHANT: No objection.

9 THE COURT: All right. So entered.

10 (WHEREUPON, State's Exhibit Numbers 149 through 164 were
11 admitted into evidence.)

12 BY MR. WILLIAMS:

13 Q Okay. Let's look at 149. Can you tell the jury
14 what the evidence placard there is for?

15 A So on the rear of the trailer -- and if y'all
16 remember the 3D, it was a utility building that was set
17 off to the back of the trailer. Inside that trailer was
18 a roll of carpet. And what was distinctive to me was
19 that the same pattern also was hung inside the home, and
20 it was reported to me that it was possibly carpet wrapped
21 on the victim.

22 So we photographed this. This shows an evidence
23 placard. And what I did, we -- I cut a section of that
24 leopard print end off using a sterile scalpel. And
25 that's what 5 is for, for that cut end of that carpet.

1 Q All right. Now moving to the camper, State's 152,
2 did there appear to be writing on here (indicating)?

3 A Yes.

4 Q Okay. Is that a little closer picture, 154?

5 A Uh-huh.

6 Q What does some of that say? I know some of it's cut
7 off.

8 A "Fetch me that horizon and a cold beer. Yo-ho. I
9 don't live in darkness. Darkness" -- I don't know what
10 the -- "Darkness lives in me."

11 Q And then that in purple over there, State's 156,
12 what does that say?

13 A "She didn't need to be saved. She needed to be
14 found, appreciated for exactly who she is, a pirate's
15 king -- a pirate king's Queen Violet."

16 Q State's 158, what does that say right there?

17 A "Work like a captain" -- "work like a captain, play
18 like a pirate."

19 Q Now moving inside the trailer, first of all, what
20 does that depict to you? What does that remind you of
21 when you see that?

22 A A skull and crossbones, pirate -- I guess you see on
23 a pirate's flag.

24 Q State's 160, is that inside the camper?

25 A It is.

1 Q Would you say that was a clean camper?

2 A No.

3 Q Okay. Is this a close-up of the leopard print
4 fabric that you saw?

5 A It is.

6 Q And on the other side, is that a floral design on
7 161?

8 A What was your question again, sir? I'm sorry.

9 Q Is that the other side of that leopard print fabric?

10 A It is. It was a multicolored almost like an
11 eighties splash pattern, I guess.

12 Q All right. So you processed the scene there at
13 Cripple Creek. Were you also asked to process a white
14 GMC Sierra truck?

15 A I was, yes, sir.

16 Q When did that take place?

17 A I was contacted on the 20th of December 2019 by
18 Investigator Bailey who had -- who had stated that a
19 search warrant had been obtained for a white 2017 GMC
20 Sierra.

21 Q Where did you process this vehicle?

22 A That vehicle was actually sealed by my office and
23 transported to our office at 23 Winterberry Court where
24 it was placed in a secured vehicle bay.

25 Q Okay. And when you're processing a vehicle, what

1 sort of things do you look for? First of all, was there
2 sealed tape on the vehicle?

3 A Yes. The hood, both doors because it was a single
4 cab, and the tailgate had red evidence tape attached to
5 it to show it had not been breached.

6 Q Okay. And then what things were you asked to do
7 specifically when you processed that vehicle?

8 A Investigator Bailey said that, you know, he wanted
9 me to get anything that would be of evidentiary value
10 from the vehicle, you know, weapons, any kind of DNA,
11 blood, that kind of thing from the vehicle.

12 Q Did you take photographs?

13 A I did.

14 Q I'm showing you State's 165 through 180. Tell me if
15 you recognize those photos.

16 (WHEREUPON, State's Exhibit Numbers 181 and 182 were
17 marked for identification.)

18 THE WITNESS: (Reviews exhibits) These are
19 photographs from that search warrant being executed on
20 the GMC Sierra and evidence collected there.

21 BY MR. WILLIAMS:

22 Q I'm only going to do -- I know you collect a lot of
23 things, but I'm only going to ask about the things that
24 are specifically within the pictures I'm going to show
25 you.

1 A Okay.

2 Q 165, could you tell the jury what we're looking at
3 there?

4 A This is the rear of the vehicle. This is the items
5 which were in the bed of the truck.

6 Q What is this right here (indicating)?

7 A That is a Clorox bleach bottle and chain link.

8 Q 166, is that the bed cleaned out?

9 A Yes. Once we got -- once I got to a point, I
10 removed the items out of the bed of the truck.

11 Q 167?

12 A This is, again, with items that have been removed
13 out of the truck. And if you look to the right here,
14 you've got drop cord, electrical cords, meter boxes and
15 then you have silver electrical tape or duct tape.

16 Q Is that a closer one, 168?

17 A It is.

18 Q And yet another close one?

19 A It is.

20 Q Okay. Are you -- identified the brand? Maybe 170
21 will help.

22 A Yeah. It's Suretape. And it's DC-181.

23 Q Okay. And did you label that item as JFH-12?

24 A (Reviews document) Yes, I did.

25 Q I'm showing you State's Exhibit 181. Can you

1 identify that?

2 A This is the packaging that I placed that piece of
3 duct tape from the bed of the truck when I put it into
4 Property and Evidence. And it's still sealed.

5 Q Okay. Could you go ahead and without showing the
6 jury open it up, verify?

7 A (Witness complies) Yes, sir. Same piece of
8 evidence.

9 Q Same thing. Has it been altered in any way?

10 A Not that I can tell.

11 MR. WILLIAMS: Your Honor, at this time, the State
12 would move to have State's 181 admitted into evidence.

13 THE COURT: Any objection?

14 MR. MARCHANT: No objection.

15 THE COURT: So entered without objection.

16 (WHEREUPON, State's Exhibit Number 181 was admitted into
17 evidence.)

18 BY MR. WILLIAMS:

19 Q And would you publish that to the jury?

20 A (Witness complies.)

21 Q Okay. So that's the item that you collected from
22 the bed of the defendant's truck.

23 A Uh-huh.

24 Q What is the -- I know the lettering is different,
25 it's not PC-857, but what is the brand of that duct tape?

1 A Suretape.

2 Q And does that also appear to be a professional grade
3 of duct tape to you like the other roll of duct tape that
4 we've just talked about?

5 A Yes, sir.

6 Q Okay. State's 171, that's a close-up of the Clorox
7 that you found in the bed of the truck; is that right?

8 A Yes, it is.

9 Q And then State's 174 is a leather bag.

10 A Uh-huh. I believe it's a leather Harley-Davidson
11 emblem on the bag.

12 Q Where did you collect that item?

13 A That item was collected from the driver's side front
14 seat bottom, so the driver's side seat bottom.

15 Q Okay. And then what did you -- did you label that
16 bag as JFH-9?

17 A I did.

18 Q Okay. Is that after you took it back to your office
19 to further process it?

20 A Yes. It was in the same vehicle bay area. I just
21 put it on a piece of parchment paper, clean parchment
22 paper and began to go through it.

23 Q All right. Does that look like a handgun to you?

24 A It does.

25 Q Okay. This is State's 177. Tell the jury what

1 we're looking at there.

2 A This is JFH-9A. It's a Smith & Wesson .40 caliber
3 handgun with a handgun holster.

4 Q Okay. Did you label it A because it came out of
5 JFH-9?

6 A Correct.

7 Q Okay.

8 A It's just a subset number of the main item number.

9 Q State's 178, same thing?

10 A Yes, sir. Same -- same weapon just without the
11 holster.

12 Q 179, why did you take that picture?

13 A I always try to take a picture if the weapon is
14 loaded. So this was just me pulling back on the slide
15 and photographing that there was something actually in
16 the chamber.

17 Q And then 180, is that the magazine?

18 A It is. It's the -- it's a magazine of the weapon.

19 Q And is it loaded?

20 A Yes, sir, it is.

21 Q I'm showing you State's 182. Can you tell me if you
22 recognize what this item is?

23 A Uh-huh. This is the evidence box that I completed
24 on the handgun for JFH-9 which is a Smith & Wesson.

25 Q Okay. Would you -- again, without showing the jury,

1 would you look inside and verify that that is the
2 handgun, the Smith & Wesson?

3 A The box is not sealed. It does still have my
4 evidence tape on it. (Reviews exhibit) Yes. This is the
5 weapon that I collected from that Harley Davidson bag.

6 Q The Smith & Wesson?

7 A It is.

8 MR. WILLIAMS: Your Honor, at this time, the State
9 would move 182 into evidence.

10 THE COURT: Any objection?

11 MR. MARCHANT: No objection.

12 THE COURT: So entered without objection.

13 (WHEREUPON, State's Exhibit Number 182 was admitted into
14 evidence.)

15 BY MR. WILLIAMS:

16 Q Would you show the jury what's in there?

17 A It has been secured.

18 THE DEPUTY: That was me.

19 THE WITNESS: Okay.

20 BY MR. WILLIAMS:

21 Q All right. And is the holster in there as well?

22 A Yes. This is the holster for the weapon, and this
23 is the magazine.

24 Q And I guess the projectiles have been removed at
25 this point.

1 A The cartridge is -- the cartridges are laying inside
2 the box themselves.

3 Q And what caliber is that?

4 A .40 cal.

5 Q Okay. Now, you also, I believe, going back to that
6 role of duct tape that you got from Cripple Creek, did
7 you also attempt to take fingerprints from that?

8 A I did.

9 Q Okay. Were you able to obtain some fingerprints?

10 A I was. If you give me one second.

11 Q Sure.

12 A Let me go back and -- yeah. So what I did was once
13 I collected the swab of blood, suspected blood from that
14 duct tape roll, I cut a section off the end of the roll
15 because, obviously, if fingerprints are going to be
16 present, it's going to be present near the end where you
17 have to actually tear it across and not halfway through
18 the roll.

19 And at that time, I used a processing procedure with
20 it's called liquinox. Basically, what it is is I use
21 superglue fuming. I put that piece of tape into a
22 chamber. I fume it, and then I use the liquinox which is
23 a chemical mixture of fingerprint powder. It's almost
24 like a detergent. You mix it and you put it onto the
25 sticky side of the tape. You let it sit there for a

1 period of time. You wash it off, let it dry a little bit
2 and then you take pictures of it if there's fingerprints.
3 And I was able to actually obtain fingerprints off of the
4 cut-off section.

5 Q Okay. What did you do with those fingerprints?

6 A So the photographs, because we take photos of most
7 fingerprints, photographs were uploaded to our system. I
8 completed what we call a latent card. And the latent
9 envelope card -- or the latent card has information on
10 the case: where the fingerprint came from, my
11 information. It also has a little box where you draw a
12 little picture of where you're getting it from. And then
13 that was placed into a latent envelope, so a manila
14 envelope about yay big (gesturing) where information is,
15 again, filled out. It's placed in -- as an item number
16 and then forwarded to the latent division where a latent
17 examiner would then get them and run the print for any
18 kind of identification purposes.

19 Q Were you also able to obtain a palm print from the
20 exterior of the white GMC Sierra? Exterior of the
21 tailgate, I should say.

22 A Hang on one second. Yes. The exterior of the
23 tailgate and the exterior of rear-view mirror. Yes, I
24 did. I did get fingerprints off that area.

25 Q And did you submit those latent cards for testing as

1 well?

2 A I did. That's a little bit different when we take
3 fingerprint tape and retrieve after processing the
4 fingerprint and then put that on that white card, same
5 kind of white card on the back side. And, again, they're
6 put into a manila envelope for latents and forwarded to
7 Latent's Division.

8 MR. MARCHANT: Thank you, Mr. Hamilton. I have no
9 further question.

10 THE COURT: Mr. Marchant?

11 All right. Ladies and gentlemen of the jury, what
12 we're going to do is it is about ten minutes after one.
13 We're going to break for lunch.

14 What's a good time, gentlemen? 2:30.

15 MR. FRETWELL: Yes, Your Honor.

16 THE COURT: All right. Let's get back at 2:30. If
17 you would, be in your jury room at 2:30.

18 Please, ma'am, please, sir, don't talk about the
19 case to each other. Don't do any research. Don't watch
20 any TV. Don't do anything during that period of time.
21 And I'll see you back at 2:30. Okay.

22 And, sir, you're still under oath so you can't talk
23 to anybody about the case during lunch time. You know
24 that.

25 THE WITNESS: Yes, sir.

1 (WHEREUPON, the jury exits the courtroom at 1:12 PM.)

2 THE COURT: All right. Anything before we break?

3 MR. WILLIAMS: No, Your Honor.

4 MR. MARCHANT: No, Your Honor.

5 THE COURT: All right. See you back at 2:30.

6 (WHEREUPON, a recess is taken at 1:13 PM; State's
7 Exhibits 183 through 194 and 231 and Defendant's 6
8 through 9 were marked for identification.)

9 THE COURT: Let's go back on the record, Madam Court
10 Reporter, State vs. Jeffrey George.

11 Anything, gentlemen, before I bring the jury back?
12 All right. Bring them out. Bring them in.

13 (WHEREUPON, the jury entered the courtroom at 2:37 PM.)

14 THE COURT: Okay. We're back of the record, Madam
15 Court Reporter.

16 Cross-examination, Mr. Marchant?

17 CROSS EXAMINATION

18 BY MR. MARCHANT:

19 Q Deputy Coroner Hamilton ---

20 A Senior Deputy Coroner Hamilton.

21 Q Senior Deputy Coroner, make sure I'm clear, we had
22 two scenes that you responded to, one of them where the
23 body was, correct?

24 A Correct.

25 Q And then did you respond to the residence where this

1 truck that we've been talking about?

2 A No, sir.

3 Q Okay. The truck was already brought to your office?

4 A Crime scene office, yes, sir.

5 Q Okay. I'm going to show you State's 95 real quick
6 so we can talk about this. This is State's 95. Do you
7 recognize this? Let me zoom out a little bit for you.

8 A It appears to be a seal from the vehicle.

9 Q Okay. And that's the GMC they we're talking about?

10 A I'm assuming.

11 Q Okay. Now, is there some reason the tape doesn't go
12 across?

13 A It does. It's just black, not transparent from the
14 picture.

15 Q Well, help me understand because this area right
16 here (indicating) is red. Does it turn black on the
17 piece of tape?

18 A Sometimes when the picture, depending on how the
19 photograph is taken, can make it appear to be, yes, sir.
20 If you look at the negative space right here
21 (indicating), you can actually see a very faint red line.

22 Q Okay. What about on the -- I understand your
23 explanation of that, but what about on this side here
24 (indicating)?

25 A There again, just depends on the photograph, how the

1 photograph is taken on the angle.

2 Q So you say the truck was sealed when you got it.

3 A Yes, sir.

4 Q And you got it looks like a woman's Harley-Davidson
5 backpack out of the front seat?

6 A Looks like a bag. Yes, sir.

7 Q Okay. And out of that you got State's 182.

8 A Uh-huh. Right.

9 Q Did you do any fingerprint analysis or DNA on the
10 firearm?

11 A That was the Smith & Wesson. So I did collect a
12 swab from the grip, the trigger and trigger guard and
13 from the barrel end and the side end of the gun.

14 Q So you took several DNA samples off the gun.

15 A I did, yes, sir.

16 Q What about the holster?

17 A No, sir.

18 Q And is that decision about what pieces to swab yours
19 or one of the investigators over here?

20 A The swabbing of the weapon is normal protocol, what
21 we did in forensics at the time which was the grip, the
22 trigger, the trigger guard and then the barrel side end
23 and the side end of the gun.

24 Q Okay. So any gun that y'all would have come into
25 possession of, whether it was in this case or another

1 case, for evidentiary reasons, you would swab all of
2 those areas of the firearm?

3 A If DNA is necessary in the case, yes, sir.

4 Q I'm showing you State's 167. This is after you
5 offloaded some of the items at the shop, right?

6 A Yes, sir.

7 Q Okay. So there was other stuff in the truck. So
8 we're clear, State's 165, let's see this one first.

9 A Yes, sir.

10 Q That's what it looked like when you opened it.

11 A Yes, sir.

12 Q Okay. Did you fingerprint any of these items? Did
13 you fingerprint the Clorox box -- bottle?

14 A No, sir.

15 Q No?

16 A No, sir.

17 Q Did it smell like Clorox when you opened the back of
18 the tailgate?

19 A We don't -- we try not to sniff too much, but I
20 didn't smell it, if I'm not mistaken.

21 Q All right. Well, whether we're talking about 165 or
22 167, did you swab for any DNA in the truck bed?

23 A Inside the truck bed, no, sir.

24 Q So where -- where you located State's 181 ---

25 A Yes, sir.

1 Q You remember this?

2 A Yes, sir.

3 Q Okay. That's that piece of duct tape, right?

4 A Yes, sir.

5 Q Okay. Did you swab for any DNA around that area?

6 A No, sir. Because the amount of stuff that was all
7 on top of it, when I removed it, I just collected that
8 one item.

9 Q Okay. And y'all have got some solution or spray
10 that you can spray on items to determine if there's any
11 presence of blood, right?

12 A Right. We do have some things that we can use, yes,
13 sir.

14 Q Okay. But you didn't use any of that in here.

15 A No, sir.

16 Q So you can't say one way or another whether or not
17 there was any blood in the back of that truck.

18 A There was no visible signs of blood that I can see.

19 Q And as we're talking about the truck, who is the
20 registered owner of that vehicle; do you know?

21 A Bear with me. (Reviews document) I believe the
22 search warrant had a James Norman at 410 Rowley Court,
23 Easley.

24 Q And do you know who Mr. Norman is?

25 A I have no clue.

1 Q Is part of your responsibility is to go out and find
2 people or just respond to a scene and process evidence?

3 A My responsibility is to respond to calls for service
4 by an agency, collect, preserve and document any evidence
5 or scenes.

6 Q So fair to say you don't do any investigation.

7 A Not in the forensics field, no, sir.

8 Q Okay. We're just collection and preservation of the
9 evidence.

10 A Recognition, yes, sir.

11 Q So with respect to the truck, you pulled a number of
12 items out of there, correct?

13 A Yes, sir.

14 Q And those are now where? The items that you took
15 out, if they're not here in the courtroom, where are the
16 other items?

17 A I'm assuming they're in the Property and Evidence
18 section.

19 Q You would have put your name. You're talking about
20 signing the tape and all with your name and breaching the
21 package, would all of those items still be in that
22 condition?

23 A They should be, yes, sir.

24 Q Same goes for the residence over at Cripple Creek.
25 You collected all the evidence out there, right?

1 A I collected the items, yes, sir.

2 Q Right. So State's 148, this ---

3 A Machete.

4 Q --- machete we saw with the red writing, you

5 collected that.

6 A Yes, sir.

7 Q Okay. And then you also took pictures of everything

8 out there at the house.

9 A Uh-huh.

10 Q Some that we've already seen.

11 A Uh-huh.

12 Q Okay. Pictures of the trailer?

13 A Yes, sir.

14 Q The camper or whatever?

15 A Uh-huh.

16 Q And then the inside where you have retrieved

17 State's 148?

18 A The machete, yes, sir.

19 Q Okay. We saw some other pictures of machetes or

20 knives. Did you collect those or is that the only one

21 you collected from ---

22 A I believe I collected two machetes.

23 Q Okay.

24 A Yes. Two machetes were collected from inside the

25 trailer.

1 Q You have your report there?

2 A Yes, sir.

3 Q Do you know what item number the other machete is
4 listed as in your report?

5 A JFH-3.

6 Q Would that tell you where you located that
7 particular item?

8 A JFH-3 was on a chair inside that left side of that
9 main room.

10 Q Okay. I'm going to show you what's been marked as
11 Defendant's 6, 7, 8, 9, see if you recognize those.

12 A (Reviews exhibits) Yes, sir.

13 Q Okay. You took those photographs?

14 A I believe I did, yes, sir.

15 Q We need to do a little better than believe. Did you
16 need to see something else to confirm that you took these
17 pictures?

18 A Yes. I took those pictures.

19 Q Okay. Do they fairly and accurately represent the
20 condition with which you found them out at Cripple Creek
21 Road?

22 A Yes, sir.

23 MR. MARCHANT: Okay. Judge, defendant would move 6,
24 7, 8, 9 into evidence and publish.

25 MR. WILLIAMS: No objection, Your Honor. And no

1 objection to publish.

2 THE COURT: All right. So entered without
3 objection.

4 (WHEREUPON, Defendant's Exhibit Numbers 6 through 9 were
5 admitted into evidence.)

6 BY MR. MARCHANT:

7 Q All right. Let's start with Number 9, Mr. Hamilton.
8 Is this the other items that we're talking about? It
9 was, I think, JFH-3?

10 A I believe so, yes. Without the placard next to it.

11 Q But you took -- this is the one you recall taking
12 into evidence.

13 A I believe so, yes, sir. Without the placard next to
14 it, I cannot confirm that that is JFH-3 without the item
15 or the placard next to the item.

16 Q Okay. Would you have printed or processed that
17 blade for DNA?

18 A Did not see any blood -- visible blood on it, so I
19 elected to send it to -- to send it in to Property and
20 Evidence and have the investigating agency send it off
21 for the entire thing to be tested in a laboratory
22 setting.

23 Q Okay. So you didn't swab it, correct?

24 A I don't believe I did. No, sir.

25 Q And you didn't spray any of that stuff on it to see

1 if any blood come off.

2 A No, sir.

3 Q All right. But you think that's JFH-3.

4 A Without a placard next to it, I cannot confirm that
5 that is the actual item.

6 Q Would you have pictures that have the placard?

7 A No, sir.

8 Q All right. I'm showing you Defendant's Number 7.

9 This looks to me to be a knife ---

10 A Yes, sir.

11 Q --- of some description. Did you take that into
12 evidence?

13 A No, sir.

14 Q Did you print it or process it for DNA?

15 A No, sir.

16 Q I'm showing you Defendant's 8. Looking at this item
17 here, it appears to be some other sort of blade. Did you
18 take that into evidence?

19 A No, sir.

20 Q Did you process it for DNA?

21 A No, sir.

22 Q Process it for fingerprints?

23 A No, sir.

24 Q Showing you Defendant's Number 6. It is a bucket of
25 miscellaneous tools and knives. Did you take that into

1 evidence?

2 A No, sir.

3 Q Did you process it for prints?

4 A No, sir.

5 Q You would agree with me that this silver item is a
6 blade or knife of some kind with a serrated edge,
7 wouldn't you?

8 A Yes, sir.

9 Q Okay. But we don't have that in Property and
10 Evidence.

11 A No, sir.

12 Q And was not fingerprinted, no DNA.

13 A No, sir.

14 Q Okay. The shovel that y'all found ---

15 A Uh-huh.

16 Q --- which is in State's 128, to me it looks like
17 there's two items there, two different handles. I can't
18 tell if it's wood or not, and then it looks like a yellow
19 aluminum handle (indicating).

20 A Yes, sir.

21 Q Were both of those shovels?

22 A There were two shovels, one rake and one pickax in
23 that -- that block of tools.

24 Q Right here (indicating)?

25 A Yes, sir.

- 1 Q One of them's a shovel and one of them's a pickax.
- 2 A Two shovels, one rake and one pickax.
- 3 Q So there are four total items that you found in this
- 4 location?
- 5 A Yes, sir.
- 6 Q Okay. Fair to say this photograph only shows two of
- 7 them?
- 8 A Yeah. Possible, yes, sir. That thick brush area,
- 9 it's hard to get in and take a picture of them.
- 10 Q Okay. But once you pulled it out, did you take
- 11 pictures of them?
- 12 A No, sir.
- 13 Q Okay. But there are four items we have.
- 14 A Correct.
- 15 Q Prints on those?
- 16 A No. I sent those in just in case we need DNA.
- 17 Didn't want to contaminate.
- 18 Q So you didn't do the DNA portion of these, but we
- 19 have them in Property and Evidence.
- 20 A Right. DNA lab, if they can fit it on their table,
- 21 they like to try to process for just touch DNA. So I
- 22 sent it in due to the amount of dust and dirt that were
- 23 on it.
- 24 Q I'm showing you 126 out there, this blue tarp.
- 25 A Yes, sir.

1 Q Is that y'all's tarp or was that tarp out there?

2 A That was by the coroner's office. I have no clue
3 who put that tarp there.

4 Q The duct tape, the roll that we're talking about,
5 State's 147 ---

6 A Uh-huh.

7 Q --- can you see it?

8 A No.

9 Q 147, the roll, is processed only for DNA. But you
10 peeled back a foot section or six inches?

11 A Yes. Just a section of the end of it.

12 Q And you believe you got a print off of that.

13 A Yes, sir.

14 Q Okay. And you don't do the analysis of the print,
15 right? That's somebody else.

16 A Yeah. That's correct.

17 Q So the other duct tape that is State's 181, those
18 two are different. They're labeled differently, right?

19 A Correct. The numbers are different in both of them.

20 Q Different -- same brand, different types?

21 A I'm assuming that's what the numbers are for.

22 Q You got gloves?

23 A Not on me. No, sir.

24 Q As you pull out 177 and 181, tell me if they're the
25 same width.

1 A It doesn't appear to be, no, sir.

2 Q Okay. Did you do any investigation to determine
3 where tape like this could come from?

4 A No, sir. That's not in my job purview.

5 Q So you didn't go to Home Depot and look on the rack
6 to see if you could find this tape?

7 A No, sir.

8 Q Or on Amazon?

9 A No, sir.

10 MR. MARCHANT: I don't have any further questions.
11 Thank you.

12 THE COURT: Anything on redirect?

13 MR. WILLIAMS: Yes, Your Honor. And first, I
14 believe I neglected to actually admit the processing
15 photos of the GMC Sierra which would be State's 165 to
16 180.

17 THE COURT: All right. Any objection to that,
18 Mr. Marchant?

19 MR. MARCHANT: No, Your Honor.

20 (WHEREUPON, State's Exhibit Numbers 165 through 180 were
21 admitted into evidence.)

22 REDIRECT EXAMINATION

23 BY MR. WILLIAMS:

24 Q Mr. Hamilton, I believe there were a lot of items
25 that Mr. Marchant brought up. To you, what -- that

1 machete that we've already shown the jury, that JFH-4
2 machete that you collected from the trailer, what stood
3 out to you about that particular machete?

4 A It's the possibility of suspected blood on it.

5 Q Okay.

6 A Which the investigators are the ones that initially
7 advised me of the machetes.

8 Q Right. The tape that -- the duct tape that
9 Mr. Marchant just selected, what is common about the duct
10 tape you collected that had suspected blood on it from
11 Cripple Creek and the piece of duct tape that you
12 collected from the bed of the truck?

13 A It was the same type made by the same company, had
14 the same look to it, same sheen to it, same writing.
15 Just different lettering -- or numbering.

16 Q And I believe you already testified that, in your
17 view, that was not your generic type of -- neither of
18 those were generic types of ---

19 A Right. It looked like it was something professional
20 grade.

21 Q Okay. And would you remind us again when you
22 processed that GMC truck?

23 A That was on 12/20/2019, and I believe it continued
24 on into 12/21/2019.

25 Q If, let's say, a body had been transported in the

1 bed of that truck on December 1, 2019, would someone have
2 enough time to wash out and clean out, perhaps Clorox the
3 bed of that truck between that time and December 18th?

4 A I mean, I guess so.

5 MR. WILLIAMS: Nothing further, Your Honor.

6 THE COURT: Anything on limited recross?

7 MR. MARCHANT: No, Your Honor.

8 THE COURT: All right. Sir, you can step down.

9 All right. Is he free to go? Any objection?

10 MR. MARCHANT: No objection.

11 THE COURT: All right. Sir, you're free to go.

12 All right. The State can call its next witness.

13 MR. WILLIAMS: Your Honor, the State calls Tyler
14 Bucholtz.

15 THE CLERK: Please raise your right hand.

16 WHEREUPON,

17 TYLER BUCHOLTZ

18 After having been duly sworn, testified as follows:

19 THE CLERK: Thank you. You may be seated. Please
20 state your full name for the record.

21 THE WITNESS: Tyler Bucholtz.

22 DIRECT EXAMINATION

23 BY MR. WILLIAMS:

24 Q Where are you employed and in what capacity?

25 A I currently work for Greenville County forensics and

1 I'm the lieutenant of the Crime Scene Unit.

2 Q Okay. How long have you worked in that unit?

3 A I've been with forensics since 2009.

4 Q Okay. Can you tell us, what is a latent print?

5 A A latent print is an unknown print. It's a
6 fingerprint that's placed on an item or an object that we
7 don't know the source of it. You also normally can't see
8 it. It's hidden until you process it with a chemical or
9 a fingerprint powder.

10 Q And you've been doing this line of work for about
11 14 years, I believe you said?

12 A Yes. I've been in the latent print section as an
13 examiner since 2011.

14 Q Did you receive any specialized training to be able
15 to do what you do?

16 A Yes. So my first year in the latent print section
17 was an apprentice style training where another examiner
18 kind of looked at everything that I did and we discussed
19 every impression that I looked at and the analysis of it,
20 the comparison of it. And then after that one year of
21 that apprentice style training, I was released to
22 independent casework once I showed that I was proficient
23 with it. I've also had over 580 hours of formal
24 classroom training dealing with latent print processing
25 as well as examination and comparison.

1 Q Roughly, how many fingerprints have you examined?

2 A I've compared over 880,000 fingerprints over the
3 course of my career.

4 Q Have you ever been qualified as an expert in the
5 courts of this state?

6 A Yes. 15 times for the State and once for federal.

7 Q And in what field?

8 A Latent print examination.

9 Q Has a court ever refused to qualify you as an expert
10 in latent print examination?

11 A No.

12 MR. WILLIAMS: Your Honor, at this time, the State
13 would offer Mr. Bucholtz as an expert in latent print
14 examination.

15 THE COURT: All right. Any objection?

16 MR. MARCHANT: No objection.

17 THE COURT: All right. He's deemed so qualified.

18 BY MR. WILLIAMS:

19 Q So how do people leave fingerprints?

20 A Well, it's kind of like a rubber stamp. So if you
21 look at your finger, you have lines on it, on the surface
22 of your palm as well as your fingers. And the ink for
23 that stamp is going to be the sweat that comes out of the
24 pores on your hands as well as if you touch a hairy area
25 or your face or anywhere on your body that's oily, that

1 gets on your fingers, and that's kind of the ink for the
2 stamp. So when you touch a nonporous, smooth surface,
3 you leave that stamp on that item.

4 Q Does every person leave a fingerprint when they
5 touch something?

6 A Most individuals do. However, if your hands are
7 really dry or someone who doesn't perspire much, then in
8 that case, some people don't leave prints or it's very
9 difficult for them to leave a print just through
10 perspiration.

11 Q And when someone has left a fingerprint, how fragile
12 is that fingerprint?

13 A Like I said, they are most of the time perspiration,
14 so that's water and sweat. So they are very fragile. If
15 somebody else touches over the top of it, it can destroy
16 it. If you swipe over it with an object or a hand, it
17 will destroy it. So they can also evaporate if left out
18 in the sunlight or warm conditions. So fingerprints are
19 fragile just because they're moisture.

20 Q So when you're comparing fingerprints and conducting
21 analysis, you don't find someone's fingerprint on an
22 item, does that mean that that person has never touched
23 that item?

24 A No.

25 Q And how are these latent fingerprints typically

1 recovered?

2 A Most of the fingerprints we get are processed with
3 black powder, latent fingerprint powder where they take a
4 brush and twirl it on the surface, put powder on it and
5 it adheres to the moisture in the print. Then they put
6 -- the technician will put tape over the fingerprint,
7 lift it, put it on a fingerprint card. And so that's how
8 they're preserved.

9 They can also, if it's on an object such as paper,
10 they can cut that out and send it to us, or they can also
11 take a photograph of it with a scale and we can compare
12 it that way.

13 Q What sort of conditions make it better or worse to
14 be able to collect fingerprints?

15 A Really, the surface is probably the most important
16 condition, like I said earlier, a smooth and nonporous
17 such as glass or a smooth wood surface. If you have a
18 textured area, then the only part you're going to make
19 contact with is the high peaks of that area. If you
20 think about a golf ball, if you touch it really lightly,
21 all those ridges aren't going to get down into the
22 dimples of the golf ball so you wouldn't have much detail
23 to look at there. So a really smooth, nonporous surface
24 is best.

25 We can also do paper because the fingerprint residue

1 absorbs into the paper and we can use chemicals to
2 process the paper. So that's -- that's also a good
3 surface.

4 Q Were you asked to analyze fingerprints that had been
5 collected in a case relating to the death investigation
6 of Ivan Gula?

7 A Yes.

8 Q How many latent print cards were you provided in
9 this case?

10 A Is it okay if I pull out the envelope?

11 Q Yes, yes.

12 A All right. I was provided five envelopes. And one
13 has five latents, one has eight latents, one has
14 13 latents, one has four latents and another one has four
15 latents.

16 Q So if my math is right, that's 34 then total?

17 A 34.

18 Q Okay. And then who were the individuals that you
19 compared those fingerprints to?

20 A Ivan Gula, Bobby Smith, Audrea Cook, Jeffrey George,
21 Patrick Poole, Kurt Knutson, Haley Cooper and David
22 Stokes.

23 Q Okay. And of those 34 print cards, how many
24 fingerprints were you able to identify?

25 A Five.

1 Q Could you tell the jury what those five fingerprints
2 were?

3 A All right. From envelope CML which was submitted by
4 Sergeant Crystal Minwegan, Latent Lift Number 2 is from a
5 glass Mason jar from the coffee table in the living room.
6 That was identified as being made by the Number 6 which
7 is the left thumb of David Stokes, David Jeffrey Stokes.
8 And then Latent Lift Number 3 is from a candle holder jar
9 on a coffee table in the living room that was identified
10 as being made by the Number 8 left middle finger, there's
11 two impressions, from David Jeffrey Stokes. Those are
12 the only identifications in that envelope.

13 Q And was that from -- were those items collected from
14 212 C and S Road?

15 A Yes.

16 Q Okay.

17 A Sergeant Minwegan submitted another envelope which
18 is CML-2. And Latent Lift Number 8 is actually a
19 photograph impression. It is from Item CM-8A which is
20 silver duct tape collected from the right bedroom. That
21 was identified as being made by the Number 6, the left
22 thumb of David Jeffrey Stokes.

23 Q And that was also at 212 C and S Road -- C and S
24 Drive, I should say?

25 A She put 23 Winterberry Court, which is Greenville

1 County forensics lab where she would have captured that
2 image.

3 Q That was collected by Crystal Minwegan?

4 A Yes.

5 Envelope JFH-LP submitted by Sergeant Hamilton had
6 13 latents. And Latent Lift Number 1 is from the
7 exterior of the tailgate of a 2017 GMC Sierra truck. And
8 it was identified as being made by the left palm of
9 Jeffrey Michael George.

10 And then Latent Lift Number 13 from the exterior of
11 the rear-view mirror of a 2017 GMC Sierra was identified
12 as being made by the Number 1, the right thumb finger of
13 Haley Michelle Cooper.

14 Q I believe you were also given fingerprints to
15 compare that were lifted from that roll of duct tape from
16 Cripple Creek Road which would been JFH-2 or JFH-2A,
17 perhaps, a piece of that duct tape?

18 A I have JFH-2B.

19 Q Okay. What was that?

20 A There are four latents lifted from piece of duct
21 tape, Item JFH-2B, submitted by Sergeant Hamilton in
22 envelope JFH-LP1.

23 Q And you were not able to find a match for those?

24 A Correct.

25 Q Was there anything unique about -- in your

1 professional experience with over 880,000 fingerprint
2 comparisons, was there anything that stood out to you
3 about those particular prints?

4 A Well, these -- these are on duct tape which is an
5 adhesive surface. Normally, on a fingerprint, we can
6 tell the pattern type or maybe get an area of where we're
7 trying to look or where we're trying to look on the
8 finger because there are kind of some telltale areas of
9 where you should start on a finger or what fingers you
10 should look at. Because everybody has one of three main,
11 basic pattern types: loops, arches or whirls.

12 On these I couldn't see the actual pattern type.
13 I'm assuming it's because it's most likely from the tips
14 of the fingers, but I can't say that for sure. But the
15 fact that I don't have the center and the pattern type
16 tells me it's either high up on the finger or very --
17 very much to the side, an extreme side of the finger.

18 So I did compare the available information that I
19 have on the exemplars for the people that were compared
20 to those -- those fingerprints.

21 Q Okay. If the fingerprints that were collected from
22 that piece of duct tape were made by the fingertip area,
23 would you have the ability to rule out any of those eight
24 people you compared it to?

25 A I don't have the tips on any of these because when

1 the fingerprint cards are rolled, they're rolled with the
2 finger flat. They don't roll them up so you don't
3 capture that tip area.

4 Q So you really -- and, again, I know you don't know
5 it was from the fingertip area. But if it was from the
6 fingertip area, you can't necessarily rule out that print
7 coming from any of those eight people that you compared
8 it to.

9 A If it was from the tip area -- oh, if the latents
10 were from the tip area, correct. I was not able to
11 compare that area on these -- these people because I
12 didn't have that available.

13 Q All right. So did you also attend the autopsy of
14 Ivan Gula?

15 A I did.

16 Q When did that take place?

17 A That was on December 17, 2019.

18 Q Okay. And what was your purpose for attending that?

19 A Anytime there's a death investigation or an
20 unattended death, most of the time -- other than an
21 overdose, most of the time an investigator requests us,
22 somebody from the Crime Scene Unit to be present to
23 collect any evidence as well as photograph the deceased.

24 Q I'm showing you State's Exhibits 183 through 194.
25 Could you look at those and tell me if you recognize

1 those photos?

2 A (Reviews exhibits) Yes, I do.

3 Q Are they the photographs you took at the autopsy?

4 A Yes.

5 Q Fair and accurate depiction?

6 A Yes.

7 MR. WILLIAMS: All right. Your Honor, at this time,
8 we would move State's 183 through 194 into evidence.

9 THE COURT: 183 through 194. Any objection?

10 MR. MARCHANT: No objection. No objection to
11 publication.

12 THE COURT: All right. So entered.

13 (WHEREUPON, State's Exhibit Numbers 183 through 194 were
14 admitted into evidence.)

15 BY MR. WILLIAMS:

16 Q All right. Tell us what we're looking at there,
17 State's 183.

18 A This was from when we first opened the body bag.
19 That was how it appeared when we first opened it.

20 Q Okay. 184?

21 A The white that you can see on the bottom right
22 there, that and the bottom left, that's the outer body
23 bag that they used to transport the victim, and then that
24 blue tarp was also in there.

25 Q What stands out about 185?

1 A This is duct tape that was wrapped around one of the
2 layers of fabric that was wrapped around the deceased.
3 And my initials are in the center of that where it says
4 TRB and there's an arrow pointing up. That's showing
5 where the deputy coroner who was there, he cut through
6 the layers of duct tape in order for us to cut -- start
7 removing these layers. And we marked the area that we
8 cut so that if there were a comparison later to the torn
9 end of the duct tape, they would know that that's what we
10 cut.

11 Q 188?

12 A This is back at the crime scene office after we
13 pulled the items back out to photograph and package to
14 send to Property and Evidence for storage. We put the
15 paper down on the floor and laid out the fabric that had
16 been wrapped around the deceased.

17 Q State's 190?

18 A That is a curtain that was in that -- all of that
19 packaging. And I believe that was wrapped around the
20 upper body at the time that we removed it.

21 Q State's 191?

22 A I believe that's a bead. The round dark area is a
23 bead. That was found among the -- among that packaging.

24 Q State's 192?

25 A That is a bracelet that was -- that was among the

1 items in the body bag.

2 Q State's 193?

3 A That is duct tape that I believe was removed from
4 the pant leg. That's from -- the 3B, that is from the
5 left pant leg of the deceased.

6 Q And 194? 3A?

7 A 3A was duct tape removed from the right pant leg of
8 the deceased.

9 Q All right. These photos have already been admitted
10 into evidence, but you took these photos as well,
11 State's 128?

12 A I did. Yes. Back at the crime scene office.

13 Q Okay. State's 29?

14 A Yeah. That's another photo of the back of the
15 shirt.

16 Q Tell us what the difference is between State's 30
17 and the photograph we saw two photographs ago.

18 A So in this one, you can see the white area on the
19 right side that's brighter. There was a hole in the
20 shirt right there and so I put a white card in there so
21 that that hole would stand out because in the first
22 picture, you can't really see that hole just because it's
23 dark.

24 Q Is that the same thing going on with State's 31?

25 A Yes. That's the back of the shirt once the cards

1 were placed under the holes.

2 Q And State's 32?

3 A Those are the pants that were collected from the
4 autopsy and the duct tape on the pant legs there that we
5 saw earlier.

6 Q Is that with the duct tape off, State's 33?

7 A Yes.

8 Q And I believe you also located State's 36?

9 A Yes. This is a jacket that was partially on the
10 deceased at the time of the autopsy.

11 Q Okay. Partially.

12 A He -- he had one arm in the sleeve and then the
13 other arm, I believe the left arm was not in the sleeve.

14 Q Those items were also found with the victim?

15 A Yes.

16 Q And those beads as well?

17 A Yes. And some of those beads were collected just in
18 the body bag loose.

19 Q Okay. And I believe you said you put that white
20 underneath that shirt because that gives a better
21 depiction of the tears in the shirt.

22 A That's correct.

23 Q Okay.

24 A Yeah. You couldn't really see it with just a
25 regular photograph with no -- no contrast.

1 Q Did you collect that shirt?

2 A Yes.

3 Q Okay. What did you label that as?

4 A That was Item TRB-2, green T-shirt.

5 Q And what did you do with it?

6 A That -- that would have been -- so just about all of
7 this stuff that was collected from the autopsy was wet,
8 and so it was placed in a drying room for just over -- I
9 believe over a -- from December 17th when I collected it
10 until January 3rd it was all pulled back out to
11 photograph and look at and see what was dry and what
12 could be permanently packaged and stored.

13 Once we determined -- once I pulled it out, I
14 labeled each of the items in the photograph and took
15 these pictures and then packaged them for Property and
16 Evidence.

17 Q Okay. So you packaged these items. Obviously,
18 you've taken some photographs as well. Did you try to
19 recover any fingerprints during this autopsy?

20 A So there were -- there are some items that are --
21 were suitable for latent prints such as duct tape.
22 That's a fine surface for us, too. In this case, a lot
23 of the duct tape was wet and it also had decomposition
24 fluids on it, so that kind of made a lot of it
25 unsuitable. But there were the two pieces of duct tape

1 removed from the pant leg. Those were 3A and 3B --
2 TRB-3A and 3B. And then TRB-16A was duct tape from a
3 blue inner tarp that you saw in the photos. TRB-17A was
4 duct tape from a gray tarp. TRB-22A was duct tape from
5 leopard print fabric. And 23A was duct tape from plastic
6 bags.

7 So all that duct tape was removed from the bags when
8 we -- when I photographed all of it and these items. And
9 then it was placed back in the drying room to attempt to
10 dry some of it out more so that I could then process it
11 for latent prints, which I did eventually process for
12 latent prints if you want to hear about that.

13 Q Sure.

14 A That was on January 23rd. So 20 days later after I
15 took that duct tape and put it in there, I came back to
16 check it. And the items that were dry and suitable for
17 processing were TRB-3A and 3B, the duct tape from the
18 pant legs, and TRB-22A which was duct tape from the
19 leopard print fabric. Those were processed with
20 something called liquinox which is almost like a
21 detergent and fingerprint powder on the sticky side. And
22 they were negative for latents. There were -- there were
23 no latents developed on those.

24 The other items of duct tape that I listed were
25 still not suitable and may not still be based on the

1 material that was on them.

2 (WHEREUPON, State's Exhibit Number 195 was marked for
3 identification.)

4 BY MR. WILLIAMS:

5 Q Mr. Bucholtz, I'm showing you State's 195. Could
6 you take a look at that and identify it?

7 A That's Item TRB-2 which is the green T-shirt.

8 Q Is that the item that we're looking at on the screen
9 right now as well?

10 A Yes.

11 Q And you collected that?

12 A Yes.

13 Q Sealed it?

14 A Yes.

15 Q Put it into Property and Evidence?

16 A Yes.

17 Q Without showing the jury, would you please undo the
18 packaging and verify that that is, in fact, that green
19 T-shirt?

20 A (Witness complies) There's multiple layers of
21 packaging, so that was apparently rebagged by Property
22 and Evidence. And the original bag that I had it in is
23 here with the label on it, and it is the green T-shirt.

24 Q That's the same green T-shirt you collected at the
25 autopsy of Ivan Gula?

1 A Yes.

2 Q Substantially the same condition?

3 A Yes.

4 MR. WILLIAMS: Your Honor, at this time, the State
5 would move to have Exhibit 195 admitted into evidence.

6 THE COURT: Any objection?

7 MR. MARCHANT: No objection.

8 THE COURT: All right.

9 (WHEREUPON, State's Exhibit Number 195 was admitted into
10 evidence.)

11 BY MR. WILLIAMS:

12 Q Would you please, in a safe way, publish that to the
13 jury.

14 A (Witness complies.)

15 Q And if you could, what is the front of that? What
16 does the writing on the front of that shirt say?

17 A "Trust me a Jedi I am."

18 Q But the top says "trust me"?

19 A Yes.

20 Q Okay. And it's clearly a little more worn now than
21 it was almost five years ago.

22 A Yes.

23 Q Can you locate some of those holes?

24 A There's one here on the front of it. A couple
25 little holes there. There's also a hole here. There's

1 one here, one here. I think those are it, those four
2 (indicating throughout).

3 Q Thank you.

4 And we talked earlier about State's 36 and 37. I
5 noticed on the T-shirt you put this white underneath the
6 T-shirt to show where those holes are. Can you tell me
7 on State's 36 and 37, did you do a similar thing to
8 indicate a defect or a tear in that jacket? And if
9 there's none, there's none.

10 A I don't -- I don't recall.

11 Q Okay. And we can't see from either photo -- this is
12 State's 37. We can't see from either photo any white
13 that would indicate there was a tear.

14 A Okay.

15 MR. WILLIAMS: No further questions.

16 THE COURT: Cross-examination?

17 CROSS EXAMINATION

18 BY MR. MARCHANT:

19 Q These cards that you brought, this is what you've
20 been testifying to?

21 A Yes.

22 Q Is this what -- is this what you made comparisons
23 to?

24 A These are, yes.

25 Q Okay. Where are the latent cards of the ---

1 A These are the latent cards and envelopes.

2 Q Okay. So these are not marked and not in evidence,
3 correct?

4 A (No answer.)

5 Q I'm sorry, but we're going to have to go through
6 these one more time.

7 A Okay.

8 Q So if you'll start with this first package of prints
9 and tell me -- maybe we'll work backwards. Out of all
10 these prints you did this analysis on, you only found
11 five matches.

12 A Correct.

13 Q Okay. So can you start with the first envelope?
14 I'm sorry. I don't ---

15 A That I -- that I received?

16 Q Yeah.

17 A All right. So that was from Sergeant Minwegan,
18 Crystal Minwegan. That was CM-L.

19 Q Okay. And so do you know where those came from
20 meaning where did she attempt to lift? Because
21 there's some identification on the card.

22 A Yes. She wrote "212 C and S Drive in Greer, South
23 Carolina," on the -- on the envelope and each latent
24 card.

25 Q And that's on CM-L?

1 A CM-L, yes.

2 Q And so there are a couple of cards in the envelope,
3 right?

4 A Correct. There's five.

5 Q And are the cards in the envelope labeled in any
6 manner like A, B, C, D, E?

7 A Yes. So they're -- they're labeled Latent Lifts 1
8 through 5. So each one is numbered up through 5. And
9 then they've also got the case information, the case
10 type, the location that the latent was -- or the object
11 that the latent was lifted from as well as the address
12 and her signature.

13 Q Okay. And in that first envelope, CM-L, is that
14 where two positive comparisons came from for David
15 Stokes?

16 A Yes.

17 Q Okay. And one of them was a glass Mason jar?

18 A From the coffee table, yes.

19 Q And one of them was a candle holder?

20 A Yes. Also on the coffee table.

21 Q All right. The other three prints, where were they
22 lifted from?

23 A The first one was also from a glass Mason jar on the
24 coffee table. Latent Lift Number 4 was from a dryer in
25 the laundry room. And Latent Lift Number 5 was from the

1 Tupperware from the bed in the master bedroom.

2 Q Okay. And the next envelope?

3 A That's CML-2 also submitted by Sergeant Minwegan.
4 And there are eight latent prints. These have the
5 address is 23 Winterberry Court which is the crime scene
6 office. So these are items that were processed back at
7 the crime -- she would have collected them and processed
8 them at the crime scene office.

9 Q Do you know, is there an identification on those
10 cards where they were collected from? I realize her
11 attempted lifts were done back at your office.

12 A Correct. So she wrote Item C -- it's from
13 Item CM-5C. It doesn't say where she lifted that from,
14 but it says "empty glass bottle of Bacardi collected from
15 right bedroom." So item CM-5C, wherever that was
16 collected from. But when they do these latent prints,
17 they put the address of where they actually obtained it.

18 Q So all eight of those are from a Bacardi bottle?

19 A Latent 1, 2 are from an empty Bacardi bottle.
20 Latent 3 is from an empty Frangelico liquor glass bottle
21 collected from the bedroom, the right bedroom. 4 is from
22 a glass cup collected from the master bedroom bathroom.
23 Latent Number 5 is a glass cup collected from
24 master bedroom bathroom. Latent 6, the same glass cup
25 from master bedroom bathroom. Latent Lift Number 7 is

1 from Item CM-8A, silver duct tape collected from the
2 right bedroom. And then Latent Lift Number 7 is actually
3 -- 7 and 8 are both images, and those are both from
4 CM-8A, silver duct tape collected from the right bedroom.

5 Q And there were no matches on any of those.

6 A There was one match in this envelope.

7 Q And that was to what?

8 A This was Number 8 from the silver duct tape
9 collected from the right bedroom, was identified as the
10 Number 6, the left thumb of David Jeffrey Stokes.

11 Q So when you're doing your analysis, you don't
12 actually see the piece of duct tape.

13 A No. Not -- well, not in this case I didn't. If we
14 do need to see the item or something, we can check things
15 out from P&E and do a -- do a closer examination. But in
16 this case, the latents are good enough to make a
17 comparison based on the photograph or the lift.

18 Q Okay. The next envelope?

19 A That's JFH-LP from Sergeant Hamilton. And these
20 have the address of 23 Winterberry Court, and they're all
21 from a 2017 GMC Sierra.

22 Q Okay. And how many prints were attempted to be
23 lifted?

24 A There were 13.

25 Q Maybe I'm not saying this right. Were there prints

1 lifted and they're just not comparable or can you even
2 say that they are prints?

3 A No. There were -- there were impressions lifted and
4 there are remaining comparable prints, if that's -- you
5 want to know how many remaining are comparable? Because
6 not every single one of them would be necessarily
7 comparable.

8 Q So there are 13 in this particular batch.

9 A Yes. And two were identified.

10 Q You made two identifications. So that leaves 11.

11 A 11.

12 Q So out of the 11, how many were comparable?

13 A There's four remaining that are comparable.

14 Q And what were the locations of those four?

15 A Latent lift Number 8 was from the exterior of the
16 passenger's side front door. Number 6 is from the
17 exterior of the passenger's side front door. 5, exterior
18 of the passenger's side front door. And 3, exterior of
19 passenger front door. And 4, exterior of the passenger's
20 side front door. All of them were from the passenger
21 front door.

22 Q Okay. Let's go back to the envelope before this one
23 which contains the Bacardi bottle and the liquor bottles.

24 A CM-L2.

25 Q Is that the Mason jars or the Bacardi bottles?

1 A This has the Bacardi bottles.

2 Q Okay. So there were a total of eight ---

3 A Yes.

4 Q --- cards?

5 A Correct.

6 Q One print came back to David Stokes.

7 A Yes.

8 Q So that leaves seven cards left. How many were
9 comparable?

10 A Four.

11 Q All right. Of the four that were comparable, what
12 were the locations of those?

13 A Number 7 was from CM-AA, the silver duct tape
14 collected from the right bedroom. 6 is a glass cup
15 collected from the master bedroom bathroom. 4 is the
16 glass cup collected from master bedroom bathroom. And 1
17 was the glass bottle of Bacardi collected from right
18 bedroom.

19 Q All right. Let's go back to the first set of Mason
20 jars.

21 A That's envelope CM-L. And there's five latents.
22 Two of them were identified and two are comparable still.
23 One is not comparable.

24 Q So there were five. We got matches off of two.

25 A Correct.

- 1 Q That leaves three?
- 2 A Yes.
- 3 Q Two comparable, one was not.
- 4 A Correct.
- 5 Q The two that were comparable, what were the two
- 6 locations?
- 7 A One of them is Number 4 which was from the dryer in
- 8 the laundry room area, and Latent Lift 5 from the
- 9 Tupperware from the bed in the master bedroom.
- 10 Q Okay.
- 11 A You want the second envelope from Hamilton?
- 12 Q Yes, sir.
- 13 A All right. So that's JFH-LP1. There are four
- 14 latents submitted, and they're from a piece of duct tape,
- 15 Item JFH-2B. Each one of these was done at
- 16 23 Winterberry Court, and they're all captured images,
- 17 photographs.
- 18 Q Were they comparable?
- 19 A They are.
- 20 Q All four?
- 21 A Yes.
- 22 Q And what's the location of those four?
- 23 A They're from the piece of duct tape, Item JFH-2B.
- 24 Q All four come off a single piece of duct tape.
- 25 A Yes.

1 Q But you were not able to make a match.

2 A Correct. These are the ones I was talking about
3 looked like they didn't quite have a pattern -- pattern
4 type. So probably extreme side or tip of the finger.

5 Q This is where the solicitor is asking you you can't
6 rule out somebody.

7 A Correct. If I don't have that area, correct.

8 Q You can't rule them in either, right?

9 A Correct. Yep.

10 Q The last envelope?

11 A That's Item JFH-LP2 by Sergeant Hamilton, and
12 there's four latents. They're all images also, and
13 they're from the exterior of a handgun magazine. And
14 none of them are comparable.

15 Q Does it say -- does it give you any more description
16 of the handgun?

17 A It just says Item JFH-9A.

18 It also does have a vehicle description on here, a
19 2017 GMC Sierra.

20 Q All right. There were how many total?

21 A Four.

22 Q Four, but no matches?

23 A Correct. Well, they're not -- they're not even
24 comparable. There's just not enough there to compare.

25 Q You've gotten matches off of guns before, though,

1 haven't you ---

2 A I have, yes.

3 Q --- in other cases?

4 Is it unusual after an item is fingerprinted or
5 attempted for a lift to be made to then take that item
6 and conduct DNA analysis on it?

7 A Well, you really -- normally, when you process
8 something for latent prints, it's kind of one or the
9 other, latent prints or DNA. And if you're going to do
10 DNA on it, you need to collect that first before you
11 contaminate it with some type of chemical or a processing
12 technique. So it -- it -- in some circumstances, we
13 could -- we could do both.

14 If we see a fingerprint on it, it's visible, say
15 it's a shiny revolver and you see a fingerprint on the
16 cylinder, you can swab the areas of the gun without
17 disturbing that print on the cylinder and then also lift
18 the print. But that's kind of if you see it during a
19 visual inspection. Otherwise, a lot of times it's better
20 to do DNA because DNA gets much more consistent results
21 than latent prints on firearms.

22 Q All right. The only scene that you responded to was
23 the hospital for the autopsy?

24 A Correct.

25 Q Okay. And at the time December of 2019, were you

1 doing fingerprint analysis then?

2 A Yes. I was doing it full-time from 2011 to 2022.

3 Q But in your capacity with forensics, you also
4 collect evidence.

5 A I do, yes. On -- you know, who -- I did two years
6 in the Crime Scene Unit before I went over to the latent
7 print section.

8 Q Okay. But in this case, you collected all the stuff
9 from the autopsy, right?

10 A Correct.

11 Q Okay. So the tape? Yes?

12 A Yes.

13 Q The pants?

14 A Yes.

15 Q The shirt?

16 A Yes.

17 Q The jacket?

18 A Yes.

19 Q Shoes?

20 A Yes.

21 Q The other items that we've seen in those
22 photographs?

23 A Correct.

24 Q Okay. Out of all of those items, you only attempted
25 to fingerprint the tape that come off the pants; is that

1 correct?

2 A That is correct.

3 Q Do you conduct any DNA analysis on the tape?

4 A No. If the -- if the tape is sent to DNA by an
5 investigator requested, then that's -- that's up to them
6 what they want to submit as far as DNA goes.

7 Q Okay. I'm going to show you State's 188. This is a
8 piece of evidence you collected.

9 A Yes.

10 Q Correct?

11 And presume and trust that you secured it properly
12 just like the T-shirt.

13 A Yes.

14 Q And it's somewhere -- you took it to Property and
15 Evidence.

16 A Yes.

17 Q Okay. But you're not the one that makes the request
18 for DNA on the item.

19 A Correct.

20 Q Okay. And that would go for State's 190?

21 A Yes.

22 Q And 193?

23 A Yes.

24 Q And 194?

25 A Yes.

1 Q It's not your call. It's the investigator's call.

2 A Right. What -- what to submit for DNA analysis,
3 yes.

4 Q Okay. So none of these things that you collected,
5 State's 28, 33, 36, 37, none of those were submitted by
6 you.

7 A Not for a DNA request. I submitted them to Property
8 and Evidence, packaged them, sealed them and submitted
9 them.

10 Q Nobody asked you to do anything else with those
11 items.

12 A No.

13 Q I think you said this in response to my question
14 about DNA versus prints, but DNA provides a much more
15 consistent result?

16 A On handguns, yes.

17 Q Okay. Does that go for all items? So, for example,
18 I believe that you testified that there was a print that
19 was lifted that was comparable off a Tupperware container
20 from the bedroom at 212 C and S Drive.

21 A There was.

22 Q Okay. On an item like that, Tupperware is not
23 typically smooth, is it? It's usually rough?

24 A It depends on the part of it. I've seen plenty of
25 smooth Tupperware.

1 Q Okay. But that item could be submitted for DNA.

2 A It could be. You can submit any item for DNA. I
3 mean...

4 Q So any item is able to be processed for DNA whether
5 or not it exists, but not every item is suitable for a
6 fingerprint lift.

7 A That's correct.

8 MR. MARCHANT: Thank you. I have no further
9 questions.

10 THE COURT: Redirect?

11 MR. WILLIAMS: I have no redirect.

12 THE COURT: All right. Sir, you can step down.
13 Can this witness also be excused?

14 MR. WILLIAMS: Yes, Your Honor.

15 MR. MARCHANT: No objection.

16 THE COURT: All right. Just make sure he doesn't
17 take anything with him.

18 (WHEREUPON, State's Exhibit Number 196 was marked for
19 identification.)

20 THE COURT: Y'all need a break over there or are you
21 good? You're good? Okay. I've got ten goods, two not
22 goods.

23 So the State's next witness?

24 MR. FRETWELL: The next witness, Kara Bennick,
25 Judge. I don't believe she'll be too long.

1 THE COURT: Yeah. Okay.

2 WHEREUPON,

3 KARA BENNICK

4 After having been duly sworn, testified as follows:

5 THE CLERK: Thank you. You may be seated. State
6 your full name for the record.

7 THE WITNESS: Kara Bennick.

8 MR. FRETWELL: May it please the Court, Your Honor.

9 THE COURT: All right.

10 DIRECT EXAMINATION

11 BY MR. FRETWELL:

12 Q Good afternoon, Ms. Bennick.

13 A Good morning.

14 Q By whom are you employed?

15 A The Greenville County Forensic Division, the
16 Department of Public Safety which is under the Forensics
17 Division, and I work in Property and Evidence.

18 Q And, in fact, what is your position in Property and
19 Evidence?

20 A I'm the manager of the evidence section.

21 Q And what are you and the people that work for you
22 responsible for?

23 A The care, custody and control of all incoming
24 property and anything that qualifies for evidence.

25 Q How long have you been in charge of Property and

1 Evidence for Greenville County?

2 A 21 years.

3 Q And the purpose of your department in addition to
4 taking in evidence is what?

5 A Basically, the custody, control and care of anything
6 that's incoming. And we also set it up for lab services.
7 So we prepare a case that's going to go out to lab
8 services, and we will stage it and transfer it to lab
9 services.

10 Q So what happens when an officer of an agency that
11 uses your department brings that evidence to your
12 department?

13 A So everything that is incoming to us comes in on a
14 Property and Evidence sheet, and that is its chain of
15 custody. It's tracked. All its movements from that
16 point forward are tracked. The officer generates that
17 P&E sheet, and then we input it into a barcode system and
18 it is electronically tracked from that point forward.

19 Q And then where does the evidence go?

20 A So we have staging areas throughout Property and
21 Evidence that are secured for lab services, and then
22 everything else goes into permanent staging -- or
23 permanent holding which is a storage area based on what
24 it is.

25 Q And who has access to this evidence in all these

1 different locations?

2 A Only the seven evidence custodians. That's it.

3 Q Okay. And contact with this evidence is recorded in
4 what way by your department?

5 A Through a barcode system. Everything is tracked,
6 the movements, through a barcode system.

7 Q And you all call that a chain of custody?

8 A Yes. It generates a chain of custody.

9 Q And did you bring chain of custody documents for
10 items of evidence that I asked you to bring to court
11 today?

12 A I did.

13 Q Okay. Can I have those?

14 A Sure.

15 MR. FRETWELL: If I could have that marked as
16 State's -- I believe it's 232. 232.

17 (WHEREUPON, State's Exhibit Number 232 was marked for
18 identification.)

19 BY MR. FRETWELL:

20 Q And just to be clear, I'm going to ask you if
21 State's 232 relates to Evidence Items CM-8B, JFH-2,
22 JFH-4, JFH-9A, JFH-12 and TRB-2.

23 A Yes.

24 MR. FRETWELL: Okay. And just for the record, CM-8B
25 is identified as a rusted meat cleaver from C and S -- in

1 the right bedroom of C and S, that's State's 83; JFH-2,
2 roll of duct tape with suspected blood inside the
3 trailer, State's 147; JFH-4, machete with suspected blood
4 inside the trailer, State's 148; JFH-9A, Smith & Wesson
5 handgun with holster; FWX-4879 from GMC, State's 182;
6 JFH-12, piece of duct tape, bed of GMC truck, State's
7 181; and TRB-2, green T-shirt, State's 195.

8 Your Honor, at this time I would move State's 232
9 into evidence.

10 THE COURT: Any objection?

11 MR. MARCHANT: No objection.

12 THE COURT: All right. So entered without
13 objection.

14 (WHEREUPON, State's Exhibit Number 232 was admitted into
15 evidence.)

16 BY MR. FRETWELL:

17 Q Ms. Bennick, did those documents tell you where
18 those pieces of evidence which have already been entered
19 into evidence in this case, when they first come into P&E
20 and where they go?

21 A Yes.

22 Q Okay. And all of that information is documented on
23 those forms that you have right there.

24 A Yes.

25 Q Okay. Let me ask you about some items that are not

1 on those forms. I'm going to ask you about approximately
2 -- well, first of all, let's ask when a piece of evidence
3 such as a swab of DNA or something like that comes into
4 your facility, what is important for your facility to
5 look at when that swab enters?

6 A We make sure that it is sealed appropriately, that
7 it includes a case number, a date and initials on it.

8 Q If it does not, does it come into your facility?

9 A It comes in but it goes to a separate holding area
10 until the officer is called back and we have to restart
11 the process from start to finish.

12 Q Do you note that kind of thing in a given case if
13 you have to send the evidence to that holding area?

14 A We do, yes.

15 Q Okay. Let me ask you about approximately 19 swabs
16 that you received into evidence related to -- and I
17 should probably ask you to put this on the record. Did
18 you receive items of evidence and does State 232 relate
19 to items of evidence in law enforcement Case Number
20 1-19-215090 -- 6? I'm sorry. If I pull my glasses down,
21 all of a sudden I can see in front of me. 216 ---

22 A 216090609. Yes, sir.

23 Q Thank you.

24 All right. So let me ask you about these item
25 numbers all identified as swab -- or sample of swab with

1 suspected blood from various other pieces of evidence.
2 JFH-2A, CM-KK, CM-L1, CM-MM, CM-NN, CM-3A1, CM-15A,
3 CM-16A, CM-4A, CM-20A1, CM-20B1, CM-8B1, KL-1A and B,
4 KL-2A and B, those are both buccal swabs, TG-A and -- I'm
5 sorry -- TG -- I have two items labeled TG with buccal
6 swab, David Stokes, CJM-1 and 2, buccal swab Kurt
7 Knutson, BB-1 and BB-2, buccal swab Patrick Poole, CJM-3
8 and CJM-4, buccal swab Jeffrey George and ALB-1, blood
9 spot from Ivan Gula. Those 19 items that came into
10 evidence in this particular case, did they come in in a
11 sealed condition to your evidence room?

12 A Yes. Or they wouldn't have been accepted.

13 Q How do you know that? I'm sorry. How do you know
14 that?

15 A We would not accept them if they do not come in in a
16 sealed condition.

17 Q And if you had sent it to this holding area because
18 they were not sealed, you would have made a note of that;
19 is that correct?

20 A We would have. Those particular items were
21 collected by our Crime Scene Unit. They follow the same
22 protocols we do so they wouldn't even have been accepted
23 in. They would be turned right back out to them.

24 Q Understood.

25 I'm going to ask you about just eight other items of

1 evidence that came into your facility, and I'll just ask
2 you how these typeS of evidence would be handled in your
3 facility: CM-26, a cut carpet with suspected blood;
4 CM-27, a tan rug with suspected blood; CM-3A, a hatchet;
5 CM-15, a machete; CM-16, a Chipaway cutlery machete;
6 CM-4, a sword; CM-20A, a rusted machete; CM-20B a Sears
7 hacksaw. Those items that come in, how would they be
8 packaged? And maybe I could just ask you this. Do they
9 come in much like State's Exhibit 147, in this kind of
10 material?

11 A Yes. Again, collected from our Crime Scene Unit who
12 follows the same protocols we do and would seal them up
13 prior to submission.

14 Q Those have to be sealed when they come into your
15 facility as well; is that correct?

16 A Yes.

17 Q And are they sealed when they leave your facility
18 for testing and also sealed when they come back?

19 A Yes.

20 MR. FRETWELL: If I did not move that item of
21 evidence, I would move 232 into evidence at this time.

22 MR. MARCHANT: No objection.

23 THE COURT: All right. So entered.

24 (WHEREUPON, State's Exhibit Number 232 was admitted into
25 evidence.)

1 MR. FRETWELL: No further questions.

2 THE COURT: Anything on recross [sic], Mr. Marchant?

3 MR. MARCHANT: Yes, Your Honor.

4 CROSS EXAMINATION

5 BY MR. MARCHANT:

6 Q Good afternoon, Ms. Bennick.

7 A How are you?

8 Q All right. A lot of numbers have been rolled off
9 here by the prosecutor. Not all of those numbers are
10 associated with these Property and Evidence sheets that
11 we're talking about here ---

12 A Correct.

13 Q --- in State's 232, right?

14 A Correct.

15 Q In fact, some of these that were received by
16 Property and Evidence weren't necessarily even received
17 by you.

18 A Correct.

19 Q Okay. Do you know how many pieces of evidence there
20 are in this case?

21 A I know that there was over a hundred.

22 Q How do you know there's over a hundred?

23 A I reviewed the case prior to.

24 Q So you got over a hundred, but we only have, at
25 least with respect to State's 232, one, two, three, four,

1 five, six pieces of evidence?

2 A Uh-huh.

3 MR. MARCHANT: Okay. That's all the questions I
4 have. Thank you.

5 MR. FRETWELL: Judge, just one question on redirect.

6 THE COURT: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MR. FRETWELL:

9 Q Ms. Bennick, you said you reviewed the evidence for
10 this particular case before coming over.

11 A I reviewed the file and the barcode system, yes.

12 Q And I'm not asking you and I'm not holding you to a
13 specific number.

14 A You're fine.

15 Q But do you recall a large quantity of cigarette
16 butts in this particular case?

17 A I don't recall specifically. I do know there were
18 some cigarette butts. I couldn't even begin to know the
19 quantity.

20 Q Would it surprise you that there would be a large
21 quantity?

22 A No. That is an item we would collect as a
23 standard.

24 MR. FRETWELL: Thank you, Judge. No further
25 questions.

1 THE COURT: All right. Ma'am, you can step down.

2 Can this witness also be excused?

3 MR. FRETWELL: Please, Judge.

4 MR. MARCHANT: No objections.

5 THE COURT: All right. Can I see counsel for just a
6 second?

7 (WHEREUPON, a bench conference was held off the record.)

8 THE COURT: All right. Ladies and gentlemen of the
9 jury, we're going to take about a ten to 15 minute break
10 and I'm going to bring you back in.

11 Please, ma'am, please, sir, don't talk about the
12 case to each other. And use the restroom break or
13 stretch break, please do that at that time, okay? All
14 right.

15 (WHEREUPON, the jury exits the courtroom at 4:02 PM, and
16 a recess is taken; the jury entered the courtroom at
17 4:21 PM.)

18 THE COURT: Is the State ready to proceed?

19 MR. WILLIAMS: We are, Your Honor. The State calls
20 Jessica Stowe.

21 THE CLERK: Please pause at the bench. Put your
22 left hand on the Bible and raise your right hand.

23 WHEREUPON,

24 JESSICA STOWE

25 After having been duly sworn, testified as follows:

1 THE CLERK: Thank you. You may be seated. Please
2 state your full name for the record.

3 THE WITNESS: My name is Jessica Stowe. Last name
4 is spelled S-T-O-W-E.

5 DIRECT EXAMINATION

6 BY MR. WILLIAMS:

7 Q Where are you employed?

8 A I am employed with the Greenville County Department
9 of Public Safety within the DNA laboratory.

10 Q How long have you worked in that field?

11 A I began my career with the South Carolina Law
12 Enforcement Division in 2012. About halfway through
13 2019, I switched to the DNA department for Greenville
14 County. So all in all, a little over 12 years.

15 Q What training did you complete in order to become a
16 DNA analyst?

17 A I completed our in-house training program. And what
18 that entails is you're reading in the beginning all your
19 policies, all of your procedures that are part of being a
20 DNA analyst. And I trained under a qualified DNA analyst
21 meaning I watched her perform the DNA analysis so I could
22 just kind of get comfortable in the laboratory. And then
23 once I've gotten through that part of my training, I take
24 a test. Essentially, that encompasses all aspect of
25 being a DNA analyst. And once I did that, I passed it

1 and was deemed to perform independent DNA work.

2 Q And you currently work at the Greenville County DNA
3 lab.

4 A That is correct.

5 Q Could you explain how that lab operates?

6 A Sure. So DNA laboratories are consistent throughout
7 the country. So when a DNA laboratory is asked to
8 perform analysis in a case, whether that be from a
9 submitting agency, so an investigator, a solicitor and
10 prosecutor or a defense attorney, all the evidence starts
11 in serology.

12 And so serology is the identification of body fluids
13 such as blood, semen and saliva. It's also the
14 discipline within the DNA casework department that can
15 figure out who may have worn something, who may have
16 touched something. So we analyze all aspects of --
17 across the board all weapons, guns, knives. You think
18 it, we've probably tested it.

19 And then once that happens, serology then takes
20 samples, and they forward it to a DNA analyst within that
21 DNA casework department. So it's like two segments.

22 And so that's kind of how DNA labs work.

23 Q Were you asked to perform work on law enforcement
24 Case Number 19-21-6090?

25 A Can you repeat the question?

1 Q Were you asked to perform any work on Case
2 Number 19-21-6090?

3 A Oh, the case number, yes. That's correct. Sorry.

4 Q No problem.

5 Was a lab number generated to associate the evidence
6 in this case?

7 A It was. G20A353.

8 Q And that's probably the number you're used to
9 listening ---

10 A Yes. That's what I was looking for.

11 Q And is this lab unique to this case?

12 A This lab number is unique to this case, yes.

13 Q Okay. Did you complete DNA Lab Report Number 1 in
14 this case?

15 A I did.

16 Q Okay. And what law enforcement case items did you
17 handle in that report?

18 A I handled JFH-2A. That is our Item 1. And it's a
19 swab with suspected blood from a roll of duct tape.

20 You want me to keep going?

21 Q And did you mention that was JFH-2A?

22 A Yes. That's correct.

23 Q Yeah. Just keep going.

24 A Okay. I then handled our Item 2, but it's the law
25 enforcement JFH-4. And that is a machete collected from

1 inside trailer. And then I handled two other items:
2 KL-1A, the law enforcement number, that's our Item 3.
3 That is a buccal swab from Bobby Ray Smith. And then the
4 last law enforcement number, AL-B1 and our Item Number 4,
5 and that is a blood spot from Ivan Gula.

6 Q And where did you get these items from, these law
7 enforcement case items?

8 A These would have been requested by the -- in this
9 case it was the investigator. We fill out a formal
10 request to our Property and Evidence department. It's
11 the area that secures evidence. We submit that request.
12 They fulfill it and then I retrieve it from them.

13 Q Were they sealed and secured when you received it?

14 A Yes.

15 Q Now could you describe what you did to these items
16 to prepare them for DNA analysis?

17 A Sure. So the first step is kind of get a game plan
18 of what your role is in this case. So the investigator
19 submitted evidence for blood testing as well as to see
20 who may have handled an item.

21 So for the suspected blood spot from the roll of
22 duct tape, I simply screened that for the possible
23 presence of blood. And the same thing for the machete in
24 this case. I screened it for the possible presence of
25 blood as well as process the items to see who may have

1 touched it.

2 Q Other than those four items that you list that you
3 staged, basically, for analysis, did you do any other --
4 perform any other work on this case?

5 A Not outside of these four items, no. At that point,
6 another serologist had taken over in the case.

7 MR. WILLIAMS: No further questions.

8 THE COURT: Cross-examination?

9 MR. MARCHANT: No questions.

10 THE COURT: All right. Thank you, ma'am. You can
11 step down.

12 Is this witness free to go?

13 MR. WILLIAMS: Yes, Your Honor.

14 THE COURT: All right. Ma'am, you're free to go.

15 THE WITNESS: Thank you.

16 THE COURT: You can call your next witness.

17 MR. WILLIAMS: The State calls Hannah Burbage.

18 THE CLERK: Please pause at the bench. Lay your
19 left hand on the Bible, raise your right.

20 WHEREUPON,

21 HANNAH BURBAGE

22 After having been duly sworn, testified as follows:

23 The CLERK: Thank you. You may be seated. Please
24 state your full name for the record.

25 THE WITNESS: Hannah Burbage.

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q Where are you employed?

A At the Greenville County Department of Public Safety
in the forensic DNA lab.

Q Were you requested to perform work on Lab Number
G20-0353?

A Yes.

Q In fact, what DNA lab reports did you personally
complete?

A I did Report 3, Report 5 and Report 7.

Q Okay. I'll refer you to Report Number 3 first. Did
you handle law enforcement case Items CM-KK, CM-LL,
CM-MM, CM-NN, CM-26, CM-27 and TG-A?

A Yes.

Q Where did you get these items from?

A They are from our Property and Evidence section
which stores any evidence from crime scenes.

Q Were they sealed and secure when you received them?

A Yes.

Q Could you describe each of those items and what you
did to prepare these items for analysis?

A So basically, before analysis happens, we clean our
bench area, clean all of our utensils, tools, anything
that we're going to use. We wear personal protective

1 equipment, so lab coat, gloves, face mask. And then we
2 only process one item at a time.

3 So for this one, Case Item Number CM-KK became our
4 Item Number 5 which was a sealed package containing swab
5 of suspected blood from living room wall next to front
6 door. And a sample was taken for DNA analysis as
7 Item 5-A.

8 So for the swabs, I just take a cutting of the swab
9 and place that into a tube. That tube then gets labeled
10 and barcoded and stored in a freezer for the DNA
11 analysis.

12 So then CM-LL became Item 6 which is a sealed
13 package containing swab of suspected blood from adjacent
14 living room wall from front door. And I did the same
15 thing with that. A sample was taken for DNA analysis as
16 Item 6-A.

17 And then for CM-MM, that became Item 7. So a sealed
18 package containing swab of suspected blood from adjacent
19 living room wall from front door. A sample was taken for
20 DNA analysis as Item 7A.

21 For CM-NN, that became Item 8 which was a sealed
22 package containing swab of suspected blood from adjacent
23 living room wall from front door. And a sample was taken
24 as Item 8A for that.

25 And then CM-26 was Item 9, sealed package containing

1 cut carpet with suspected blood from living room floor,
2 observation revealed a dirty light brown in color piece
3 of carpet with cut edges. Edges were designated as A, B,
4 C and D for processing. So I just labeled them to be
5 able to segment them to make processing more efficient.

6 So a swab, the entire side near edges A, B and C of
7 the cut carpet was taken as Item 9A. A swab of the
8 middle area was taken as 9B. A swab of the entire middle
9 area was taken as Item 9C. A swab of the entire middle
10 area was taken as Item 9D. And then a swab of the entire
11 side near edges just was taken at Item 9E.

12 And then for Case Item CM-27, that became Item 10
13 which was a sealed package containing tan rug with
14 suspected blood from living room floor. And I did a
15 similar observation of the dirty tan and cream in colored
16 flower print rug. Again, the edges were designated as A,
17 B, C and D for processing. And then a swab of the side
18 near edges A, D and C was taken as Item 10A. A swab of
19 the middle was taken as Item 10B. And then a swab of the
20 side near the edges A, B and C was taken as Item 10C.

21 For item TG-A, that became our Item 11 which is a
22 sealed package containing buccal swab from David Stokes.
23 And the sample of that was taken for DNA analysis as
24 Item 11A. And once again, I just cut the swab and put
25 that into a tube which was labeled and stored.

1 Q Thank you, Ms. Burbage.

2 Now I will refer you to DNA lab report Number 5.

3 Did you handle law enforcement Case Items CM-3A-1,
4 CM-15A, CM-16A, CM-4A, CM 20A-1, CM-20B-1, CG -- CJM-1
5 and KL-2A?

6 A Yes.

7 Q And were these also provided to you from Property
8 and Evidence?

9 A Yes.

10 Q Sealed and secure?

11 A Yes.

12 Q Could you, again, walk through with the jury what
13 you did to stage these items for analysis?

14 A So CM-3A-1 became Item 15 which was a sealed package
15 containing swab of wooden handle of hatchet. Item Number
16 CM-3A from right bedroom, CM-15A became Item 16 which is
17 sealed package containing swab of black-handled machete,
18 Item Number CM-15 from master bedroom. CM-16A became
19 Item 17 which was a sealed package containing swab of
20 green handle of Chipaway Cutlery machete, Item Number
21 CM-16 from master bedroom. CM-4A became our Item 18
22 which was a sealed package containing swab of
23 black-handled sword, Item CM-4 from right bedroom. And
24 then CM-20A-1 became Item 19 which was a sealed package
25 containing swab of wooden handle of rusted machete, Item

1 Number CM-20A from master bedroom. CM-20B-1 became our
2 Item 20, a sealed package containing swab of handle of
3 Sears Craftsman hacksaw, Item Number CM-20B from master
4 bedroom. And then CJM-1 became Item 21 which was a
5 sealed package containing buccal swab from Kurt Knutson.

6 And then what was the last item number?

7 Q KL-2A.

8 A Okay. KL-2A became Item 22 which was a sealed
9 package containing buccal swab from Kurt Knutson.

10 And for all of these items, I did the same thing
11 where they were just swabs. So I cut a sample from each
12 item and then they became Subitem 15A, 16A, 17A, 18A,
13 19A, 20A, 21A and 22A.

14 Q All right. Let's go to your last report, Report
15 Number 7. Did you handle law enforcement case items
16 CM-8B-1 and CJM-3?

17 A Yes.

18 Q And you got those as well from Property and
19 Evidence?

20 A Yes.

21 Q Sealed and secure?

22 A Yes.

23 Q Could you describe each of these items and how you
24 staged them for analysis?

25 A Item Number CM-8B-1 became our Item 28 which was a

1 sealed package containing swab from rusted meat cleaver,
2 Item Number CM-8B collected from right bedroom. And then
3 CJM-3 became our Item Number 29 which was a sealed
4 package containing buccal swab from Jeffrey George. And
5 because these were swabs, I did the same thing of cutting
6 them, taking that sample into a tube which then was
7 forwarded for DNA analysis as Item 28A and 29A.

8 MR. WILLIAMS: Thank you. I have no further
9 questions.

10 THE COURT: Cross-examination?

11 MR. MARCHANT: No questions.

12 THE COURT: All right. Thank you, ma'am.

13 Can this witness also be excused?

14 MR. WILLIAMS: Yes, Your Honor.

15 THE COURT: All right. Ma'am, you're free to go.

16 THE WITNESS: Thank you.

17 THE COURT: All right. State call its next witness.

18 MR. WILLIAMS: The State calls Kaitlin Appel.

19 THE CLERK: Please pause at the bench. Put your
20 left hand on the Bible, raise your right hand.

21 WHEREUPON,

22 KAITLIN APPEL

23 After having been duly sworn, testified as follows:

24 THE CLERK: Thank you. You may be seated. Please
25 state your full name for the record.

1 THE WITNESS: Kaitlin Appel.

2 DIRECT EXAMINATION

3 BY MR. WILLIAMS:

4 Q Where are you employed?

5 A I'm employed with the Greenville County Department
6 of Public Safety in the DNA lab.

7 Q And what is your position there?

8 A I am a DNA analyst.

9 Q How long have you been a DNA analyst?

10 A About 14 and a half years now.

11 Q What does it mean to determine a DNA profile?

12 A Can you rephrase that question, please.

13 Q Sure. I'll tell you what. Why don't we go a little
14 bit -- give us a little bit about your educational
15 background and training background to become a DNA
16 analyst.

17 A Okay. I received a bachelors of science degree in
18 biology from the University of Georgia. I also received
19 extensive in-house training from the Georgia Bureau of
20 Investigation as well as here in Greenville County. That
21 included observation of senior scientists performing mock
22 samples, taking quizzes and exams and performing mock
23 work.

24 Q And approximately how many items have you analyzed
25 for DNA across your career? Do you have any idea?

1 A I do not have that number, no.

2 Q Okay. In approximate a year maybe? over the last
3 year?

4 A I could go more by case number.

5 Q Sure.

6 A I probably worked approximately 1,500 cases if not
7 more.

8 Q Okay. So at least one per case there and probably a
9 lot more than one.

10 A Yes.

11 Q Have you ever been qualified as an expert before?

12 A Yes.

13 Q In what field?

14 A Serology and DNA analysis.

15 Q How many times?

16 A Approximately 35 times.

17 Q Was that in any court in South Carolina?

18 A Yes. South Carolina as well as Georgia.

19 Q Has any court failed to qualify you as an expert
20 witness?

21 A No.

22 MR. WILLIAMS: Your Honor, at this time, the State
23 would offer Kaitlin Appel as an expert in DNA analysis.

24 THE COURT: Any objection?

25 MR. MARCHANT: No objection.

1 THE COURT: She's deemed so qualified.

2 BY MR. WILLIAMS:

3 Q All right. Did you perform work on a Lab
4 Number G20-0353 relating to the death investigation of
5 Ivan Gula on December 1, 2019?

6 A Yes.

7 Q Okay. And there was, I believe, a total of eight
8 DNA lab reports generated for this; is that correct?

9 A Yes, that's correct.

10 Q Which lab reports did you personally complete?

11 A I did Reports 2, 4, 6 and 8.

12 Q So did you conduct all of the DNA analysis in this
13 case?

14 A Yes.

15 Q And what is comparison analysis?

16 A It's just comparing a DNA profile to a known sample,
17 a known individual's DNA profile.

18 Q And what were the known samples that you were
19 provided in this case?

20 A I was provided a buccal swab from Bobby Ray Smith, a
21 blood spot from Ivan Gula, let's see, a buccal swab from
22 Kurt Knutson, a buccal swab from Audrea Cook, a buccal
23 swab from Patrick Poole, and a buccal swab from Jeffrey
24 George.

25 Q Okay. Were there any statistical calculations

1 comprised as a result of your analysis?

2 A Yes.

3 Q And this is captured in the four reports that you've
4 done?

5 A Yes.

6 Q Okay. I'm showing you State's Exhibit 196. Do you
7 recognize that?

8 A Yes. I recognize it by my initials.

9 Q Okay. Have you reviewed it?

10 A Yes, I have.

11 Q What is it?

12 A It is a chart of a summary of my DNA results.

13 Q Have you reviewed it for accuracy?

14 A Yes, I have.

15 Q Is it completely accurate?

16 A It is.

17 MR. WILLIAMS: Your Honor, at this time, the State
18 would move to have 196 admitted into evidence.

19 THE COURT: Any objection?

20 MR. MARCHANT: No objection.

21 THE COURT: So entered without objection.

22 (WHEREUPON, State's Exhibit Number 196 was admitted into
23 evidence.)

24 MR. WILLIAMS: Permission to publish, Your Honor.

25 THE COURT: Any objection?

1 MR. MARCHANT: No objection.

2 BY MR. WILLIAMS:

3 Q All right. Ms. Appel, if we could just kind of go
4 through these one by one. Sample 1A, now, that was
5 created by -- that was an item created by the DNA lab,
6 right? 1A?

7 A Yes.

8 Q And it was derived from law enforcement Case
9 Item JFH-2A.

10 A I'm not sure on that. I do have the original item
11 is JFH-2.

12 Q And what was that?

13 A That is a sample of swab with suspected blood from
14 JFH-2 which is a roll of duct tape.

15 Q Okay. And did you perform a comparison analysis on
16 that item?

17 A Yes, I did.

18 Q What was the result?

19 A The DNA obtained from Item 1 contained the partial
20 DNA of a male individual. The DNA obtained from Item 1
21 matches the DNA of Ivan Gula. A match between the DNA
22 result of Item 1 and the DNA of Ivan Gula is
23 approximately 30 quintillion times more likely than a
24 coincidental match to a random unrelated individual.

25 Q What is 30 quintillion?

1 A It is a lot of zeros. Quintillion is 18 zeros
2 behind that main number.

3 Q And approximately how many people are -- the
4 population of the earth?

5 A I think we're approaching, if not already there,
6 about eight billion.

7 Q So that statistic you said is a far greater number
8 than even the population of Earth.

9 A That's correct.

10 Q That's basically that is -- that blood matches Ivan
11 Gula, is what you're saying.

12 A It is 30 quintillion times more likely.

13 Q Okay. Just I know because there's a lot of these
14 numbers coming out. I just want to make sure we all
15 understand what those numbers mean, basically.

16 So Item 2A, what can you tell us about that item?

17 A The DNA obtained from Item 2A contained the DNA of a
18 major male individual and an unknown minor male. The
19 major contributor matches the DNA of Ivan Gula. A match
20 between the DNA result of Item 2A and the DNA of Ivan
21 Gula is approximately 9 septillion times more likely than
22 a coincidental match to a random unrelated individual.

23 Q Okay. And this was swabs from the blade of that
24 JFH-4 machete?

25 A Yes. That's correct.

1 Q Okay. So what you're saying is the major match is
2 Ivan Gula's blood.

3 A Correct.

4 Q And then you compare that -- there's another match
5 on the blade, but you also compare that to the other
6 individuals in that excluded column and they -- and it
7 did not match them?

8 A That's correct.

9 Q Okay. And that includes -- obviously that includes
10 the defendant Jeff George. That includes also David
11 Stokes as well?

12 A Correct.

13 Q Okay. What can you tell us about Item 2B?

14 A The DNA obtained from Item 2B contained the DNA of
15 an unknown major male and a trace contributor.

16 Q And that was from the handle of that same machete
17 that you just talked about on the previous item?

18 A Yes.

19 Q Okay. So you were not able to make a match on that
20 handle.

21 A Not to any of the known submitted.

22 Q Okay. So all those individuals were ruled out just
23 like on the previous item number; is that correct?

24 A Yes.

25 Q All right. I'm going to move on to Item 5A, 6A, 7A,

1 8A, 9A, 10A I believe would probably be from your next
2 report.

3 A Correct.

4 Q What can you tell us about Item 5A which was the
5 swab of suspected blood from the living room wall next to
6 the front door, law enforcement case Item CM-KK?

7 A The DNA obtained from Item 5A matches the DNA of
8 Ivan Gula. A match between the DNA result of Item 5A and
9 the DNA for Ivan Gula is approximately 9 septillion times
10 more likely than a coincidental match to a random
11 unrelated individual.

12 Q Okay. And 6A?

13 A The DNA obtained from Item 6A is a mixture of at
14 least two individuals: a major male individual and a
15 trace contributor. The major DNA obtained from Item 6A
16 matches the DNA of Ivan Gula. A match between the major
17 DNA result of Item 6A and the DNA of Ivan Gula is
18 approximately 9 septillion times more likely than a
19 coincidental match to a random unrelated individual.

20 Due to limited data, no conclusive determination can
21 be made from the trace contributor in this item.

22 Q And then Item 7A which was law enforcement CM-MM?

23 A The DNA obtained from Item 7A matches the DNA of
24 Ivan Gula. A match between the DNA result of Item 7A and
25 the DNA of Ivan Gula is approximately nine septillion

1 times more likely than a coincidental match to a random
2 unrelated individual.

3 Q 8A which would be Item CM-NN?

4 A That is the same result as Items 5A and 7A.

5 Q The exact same statistical match?

6 A Correct.

7 Q Okay. And what about Item 9A which would be a cut
8 carpet section, CM-26?

9 A The DNA obtained from Item 9A is mixture of at least
10 two individuals: a major male individual and a trace
11 contributor. The major DNA obtained from Item 9A matches
12 the DNA of Ivan Gula. A match between the major DNA
13 result of Item 9A and the DNA of Ivan Gula is
14 approximately 3 quadrillion times more likely than a
15 coincidental match to a random unrelated individual.

16 Due to limited data, no conclusive determination can
17 be made from the trace contributor in this item.

18 Q And you've mentioned that a couple times. Like
19 there's not a -- you don't have enough data or whatever
20 to make a conclusive determination. How often does that
21 happened when you're performing DNA analysis?

22 A Quite often, especially when we are dealing with
23 mixtures of multiple individuals in the sample. Limited
24 data is just there's -- there's just not enough to go and
25 make a conclusive determination on what's there and

1 present.

2 Q Okay. So a mixture of individuals can mess up the
3 data, if you will, a mixture of DNA.

4 What other things might cause DNA not to be able to
5 be lifted, if you will, from an item or analyzed or
6 something like that?

7 A There is multiple scenarios that -- that DNA wasn't
8 deposited on the item. It could be that an individual,
9 what they were wearing, if they were wearing gloves or
10 wearing a mask. Or it could also be environmental, was
11 it outside versus inside.

12 Q Would cleaning products such as Clorox potentially
13 affect your ability to obtain DNA from an item?

14 A Yes, it can.

15 Q All right. Let's move on to Item 10A which is the
16 law enforcement Item CM-27, the tan rug with the
17 suspected blood from the living room floor.

18 A The DNA obtained from Item 10A is a mixture of at
19 least three individuals. The DNA of David Stokes cannot
20 be excluded as a contributor to this mixture. A match
21 between the DNA result of Item 10A and the DNA of David
22 Stokes is approximately 756 billion times more likely
23 than a coincidental match to a random unrelated
24 individual.

25 Due to complexity of the DNA mixture and DNA

1 degradation, there's no statistical support for a match
2 with Item 10A and Ivan Gula, therefore, no conclusive
3 determination could be made for this individual.

4 Bobby Ray Smith is excluded as a contributor to this
5 DNA mixture.

6 Q And I believe -- and it may be captured on other
7 reports, but also Kurt Knutson and Patrick Poole are
8 excluded, and then over on that next column, Audrea Cook
9 and Jeff George also is inconclusive as to -- you don't
10 have enough data to make a determination one way or the
11 other; is that right?

12 A That's correct.

13 Q And hearing what you said previously, do you think
14 that has a lot to do with the fact that there's at least
15 three individuals on that DNA sample?

16 A Yes.

17 Q Okay. Same question for Item 10B which would be a
18 swab of the middle near edges of CM-27.

19 A The DNA obtained from Item 10B is a mixture of at
20 least three individuals. The DNA of David Stokes cannot
21 be excluded as a contributor to this mixture. A match
22 between the DNA result of Item 10B and the DNA of David
23 Stokes is approximately 34.1 septillion times more likely
24 than a coincidental match to a random unrelated
25 individual.

1 Due to the complexity of the DNA mixture and DNA
2 degradation, there's no statistical support for a match
3 with Item 10B and Bobby Ray Smith or Ivan Gula,
4 therefore, no conclusive determination can be made for
5 these individuals.

6 In addition to -- Kurt Knutson and Jeff George are
7 also inconclusive in this item. And Audrea Cook and
8 Patrick Poole are excluded.

9 Q And, again, at least three people, the DNA
10 composition.

11 And moving on to 10C, the swab of CM-27?

12 A The DNA obtained from Item 10C is a mixture of at
13 least three individuals. The DNA of David Stokes cannot
14 be excluded as a contributor to this mixture. A match
15 between the DNA result of Item 10C and the DNA of David
16 Stokes is approximately 7.89 septillion times more likely
17 than a coincidental match to a random unrelated
18 individual.

19 Due to complexity of the DNA mixture, there is no
20 statistical support for a match with Item 10C and Ivan
21 Gula, therefore, no conclusive determination can be made
22 for this individual.

23 Bobby Ray Smith is excluded as a contributor to this
24 mixture.

25 In addition to Kurt Knutson, Audrea Cook and Patrick

1 Poole are excluded as well. And Jeffrey George is -- or
2 sorry. Excuse me. Kurt Knutson, Audrea Cook and Patrick
3 Poole are inconclusive for Item 10C, and Jeffrey George
4 is excluded in Item 10C.

5 Q All right. Let's move to 15A, the sample of a swab
6 of a wooden handle of CM-3A which was the hatchet from
7 the right bedroom.

8 A The DNA obtained from Item 15A contained a DNA
9 profile of a major male individual and a trace
10 contributor. The major DNA profile obtained from
11 Item 15A matches the DNA of David Stokes. A match
12 between the major DNA result of Item 15A and the DNA of
13 David Stokes is approximately 338 septillion times more
14 likely than a coincidental match to a random unrelated
15 individual.

16 Due to limited data, no conclusive determination
17 could be made from the trace contributor and this item.

18 Q All right. Thank you.

19 Item 16A, a sample of the swab of the black handle
20 of CM-15 which is a machete from the master bedroom?

21 A The DNA obtained from 16A is a mixture of at least
22 three individuals. The DNA of Audrea Cook cannot be
23 excluded as a contributor to this mixture. A match
24 between the DNA result of Item 16A and the DNA of Audrea
25 Cook is approximately 86.9 quadrillion times more likely

1 than the coincidental match to a random unrelated
2 individual.

3 Assuming Audrea Cook is a contributor to this
4 mixture based on the match statistic, David Stokes cannot
5 be excluded as a contributor to this mixture. A match
6 between the DNA result of Item 16A and the DNA of David
7 Stokes is approximately 709 billion times more likely
8 than a coincidental match to a random unrelated
9 individual.

10 Ivan Gula, Bobby Ray Smith, Kurt Knutson and Patrick
11 Poole are excluded as contributors to this mixture as
12 well as Jeffrey George is excluded.

13 Q Moving to 17A, the sample of a swab of the green
14 handle of CM-16 which is a Chipaway Cultler machete?

15 A The DNA obtained from Item 17A is a mixture of at
16 least three individuals. The DNA of David Stokes cannot
17 be excluded as a contributor to this mixture. A match
18 between the DNA result of Item 17A and the DNA of David
19 Stokes is approximate 4.52 quadrillion times more likely
20 than a coincidental match to a random unrelated
21 individual.

22 Assuming David Stokes is a contributor to this
23 mixture based on the match statistic, Audrea Cook cannot
24 be excluded as a contributor to this mixture. A match
25 between the DNA result of Item 17A and the DNA of Audrea

1 Cook is approximately 67.4 billion times more likely than
2 a coincidental match to a random unrelated individual.

3 Due to the complexity of the DNA mixture, there's no
4 statistical support for a match with Item 17A and Ivan
5 Gula or Kurt Knutson, therefore, no conclusive
6 determination could be made for these individuals. Bobby
7 Ray Smith and Patrick Poole are excluded as contributors
8 to this DNA mixture, and Jeffrey George is inconclusive
9 in this item as well.

10 Q Okay. And Item 18A, the sample of swab of the black
11 handle of CM-4 which was a sword from the right bedroom?

12 A The DNA obtained from Item 18A contained the DNA
13 profile of a major male individual and a trace
14 contributor. The major DNA profile obtained from
15 Item 18A matches the DNA of David Stokes. A match
16 between the major DNA result of Item 18A and the DNA of
17 David Stokes is approximately 29 sextillion times more
18 likely than a coincidental match to a random unrelated
19 individual.

20 Due to limited data, no conclusive determination
21 could be made from the trace contributor at this item.

22 Q All right. Moving on to 19A, the sample of the swab
23 of the wooden handle of CM-20A which is a rusted machete
24 from the master bedroom?

25 A The DNA obtained from Item 19A is a mixture of at

1 least two individuals. The DNA of David Stokes cannot be
2 excluded as a contributor to this mixture. A match
3 between the DNA result of Item 19A and the DNA of David
4 Stokes is approximately 1.22 trillion times more likely
5 than a coincidental match to a random unrelated
6 individual.

7 Ivan Gula, Bobby Ray Smith, Kurt Knutson, Audrea
8 Cook and Patrick Poole are excluded as contributors to
9 this DNA mixture as well as Jeffrey George.

10 Q Moving on to 20A, the sample of the swab of the
11 handle of CM-20B which is a Sears Craftsman hacksaw from
12 the master bedroom?

13 A The DNA obtained from Item 20A is a mixture of at
14 least three individuals. The DNA of David Stokes cannot
15 be excluded as a contributor to this mixture. A Match
16 between the DNA result of Item 20A and the DNA of David
17 Stokes is approximately 923,000 times more likely than a
18 coincidental match to a random unrelated individual. The
19 chance of a false positive for this comparison is 1 in
20 47.3 million.

21 Due to complexity of the DNA mixture, there's no
22 statistical support for a match with Item 20A and Kurt
23 Knutson, Audrea Cook or Patrick Poole, therefore, no
24 conclusive determination can be made for these
25 individuals. Bobby Ray Smith and Ivan Gula are excluded

1 as contributors to this DNA mixture as well as Jeffrey
2 George.

3 Q All right. And finally, Item 28A which is a sample
4 of the swab from CM-18, the rusted meat cleaver that was
5 collected from the right bedroom?

6 A The DNA obtained from Item 28A matches the DNA of
7 David Stokes. A match between the DNA result of Item 28A
8 and the DNA of David Stokes is approximately
9 328 Septillion times more likely than a coincidental
10 match to a random unrelated individual.

11 MR. WILLIAMS: Thank you. I have no further
12 questions.

13 THE COURT: Cross-examination?

14 CROSS EXAMINATION

15 BY MR. MARCHANT:

16 Q Can you tell me your last name again?

17 A Appel.

18 Q Appel.

19 This chart that's up here has a total of 18
20 different pieces of information that you analyzed even
21 though the last number is identified as 28A.

22 A I would have to count the first ones to confirm.

23 Q Let me show you that chart ---

24 A Okay.

25 Q --- make sure that's the same as what you just

1 reviewed on the screen.

2 A (Reviews document) Yes. 18 items.

3 Q Okay. And I realize that's what this chart shows,
4 but are there more than 18 items that you did analysis
5 on?

6 A Yes.

7 Q Okay. And how many total pieces of evidence did you
8 run this analysis for?

9 A Would you like me to include the buccal swab, the
10 knowns as well in my item count?

11 Q No. We can eliminate the buccal swabs. We've got,
12 what, six known swabs? Excuse me. Seven. Sorry. I
13 miscounted.

14 A (Reviews document) Yes. Seven. Seven knowns.

15 As far as question items, I believe it's 24 if I
16 counted correctly on my reports.

17 Q Okay. Can you tell us what those other six items
18 are that you did the analysis on and the results?

19 A Could you provide the -- my item numbers you would
20 like specifically?

21 Q Which of the report numbers are yours?

22 A 2, 4, 6 and 8.

23 Q All right. Let's talk about 9B was one of those,
24 correct?

25 A Yes.

1 Q All right. What was 9B? What was your findings?

2 A The DNA obtained from Item 9B is a mixture of at
3 least two individuals. Bobby Ray Smith, Ivan Gula and
4 David Stokes are excluded as contributors to this DNA
5 mixture. I have to find the other comparisons as well.
6 It was -- for 9B, Kurt Knutson was inconclusive. No
7 conclusive determination could be made for Kurt Knutson.
8 And Audrea Cook and Patrick Poole were excluded as
9 contributors to this mixture. And Jeffrey George is also
10 excluded as a contributor to this DNA mixture.

11 Q All right. 9C?

12 A The DNA obtained from Item 9C is a mixture of at
13 least three individuals. Due to complexity of the DNA
14 mixture and DNA degradation, there's no statistical
15 support for a match with Item 9C and Ivan Gula or David
16 Stokes, therefore, no conclusive determination could be
17 made for these individuals. Bobby Ray Smith is excluded
18 as a contributor to this mixture.

19 Kurt Knutson, Audrea Cook and Patrick Poole, no
20 conclusive determination could be made for those
21 individuals. And Jeffrey George is excluded as a
22 contributor to this mixture.

23 Q 9D?

24 A The DNA obtained from Item 9D is a mixture of at
25 least three individuals. Due to complexity of the DNA

1 mixture and DNA degradation, there's no statistical
2 support for a match with Item 9D and David Stokes,
3 therefore, no conclusive determination can be made for
4 this individual.

5 Bobby Ray Smith and Ivan Gula are excluded as
6 contributors to this DNA mixture. No conclusive
7 determination could be made for Kurt Knutson, and Audrea
8 Cook and Patrick Poole are excluded as contributors to
9 this mixture. And Jeffrey George is excluded as a
10 contributor to this DNA mixture.

11 Q All right. 13A?

12 A The DNA obtained from Item 13A matches the DNA of
13 Ivan Gula. The match between the DNA result of Item 13A
14 and the DNA of Ivan Gula is approximately 119 quadrillion
15 times more likely than a coincidental match to an
16 unrelated individual -- to random unrelated individual.
17 Excuse me.

18 Q And 13A is swabs from underneath Ivan Gula's
19 fingernails, right? Excuse me. Fingertips.

20 A The underside of nails of left hand fingertips from
21 Ivan Gula.

22 Q Of the left fingertips.

23 A Yeah. The left hand fingertips.

24 Q Okay. That was 13A, correct?

25 A Correct.

1 Q All right. 14A?

2 A The DNA obtained from Item 14A matches the DNA of
3 Ivan Gula. A match between the DNA result of Item 14A
4 and the DNA of Ivan Gula is approximately 1 septillion
5 times more likely than a coincidental match to a random
6 unrelated individual.

7 Q And those are from the right hand of Mr. Gula.

8 A Those -- it's a sample of right hand fingernail
9 clippings from Ivan Gula.

10 Q So you didn't find any evidence of Jeff George on
11 Items 13A or 14A either, correct?

12 A Correct.

13 Q On the chart that's been presented, the first column
14 identifies the piece of evidence that's been analyzed,
15 correct?

16 A Correct.

17 Q And then the second one is either there was a match
18 or saying you cannot exclude.

19 A Correct.

20 Q Okay. What's the difference between you can't
21 exclude and its inconclusive?

22 A During this analysis period, we utilized different
23 statistical methods in determining the stats associated
24 with the matches. So the DNA matches typically for a
25 single source sample where it's just one individual and

1 then we deal with a different statistical method when we
2 were dealing with mixtures. And so that wording is
3 different for when dealing with mixtures based on how we
4 perform that stat.

5 Q Okay. Regardless of which one you're talking about,
6 whether it's cannot exclude or it's inconclusive, that
7 means it's not a positive match, correct?

8 A For which parts?

9 Q Well, for example, you've got 17A up here on the
10 screen. And if I recall the testimony correct, Jeff
11 George is inconclusive, so there's no statistical match
12 for Jeff George.

13 A There's -- yes. There's no conclusive determination
14 on that individual.

15 Q So it's not a positive match.

16 A It's not a positive and it's not an exclusion.

17 Q But there's a different analysis of you cannot
18 exclude somebody.

19 A It's just the verbiage is different. It's just the
20 verbiage we had used in our report at the time. But
21 there's a stat associated with that "cannot exclude"
22 statement.

23 Q So really, it means the same thing.

24 A As?

25 Q Well, you're just saying you just used different

1 verbiage, cannot exclude versus inconclusive.

2 A They're two different ---

3 Q We'll move on.

4 Regardless of the terminology of the language, you
5 didn't find any matches to any piece of evidence to Jeff
6 George, correct?

7 A Correct.

8 Q No match on 18 -- or excuse me -- 24 total items, 18
9 of which are reflected in this chart.

10 A If I counted correctly, that would be correct.

11 Q Okay. If the solicitor would be so kind to go to
12 page 1 of the report. All right. We've got 10A, B and
13 C. And all of those come from the same piece of evidence
14 which is CM-27 which is a tan rug with suspected blood
15 from the living room floor, correct?

16 A Correct.

17 Q Okay. Mr. George is excluded in the sample that was
18 attempted to be pulled from 10C.

19 A Yes. That's correct.

20 Q Okay. So we've got 10A and 10B. It's the same item
21 of evidence, but you're saying you don't have enough
22 information to make a match or rule him out.

23 A They are different samples of that one item.

24 Q Right. So if this was the tan rug with suspected
25 blood, there was probably a sample taken from this edge,

1 one in the middle and one on the far edge (indicating
2 throughout).

3 A Yes. They're different samples from the rug, yes.

4 Q Okay. But it's the same rug.

5 A Correct.

6 Q Okay. So one of them is definitely ruling him out.

7 The other two you can't say one way or another.

8 A Correct.

9 Q Okay. This piece of rug, did it come to your office
10 or was it just a swab that comes to your office?

11 A I believe this particular rug came into the lab and
12 our serologist performed her analysis on that.

13 Q So one of the two young ladies we just heard from
14 would have done her job, her part in this and pulled or
15 attempted to pull a sample off of 10A and 10B.

16 A Yes.

17 Q Okay. Is there anything to prevent you from going
18 back to that area of 10A and 10B and trying again?

19 A As long as the item, the sample was -- as long as
20 the item wasn't consumed, my sample that I performed
21 analysis on, then, yes, I can go back.

22 Q So on any of these items that are on this chart are
23 the ones that we've discussed, you can go back and rerun
24 the sample and try to get more information.

25 A Yes.

1 Q Was that done?

2 A No.

3 Q Is that something that you would make a decision
4 about when you come to an item and you don't have a
5 conclusive opinion?

6 A Not typically, no. It's really dependent on making
7 sure that the procedures we're performing in lab ran
8 correctly and all our controls were in place. So if
9 there was anything in question regarding that, then we'd
10 be more apt to go back to the sample.

11 Q Okay. Let's talk about the dates of your reports.
12 You were on Report 2, 4, 6 and 8, correct?

13 A Correct.

14 Q And you finished your analysis on Report 2 on
15 February 18, 2021, correct?

16 A That was when the report was released, correct.

17 Q That's not the date that you performed the analysis?

18 A No.

19 Q Okay. What's the date that you performed the
20 analysis?

21 A (Reviews document) I began the analysis on
22 January 13, 2021.

23 Q So it would take about 30 days to do what you needed
24 to do on those items?

25 A Approximately. There's also, on top of doing the

1 physical analysis, there is a peer-review process.

2 Q Okay. Someone else in your office goes back, checks
3 your work?

4 A Correct.

5 Q Signs off on it?

6 So that Report 2 is February of 2021. Report 4 is
7 April 26, 2022, correct?

8 A Correct.

9 Q Report 6 is July 12, 2022?

10 A Correct.

11 Q And Report 8 is December 22, 2022?

12 A Correct.

13 Q Okay. And once these reports are finalized, where
14 do they go?

15 A We -- they are put into our -- given to our records
16 division.

17 Q Okay. And records houses all the files for this
18 particular investigation?

19 A I'm not sure about all the files, but they do house
20 our reports.

21 Q Okay. And then the investigators, sheriff's office,
22 solicitor's office can be made aware that those reports
23 are available.

24 A Yes.

25 Q If there was an item that was not tested -- I'm

1 going to show you what's marked as State's 182. Have you
2 seen this before?

3 A I have not.

4 Q Okay. You tested firearms before?

5 A Yes. In other cases.

6 Q Okay. So you perform DNA analysis on firearms.

7 A Yes.

8 Q Had somebody asked you to do DNA on this, would your
9 office have done it?

10 A Yes.

11 Q Was any request ever made?

12 A Not that I'm aware of.

13 Q Okay. The request was only made on these 24 items
14 that we've talked about.

15 A Yes.

16 Q Okay. So obviously, that's been opened and handled.
17 But if there was a piece of evidence that had been kept
18 in the course of business as these other items are,
19 protected, nobody's touched them, everybody's wearing
20 gloves, it's been sealed, and that piece of evidence is
21 sitting out there, is there anything to prevent your
22 office from performing analysis on a piece of evidence
23 that was taken into custody in this case back in 2019?

24 A We just have to rely on the request from the
25 investigator or solicitors or the attorneys.

1 Q Right. So if the solicitor, either one of them, or
2 either one of the investigators said I want you to test
3 this even though we're now four and a half, almost five
4 years removed from December of 2019, your office would
5 accommodate that request and perform the same analysis
6 that you've done here.

7 A Assuming that the evidence wasn't handled by any
8 other individual from the collection.

9 Q Okay. All right. I've got one last question. Do
10 you own a bottle of bleach?

11 A Yes.

12 MR. MARCHANT: Thank you.

13 MR. WILLIAMS: Briefly, Your Honor.

14 THE COURT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. WILLIAMS:

17 Q So let's talk about Item 10A, 10B and 10C. Your
18 office created all three of those items, correct?

19 A Correct.

20 Q And they were all derived from law enforcement Case
21 Item CM-27?

22 A Correct.

23 Q Why did you decide to create three samples?

24 A You'd have to ask the serologist that.

25 Q Serologist.

1 But you've performed serology before.

2 A I have.

3 Q What are the kind of decisions that -- what leads
4 you to determine I'm going to create two or three or five
5 samples from this one item?

6 MR. MARCHANT: I'm going to object to speculation.
7 She can't comment on what some other witness did or did
8 not do.

9 MR. WILLIAMS: I'm asking her to comment, Your
10 Honor, just in her experience as a serologist.

11 THE COURT: I'll let you ask that question. Go
12 ahead.

13 THE WITNESS: It can be dependent on the size of the
14 evidence being analyzed.

15 BY MR. WILLIAMS:

16 Q Okay. So would it be fair to say that the item
17 requested to be analyzed was CM-27, correct?

18 A Correct.

19 Q And your office, the serologist who performed the
20 analysis, created three samples from that one item.

21 A Correct.

22 MR. WILLIAMS: No further questions, Your Honor.

23 THE COURT: Anything on recross?

24 MR. MARCHANT: No, Your Honor.

25 THE COURT: All right. Ma'am, you can step down.

1 Can this witness be excused.

2 MR. WILLIAMS: Yes, Your Honor.

3 MR. MARCHANT: No objection.

4 THE COURT: All right. You're free to go, ma'am.

5 THE WITNESS: Thank you.

6 THE COURT: All right. Ladies and gentlemen of the
7 jury, we're going to adjourn for the day. We're going to
8 start a little bit earlier tomorrow morning. I want you
9 here at 9 o'clock instead of 10. So we're going to start
10 very promptly at 9 o'clock.

11 So please, ma'am, please, sir, do not talk about the
12 case to anyone at your house or any of your neighbors,
13 friends, anything. Do not cut the TV on thinking you're
14 going to see anything about this. Do not do any
15 research. Don't do anything at all, and then I'll see
16 you tomorrow morning at 9 o'clock, okay?

17 All right. Have a good evening.

18 (WHEREUPON, the jury exits the courtroom at 5:22 PM.)

19 THE COURT: All right. Gentlemen, do we have
20 anything before we adjourn? Anything from the State?
21 Anything?

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

23 MR. MARCHANT: Nothing from defense, Judge.

24 THE COURT: All right. We'll convene at 9 o'clock
25 and we'll get started at 9 o'clock.

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Who's your first witness, by any chance?

MR. FRETWELL: Your Honor, Lieutenant Bailey.

THE COURT: Okay. All right. We'll see you tomorrow morning at 9 o'clock. Y'all have a good evening.

(WHEREUPON, proceedings recessed at 5:22 PM.)

1 Thursday September 19, 2024

2 (WHEREUPON, proceedings reconvened at 9:05 AM.)

3 THE COURT: Anything before we bring the jury out,
4 gentlemen?

5 MR. FRETWELL: Yes, sir.

6 THE COURT: What? What have you got?

7 MR. FRETWELL: Judge, I believe at the bench
8 yesterday, at some point we discussed the matter of the
9 drug evidence in this case.

10 THE COURT: Uh-huh.

11 MR. FRETWELL: I don't want to misquote
12 Mr. Marchant, but obviously, Mr. Marchant said something
13 to the effect of it's going to come out, and I certainly
14 agree with that. But I just want to put on the record
15 that I do believe that there will be drug evidence in
16 this case.

17 I have given to your clerk at the very beginning of
18 the case a couple of cases on res gestae. And I know the
19 Court is familiar with those cases. And those basically
20 form the basis of the State's position that we do,
21 unfortunately, have to talk about some drug evidence in
22 this case.

23 THE COURT: Res gestae. And, of course, you read
24 the cases, Mr. Marchant?

25 MR. MARCHANT: I wasn't given the cases from

1 Mr. Fretwell, Your Honor.

2 MR. FRETWELL: Did it in the courtroom, Judge. I'm
3 not sure...

4 MR. MARCHANT: You didn't give me anything.

5 MR. FRETWELL: You left. You said give the cases to
6 my clerk. I gave them to the clerk. I was right here
7 when I did it. I have those cites I can give.

8 THE COURT: Well, it's cases that we should -- it's
9 the Adams case, and then the other one, it said -- were
10 those boilerplate res gestae cases that everybody uses.
11 But, you know...

12 MR. MARCHANT: I want to be clear. I think the
13 representation is that you asked him if he'd given me a
14 copy of his cases. Was that the question Your Honor
15 asked?

16 THE COURT: Well, I just really was asking were you
17 familiar with the cases.

18 MR. MARCHANT: No.

19 THE COURT: But you haven't been given a copy of
20 them.

21 MR. MARCHANT: I haven't been given any cites or a
22 copy of anything. If you're asking me if I'm familiar,
23 the answer is yes.

24 THE COURT: Okay. I can get my law clerk to send it
25 to your email right now if you want.

1 MR. MARCHANT: That would be great, Judge. I
2 appreciate that.

3 MR. FRETWELL: I have it right here, Judge.

4 THE COURT: Okay. Now, I think when we spoke at the
5 bench yesterday, I think the consensus was that, at some
6 point, the drug issue was going to come out, you know.
7 Whether it came out through that -- the pathologist or
8 another witness, it was going to come out at some point.

9 MR. FRETWELL: Yes, sir.

10 THE COURT: And I think -- I didn't hear anybody
11 indicating that it wouldn't come out at some point.

12 So is that what we're dealing with? Is that the
13 issue? Is that going to be objectionable?

14 MR. MARCHANT: There is no question in my mind that
15 there is information related to drug use. I don't know
16 how far Mr. Fretwell is going to attempt to go in matters
17 in trying to paint participants as drug dealers or users.
18 So I think, depending on what information he's attempting
19 to elicit, could potentially raise an objection from me.
20 But I don't know how we get through the case without that
21 topic being discussed in some manner.

22 THE COURT: It appears that everybody involved, I'm
23 not using that word loosely, but everybody involved, at
24 least during even the Jackson v. Denno, and everybody
25 mentioned the use of methamphetamine, all the witnesses

1 did.

2 MR. FRETWELL: And I believe almost all of those
3 witnesses did so at questions by Mr. Marchant. I
4 anticipate the same questions during the trial.

5 THE COURT: Yeah. So it's going to come out that
6 way.

7 MR. FRETWELL: It is, Judge.

8 Can I just put the cites on the record, Your
9 Honor?

10 THE COURT: Yes, sir.

11 MR. FRETWELL: That is the State vs. George Adams,
12 322 SC 114, it's a Supreme Court Case in 1996. And State
13 vs. William Oliver Dickerson, 341 SC 391, South Carolina
14 Supreme Court case in 2000, Judge.

15 THE COURT: Okay. Mr. Marchant?

16 MR. MARCHANT: Yes, sir, Your Honor. The one issue
17 I'd like to address before any of the witnesses today,
18 presumably tomorrow, testify to, I have made objections
19 to hearsay throughout the course of this trial starting
20 with Deputy League who was one of the responding
21 deputies. And Your Honor ruled that he was able to talk
22 about what witnesses told him to develop the case. And
23 the specific example I'm referring to is Mr. Knutson.
24 Your Honor overruled an objection of hearsay and allowed
25 Mr. Knutson to tell Deputy League what somebody else told

1 him meaning David Stokes. So we've got hearsay on top of
2 hearsay, in my opinion. Is the Court going to allow
3 Investigator Bailey or Garrett or any of the other
4 officers to do the same?

5 THE COURT: Mr. Marchant, you know, I don't have a
6 crystal ball. I don't know what he's going to say. I'll
7 deal with that issue when it happens and when you make
8 the objection.

9 MR. MARCHANT: Thank you.

10 THE COURT: But if you want to respond.

11 MR. FRETWELL: I'd like to respond.

12 THE COURT: Go ahead, Mr. Fretwell.

13 MR. FRETWELL: Judge, I think -- and it's important
14 that what was discussed at the bench conference be on the
15 record, Your Honor. And as I pointed out to the Court
16 and which the Court's well familiar with is that, in this
17 case, already you have seen Mr. Marchant begin to attack
18 the sufficiency of the investigation and the calls made
19 by these officers and investigators in investigating this
20 case. And as I explained to the Court, how can this jury
21 understand the nature to which the officers did what they
22 did when they did if they do not know what information
23 they were provided? And pursuant to State vs. Thompson,
24 evidence that is admitted for the purpose of establishing
25 why the officers did what they did is admissible.

1 Moreover, Your Honor, as I informed the Court, both
2 Mr. Knutson and Mr. Stokes will be testifying and will be
3 subject to complete cross-examination in this case. So
4 any concerns that somehow some hearsay might slip through
5 are not concerns at all.

6 MR. MARCHANT: Respectfully, I disagree. Audrea
7 Cook is a critical component to this case. She's not
8 here. She's not testifying. I anticipate every witness
9 is going to have statements about what Ms. Cook said and
10 the defense will not have an opportunity to cross-examine
11 Ms. Cook about whether or not she made any of those
12 statements.

13 MR. FRETWELL: And, Your Honor, there's a specific
14 hearsay objection -- or exception for that, and that is
15 statements by codefendants in furtherance of a
16 conspiracy.

17 The State has alleged and the Court has provided us
18 with a proposed charge on the hand of one is the hand of
19 all. And certainly, the statements that were made, what
20 was in the minds of these codefendants, some of whom have
21 already pled guilty, and what they've pled to, all of
22 that I assure you Mr. Marchant will exhaustively cover.
23 And that's important for this jury to understand. Why
24 was Mr. Knutson only charged with accessory after the
25 fact? What did he know? That's important, what he knew,

1 based on what he was charged with and what he pled to.

2 So all of that information has to come in that
3 context, based on the approach that Mr. Marchant has in
4 this case of attacking the investigation, which, of
5 course, he will and he should, and that information must
6 be communicated clearly to the jury so that they
7 understand what the officers knew, why they acted, what
8 the codefendants knew, why they were charged, what they
9 did, all of that, Judge.

10 THE COURT: Anything else?

11 MR. MARCHANT: No, Your Honor.

12 THE COURT: All right. Your objections,
13 Mr. Marchant, are noted for the record.

14 Okay. Anything else before we proceed?

15 MR. FRETWELL: No, Your Honor.

16 THE COURT: All right. Bring the jury out.

17 (WHEREUPON, the jury entered the courtroom at 9:14 AM.)

18 THE COURT: Good morning. I got you up a little
19 early this morning, but I knew y'all were up anyway so I
20 just let y'all come on over here.

21 All right. Is the State ready to proceed?

22 MR. WILLIAMS: We are, Your Honor.

23 THE COURT: Yes, sir.

24 MR. WILLIAMS: The State calls Lieutenant Antonio
25 Bailey.

1 WHEREUPON,

2 ANTONIO BAILEY

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. You may be seated. Please
5 state your full name for the record.

6 THE WITNESS: Antonio Lee Bailey.

7 DIRECT EXAMINATION

8 BY MR. WILLIAMS:

9 Q Lieutenant Bailey, where are you employed?

10 A The Greenville County Sheriff's Office.

11 Q How long have you worked there?

12 A Been at the sheriff's office now for 29 years.

13 Q What is your current assignment?

14 A I'm a lieutenant right now signed to the Office of
15 Professional Standards, commonly known as internal
16 affairs.

17 Q In December of 2019, what were you assigned to do?

18 A I was assigned to the Homicide Unit at the sheriff's
19 office.

20 Q How many -- or I should say, sorry, what case number
21 was assigned? Was it 19-21-6090?

22 A Do you have the name of the victim?

23 Q Relating to the death of Ivan Gula.

24 A Yes. I was involved in that.

25 Q Let's go right to the beginning of your involvement.

1 Were you contacted by a person named Kurt Knutson on
2 December 16, 2019?

3 A I was.

4 Q Did you set up an interview with that individual?

5 A Yes, sir, I did.

6 Q Who was present for that interview?

7 A That particular interview, I believe, was
8 Investigator Tracy King.

9 Q And did that take place at the Law Enforcement
10 Center?

11 A Yes, it did.

12 Q As a result of that interview, did you take action
13 based on the information you received in that interview?

14 A Yes, sir, we did.

15 Q Would you briefly explain what information you were
16 provided in that interview?

17 A During that interview, we learned that Kurt Knutson
18 identified himself as David Stokes's roommate. He
19 indicated that he lived at [REDACTED] Creek Road. We
20 also learned that David Stokes had to live at this
21 residence along with Mr. Knutson.

22 Also learned that his roommate, Mr. Knutson,
23 indicated that somewhere about December 1st, early
24 morning hours of, into December the 2nd, that David
25 Stokes -- he woke up and saw David Stokes wrestling in

1 the backyard. He looks out the window of the camper, and
2 he subsequently goes outside. When he goes outside, he
3 notices that David Stokes is actually digging a hole. He
4 indicated that he eventually helped David Stokes place a
5 body in this hole.

6 He indicated that the incident happened at 212 C and
7 S Drive. He indicated that he believed that the persons
8 involved were Dave, Jeff, and he knew some other people
9 were involved but he did not know their names.

10 He indicated that he knew the whereabouts of this
11 body, that it was actually on the lot at [REDACTED]
12 Creek Road. He described it as being in or on the
13 property about a hundred feet away from the camper where
14 he was living at the foot of the stump of a fallen tree.
15 He said that it was a freshly dug grave, and on top of
16 that grave they had several cinder blocks.

17 So based on that information, I knew I had two crime
18 scenes, one of which was possibly on C and S Drive and
19 the other on Cripple Creek Road. So I assembled two
20 search teams, and we obtained search warrants, one for
21 C and S Drive, one for Cripple Creek Road.

22 The search parties that we assembled consisted of
23 the sheriff's office, the coroner's office, and the
24 forensics office. One team went to C and S Drive.
25 Myself and other members went to Cripple Creek Road.

1 Once we arrived at Cripple Creek, we entered the
2 property. And the property's a ways off the road. You
3 can't see this particular trailer or camper from the
4 roadway. You go to a relatively long, desolate driveway
5 leading up to a camper. On that lot, there's an old
6 dilapidated house along with a shed. And we identified
7 what we thought was going to be the camper in which they
8 were living in.

9 Once we found that trailer -- I'm sorry -- once we
10 found that camper, we noticed and we found a fallen tree
11 and the tree stump. Upon looking at it further, we
12 noticed that there was, in fact, a freshly dug hole
13 covered with freshly covered dirt, and there were some
14 cinder blocks over that particular cite.

15 So once we saw -- once we saw that, we solicited the
16 help of the coroner's office and the forensics office.
17 The forensics office was there to process the scene in
18 terms of taking photographs, measurements, that type of
19 stuff. The coroner's office was present because they had
20 to actually take custody of the body. And they were in
21 the process or responsible for inspecting that body, in
22 which they did.

23 When they uncovered the grave, I saw a body wrapped
24 in a possibly cream sheet along with a leopard blanket
25 and white plastic wrapped mummy style. The body was

1 subsequently moved and transported to the morgue.

2 We remained on scene and processed that particular
3 area, again, photographs, diagrams, et cetera. We
4 collected various pieces of evidence.

5 We subsequently, myself and another investigator
6 went back to the Law Enforcement Center. Once we went to
7 the Law Enforcement Center, we had had information that
8 we had a gentleman who was trying to report his friend
9 missing. I made a phone call to that gentleman. That
10 gentleman's name was Terry Dillard.

11 Terry Dillard advised me that back on December 1st
12 -- and, again, this conversation I was having with
13 Dillard is December 16th. He said back on December 1st,
14 he, along with the victim, along with two other
15 individuals who he identified as Isaiah and Janice, had
16 gone to a house on C and S Drive. And the last time he
17 saw his friend alive was on December 1st at C and S
18 Drive, that there were several people at the home, but
19 the only two people that he knew was Audrea Cook and a
20 person by the name of Bobby Smith.

21 After getting off the phone with him, myself and
22 another investigator assembled some photo lineups. Photo
23 lineups contained pictures of Audrea Cook and Bobby
24 Smith. Mr. Dillard told me then when I was on the phone
25 that he would be unable to drive to the Law Enforcement

1 Center in Greenville because he lived in Gaffney and
2 didn't have transportation. So myself, Investigator
3 Garrett, we traveled to Gaffney that night. Again, all
4 this is on December 16th.

5 When we get there, we meet with Terry Dillard.

6 Want me to continue?

7 Q Yeah. Yes. Did you have a chance to interview him
8 there at his house?

9 A I did.

10 Q And what information did you receive? And could you
11 explain how that information may have impacted what you
12 did going forward in your investigation?

13 A Once I arrived at the information, I learned that,
14 again, Mr. Terry Dillard indicated to me that, back on
15 December 1st, he, along with Janice and a guy who he
16 identified as Isaiah, along with the victim, he said the
17 victim had borrowed Audrea Cook's car, that Audrea Cook
18 lived at 212 C and S Drive, that the victim had borrowed
19 Audrea Cook's car and Mr. Dillard actually worked on
20 computers. He said prior to December 1st, a couple days
21 prior to that, Mr. -- the victim, along with Audrea Cook,
22 came to his residence and brought some computer parts
23 because Dillard repaired computers.

24 On December 1st, the victim in this case along with
25 Dillard, Janice and Isaiah went to C and S Drive. He

1 said they were going to C and S Drive because, one, the
2 victim had to return Andrea Cook's car, and secondly, he
3 was going to the house to repair Audrea Cook's computer.

4 So they drive to C and S Drive. Of course, once
5 they get there, they get out of the car and they go
6 inside. He said once they get inside, Audrea Cook
7 started accusing the victim of some things. And they
8 were in the house maybe a couple of minutes. At that
9 point, he said a group of guys came storming out of a
10 back bedroom. One guy was carrying a gun who he
11 subsequently identified as Jeff George.

12 He said that person -- he was then ordered -- all
13 four of them were then ordered to get on the floor on
14 their knees. At that point, Audrea Cook came out of the
15 room and told them, them being the guys that came out of
16 the room, to let the other guys -- he said those three
17 people are not -- those three are not who we want. We
18 want the victim. So at that point, they were allowed to
19 stand up and go stand in the kitchen.

20 The other thing he talked about was that there was
21 one guy who he identified as Jeff George came up with a
22 gun and put them on the ground on their knees.

23 In addition to that, he said several people came out
24 holding machetes, hatchets, sticks, a wooden stick. And
25 when all that was occurring, at this time, the victim's

1 now on his knees.

2 At some point, a person -- he said the only persons
3 that he knew, he knew Audrea Cook and he knew Bobby
4 Smith.

5 So sometime during the interview, we had obtained a
6 photo lineup, a photo lineup of Bobby Smith and Audrea
7 Cook. We want to make sure we were talking about the
8 same and the right individuals which he positively
9 identified as the persons that he was referring to.

10 After identification was made, he said I may -- I
11 know the other people -- I know the names of the other
12 people involved, however, I do not know them personally.
13 So the question was, well, how do you know this
14 information?

15 He said, well, I did my own research on Facebook and
16 I got their names.

17 So the names that he provided to us was Andrew
18 Pulley -- can I reference my notes?

19 Q Yes.

20 A (Reviews document) The names he referenced -- the
21 names that he referenced that particular night when we
22 spoke with him was Andrew Pulley, Michael Tucker, Bobby
23 Ray Smith, Jeff George and, of course, he indicated
24 Audrea Cook and Bobby Smith were there.

25 He indicated that Andrew Pulley was the person that

1 he believed that came out of the house with -- came out
2 of the room with the machete and the hatchet. He
3 indicated that Jeff George was the individual that came
4 out of the house -- came out of the room with a gun
5 pointed at them along with the victim. He indicated that
6 Michael Tucker came out of the room carrying a -- they
7 were carrying sticks and a club, I believe. That's what
8 he indicated.

9 So once he gave us those names, he proceeded to tell
10 us that once he -- once the victim was ordered to his
11 knees and they were allowed to stand up and go stand in
12 the kitchen, that they were in the house maybe a couple
13 of minutes. The guy that was carrying the hatchet and
14 the machete just came out, he started assaulting the
15 victim, hitting the victim about his hands, anywhere. He
16 said he was -- the way that he described it to me, that
17 he was being hit with a machete and he was bleeding
18 profusely.

19 They -- one of the young ladies, Janice was with
20 them who had gone to the house. He said at that point,
21 Janice yelled at Audrea Cook to ask them, you know, to
22 stop. At some point she did. She told them, hey, that's
23 -- to stop or some -- something along those lines because
24 the assault stopped. Janice eventually went over and
25 tried to render aid to her friend by wrapping his hands,

1 because, again, she said his hands had been bleeding a
2 lot.

3 Some point during this altercation, Audrea Cook
4 tells the other three people, the three people being
5 Terry Dillard, Janice and Isaiah, that she was going to
6 take them home. So at that point, she leaves the house.
7 The victim is still at the house alone with the people I
8 mentioned to you earlier.

9 Q Did Ms. Cook bring any of the other men that were in
10 the house with her when she took the victim's friends
11 home?

12 A She did. She -- when she left the house to take
13 these three people home, she actually took Patrick Poole
14 with her. During the ride, again, one of these
15 individuals lived in Gaffney, I think another one lived
16 in Boiling Springs, but they all lived in Spartanburg
17 County. So she drives -- she drives these individuals
18 home.

19 These individuals are told they can't use their
20 phones. They're pretty much told, hey, we're just going
21 to forget about this night. This night never happened.
22 He said that he being Terry said once he got -- once they
23 went to his house, Patrick Poole came in the house, and
24 they actually sat around for about 30 minutes to talk
25 before he left.

1 After -- after we left Dillard's house that night,
2 we returned to the Law Enforcement Center, and the names
3 that he provided to us, I contacted SLED and requested
4 photo lineups be made on these individuals.

5 The following day, which was December 17th, we go
6 back to Gaffney and get back with Mr. Dillard, because at
7 this point, we had the names. But, again, if you'll
8 remember, he didn't know them personally so we wanted to
9 show photo lineups to see if Dillard could actually pick
10 him out of a lineup, in which he did.

11 He indicated that Andrew Pulley was the person that
12 actually had the hatchet. I'm sorry. The previous night
13 on December 16th, he indicated to us that Andrew Pulley
14 was the individual that came out of the house with the
15 machete and the hatchet.

16 So all those names that he gave us, we went back
17 with four additional lineups. When we got back on the
18 17th, he indicated that I think I may have made a
19 mistake. Andrew Pulley was actually the person that I
20 saw on Facebook trying to sell the individual's -- to try
21 to sell the victim's property.

22 So at that point, he said further that he had seen
23 another post on Facebook of Audrea Cook and he believe
24 the guy's name was Dave. Again, when he said Dave, we
25 already had that information that David Stokes was the

1 person involved in this incident from pretty much the day
2 before.

3 So when we get there, he's shown these additional
4 lineups, and he positively identifies the Bobby -- Bobby
5 Stokes, Michael Shane Tucker and Patrick Shane. He said
6 Michael ---

7 Q Investigator Bailey ---

8 A Yes, sir.

9 Q --- I think you just said Bobby Stokes. Did you
10 intend to say David Stokes?

11 A David Stokes. I'm sorry.

12 He indicated that Michael Shane Tucker was the
13 person -- he said Michael Shane Tucker was there.
14 Michael Shane Tucker had come up -- was one of the
15 persons who came up with, I believe he said, a bat and a
16 stick and that he actually participated in the assault on
17 the victim.

18 He was given -- he was shown these lineups, and he
19 positively identified all of them.

20 Proceed?

21 Q What did he -- how did he identify the defendant,
22 Jeff George? What did he identify him as doing?

23 A They were -- he identified Jeff George and the
24 others because he said he had done some research on
25 Facebook to get their names.

1 When he -- after he learned that information, of
2 course, we returned with the photo lineups and he's
3 presented with this lineup. He picks Jeff George out of
4 the lineup indicating that Jeff George was the first
5 person that came out of the room and ordered them on
6 their knees. He told him, you know, get down on your
7 knees. That's what he identified as Jeff -- he said Jeff
8 George did that.

9 Again, if you remember, the second day that we went
10 back, that's when he told us -- initially, he told me
11 Andrew Pulley was one of the persons that came out of the
12 room with the machete. But after doing some additional
13 research, and he had done unbeknownst to us on Facebook,
14 he made that determination that he had made a mistake.
15 Andrew Pulley was not there. Andrew Pulley was the
16 person who he found stuff, the victim's stuff on
17 Facebook.

18 So after we got that information -- after I had
19 gotten that information from Mr. Dillard that night, we
20 returned to the Law Enforcement Center and obtained
21 warrants for their arrest.

22 Q I want to backtrack just a little bit. You
23 mentioned that when they left, when Terry Dillard left
24 with Janice and Isaiah, Cook and Poole to go home, they
25 took Janice home first is what I believe you said.

1 A Yes, sir.

2 Q Were you provided with information that Terry
3 Dillard actually came back to 212 C and S Drive before
4 going back home?

5 A He did. If memory serves me correctly, he had gone
6 back along with -- along with Audrea Cook. And when he
7 got back, he was not allowed to go back in the house. At
8 some point when they -- I forgot one detail when I was
9 talking about him coming out of the back room. He said
10 Audrea Cook had been started berating the victim, and at
11 some point, she, told the victim that tonight is the
12 night that you're going to die.

13 They went back to the house. There was some
14 conversation, again, I don't know at what juncture, that
15 Audrea Cook told the guys in the house you need to finish
16 -- you need to finish him off.

17 At some point after they went -- they went to C and
18 S Drive. At some point, Terry Dillard was eventually
19 taken home.

20 Q Okay. But when he came back after dropping Janice
21 off, he wasn't allowed to go back inside the trailer?

22 A That's correct.

23 Q Okay. You've mentioned some photo lineups. Why
24 don't we talk about the photo lineup of the defendant,
25 Jeff George. You presented a photo lineup to Mr. Dillard